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DEPARTMENT OF ENERGY

10 CFR Part 435

[Docket No. EERE-2016-BT-STD-0003]

RIN 1904-AD56

Energy Efficiency Standards for the Design and Construction of New Federal Low-Rise Residential Buildings' Baseline Standards Update

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; delay of effective date.

SUMMARY: This document temporarily postpones the effective date of a recently published final rule updating the baseline Federal residential standard to the International Code Council (ICC) 2015 International Energy Conservation Code (IECC).

DATES: Effective February 6, 2017, the effective date of the rule amending 10 CFR part 435 published in the **Federal Register** at 82 FR 2857 on January 10, 2017, is delayed until March 21, 2017. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of March 21, 2017.

FOR FURTHER INFORMATION CONTACT: Nicolas Baker, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Federal Energy Management Program, Mailstop EE-5F, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-8215, email: nicolas.baker@ee.doe.gov.

Kavita Vaidyanathan, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC-33, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-0669, email: kavita.vaidyanathan@hq.doe.gov.

SUPPLEMENTARY INFORMATION: On January 20, 2017, the Assistant to the President and Chief of Staff ("Chief of Staff") issued a memorandum, published in the **Federal Register** on January 24, 2017 (82 FR 8346), outlining the President's plan for managing the Federal regulatory process at the outset of the new Administration. In implementation of one of the measures directed by that memorandum, the United States Department of Energy ("DOE") hereby temporarily postpones the effective date of its final rule amending the baseline Federal building standards published in the **Federal Register** on January 10, 2017. See 82 FR 2857. The January 10th rule amends the baseline Federal building standard for 10 CFR part 435 from the 2009 International Energy Conservation Code (IECC) to the 2015 IECC. Consistent with the memorandum, DOE is temporarily postponing the effective date of the final rule by 60 days, starting from January 20, 2017. The temporary 60-day delay in effective date is necessary to give DOE officials the opportunity for further review and consideration of new regulations, consistent with the Chief of Staff's memorandum of January 20, 2017.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, DOE's implementation of this action without opportunity for public comment, effective immediately upon publication in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Pursuant to 5 U.S.C. 553(b)(B), DOE has determined that good cause exists to forego the requirement to provide prior notice and an opportunity for public comment thereon for this rule as such procedures would be impracticable, unnecessary and contrary to the public interest. DOE is temporarily postponing for 60 days the effective date of this regulation pursuant to the previously-noted memorandum of the Chief of Staff and is exercising no discretion in implementing this specific provision of the memorandum. As a result, seeking public comment on this delay is unnecessary and contrary to the public interest. For these same reasons DOE finds good cause to waive the 30-day

delay in effective date provided for in 5 U.S.C. 553(d).

Issued in Washington, DC, on January 31, 2017.

John T. Lucas,
Acting General Counsel.

[FR Doc. 2017-02403 Filed 2-3-17; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. PL17-2-000]

Utilization of Electric Storage Resources for Multiple Services When Receiving Cost-Based Rate Recovery

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Policy statement.

SUMMARY: The Commission issues this policy statement to clarify its precedent and provide guidance on the ability of electric storage resources to provide services at and seek to recover their costs through both cost-based and market-based rates concurrently. We are mindful that, by providing electric storage resources the opportunity to receive cost-based rate recovery concurrently with other revenue from market-based services (e.g., through organized wholesale electric markets), there can be implementation details that may need to be addressed, including protections against the potential for double-recovery of costs from cost-based ratepayers, adverse market impacts, and regional transmission organization (RTO)/independent system operator (ISO) independence from market participants. The Commission provides guidance in this policy statement as to how electric storage resources seeking to receive cost-based rate recovery for certain services (such as transmission or grid support services or to address other needs identified by an RTO/ISO) while also receiving market-based revenues for providing separate market-based rate services could address these concerns and also clarifies some past precedent on these issues.

DATES: *Effective Date:* This policy statement will become effective February 6, 2017.

FOR FURTHER INFORMATION CONTACT:

Rahim Amerkhail (Technical Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502-8266, rahim.amerkhail@ferc.gov.

Heidi Nielsen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502-8435, heidi.nielsen@ferc.gov.

SUPPLEMENTARY INFORMATION:**Policy Statement**

(Issued January 19, 2017)

1. The Commission issues this policy statement to clarify its precedent and provide guidance on the ability of electric storage resources to provide services at and seek to recover their costs through both cost-based and market-based rates concurrently. We are mindful that, by providing electric storage resources the opportunity to receive cost-based rate recovery concurrently with other revenue from market-based services (e.g., through organized wholesale electric markets), there can be implementation details that may need to be addressed, including protections against the potential for double-recovery of costs from cost-based ratepayers, adverse market impacts, and regional transmission organization (RTO)/independent system operator (ISO) independence from market participants. The Commission provides guidance in this policy statement as to how electric storage resources seeking to receive cost-based rate recovery for certain services (such as transmission or grid support services or to address other needs identified by an RTO/ISO) while also receiving market-based revenues for providing separate market-based rate services could address these concerns and also clarifies some past precedent on these issues.

I. Background

2. Electric storage resources have the ability both to charge and discharge electricity and can provide a variety of grid services to multiple entities (e.g., RTO/ISOs, transmission and distribution utilities) or in multiple markets. In addition, these resources are able to provide multiple services almost instantaneously and can switch from providing one service to another almost instantaneously. As such, electric storage resources may fit into one or more of the traditional asset functions of generation, transmission, and distribution. Enabling electric storage

resources to provide multiple services (including both cost-based and market-based services) ensures that the full capabilities of these resources can be realized, thereby maximizing their efficiency and value for the system and to consumers. On November 9, 2016, Commission staff led a technical conference to discuss the utilization of electric storage resources as transmission assets compensated through transmission rates, for grid support services that are compensated in other ways, and for multiple services.¹ On November 14, 2016, in that same proceeding, the Commission issued a notice inviting post-technical conference comments.² The Commission received more than 30 comments from interested parties in response to that notice. The discussions at the technical conference and the comments highlight the different ways in which industry is considering using electric storage resources and have prompted us to issue this policy statement to clarify our precedent and provide guidance regarding electric storage resources seeking to receive cost-based rate recovery for certain services while also receiving market-based revenues for providing market-based rate services.

3. The Commission previously has discussed such concerns in *Nevada Hydro*³ and *Western Grid*.⁴ In *Nevada Hydro*, the Commission found that it would not be appropriate, as requested by The Nevada Hydro Company, Inc.'s (Nevada Hydro), to require the California Independent System Operator Corporation (CAISO) to assume "any level of operational control" over the proposed Lake Elsinore Advanced Pumped Storage project (LEAPS) or functionalize it as transmission for rate recovery purposes.⁵ Nevada Hydro had

¹ *Utilization In the Organized Markets of Electric Storage Resources as Transmission Assets Compensated Through Transmission Rates, for Grid Support Services Compensated in Other Ways, and for Multiple Services*, Notice of Technical Conference, Docket No. AD16-25-000 (issued Sept. 30, 2016). The Commission issued supplemental notices on November 1, 2016, and November 7, 2016.

² *Utilization In the Organized Markets of Electric Storage Resources as Transmission Assets Compensated Through Transmission Rates, for Grid Support Services Compensated in Other Ways, and for Multiple Services*, Notice Inviting Post-Technical Conference Comments, Docket No. AD16-25-000 (issued Nov. 14, 2016).

³ *The Nev. Hydro Co. Inc.*, 122 FERC ¶ 61,272 (2008) (*Nevada Hydro*).

⁴ *Western Grid Dev., LLC*, 130 FERC ¶ 61,056 (*Western Grid*), *reh'g denied*, 133 FERC ¶ 61,029 (2010).

⁵ *Nevada Hydro*, 122 FERC ¶ 61,272 at PP 1, 82-83. LEAPS was intended to be a pumped hydro storage facility with an installed generating capacity

proposed that LEAPS be treated as a transmission facility under CAISO's operational control.⁶ According to Nevada Hydro, CAISO would serve its ancillary services needs consistently from LEAPS, and Nevada Hydro would consistently bid LEAPS' stored energy into the market at a price of zero dollars.⁷ Nevada Hydro asserted that it had carefully crafted its proposal to avoid market distortions. CAISO argued that its independence would be compromised, as it would have to decide when LEAPS would operate, how much energy it would produce, and when it would operate the pumps to store water for future generation.⁸ The Commission stated that the purpose of CAISO's transmission access charge (TAC) is to recover the costs of transmission facilities under the control of CAISO, not to recover the costs of bundled services.⁹ The Commission noted that it was denying the request that LEAPS be placed under CAISO's operational control. The Commission stated that, for these reasons, LEAPS' costs were not properly recovered through the TAC. The Commission added that, absent information that justified treating LEAPS differently from the existing pumped hydro facilities in CAISO's footprint, allowing LEAPS to receive a guaranteed revenue stream through CAISO's TAC would create an undue preference for LEAPS compared to these other similarly situated pumped hydro generators. Therefore, the Commission rejected Nevada Hydro's proposal to include the costs of LEAPS in CAISO's rolled-in transmission charge.

4. In *Western Grid*, the Commission accepted Western Grid's proposal to provide cost-based rate recovery for electric storage resources through transmission rates based on the proposed uses (voltage support and thermal overload protection for relevant transmission facilities) and on other conditions Western Grid proposed, including a commitment to forego any sales into CAISO's organized wholesale electric markets.¹⁰ Western Grid asserted that its electric storage resources would be used to solve transmission reliability problems

of 500 MW and a pumping capacity of 600 MW. *Id.* P 3.

⁶ *Id.* P 5.

⁷ *Id.* P 74.

⁸ *Id.* P 81.

⁹ *Id.* P 83.

¹⁰ *Western Grid*, 130 FERC ¶ 61,056 at PP 18-24, 45-46. The proposed electric storage projects (*Western Grid Projects*) were to be composed of sodium sulfur batteries that ranged in size from 10 to 50 MW. *Id.* P 4.

identified by CAISO,¹¹ at significantly lower cost than traditional transmission upgrade methods.¹² As relevant here, in *Western Grid*, the Commission found that, based on the specific circumstances and characteristics of the Western Grid Projects, they would be wholesale transmission facilities subject to the Commission's jurisdiction if operated as Western Grid described.¹³

5. The Commission explained that Western Grid proposed to operate the Western Grid Projects under the direction of CAISO in a manner similar to the way in which high-voltage wholesale transmission facilities are operated by participating transmission owners under the direction of CAISO (e.g., capacitors that address voltage issues or alternate transmission circuits that address line overloads or trips).¹⁴ The Commission noted that Western Grid stated that it would only operate the Western Grid Projects to address voltage support and thermal overload protection needs at CAISO's direction and that CAISO's involvement was consistent with CAISO's operating obligations for transmission assets. Western Grid also stated that it would be responsible for all operating functions, including maintenance, communication, and system emergencies. The Commission noted that, most importantly, Western Grid would be responsible for energizing (i.e., maintaining the state-of-charge on) the Western Grid Projects needed to address voltage support and thermal overload protection at CAISO's direction. The Commission found that, because of this, the independence of CAISO would be maintained because CAISO would not be responsible for buying power to energize the Western Grid Projects or physically operating the batteries when they were being charged and discharged. The Commission added that, importantly, Western Grid would operate the Western Grid Projects, at CAISO's direction, only as transmission assets.

6. The Commission noted that, just like other transmission assets, and unlike traditional generation assets, Western Grid proposed that it would not retain revenues outside of the TAC and would credit any revenues it might accrue as a result of charging and discharging the Western Grid Projects through its participating transmission owner tariff to transmission

customers.¹⁵ The Commission further noted, in particular, that Western Grid proposed that it would not arbitrage wholesale energy market prices. The Commission found that, based on the facts as presented by Western Grid, the Western Grid Projects would function as transmission.

7. The Commission also found that the Western Grid Projects would not undercut bids by other market participants because Western Grid would not be offering the Western Grid Projects into the CAISO markets and the Western Grid Projects would only be used to provide voltage support and to address thermal overload situations at the CAISO's instruction.¹⁶

8. The Commission also found that the facts and circumstances in *Western Grid* were sufficiently distinguishable from those in *Nevada Hydro* to justify a different result.¹⁷ The Commission explained that an important issue that arose in *Nevada Hydro*—and that protesters echoed with respect to the Western Grid Projects—involved the question of whether CAISO's operation of the LEAPS storage facility would render it an energy market participant.¹⁸ The Commission found that Western Grid's proposal eliminated that concern because (1) Western Grid itself would maintain the state of charge of its electric storage resources (rather than CAISO), and (2) Western Grid would credit any incidental net revenues from such transactions to its customers via the TAC.¹⁹ Therefore, the Commission concluded that there was little likelihood that CAISO would become a profit-seeking energy market participant.

II. Policy Statement

9. We believe that it is timely to provide additional guidance regarding issues that arise for electric storage resources seeking to recover their costs through both cost-based and market-based rates concurrently. We also believe that clarification regarding our *Nevada Hydro* and *Western Grid* precedent is warranted due to potential confusion with respect to that precedent. Accordingly, through this policy statement, we provide guidance and clarification regarding the ability of electric storage resources to receive cost-based rate recovery for certain services (such as transmission or grid support services or to address other needs

identified by an RTO/ISO) while also receiving market-based revenues for providing separate market-based services. We clarify that there may be approaches different from Western Grid's approach under which an electric storage resource may receive cost-based rate recovery and, if technically capable, provide market-based services.

10. In *Western Grid*, the applicant proposed to operate only as a transmission resource and to forego any sales into CAISO's organized wholesale electric markets.²⁰ Western Grid also proposed to take responsibility for charging its electric storage resources. The Commission found that Western Grid's proposals addressed the concerns described above. However, that order was limited to the facts that Western Grid presented to the Commission. Thus, that order should not be read to require other entities to forgo market sales as Western Grid proposed. We clarify that there may be approaches different from Western Grid's approach under which an electric storage resource may receive cost-based rate recovery and, if technically capable, provide market-based services that may address these concerns. To that end, we provide the following guidance on how applicants seeking cost-based rate recovery for electric storage resources providing certain services while also providing separate services at market-based rates could address concerns related to double recovery of costs, adverse market impacts, and RTO/ISO independence.

Multiple Uses and Revenue Streams

11. As noted above, electric storage resources can provide a variety of services to multiple entities. An electric storage resource receiving cost-based rate recovery for providing one service may also be technically capable of providing other market-based rate services. Most participants in the technical conference and commenters generally support multiple uses and revenue streams, including both cost-based and market-based revenues, for electric storage resources.²¹ Commenters believe that the key question is not whether to allow multiple use applications for electric storage resources but how to allow and

¹¹ See Western Grid November 20, 2009 Petition, Docket No. EL10-19-000, at 4.

¹² *Id.* at 6.

¹³ *Western Grid*, 130 FERC ¶ 61,056 at P 43.

¹⁴ *Id.* P 45.

¹⁵ *Id.* P 46.

¹⁶ See *id.* P 51.

¹⁷ *Id.* P 48.

¹⁸ *Id.* (citing *The Nev. Hydro Co. Inc.*, 117 FERC ¶ 61,204, at PP 28-32; *Nevada Hydro*, 122 FERC ¶ 61,272 at PP 82-83).

¹⁹ *Id.* P 49.

²⁰ See *id.* PP 19, 21-23; see also *id.* PP 48-50.

²¹ See, e.g., Pacific Gas and Electric Co. Dec. 14, 2016 Comments at 2-3; Xcel Energy Services Inc. Dec. 16, 2016 Comments at 6-7; SolarCity Corp. and Tesla Motors, Inc. Dec. 14, 2016 Comments at 2-4, 8-10; AES Companies Dec. 14, 2016 Comments at 4; Alevo USA Inc. Dec. 14, 2016 Comments at 3-4; Renewable Energy Systems Americas, Inc. Comments at 2-3, 5.

enable such applications.²² Commenters also note that it would be inefficient and wasteful to let electric storage resources that are not being used to serve a transmission need to sit idle and instead these resources should be permitted to provide other market services to capture their full system benefits and maximize economic efficiency and value to consumers.²³

12. To the extent that an electric storage resource seeks cost-based rates for a particular service, that resource may need to compete at least in part on cost against other alternatives that could provide the service. In some cases, an electric storage resource may only be cost competitive for the cost-based service if expected market revenues are considered in the evaluation of the electric storage resources. Such market revenues can be used to offset the electric storage resource's costs for providing the cost-based rate service.

13. Additionally, if an electric storage resource seeks to recover its costs through both cost-based and market-based rates concurrently, the following issues, as raised in prior proceedings, should be addressed: (1) The potential for combined cost-based and market-based rate recovery to result in double recovery of costs by the electric storage resource owner or operator to the detriment of cost-based ratepayers; (2) the potential for cost recovery through cost-based rates to inappropriately suppress competitive prices in the wholesale electric markets to the detriment of other competitors who do not receive such cost-based rate recovery; and (3) the level of control in the operation of an electric storage resource by an RTO/ISO that could jeopardize its independence from market participants.

14. We note that these or similar issues were raised by commenters in *Western Grid* or *Nevada Hydro*. This policy statement is not intended to resolve the detailed implementation issues surrounding how an electric storage resource may concurrently provide services at cost- and market-based rates. Rather, it is intended to clarify that providing services at both cost- and market-based rates is permissible as a matter of policy, provide guidance on some of the details and allow entities to address these

issues through stakeholder processes and in filings before the Commission.

1. Avoiding Double Recovery of Costs

15. One issue associated with an electric storage resource receiving cost-based rate recovery while concurrently receiving compensation for market-based rate services involves potential double recovery of costs borne by the relevant cost-based ratepayers. Most participants in the technical conference and commenters believe that double recovery can be addressed by appropriate market revenue crediting.²⁴

16. While we believe there may be additional approaches for addressing this concern beyond the one proposed in *Western Grid*, we clarify that crediting any market revenues back to the cost-based ratepayers is one possible solution. The Commission has sought to prevent the subsidization of public utility shareholders at the expense of their captive customers.²⁵ Proposals to allow public utilities using electric storage resources to recover costs under cost-based rates from captive customers should address the potential for the recovery of those same costs through market-based sales.

17. We note that the amount of this crediting may vary depending on how the cost-based rate recovery is structured. For example, if the electric storage resource indicates that it will seek to recover its full, unadjusted costs through cost-based rates, it may be reasonable for the electric storage resource owner or operator to credit all projected market revenues earned by the electric storage resource over a reasonable period of time (e.g., the expected useful life of the asset or the term of the cost-based rate service if it differs from the useful asset life). We believe that the accounting provisions in Order No. 784²⁶ (including the supplemental accounting and reporting

guidance issued in Docket No. AI14–1–000)²⁷ coupled with the requirement to submit Electric Quarterly Reports pursuant to Order Nos. 2001²⁸ and 768²⁹ provide sufficient transparency to allow effective oversight for any needed revenue crediting.

18. Alternatively, at the electric storage resource owner's or operator's discretion, this market-revenue offset can be used to reduce the amount of the revenue requirement to be used in the development of the cost-based rate. This up-front rate reduction would also help ensure that the cost-based rate remains just and reasonable and provide the electric storage resource owner or operator with an incentive to estimate market revenues as accurately as possible. In this scenario, the need for crediting of market revenues could be proportionally reduced as well. In other words, full cost recovery through cost-based rates may require full crediting of projected market revenues; no cost recovery through cost-based rates would require no crediting of projected or actual market revenues; and partial cost recovery through cost-based rates could require partial crediting of market revenues. For example, if the cost-based rate is based on 25 percent of the asset's full cost-of-service, then perhaps only 25 percent of market revenues would need to be credited to cost-based ratepayers.

19. We recognize there may be other ways for an electric storage resource owner or operator seeking to recover costs through cost-based rates and market-based rates to prevent the double recovery of costs. Any solution would need to comport with cost-of-service precedent cited earlier.

2. Minimizing Adverse Impacts on Wholesale Electric Markets

20. Another issue associated with an electric storage resource receiving cost-

²⁴ See, e.g., Technical Conference Transcript at Tr. 47: 25–Tr. 48: 1; Tr. 50: 13–15; Tr. 168: 4–9; AES Companies Comments at 4; Exelon Corp. Comments at 8, 10; NextEra Energy Resources, LLC Dec. 14, 2016 Comments at 7; Transmission Access Policy Study Group Dec. 14, 2016 Comments at 5–6.

²⁵ See, e.g., *Heartland Energy Servs., Inc.*, 68 FERC ¶ 61,223, at 62,062–63 (1994) (prohibiting transfer of benefits from captive customers of a franchised public utility to affiliates and shareholders). See also *Golden Spread Elec. Coop. v. Southwestern Public Serv. Co.*, 123 FERC ¶ 61,047, Opinion No. 501, at P 40 (2008) (citing *Minnesota Power & Light Co.*, 47 FERC ¶ 61,064, at 61,183 n.2, 61,184 (1989)), *order on reh'g*, Opinion No. 501–A, 144 FERC ¶ 61,132 (2013).

²⁶ See *Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies*, Order No. 784, FERC Stats. & Regs., Regulations Preambles ¶ 31,349 (July 30, 2013), *order partly granting clarification*, Order No. 784–A, 146 FERC ¶ 61,114 (2014).

²⁷ *Accounting and Reporting Guidance for New Electric Storage Technologies*, Docket No. AI14–1–000 (Feb. 20, 2014).

²⁸ See *Revised Public Utility Filing Requirements*, Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh'g denied*, Order No. 2001–A, 100 FERC ¶ 61,074, *reh'g denied*, Order No. 2001–B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001–C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001–D, 102 FERC ¶ 61,334, *order refining filing requirements*, Order No. 2001–E, 105 FERC ¶ 61,352 (2003), *order on clarification*, Order No. 2001–F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements*, Order No. 2001–G, 120 FERC ¶ 61,270, *order on reh'g and clarification*, Order No. 2001–H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements*, Order No. 2001–I, FERC Stats. & Regs. ¶ 31,282 (2008).

²⁹ *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act*, Order No. 768, FERC Stats. & Regs. ¶ 31,336 (2012), *order on reh'g*, Order No. 768–A, 143 FERC ¶ 61,054 (2013), *order on reh'g*, Order No. 768–B, 150 FERC ¶ 61,075 (2015).

²² See, e.g., California Energy Storage Alliance Dec. 14, 2016 Comments at 5.

²³ See, e.g., Technical Conference Transcript, Docket No. AD16–25–000, at Tr. 34: 11–20 (posted Nov. 9, 2016); Exelon Corp. Dec. 14, 2016 Comments at 2, 6; Union of Concerned Scientists Dec. 14, 2016 Comments at 9–10; Energy Storage Association Dec. 14, 2016 Comments at 3, 6, 12–13.

based rate recovery while concurrently receiving compensation for market-based rate services that the Commission addressed in *Nevada Hydro* and *Western Grid* is the adverse market impacts that could occur.³⁰ Some commenters believe that any potential adverse impacts on wholesale electric markets either do not need to be addressed because numerous resources participating in organized wholesale electric markets currently receive cost-based rate treatment for other services as well³¹ or can be addressed by appropriate market revenue crediting.³² Other commenters argue, however, that permitting new electric storage resources that receive transmission-based rate recovery to participate in the competitive organized wholesale electric markets could undermine competition and suppress market prices to sub-competitive levels.³³

21. As provided above, we clarify that electric storage resources may concurrently receive cost- and market-based revenues for providing separate services. We do not share commenters' concerns and are not convinced that allowing such arrangements will adversely impact other market competitors.

22. We agree that many assets that participate in RTO/ISO markets receive some form of cost-based rate recovery. For example, many participating generation resources seek and are paid a cost-based rate for providing reactive supply, even as they make market-based rate sales into organized wholesale electric markets.³⁴ Further, as noted during the discussions at the technical conference and in comments, a significant amount of generation in certain RTO/ISO markets is owned by vertically integrated public utilities that

recover some or all of their costs through cost-based retail rates.³⁵ Similarly, some vertically integrated public utilities make cost-based rate sales to captive wholesale requirements customers such as transmission dependent utilities while also making off-system market-based rate sales to others.³⁶ As noted earlier, in these circumstances, the Commission has required crediting of an appropriate portion of market revenues to captive wholesale customers in order to prevent the subsidization of public utility shareholders at the expense of their captive customers. But the Commission has not required any other measures to address the potential competitive impact of such market-based rate sales on other competitors in those markets. One commenter also points to bilateral contracts as another example of resources receiving both cost-based and market-based revenues.³⁷ It is also true that there are many public utilities in restructured states that have transmission assets with cost-based recovery and generation assets that receive market-based revenues. If we were to deny electric storage resources the possibility of earning cost-based and market-based revenues on the theory that having dual revenue streams undermines competition, we would need to revisit years of precedent allowing such concurrent cost-based and market-based sales to occur as described above.

23. Moreover, we believe any concerns that electric storage resources would offer in a manner that suppresses market clearing prices simply because they receive cost recovery (in whole or in part) through cost-based rates could be addressed by the manner in which double recovery is addressed and the costs that go into the cost-based rates are established.³⁸

3. RTO/ISO Independence

24. Another issue relevant to this policy statement is maintaining RTO/ISO independence from market participants. The discussions of this issue at the technical conference and in comments crossed into other issues such as adverse market impacts (discussed in the previous section) and largely focused on RTO/ISO discretion and the role of the RTO/ISO in

operating the electric storage resources, especially for planning and reliability purposes.³⁹ Nevertheless, we believe that clarification is required in this area.

25. Coordination between the RTO/ISO and the electric storage resource owner or operator will be necessary for electric storage resources that concurrently provide services compensated through cost-based rates and services compensated through market-based rates. Among any other operational concerns that individual RTOs or ISOs may need to address, the electric storage resource should be maintained so that the necessary state of charge can be achieved when necessary to provide the service compensated through cost-based rates. But, assuming this priority need is reasonably predictable as to size and the time it will arise each day, the electric storage resource should be permitted to deviate from this state of charge at other times of the day in order to provide other, market-based rate services. We recognize that this assignment of responsibility is premised on the need for the service compensated through cost-based rates being predictable enough to allow the appropriate charge management structure to be implemented. In situations where this premise does not hold, and the need for the service for which cost-based rates are provided is not reasonably predictable as to size or the time it will arise each day, the cost-based rate service may be the only service that the electric storage resource could provide.

26. We also provide guidance that, when the circumstances leading to the need for the service compensated through cost-based rates arise, RTO/ISO dispatch of the electric storage resource to address that need should receive priority over the electric storage resource's provision of market-based rate services. Performance penalties could be imposed on the electric storage resource owner or operator for failure to perform at these times.

27. We further provide guidance that the provision of market-based rate services should be under the control of the electric storage resource owner or operator, rather than the RTO/ISO, to ensure RTO/ISO independence. In other words, while the RTO/ISO always performs the actual optimization of resources participating in the organized wholesale electric markets, during periods when the electric storage resource is not needed for the separate service compensated at cost-based rates,

³⁰ We note that the Supplemental Notice of Technical Conference, setting forth the agenda and questions for the technical conference, which also formed the basis for post-technical conference comments, referred to "cross-subsidization" when discussing this issue. *See supra* nn.1, 2. We consider "cross-subsidization" to refer to concerns over the allocation of costs between different customer classes for the same services, or between customers under different services, not concerns that resources or public utilities receiving both cost-based and market-based revenues undermine competition in the wholesale electric markets. Therefore, for more precision, here, we use the term "adverse market impacts" instead.

³¹ *See, e.g.*, Technical Conference Transcript at Tr. 65: 8–18; NextEra Energy Resources, LLC Comments at 9–10; Exelon Corp. Comments at 6.

³² *See, e.g.*, Transmission Access Policy Study Group Comments at 6.

³³ *See, e.g.*, FirstLight Power Resources, Inc. Dec. 14, 2016 Comments at 2, 6–7; New England Power Generators Association, Inc. Dec. 14, 2016 Comments at 2–9.

³⁴ *See, e.g.*, SolarCity Corp. and Tesla Motors, Inc. Comments at 9.

³⁵ *See, e.g.*, Technical Conference Transcript at Tr. 65: 8–18; NextEra Energy Resources, LLC Comments at 9–10.

³⁶ *See, e.g.*, Opinion No. 501, 123 FERC ¶ 61,047.

³⁷ *See* NextEra Energy Resources, LLC Comments at 9.

³⁸ We note that cost-based rates are reviewed by the Commission and can only be accepted if the rates are just and reasonable.

³⁹ *See, e.g.*, Technical Conference Transcript at Tr. 50–51; PG&E Comments at 3; NextEra Energy Resources, LLC Comments at 11–13.

the RTO/ISO would rely on offer parameters provided by the electric storage resource owner or operator for such operation, just as the RTO/ISO does with other market participants.

28. In this regard, we believe that one statement in *Nevada Hydro* requires clarification. Specifically, the Commission's conclusion that it would not be appropriate to require CAISO to assume "any level of operational control"⁴⁰ over the LEAPS facility should not be taken out of context because RTOs/ISOs arguably always exercise some level of operational control over the resources they dispatch through their markets. The Commission's decision in *Nevada Hydro* was discussing only the six proposals for operation of LEAPS as a transmission asset that were discussed in CAISO's stakeholder process.⁴¹ Other facts may warrant a different decision from the Commission. Therefore, we clarify that there is nothing unreasonable about an RTO/ISO exercising some level of control over the resources it commits or dispatches where it can be shown that the RTO/ISO independence is not at issue. When those resources are dispatched through the organized wholesale electric market clearing process, the level of RTO/ISO control will be lower because such dispatch will be based on offer parameters submitted by resource owners or operators. When resources are operated outside of the organized wholesale electric market clearing process (e.g., to address reliability needs), then the RTO's/ISO's control may be greater.

29. We are willing to consider other solutions proposed by an electric storage resource owner or operator seeking to recover costs through cost-based rates and market-based rates that are shown to be effective in avoiding these RTO/ISO independence issues.

III. Document Availability

30. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

31. From FERC's Home Page on the Internet, this information is available on

eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

32. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.reference@ferc.gov.

IV. Effective Date

33. This policy statement will become effective February 6, 2017.

By the Commission. Commissioner LaFleur is dissenting with a separate statement attached.

Issued: January 19, 2017.

Kimberly D. Bose,
Secretary.

UNITED STATES OF AMERICA

Federal Energy Regulatory Commission

Utilization of Electric Storage Resources for Multiple Services When Receiving Cost-Based Rate Recovery

Docket No. PL17-2-000

(Issued January 19, 2017)

LaFLEUR, Commissioner *dissenting*:

Today's order addresses whether a storage resource can receive cost-based revenues for providing a transmission service while also participating in the Commission's wholesale markets. The Commission has previously considered related issues in individual cases, such as our *Western Grid* orders from 2010,¹ and I agree that the Commission should be flexible and open to proposals that go beyond the model contemplated in those orders. I am open to potential structures that compensate storage providing transmission service at a cost-based rate while participating in the wholesale markets. However, I am concerned about the broad rationale for this approach put forth in the Policy Statement, which I believe is both flawed in its conclusions and premature in its timing.

I particularly disagree with the Policy Statement's sweeping conclusions about the potential impacts of multiple payment streams on pricing in

wholesale electric markets.² The Policy Statement summarily dismisses concerns regarding the impact of such arrangements on market competition, and leaves far more than just "implementation details" to be worked out. Indeed, the Policy Statement provides no guidance on how the Commission could evaluate whether a particular filing under section 205 of the Federal Power Act successfully avoids adverse market impacts.

I am concerned that the Policy Statement, while nominally limited to storage resources, could be read to reflect the Commission's views about the impact of multiple payment streams on market pricing more generally, thus implicating broader regional discussions on state policy initiatives and their interaction with competitive markets. These issues, which are currently being discussed by several RTO/ISOs and their stakeholders, will require careful and holistic consideration to ensure that policy advancements can be achieved while the benefits of competition are preserved for customers.

Furthermore, I disagree with the Commission's decision to separate this issue from its pending Notice of Proposed Rulemaking on storage participation,³ which is itself directed to enabling greater participation of storage technologies in wholesale markets. The conclusions of this Policy Statement regarding market participation of storage resources would benefit from being considered and commented on as part of that broader discussion.

Storage is an important and promising resource that warrants Commission attention to ensure that our markets are appropriately adapted to recognize storage's unique characteristics and contributions. However, efforts to accommodate these resources should not come at the expense of careful market design after full public participation.

For these reasons, I respectfully dissent.

Cheryl A. LaFleur,

Commissioner

[FR Doc. 2017-02421 Filed 2-3-17; 8:45 am]

BILLING CODE 6717-01-P

² *Utilization of Electric Storage Resources for Multiple Services When Receiving Cost-Based Rate Recovery*, 158 FERC ¶ 61,051 (2017).

³ *Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Notice of Proposed Rulemaking, 157 FERC ¶ 61,121 (2016).

⁴⁰ *Nevada Hydro*, 122 FERC ¶ 61,272 at P 82 (emphasis added).

⁴¹ See *id.*

¹ *Western Grid Dev., LLC*, 130 FERC ¶ 61,056, *reh'g denied*, 133 FERC ¶ 61,029 (2010).

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 723, 724, 845, and 846

[Docket ID: OSM–2016–0015; S1D1S SS08011000 SX064A000 178S180110; S2D2S SS08011000 SX064A00 17XS501520]

RIN 1029–AC74

Civil Monetary Penalty Inflation Adjustments

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act) and Office of Management and Budget (OMB) guidance, this rule adjusts for inflation the level of civil monetary penalties assessed under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

DATES: This rule is effective on February 6, 2017.

FOR FURTHER INFORMATION CONTACT: Michael Kuhns, Office of Surface Mining Reclamation and Enforcement, South Interior Building MS–203, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone (202) 208–2860. Email: mkuhns@osmre.gov.

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 - E. Takings (E.O. 12630)
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I. Background

A. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015

Section 518 of SMCRA, 30 U.S.C. 1268, authorizes the Secretary of the Interior to assess civil monetary penalties (CMPs) for violations of SMCRA. The Office of Surface Mining Reclamation and Enforcement (OSMRE) regulations implementing the CMP provisions of section 518 are located in 30 CFR parts 723, 724, 845, and 846. We are adjusting CMPs in four sections—30 CFR 723.14, 724.14, 845.14, and 846.14.

On November 2, 2015, the President signed the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114–74) (“the 2015 Act”) into law. The 2015 Act requires that Federal agencies promulgate rules to adjust the level of civil monetary penalties (“CMPs”) to account for inflation. In addition to an initial “catch-up” adjustment through an interim final rulemaking that was published in the **Federal Register** on July 8, 2016 (81 FR 44535), which took effect on August 1, 2016, the 2015 Act also requires agencies to make subsequent annual adjustments for inflation. These adjustments are aimed at maintaining the deterrent effect of civil penalties and furthering the policy goals of the statutes which authorize them. Agencies are required to publish annual inflation adjustments in the **Federal Register** no later than January 15 of each year, starting with the second adjustments in 2017, and no later than January 15 each subsequent year. In accordance with the 2015 Act, for the second adjustments, and each annual adjustment thereafter, agencies must adjust civil monetary penalties notwithstanding section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). The public procedure the APA generally requires—notice, an opportunity for comment, and a delay in the effective date—is not required for agencies to issue regulations implementing the annual adjustment.

Pursuant to SMCRA and the 2015 Act, this rule adjusts the following civil penalties:

CFR citation	Points	Current penalty (\$)	Adjusted penalty (\$)
30 CFR 723.14	1	\$63	\$64
	2	127	129
	3	190	193
	4	253	257
	5	316	321
	6	380	386
	7	443	450
	8	506	514
	9	569	578
	10	633	643
	11	696	707
	12	759	771
	13	822	835
	14	886	900
	15	949	965
	16	1,012	1,029
	17	1,075	1,093
	18	1,139	1,158
	19	1,202	1,222
	20	1,265	1,286
	21	1,328	1,350
	22	1,392	1,415
	23	1,455	1,479
	24	1,518	1,543
	25	1,581	1,607
	26	1,898	1,929

CFR citation	Points	Current penalty (\$)	Adjusted penalty (\$)
	27	2,214	2,250
	28	2,530	2,571
	29	2,725	2,770
	30	3,163	3,215
	31	3,479	3,536
	32	3,795	3,857
	33	4,112	4,179
	34	4,428	4,500
	35	4,744	4,822
	36	5,060	5,143
	37	5,377	5,465
	38	5,693	5,786
	39	6,009	6,107
	40	6,325	6,428
	41	6,642	6,751
	42	6,958	7,072
	43	7,274	7,393
	44	7,591	7,715
	45	7,907	8,036
	46	8,223	8,358
	47	8,539	8,679
	48	8,856	9,001
	49	9,172	9,322
	50	9,488	9,643
	51	9,804	9,964
	52	10,121	10,287
	53	10,437	10,608
	54	10,753	10,929
	55	11,070	11,251
	56	11,386	11,572
	57	11,702	11,893
	58	12,018	12,215
	59	12,335	12,537
	60	12,651	12,858
	61	12,967	13,179
	62	13,284	13,501
	63	13,600	13,823
	64	13,916	14,144
	65	14,232	14,465
	66	14,549	14,787
	67	14,865	15,108
	68	15,181	15,429
	69	15,497	15,751
	70	15,814	16,073
30 CFR 723.15(b) (Assessment of separate violations for each day)	Maximum	2,372	2,411
30 CFR 724.14(b) (Individual)	Maximum	17,395	16,073
30 CFR 845.14	1	63	64
	2	127	129
	3	190	193
	4	253	257
	5	316	321
	6	380	386
	7	443	450
	8	506	514
	9	569	578
	10	633	643
	11	696	707
	12	759	771
	13	822	835
	14	886	900
	15	949	965
	16	1,012	1,029
	17	1,075	1,093
	18	1,139	1,158
	19	1,202	1,222
	20	1,265	1,286
	21	1,328	1,350
	22	1,392	1,415
	23	1,455	1,479
	24	1,518	1,543
	25	1,581	1,607
	26	1,898	1,929
	27	2,214	2,250

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	28	2,530	2,571
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	31	3,479	3,536
	32	3,795	3,857
	33	4,112	4,179
	34	4,428	4,500
	35	4,744	4,822
	36	5,060	5,143
	37	5,377	5,465
	38	5,693	5,786
	39	6,009	6,107
	40	6,325	6,428
	41	6,642	6,751
	42	6,958	7,072
	43	7,274	7,393
	44	7,591	7,715
	45	7,907	8,036
	46	8,223	8,358
	47	8,539	8,679
	48	8,856	9,001
	49	9,172	9,322
	50	9,488	9,643
	51	9,804	9,964
	52	10,121	10,287
	53	10,437	10,608
	54	10,753	10,929
	55	11,070	11,251
	56	11,386	11,572
	57	11,702	11,893
	58	12,018	12,215
	59	12,335	12,537
	60	12,651	12,858
	61	12,967	13,179
	62	13,284	13,501
	63	13,600	13,823
	64	13,916	14,144
	65	14,232	14,465
	66	14,549	14,787
	67	14,865	15,108
	68	15,181	15,429
	69	15,497	15,751
	70	15,814	16,073
30 CFR 845.15(b) (Assessment of separate violations for each day)	Maximum	2,372	2,411
30 CFR 846.14(b) (Individual)	Maximum	17,395	16,073

OSMRE miscalculated the existing \$17,395 maximum individual civil penalty rates at § 724.14(b) and § 846.14(b) that it published in the **Federal Register** on July 8, 2016 (81 FR 44535), and which thereafter became effective on August 1, 2016. The value should have been \$15,814, which is the same as the existing maximum civil penalties for permittees. Instances of assessing individual civil penalties are infrequent. Applying the 2017 cost-of-living multiplier of 1.01636 to the corrected value results in a new maximum individual civil penalty rate of \$16,073 (\$15,814 × 1.01636). The 2017 multiplier is based on the percent change between the Consumer Price Index for all Urban Consumers at two points in time, as explained more fully below in *Calculation of Adjustments*.

B. Calculation of Adjustments

The Office of Management and Budget (OMB) issued guidance on making the 2017 annual adjustments for inflation. See December 16, 2016, Memorandum for the Heads of Executive Departments and Agencies, from Shaun Donovan, Director, Office of Management and Budget, re: *Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015*.

The OMB guidance notes that the 2015 Act defines “civil monetary penalty” as “any penalty, fine, or other sanction that . . . is for a specific monetary amount as provided by Federal law; or . . . has a maximum amount provided for by Federal law; and . . . is assessed or enforced by an agency pursuant to Federal law; and

. . . is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts” It further instructs that agencies “are to adjust ‘the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty by the cost-of-living adjustment.’” See December 16, 2016 OMB memorandum. The 2015 Act and OMB guidance specify the amount of the annual inflation adjustments. The adjustments are based on the percent change between the Consumer Price Index for all Urban Consumers (the CPI-U) published by the Department of Labor for the month of October in the year of the previous adjustment, and the October CPI-U for the year preceding that. The recent OMB guidance specified that the cost-of-living

adjustment multiplier for 2017, not seasonally adjusted, is 1.01636 (the October 2016 CPI-U (241.729) divided by the October 2015 CPI-U (237.838) = 1.01636). OSMRE used this guidance to identify applicable civil monetary penalties and calculate the required inflation adjustments. The 2015 Act specifies that any resulting increases in a CMP must be rounded according to a stated rounding formula and that the increased CMPs apply only to violations that occur after the date the increase takes effect.

Generally, OSMRE assigns points to a violation as described in 30 CFR 723.13 and 845.13. The CMP owed is based on the number of points received, ranging from one point to seventy points. For example, under our existing regulations in 30 CFR 845.14, a violation totaling 70 points would amount to a \$15,814 CMP. To adjust this amount, we multiply \$15,814 by the 2017 inflation factor of 1.01636, resulting in a raw adjusted amount of \$16,072.72. Because the 2015 Act requires us to round any increase in the CMP amount to the nearest dollar, in this case a violation of 70 points would amount to a new CMP of \$16,073. Pursuant to the 2015 Act, the increases in this rule apply to civil penalties assessed after the date the increases take effect, even if the associated violation predates the applicable increase.

C. Effect of Rule in Federal Program States and on Indian Lands

OSMRE directly regulates surface coal mining and reclamation operations within a State or on Tribal lands if the State or Tribe does not obtain its own approved program pursuant to section 503 of SMCRA. The increases in civil monetary penalties contained in this rule will apply to the following Federal program states: Arizona, California, Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for those States appear at 30 CFR parts 903, 905, 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively. The increase in civil monetary penalties also applies to Indian lands under the Federal program for Indian lands, which appears in 30 CFR 750.18.

D. Effect of the Rule on Approved State Programs

As a result of litigation, *see In re Permanent Surface Mining Regulation Litigation*, No. 79-1144, Mem. Op. (D.D.C. May 16, 1980), 19 Env't Rep. Cas. (BNA) 1477, state regulatory programs are not required to mirror all of the penalty provisions of our

regulations. Thus, this rule has no effect on CMPs in states with SMCRA primacy.

II. Procedural Matters and Required Determinations

A. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements, to the extent permitted by statute.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for all rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires agencies to adjust civil penalties annually for inflation “. . . notwithstanding Section 553 [of the Administrative Procedure Act].” Thus, no proposed rule will be published, and the RFA does not apply to this rulemaking.

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian Tribes and that

consultation under the Department's tribal consultation policy is not required.

I. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. This rule is excluded from the requirement to prepare a detailed statement because it is a regulation of an administrative nature. (For further information see 43 CFR 46.210(i).) We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

K. Effects on Energy Supply, Distribution, and Use (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

L. Clarity of This Regulation

We are required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you believe that we have not met these requirements in issuing this final rule, please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section. Your comments should be as specific as possible in order to help us determine whether any future revisions to the rule are necessary. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which

sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

M. Data Quality Act

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554).

N. Administrative Procedure Act

We are issuing this final rule without prior public notice or opportunity for public comment. Beginning in 2017, the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires agencies to publish adjusted penalties annually, no later than January 15 of each year. Under the 2015 Act, the public procedure the Administrative Procedure Act generally requires—notice, an opportunity for comment, and a delay in the effective date—is not required for agencies to issue regulations implementing the annual adjustments required by the 2015 Act.

List of Subjects

30 CFR Part 723

Administrative practice and procedure, Penalties, Surface mining, Underground mining.

30 CFR Part 724

Administrative practice and procedure, Penalties, Surface mining, Underground mining.

30 CFR Part 845

Administrative practice and procedure, Law enforcement, Penalties, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 846

Administrative practice and procedure, Penalties, Surface mining, Underground mining.

Dated: January 27, 2017.

Richard T. Cardinale,
Acting Assistant Secretary, Land and Minerals Management.

■ For the reasons given in the preamble, the Department of the Interior amends 30 CFR parts 723, 724, 845 and 846 as set forth below.

PART 723—CIVIL PENALTIES

■ 1. The authority citation for part 723 continues to read as follows:

Authority: 28 U.S.C. 2461, 30 U.S.C. 1201 *et seq.*, and 31 U.S.C. 3701.

■ 2. Section 723.14 is amended by revising the table to read as follows:

§ 723.14 Determination of amount of penalty.

	Points	Dollars
1	64
2	129
3	193
4	257
5	321
6	386
7	450
8	514
9	578
10	643
11	707
12	771
13	835
14	900
15	965
16	1,029
17	1,093
18	1,158
19	1,222
20	1,286
21	1,350
22	1,415
23	1,479
24	1,543
25	1,607
26	1,929
27	2,250
28	2,571
29	2,770
30	3,215
31	3,536
32	3,857
33	4,179
34	4,500
35	4,822
36	5,143
37	5,465
38	5,786
39	6,107
40	6,428
41	6,751
42	7,072
43	7,393
44	7,715
45	8,036
46	8,358
47	8,679
48	9,001
49	9,322
50	9,643
51	9,964
52	10,287
53	10,608
54	10,929
55	11,251
56	11,572
57	11,893
58	12,215
59	12,537
60	12,858
61	13,179
62	13,501
63	13,823
64	14,144
65	14,465
66	14,787
67	15,108
68	15,429
69	15,751
70	16,073

■ 3. Section 723.15 is amended by revising paragraph (b) introductory text to read as follows:

§ 723.15 Assessment of separate violations for each day.

* * * * *

(b) In addition to the civil penalty provided for in paragraph (a) of this section, whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order or as subsequently extended pursuant to section 521(a) of the Act, 30 U.S.C. 1271(a), a civil penalty of not less than \$2,411 will be assessed for each day during which such failure to abate continues, except that:

* * * * *

PART 724—INDIVIDUAL CIVIL PENALTIES

■ 4. The authority citation for part 724 continues to read as follows:

Authority: 28 U.S.C. 2461, 30 U.S.C. 1201 et seq., and 31 U.S.C. 3701.

■ 5. Section 724.14 is amended by revising the first sentence of paragraph (b) to read as follows:

§ 724.14 Amount of individual civil penalty.

* * * * *

(b) The penalty will not exceed \$16,073 for each violation. * * *

PART 845—CIVIL PENALTIES

■ 6. The authority citation for part 845 continues to read as follows:

Authority: 28 U.S.C. 2461, 30 U.S.C. 1201 et seq., 31 U.S.C. 3701, Pub. L. 100–202, and Pub. L. 100–446.

■ 7. Section 845.14 is amended by revising the table to read as follows:

§ 845.14 Determination of amount of penalty.

* * * * *

Table with 2 columns: Points, Dollars. Rows 1-19 with corresponding values.

Table with 2 columns: Points, Dollars. Rows 20-70 with corresponding values.

■ 8. Section 845.15 is amended by revising paragraph (b) introductory text to read as follows:

§ 845.15 Assessment of separate violations for each day.

* * * * *

(b) In addition to the civil penalty provided for in paragraph (a) of this section, whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order or as subsequently extended pursuant to section 521(a) of the Act, 30 U.S.C. 1271(a), a civil penalty of not less than \$2,411 will be assessed for each day during which such failure to abate continues, except that:

* * * * *

PART 846—INDIVIDUAL CIVIL PENALTIES

■ 9. The authority citation for part 846 continues to read as follows:

Authority: 28 U.S.C. 2461, 30 U.S.C. 1201 et seq., and 31 U.S.C. 3701.

■ 10. Section 846.14 is amended by revising the first sentence of paragraph (b) to read as follows:

§ 846.14 Amount of individual civil penalty.

* * * * *

(b) The penalty will not exceed \$16,073 for each violation. * * *

[FR Doc. 2017–02417 Filed 2–3–17; 8:45 am]

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Copyright Office

37 CFR Parts 201, 202, 203, 204, 205, 210, 211, 212, 253, 254, 255, 256, 258, 260, 261, 262, 263, and 270

[Docket No. 2016–5]

Copyright Office Technical Amendments

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The U.S. Copyright Office is amending its regulations governing registration, recordation, licensing, and other services that the Office provides. The amendments will improve the quality of the Office’s regulations by updating cross-references to the Copyright Act and the Office’s regulations, replacing outdated terminology, reflecting structural changes to the Office and its senior management, eliminating expired or obsolete provisions, and correcting nonsubstantive errors.

DATES: Effective March 8, 2017.

FOR FURTHER INFORMATION CONTACT: Sarang V. Damle, General Counsel and Associate Register of Copyrights, sdam@loc.gov; Regan A. Smith, Deputy General Counsel, resm@loc.gov; or Erik Bertin, Deputy Director of Registration Policy and Practice, ebertain@loc.gov. Each person can be reached by telephone at 202–707–8040.

SUPPLEMENTARY INFORMATION:

I. Background

On October 3, 2016, the U.S. Copyright Office (“Office”) published a Notice of Proposed Rulemaking (“NPRM”) setting forth proposed regulatory amendments designed to improve the quality of the Office’s

regulations through several technical amendments. 81 FR 67940. No comments were received in response to the NPRM.

II. Final Rule

There was no opposition to the proposed rule. Accordingly, the proposed rule is adopted with the following technical revisions made to reflect subsequent developments made after publication of the NPRM.

Since issuing the NPRM, the Copyright Office created the position of the Chief Financial Officer (“CFO”), a senior staff position that serves under the Register and oversees all financial, budgetary, and procurement activities for the Copyright Office. The final rule reflects this addition to the Office’s senior staff by adding the title and description of the CFO to 37 CFR 203.3(i) and revising the description of the Office of the Chief of Operations in 37 CFR 203.3(b).

The final rule also contains two deletions to the regulations of the former Copyright Arbitration Royalty Panel (“CARP”) found in subchapter B of the Copyright Office’s regulations. The NPRM removed all of the CARP regulations, with the exception of the two sections governing legacy royalty rates and terms under the cable compulsory license in 37 CFR part 256 and legacy royalty rates and terms for coin-operated phonorecords in 37 CFR part 251. See 81 FR 67940, 67942. Between publication of the NPRM and this final rule, the Copyright Royalty Board, the royalty tribunal that replaced the CARP, relocated the regulations governing both of these sections. See 81 FR 62812, 62813 (Sept. 13, 2016) and 37 CFR part 387 (cable compulsory license); 81 FR 83141 (Nov. 21, 2016) and 37 CFR part 388 (coin-operated phonorecord player compulsory license). Since the Copyright Royalty Board has relocated these provisions, parts 254 and 256 can now be removed from the former Copyright Arbitration Royalty Panel Rules and Procedures and reserved, which finalizes removal and reservation subchapter B of chapter II of title 37 of the CFR.

The final rule also amends 37 CFR 202.3(b)(2)(i) to remove the reference to submission of registration applications “through the Copyright Office Web site [*copyright.gov*],” to accommodate applications by electronic submissions that do not use the Copyright Office Web site. Additionally, the final rule removes two cross-references to 37 CFR 201.9, which is being removed and reserved.

* * * * *

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 202

Copyright, Preregistration and registration of claims to copyright.

37 CFR Part 203

Freedom of information.

37 CFR Part 204

Privacy.

37 CFR Part 205

Legal processes.

37 CFR Part 210

Copyright, Phonorecords, Recordings.

37 CFR Part 211

Mask work.

37 CFR Part 212

Design, Vessel hulls, Registration.

37 CFR Part 253

Copyright, Public broadcasting entities, Radio, Television.

37 CFR Part 254

Copyright, Jukeboxes.

37 CFR Part 255

Copyright, Music, Recordings.

37 CFR Part 256

Copyright, Cable television.

37 CFR Part 258

Copyright, Satellite, Rates.

37 CFR Parts 260 Through 263

Copyright, Digital audio transmissions, Performance right, Sound recordings.

37 CFR part 270

Copyright, Sound recordings.

Final Regulations

■ For the reasons set forth in the preamble, the Copyright Office amends 37 CFR parts 201, 202, 203, 204, 205, 210, 211, 212, 253, 254, 255, 256, 258, 260, 261, 262, 263, and 270 as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 201.1 [Amended]

■ 2. Amend § 201.1 as follows:

■ a. In paragraph (a), remove “on-site deliveries from commercial and private couriers” and add in its place “direct deliveries from commercial couriers and messengers” and remove “Web site”

and add in its place “website” each place it appears.

■ b. In paragraph (b)(2):

■ i. Remove “20559” and add in its place “20559–6000”.

■ ii. Remove the term “Hull” from the “Type of submission” column of the table and remove the term “AD” from the “Code” column of the table and add in its place the term “CAD/AD”.

■ c. In paragraph (c)(1), remove “Information and Records Division” and add in its place “Office of Public Information and Education”.

■ d. In paragraph (c)(2), remove “Sections” and add in its place “sections”.

■ e. In paragraph (c)(4), remove “hull” and add in its place “design”.

■ f. In paragraph (c)(5), remove “Records Research and Certification,” and add in its place “Records Research and Certification Section,”.

■ g. In paragraphs (c)(6) and (7), remove “Section” and add in its place “section”.

■ h. In paragraph (c)(7), remove “Ave.” and add in its place “Avenue”.

■ 3. Amend § 201.2 as follows:

■ a. In paragraph (b)(1), remove “Certifications and Documents Section” and add in its place “Records Research and Certification Section”.

■ b. In paragraph (b)(3) introductory text, remove “Information and Records Division” and add in its place “Office of Public Information and Education”.

■ c. In paragraph (b)(3)(i)(C), remove “the remitter” and add in its place “the applicant or remitter”.

■ d. Redesignate paragraphs (b)(4)(i) and (ii) as paragraphs (b)(4)(i)(A) and (B), redesignate the introductory text of paragraph (b)(4) as paragraph (b)(4)(i), and designate the undesignated text preceding paragraph (b)(5) as paragraph (b)(4)(ii).

■ e. In newly redesignated paragraph (b)(4)(i) introductory text, remove the phrase “that were submitted within the twelve month period immediately preceding the request for access”.

■ f. In newly redesignated paragraph (b)(4)(ii), remove “Copyright Information” and add in its place “Records Research and Certification”.

■ g. Revise paragraph (b)(7).

■ h. In paragraph (d)(1)(iv), remove “Certifications” and add in its place “Certification”.

The revision reads as follows:

§ 201.2 Information given by the Copyright Office.

* * * * *

(b) * * *

(7) The Register of Copyrights has issued an administrative manual known as the Compendium of U.S. Copyright

Office Practices, Third Edition. The Compendium explains many of the practices and procedures concerning the Office's mandate and statutory duties under title 17 of the United States Code. It is both a technical manual for the Copyright Office's staff, as well as a guidebook for authors, copyright licensees, practitioners, scholars, the courts, and members of the general public. The Third Edition and prior editions of the Compendium may be viewed, downloaded, or printed from the Office's website. They are also available for public inspection and copying in the Records Research and Certification Section.

* * * * *

§ 201.3 [Amended]

- 4. Amend § 201.3 as follows:
 - a. In paragraph (c)(3), remove “predominately” and add in its place “predominantly”.
 - b. In paragraph (c)(9), remove the period from the end of the first line and add in its place a colon and remove “\$130” and add in its place “130”.
 - c. In paragraph (c)(11), remove “hull” and add in its place “design”.
 - d. In the heading of paragraph (d), remove “*Service Fees*” and add in its place “*service fees*”.
 - e. In paragraph (d)(6), remove the period from the end of the term “Variable” in the “Fees (\$)” column of the table.
 - f. In the first column heading of the table in paragraph (e), remove “division” and add in its place “Division”.
 - g. Remove paragraph (e)(3).
 - h. Redesignate paragraphs (e)(4) through (8) as paragraphs (e)(3) through (7), respectively.

§ 201.4 [Amended]

- 5. Amend § 201.4 as follows:
 - a. In the introductory text of paragraph (a)(1), remove “, as amended by Pub. L. 94–553”.
 - b. Remove paragraph (a)(1)(iv).
 - c. Redesignate paragraphs (a)(1)(v) and (vi) as paragraphs (a)(1)(iv) and (v), respectively.
 - d. In paragraph (a)(2), remove “, as amended by Pub. L. 94–553”.
 - e. In paragraph (a)(3)(ii), remove “or” and add in its place “of”.
 - f. In paragraph (b), remove “Web site” and add in its place “website”.
 - g. In paragraph (c)(4)(ii)(D)(4), remove “a two- or three-letter” and add in its place “a one-, two-, or three-letter”.
 - h. In paragraph (c)(4)(iii), add a period after “Public Catalog” and remove “and the remitter” and add in its place “The remitter”.
 - i. In paragraph (e), remove “record” and add in its place “recordation”.

§ 201.5 [Amended]

- 6. Amend § 201.5 as follows:
 - a. In paragraphs (a)(1) introductory text, (a)(1)(i)(A) and (a)(1)(ii), remove “, as amended by Pub. L. 94–553”.
 - b. In paragraph (b)(2)(i), remove the semicolon from the end of the paragraph and add in its place a period.
 - c. In paragraph (b)(2)(iii)(B), remove “; and” and add in its place a period.
 - d. In paragraph (c)(2), remove “Web site” and add in its place “website”.

§ 201.6 [Amended]

- 7. Amend § 201.6 as follows:
 - a. In paragraph (a), remove “Register of Copyrights” from the first sentence and add in its place “U.S. Copyright Office”.
 - b. In paragraph (b)(3), remove the last sentence.
 - c. In paragraph (c)(1), remove “hulls” from the first sentence and add in its place “designs”.
 - d. In paragraphs (c)(1) and (2), remove the phrase “, and refunds of less than \$2 may be made in postage stamps”.
 - e. In paragraph (c)(3), remove the comma after the term “Records” in the last sentence.
 - f. In paragraph (d), remove “transferred for the” and add in its place “transferred for use in the”.

§ 201.7 [Amended]

- 8. Amend § 201.7 as follows:
 - a. In paragraph (c)(1), remove “*de minimis*” from the first sentence and add in its place “insufficiently creative” and remove “not in accordance with title 17 U.S.C., Chapters 1 through 8” from the last sentence and add in its place “not in accordance with U.S. copyright law”.
 - b. In paragraph (c)(2), remove “remitter” and add in its place “applicant”.
 - c. In paragraph (d), remove “remitter” from the first sentence and add in its place “applicant”.

§ 201.8 [Amended]

- 9. Amend § 201.8 as follows:
 - a. In paragraphs (c)(1) introductory text and (c)(1)(i), remove “claimant” and add in its place “applicant” each place it appears.
 - b. In paragraph (d), remove “certificate or registration” and add in its place “certificate of registration”.
 - c. In paragraphs (f)(2) and (3), remove “mail” and add in its place “Mail”.
 - d. In paragraph (g), remove “one of the addresses specified in § 201.1” and add in its place “the address specified in § 201.1(c)(1)”.

§ 201.9 [Removed and Reserved]

- 10. Remove and reserve § 201.9.

§ 201.10 [Amended]

- 11. Amend § 201.10 as follows:
 - a. In the introductory text, remove “sections 203, 304(c) and 304(d) of title 17, of the United States Code” and add in its place “17 U.S.C. 203, 304(c), and 304(d)”.
 - b. In paragraphs (b)(1) introductory text, remove “sections 304(c) and 304(d) of title 17, U.S.C.,” and add in its place “17 U.S.C. 304(c) and 304(d)”.
 - c. In paragraph (b)(1)(vii)(B), remove “section 304 of title 17, U.S.C.,” and add in its place “17 U.S.C. 304”.
 - d. In paragraph (b)(2) introductory text, remove “section 203 of title 17, U.S.C.,” and add in its place “17 U.S.C. 203”.
 - e. In paragraph (b)(2)(vii)(B), remove “section 203 of title 17, U.S.C.” and add in its place “17 U.S.C. 203”.
 - f. In paragraph (c)(2), remove “section 304(c) or section 304(d), whichever applies, of title 17, U.S.C.” and add in its place “17 U.S.C. 304(c) or 304(d), whichever applies”.
 - g. In paragraph (c)(3), remove “section 203 of title 17, U.S.C.” and add in its place “17 U.S.C. 203”.
 - h. In paragraph (d)(1), remove “first-class” and add in its place “first class”.
 - i. In paragraph (d)(2), remove “section 203, section 304(c) or section 304(d) of title 17, U.S.C.” and add in its place “17 U.S.C. 203, 304(c), or 304(d)”.
 - j. In paragraph (d)(3), remove “*reasonable investigation*” and add in its place “reasonable investigation” and remove the quotation marks from around the words “reasonable investigation”.
 - k. In paragraph (d)(4), remove “section 203, section 304(c), or section 304(d) of title 17, U.S.C.” and add in its place “17 U.S.C. 203, 304(c), or 304(d)”.
 - l. In paragraph (e)(1), remove “section 203, section 304(c), or section 304(d) of title 17, U.S.C.” and add in its place “17 U.S.C. 203, 304(c), or 304(d)”.
 - m. In paragraph (f)(1) introductory text, remove “paragraph (2) of this paragraph (f)” and add in its place “paragraph (f)(2) of this section”.
 - n. In paragraph (f)(1)(ii), remove “first-class” and add in its place “first class”.
 - o. In paragraph (f)(3), remove “record” and add in its place “recordation”.
 - p. In paragraph (f)(4), remove “section 203(a)(3) or section 304(c)(3), as applicable, of title 17, United States Code” and add in its place “17 U.S.C. 203(a)(3) or 304(c)(3), whichever applies” and remove “§ 201.4(c)(3)” and add in its place “§ 201.4”.
 - q. In paragraph (f)(7), remove “§ 201.1” and add in its place “§ 201.1(c)(2)”.

§ 201.11 [Amended]

- 12. Amend § 201.11 as follows:
 - a. In paragraph (a), remove “section 119(b)(1) and Section 122(a) of title 17 of the United States Code, as amended by Pub. L. No. 111–175” and add in its place “17 U.S.C. 119(b)(1), as amended by Public Law 111–175”, remove “that” and add in its place “for”, and add the term “to” after the phrase “private home viewing”.
 - b. In paragraph (b)(1), remove “and” and add in its place “and”, remove “Section 119(d) of title 17 of the United States Code, as amended by Pub. L. No. 111–175” and add in its place “17 U.S.C. 119(d), as amended by Public Law 111–175”.
 - c. In paragraph (c)(1), remove “section 119(b)(1)(B) and (c)(3) of title 17” and add in its place “17 U.S.C. 119(b)(1)(B)” and remove “not later than” and add in its place “no later than” each place it appears.
 - d. In paragraph (d)(1), remove the term “U.S.”, and remove “free upon request. Requests may be mailed to the address specified in § 201.1” and add in its place “free from the Copyright Office website”.
 - e. In paragraph (d)(2), remove “Statement of Account for Secondary Transmissions by Satellite Carriers to Home Viewers” and add in its place “Form SC (Statement of Account for Secondary Transmissions by Satellite Carriers of Distant Television Signals)”.
 - f. In paragraphs (e)(6) and (7), remove “§ 258.3” and add in its place “§ 386.2”.
 - g. In paragraph (h)(3)(i), remove the second sentence and add in its place “Telephone or similar unsigned requests that meet these conditions may be permitted, where a follow-up written request detailing the same information is received by the Copyright Office within fourteen days after the required thirty-day period.”.
 - h. In paragraph (h)(3)(ii), remove the semicolon from the end of the paragraph and add in its place a period.
 - i. In paragraph (h)(3)(iii)(A), remove the colon from the end of the paragraph and add in its place “; or”.

§ 201.12 [Amended]

- 13. Amend § 201.12 as follows:
 - a. In paragraph (a) introductory text, remove “section 111(e)(2) of title 17 of the United States Code as amended by Pub. L. 94–553” and add in its place “17 U.S.C. 111(e)(2)”.
 - b. In paragraph (b), remove “§ 201.3” and add in its place “§ 201.3(e)”.
 - c. In paragraph (c), remove “record” from the last sentence and add in its place “recordation”.

§ 201.13 [Amended]

- 14. Amend § 201.13 as follows:

- a. In paragraph (a)(1), remove “section 110(4) of title 17 of the United States Code as amended by Pub. L. 94–553” and add in its place “17 U.S.C. 110(4)”.
- b. In paragraph (d)(3), remove “a telegram” and add in its place “an email, fax,” and remove the word “said”.
- c. In paragraph (e)(2)(iii), remove “Telegram, cablegram,” and add in its place “Email, fax,”.

§ 201.14 [Amended]

- 15. Amend § 201.14 as follows:
 - a. In paragraphs (a)(1) and (2), remove “as amended by Pub. L. 94–553”.
 - b. In paragraph (c)(2), remove “8” and add in its place “eight”.

§ 201.15 [Added and Reserved]

- 16. Add and reserve § 201.15.

§ 201.16 [Amended]

- 17. Amend § 201.16 by removing paragraph (c)(7).
- 18. Amend § 201.17 as follows:
 - a. In paragraph (a), remove “Copyright” and add in its place “Copyright” and remove “section 111(d)(2) of title 17 of the United States Code” and add in its place “17 U.S.C. 111(d)(1)”.
 - b. In paragraph (b)(1), remove “Gross receipts for the” and add in its place “Gross receipts for the”.
 - c. In paragraph (b)(2), remove “§ 201.17 of” each place it appears and remove “section, shall be” and add in its place “section shall be”.
 - d. In paragraph (b)(5), remove “Section 111(f) of title 17 of the United States Code, as amended by Pub. L. No. 94–553, Pub. L. No. 103–369, and Pub. L. No. 111–175” and add in its place “17 U.S.C. 111(f), as amended by Public Laws 94–553, 103–369, and 111–175”.
 - e. In paragraph (b)(7), remove “translator station is,” and add in its place “translator station is”.
 - f. In paragraph (b)(9), remove “FCC”, ” and add in its place “FCC,”.
 - g. Revise paragraph (c)(1).
 - h. In paragraph (d)(1), remove the term “U.S.”, and remove “upon request. Requests may be mailed to the address specified in § 201.1” and add in its place “from the Copyright Office website”.
 - i. In paragraph (e)(5)(iii), add a period to the end of the sentence.
 - j. Revise paragraph (e)(7) and remove the undesignated paragraph following paragraph (e)(7).
 - k. Revise paragraph (f)(3).
 - l. Remove paragraph (i)(1)(vi).
 - m. Revise paragraph (i)(3).
 - n. Remove paragraphs (i)(4) and (5).
 - o. Redesignate paragraphs (i)(6) through (10) as paragraphs (i)(4) through (8), respectively.

- p. In paragraph (m)(2)(i), remove the semicolon and add in its place “; or”.
- q. In paragraph (m)(2)(ii), remove “; or” and add a period in its place.
- r. Remove paragraph (m)(2)(iii).
- s. In paragraph (m)(4)(i), remove the second sentence and add in its place “Telephone or similar unsigned requests that meet these conditions may be permitted, where a follow-up written request detailing the same information is received by the Copyright Office within fourteen days after the required sixty-day period.”
- t. In paragraph (m)(4)(ii), remove the semicolon from the end of the paragraph and add in its place a period.
- u. In paragraph (m)(4)(iii)(B), remove the semicolon from the end of the paragraph and add in its place a period.
- v. Remove paragraph (m)(4)(iii)(C).
- w. In paragraph (m)(4)(iv)(A), remove the phrase “(except those filed under paragraph (m)(2)(iii) of this section)” and remove the period from the end of the paragraph and add in its place “; and”.
- x. In paragraph (m)(4)(iv)(B), remove the comma after the phrase “this paragraph (m)”.

The revisions read as follows:

§ 201.17 Statements of Account covering compulsory licenses for secondary transmissions by cable systems.

* * * * *

(c) * * *

(1) Statements of Account shall cover semiannual accounting periods of January 1 through June 30, and July 1 through December 31, and shall be deposited in the Copyright Office, together with the total royalty fee for such accounting periods as prescribed by 17 U.S.C. 111(d)(1)(B) through (F), by no later than the immediately following August 29, if the Statement of Account covers the January 1 through June 30 accounting period, and by no later than the immediately following March 1, if the Statement of Account covers the July 1 through December 31 accounting period.

(e) * * *

(7) The designation “Gross Receipts”, followed by the gross amount paid to the cable system by subscribers for the basic service of providing secondary transmissions during the period covered by the Statement of Account.

(i) If the cable system maintains its revenue accounts on an accrual basis, gross receipts for any accounting period includes all such amounts accrued for secondary transmission service furnished during that period, regardless of when accrued:

(A) Less the amount of any bad debts actually written-off during that accounting period;

(B) Plus the amount of any previously written-off bad debts for secondary transmission service which were actually recovered during that accounting period.

(ii) If the cable system maintains its revenue accounts on a cash basis, gross receipts of any accounting period includes all such amounts actually received by the cable system during that accounting period.

* * * * *

(f) * * *

(3) In computing the DSE of a primary transmitter in a particular case of carriage on or after July 1, 1981, the cable system may make no prorated adjustments other than those specified in 17 U.S.C. 111(f)(5)(B), and which remain in force under that provision. Two prorated adjustments, as prescribed in that section, are permitted under certain conditions where:

(i) A station is carried on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals which it is authorized to carry; and

(ii) A station is carried on a "substitute" basis under rules, regulations, or authorizations of the FCC in effect on October 19, 1976 (as defined in 17 U.S.C. 111(f)(5)(B)(ii)), which permitted a cable system, at its election, to omit the retransmission of a particular program and substitute another program in its place.

* * * * *

(i) * * *

(3) It shall be presumed that the 3.75% rate of 37 CFR 308.2(c) applies to DSEs accruing from newly added distant signals, carried for the first time by a cable system after June 24, 1981. The presumption of this section can be rebutted in whole or in part:

(i) By actual carriage of a particular distant signal prior to June 25, 1981, as reported in Statements of Account duly filed with the Copyright Office ("actual carriage"), unless the prior carriage was not permitted by the FCC; or

(ii) By carriage of no more than the number of distant signals which was or would have been allotted to the cable system under the FCC's quota for importation of network and nonspecialty independent stations (47 CFR 76.59(b), 76.61(b) and (c), and 76.63, referring to § 76.61(b) and (c), in effect on June 24, 1981).

* * * * *

§ 201.18 [Amended]

■ 19. Amend 201.18 as follows:

■ a. In paragraph (a)(2), remove "his" and add in its place "the".

■ b. In paragraph (a)(4) introductory text, remove "subparagraphs (ii) and (iii)" and add in its place "paragraphs (a)(4)(ii) and (iii) of this section".

■ c. In paragraphs (a)(4)(i) and (ii), remove "that that" and add in its place "that" each place it appears.

■ d. In paragraph (a)(5), remove the phrase "copyright owner," and add in its place the phrase "copyright owner,".

■ e. In paragraph (b), remove "paragraph (a)(4)" and add in its place "paragraph (a)(6)", and remove "§ 210.11(e)" and add in its place "§ 210.16(g)".

■ f. In paragraph (f)(3), remove the phrase "filed by being" from the fourth sentence.

■ g. In paragraph (f)(4), remove "paragraph (a)(4)" and add in its place "paragraph (b)" each place it appears.

§ 201.22 [Amended]

■ 20. Amend § 201.22 as follows:

■ a. In paragraphs (a)(1) and (c)(1)(i), remove "411(b)" and add in its place "411(c)".

■ b. In paragraph (d)(3), remove "a telegram" and add in its place "an email, fax,".

■ c. In paragraph (e)(1), remove "411(b)(1)" and add in its place "411(c)(1)".

■ d. In paragraph (e)(2)(iii), remove "Telegram, cablegram," and add in its place "Email, fax,".

§ 201.23 [Amended]

■ 21. Amend § 201.23 as follows:

■ a. In paragraph (a), remove " , as amended by Pub. L. 94-553, 90 Stat. 2541, effective January 1, 1978" and remove the phrase " , as amended by Pub. L. 94-553".

■ b. In paragraph (b) introductory text, remove "Provided, That:" and add in its place "provided that:".

■ c. In paragraphs (b)(1) through (3), remove the phrase " , as amended by Pub. L. 94-553" wherever it appears.

§ 201.25 [Amended]

■ 22. Amend § 201.25 as follows:

■ a. In paragraph (c)(1), remove "Regulatory" from the first sentence and add in its place "Registry".

■ b. In paragraph (e), remove "record" from the second sentence and add in its place "recording".

§ 201.26 [Amended]

■ 23. Amend § 201.26 as follows:

■ a. In paragraph (b), remove "Definitions—" and add in its place "Definitions.".

■ b. In paragraph (d), remove "Documents—" and add in its place "documents.".

■ c. Remove paragraph (d)(4).

■ d. In paragraph (f), remove "record" from the second sentence and add in its place "recording".

§ 201.27 [Amended]

■ 24. Amend § 201.27 as follows:

■ a. In the heading to paragraph (b), remove the dash and add a period in its place.

■ b. In paragraph (b)(1), remove "An" and add "An" in its place.

■ c. In paragraph (b)(3), remove the comma following the term "cassette".

§ 201.28 [Amended]

■ 25. Amend § 201.28 as follows:

■ a. In paragraph (c)(3), remove the third and fourth sentences.

■ b. In paragraph (d)(1), remove "from the Licensing Division, Library of Congress" and add in its place "free from the Copyright Office website", remove "Forms and other information may be requested from the Licensing Division by facsimile transmission (FAX), but copies" and add in its place "Copies" and remove "FAX" and add in its place "fax".

■ c. In paragraph (e)(5), remove "facsimile (FAX)" and add in its place "fax".

■ d. In paragraph (j)(3)(i), remove the third sentence and add in its place "Telephone or similar unsigned requests that meet these conditions may be permitted, where a follow-up written request detailing the same information is received by the Copyright Office within 14 days after the required 60-day period.".

§ 201.29 [Amended]

■ 26. Amend § 201.29 as follows:

■ a. In paragraph (e), remove the term "5" and add in its place the term "five".

■ b. In paragraph (h)(1), remove the parentheses from around the phrase "of the manufacturing party or importing party".

■ c. In paragraph (h)(2), remove "telefax" and add in its place "fax".

■ d. In paragraph (h)(6), remove the term "(AHRA)".

§ 201.31 [Removed and Reserved]

■ 27. Remove and reserve § 201.31.

■ 28. Amend § 201.33 as follows:

■ a. In paragraph (a), remove "automated database, which can be accessed over the Internet" from the last sentence and add in its place "website".

■ b. In the heading to paragraph (b), remove the dash and add a period in its place.

■ c. In paragraph (b)(2)(iii), remove the phrase "the new" each place it appears.

■ d. In paragraph (b)(3)(iii)(A), remove "United States" and add in its place "U.S.".

- e. In paragraph (d)(3)(ii)(G), remove “Telefax number” and add in its place “Email address”.
- f. In the heading to paragraph (e)(2), remove “Payment” and add in its place “payment”.
- g. In paragraph (e)(2)(i), remove “Register of Copyrights” and add in its place “U.S. Copyright Office”.
- h. In paragraph (e)(2)(ii), remove “U.S.” from each place it appears in the heading and paragraph text, remove “§ 201.1” from the last sentence and add in its place “§ 201.1(b)”, and remove “Web site” and add in its place “website”.
- i. In paragraph (e)(2)(iii), remove “VISA, MasterCard and American Express” from the first sentence and add in its place “most major credit cards”.
- j. Revise paragraph (f).
- k. In appendix A, item 13, remove “Telefax” and adding in its place “Fax”. The revision reads as follow:

§ 201.33 Procedures for filing Notices of Intent to Enforce a restored copyright under the Uruguay Round Agreements Act.

* * * * *

(f) *Public access.* Notices of Intent to Enforce filed with the Copyright Office are available for public inspection and copying in the Records Research and Certification Section. Some of the information contained in these records is available on the Office’s website, including the title of the work or a brief description if the work is untitled and the name of the copyright owner or owner of an exclusive right.

* * * * *

- 29. Amend § 201.34 as follows:
 - a. In paragraph (d)(3)(viii)(D), remove “telefax” and add in its place “fax”.
 - b. In paragraph (e), italicize the introductory paragraph heading.
 - c. Revise paragraph (f).

The revision reads as follows:

§ 201.34 Procedures for filing Correction Notices of Intent to Enforce a Copyright Restored under the Uruguay Rounds Agreement Act.

* * * * *

(f) *Public access.* Correction Notices of Intent to Enforce filed with the Copyright Office are available for public inspection and copying in the Records Research and Certification Section.

* * * * *

§ 201.38 [Amended]

- 30. Amend § 201.38 in paragraphs (a)(1) and (2), (b) introductory text, (b)(1)(ii), (b)(2), (c) introductory text, and (c)(1) by removing “Web site” and adding in its place “website”.

§ 201.39 [Amended]

- 31. Amend § 201.39 as follows:

- a. In paragraph (g)(1), italicize the paragraph heading.
- b. In paragraph (g)(3)(i), remove “Register of Copyrights” and add in its place “U.S. Copyright Office”.
- c. In paragraph (g)(3)(ii), remove “U.S.” from each place it appears in the heading and paragraph text and remove “§ 201.1” and add in its place “§ 201.1(b)” and remove “Web site” and add in its place “website”.

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

- 32. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408(f), 702.

§ 202.2 [Amended]

- 33. Amend § 202.2 as follows:
 - a. In paragraph (b)(2), remove “his” and add in its place “the producer’s”.
 - b. In paragraph (b)(5), remove “his name” and add in its place “that person’s name”.
 - c. Redesignate paragraphs (b)(6)(i) through (iii) as paragraphs (b)(6)(i)(A) through (C), respectively, redesignate the introductory text of paragraph (b)(6) as (b)(6)(i), and designate the undesignated paragraph preceding paragraph (b)(7) as (b)(6)(ii).
 - d. In newly redesignated paragraph (b)(6)(i)(B), remove the semicolon and add in its place “; or”.
 - e. In newly redesignated paragraph (b)(6)(i)(C), remove the colon and add in its place a period.
 - f. In newly designated paragraph (b)(6)(ii), remove “*Provided, however, That*” and add in its place “*Provided, however, that*”, remove “three foregoing types of cases” and add in its place “three types of cases described in paragraphs (b)(6)(i)(A) through (C) of this section”, and remove the period at the end of the paragraph and add in its place a semicolon.
 - g. In paragraph (b)(10), remove the period and add in its place “; and”.

§ 202.3 [Amended]

- 34. Amend § 202.3 as follows:
 - a. In paragraph (a)(1), remove the phrase “, as amended by Pub. L. 94–553”.
 - b. In paragraph (b)(1)(v), italicize the paragraph heading.
 - c. In paragraph (b)(2) introductory text, remove “Web site” and add in its place “website”.
 - d. In paragraph (b)(2)(i)(A), remove “through the Copyright Office Web site [www.copyright.gov]” and add a period in its place.
 - e. In paragraph (b)(2)(i)(B), remove “Web sites” and add in its place “websites”.

- f. In paragraph (b)(2)(i)(D), remove the phrase “a remitter” and add in its place the phrase “an applicant”.
- g. In paragraph (b)(2)(ii)(C), remove “the type of authorship that predominates” from the fourth sentence and add in its place “the predominant type of authorship”.
- h. In paragraph (b)(2)(ii)(D), remove “Web site [www.copyright.gov]” and add in its place “website (www.copyright.gov)”.
- i. In paragraph (b)(6)(v), remove “under 408(c)(1) of title 17” and add in its place “under 17 U.S.C 408(c)(1)”.
- j. In paragraph (b)(8)(i) introductory text, remove the phrase “, as amended by Pub. L. 94–553”.

§ 202.4 [Removed and Reserved]

- 35. Remove and reserve § 202.4.

§ 202.5 [Amended]

- 36. Amend § 202.5 as follows:
 - a. In paragraph (a), remove the term “hull”.
 - b. In paragraph (b)(2), remove “§ 201.3(d)(3)(i)” and add in its place “§ 201.3(d)”.
 - c. In paragraph (b)(3), remove “Registration Program written notice” and add in its place “written notice from the Registration Program” and remove the term “initial”.
 - d. In paragraph (c)(2), remove “§ 201.3(d)(3)(ii)” and add in its place “§ 201.3(d)”.
 - e. In paragraph (d)(1), remove “§ 201.1” and add in its place “§ 201.1(c)(4)”.
 - f. In paragraph (e), remove “*wavier*” from the paragraph heading and add in its place “*waiver*”.
- 37. Amend § 202.12 as follows:
 - a. In paragraph (b)(1), italicize the terms “restored work” and “source country”, and remove the term “the URAA” and add in its place the phrase “17 U.S.C. 104(A)(g)(6) and (8)”.
 - b. Revise paragraph (c)(1).
 - c. Remove paragraph (c)(2).
 - d. Redesignate paragraphs (c)(3) and (4) as paragraphs (c)(2) and (3), respectively.
 - e. In newly redesignated paragraph (c)(2)(ii)(A), remove “Register of Copyrights” and add in its place “U.S. Copyright Office”.
 - f. In newly redesignated paragraph (c)(2)(ii)(B), remove “U.S.” from each place it appears in the heading and paragraph text and remove “Web site” and add in its place “website”.
 - g. In newly redesignated paragraph (c)(2)(ii)(C), remove “URAA” and add in its place “GATT” and remove “VISA, MasterCard, and American Express” and add in its place “most major credit cards”.

■ h. In newly redesignated paragraph (c)(3)(i) introductory text, remove “the amended section 104A” and add in its place “17 U.S.C. 104A” and remove “paragraphs (c)(4) (ii)” and add in its place “paragraphs (c)(3)(ii)”.

■ i. In newly redesignated paragraph (c)(3)(iv), remove “paragraph (c)(4)(i)” and add in its place “paragraph (c)(3)(i)”.

■ j. In newly redesignated paragraph (c)(3)(v), remove “may seek an alternative deposit under special relief (37 CFR 202.20(d))” and add in its place “may submit an alternative deposit under a grant of special relief under § 202.20(d)”.

■ k. In newly redesignated paragraph (c)(3)(vi), remove “telefax” and add in its place “fax”.

■ l. In paragraph (d), remove “copyrights” and add in its place “works”.

The revision reads as follows:

§ 202.12 Restored copyrights.

* * * * *

(c) Registration—(1) Application. Applications for registration for single works restored to copyright protection under the URAA should be made on Form GATT. Copies of this form may be obtained from the Office’s website or by contacting the Public Information Office at (202) 707–3000. Applicants should submit the completed application with the appropriate filing fee and deposit copies and materials required by paragraph (c)(3) of this section in the same package by mail.

* * * * *

§ 202.16 [Amended]

- 38. Amend § 202.16 as follows:
■ a. In paragraph (a), remove “Section 408(f) of 17 U.S.C.” and add in its place “17 U.S.C. 408(f)”.
■ b. Revise paragraph (c)(3).
■ c. In paragraph (c)(5)(ii)(A), italicize the paragraph heading.
■ d. In paragraph (c)(5)(ii)(B), italicize the paragraph heading.
■ e. In paragraph (c)(5)(ii)(C), italicize the paragraph heading.
■ f. Revise paragraphs (c)(6)(i) and (c)(6)(iii) through (v).
■ h. In paragraph (c)(6)(vi), remove the last sentence and add in its place “The description may also explain the general presentation (e.g., the lighting, background scenery, positioning of elements of the subject matter as it is seen in the photographs), and should provide any locations and events, if applicable, associated with the photographs.”
■ i. Revise paragraph (c)(10).
■ j. In paragraph (c)(11), remove “Information and Records Division” and

add in its place “Office of Public Information and Education”.

■ k. Revise paragraph (c)(12).

The revisions read as follows:

§ 202.16 Preregistration of copyrights.

* * * * *

(c) * * *

(3) Application. An application for preregistration must be submitted electronically on the Copyright Office website at: http://www.copyright.gov.

* * * * *

(6) * * *

(i) For motion pictures, the identifying description should include the following information to the extent known at the time of filing: The subject matter, a summary or outline, the director, the primary actors, the principal location of filming, and any other information that would assist in identifying the particular work being preregistered.

* * * * *

(iii) For musical compositions, the identifying description should include the following information to the extent known at the time of filing: The subject matter of the lyrics, if any; the genre of the work (e.g., classical, pop, musical comedy, soft rock, heavy metal, gospel, rap, hip-hop, blues, jazz); the performer, principal recording location, record label, motion picture, or other information relating to any sound recordings or motion pictures that are being prepared for commercial distribution and will include the musical composition; and any other detail or characteristic that may assist in identifying the particular musical composition.

(iv) For literary works in book form, the identifying description should include to the extent known at the time of filing: The genre of the book (e.g., biography, novel, history, etc.), and should include a brief summary of the work including, the subject matter (e.g., a biography of President Bush, a history of the war in Iraq, a fantasy novel); a description (where applicable) of the plot, primary characters, events, or other key elements of the content of the work; and any other salient characteristics of the book (e.g., whether it is a later edition or revision of a previous work, as well as any other detail which may assist in identifying the literary work in book form).

(v) For computer programs (including videogames), the identifying description should include to the extent known at the time of filing: The nature, purpose and function of the computer program, including the programming language in which it is written and any particular

organization or structure in which the program has been created; the form in which it is expected to be published (e.g., as an online-only product; whether there have been previous versions and identification of such previous versions); the identities of persons involved in the creation of the computer program; and, if the work is a videogame, also the subject matter of the videogame and the overall object, goal, or purpose of the game, its characters, if any, and the general setting and surrounding found in the game.

* * * * *

(10) Notification of preregistration. Upon completion of the preregistration, the Copyright Office will email an official notification of the preregistration to the person who submitted the application.

* * * * *

(12) Public record of preregistration. The preregistration record also will be made available to the public on the Copyright Office website at: http://www.copyright.gov.

* * * * *

§ 202.17 [Amended]

- 39. Amend § 202.17 as follows:
■ a. In paragraph (b)(1), remove “[as” and add in its place “(as” and remove “(C)]” and add in its place “(C)”.
■ b. In paragraph (c)(2), remove “409(11),” and add in its place “409(10),”.
■ c. In the heading to paragraph (e), remove “Section” and add in its place “section”.
■ d. In paragraph (e)(2), remove “name[s]” and add in its place “name(s)” each place it appears, remove “claimant[s]” and add in its place “claimant(s)” each place it appears, and remove “sixty-seven year” and add in its place “67-year”.
■ e. In paragraph (e)(3), remove “(b)(4)” and add in its place “(b)(3)”.
■ f. In paragraph (f)(2), remove “(f)(1)(i)” and add in its place “(f)(1)”.
■ g. In paragraph (g)(1), remove “U.S. Copyright Office homepage at http://www.copyright.gov” from the second sentence and add in its place “Copyright Office website at: http://www.copyright.gov”, remove “Request.” and add in its place “request.”, and remove “§ 201.1” and add in its place “§ 201.1(b)”.
■ h. In paragraph (h)(3)(vii), remove “[effective” and add in its place “(effective” and remove “1988” and add in its place “1988)”.
■ 40. Amend § 202.19 as follows:
■ a. In paragraph (a), remove “, as amended by Pub. L. 94–553” and remove “of these regulations”.

- b. Revise paragraph (b)(2) and remove the undesignated paragraph following paragraph (b)(2).
- c. In paragraph (b)(4), remove “§ 202.19(c)(5) of this regulation” and add in its place “paragraph (c)(5) of this section”.
- d. In paragraphs (c)(5) and (d)(2)(iii)(B), remove “of these regulations” wherever it occurs.
- e. Revise paragraph (d)(2)(iv).
- f. In paragraph (d)(2)(vi), remove the comma after the term “kits”.
- g. In paragraph (e)(1)(iv), remove the phrase “of these regulations”.
- h. In paragraph (e)(3), remove “for Registration Program” and add in its place “of Copyrights and Director of the Office of Registration Policy and Practice”.
- i. In paragraph (f)(1), remove “on the application” and remove “of these regulations”.

The revisions read as follows:

§ 202.19 Deposit of published copies or phonorecords for the Library of Congress.

* * * * *

(b) * * *

(2) A *complete* copy includes all elements comprising the unit of publication of the best edition of the work, including elements that, if considered separately, would not be copyrightable subject matter or would otherwise be exempt from the mandatory deposit requirement under paragraph (c) of this section.

(i) In the case of sound recordings, a “complete” phonorecord includes the phonorecord, together with any printed or other visually perceptible material published with such phonorecord (such as textual or pictorial matter appearing on record sleeves or album covers, or embodied in leaflets or booklets included in a sleeve, album, or other container).

(ii) In the case of a musical composition published in copies only, or in both copies and phonorecords:

(A) If the only publication of copies in the United States took place by the rental, lease, or lending of a full score and parts, a full score is a “complete” copy; and

(B) If the only publication of copies in the United States took place by the rental, lease, or lending of a conductor’s score and parts, a conductor’s score is a “complete” copy.

(iii) In the case of a motion picture, a copy is “complete” if the reproduction of all of the visual and aural elements comprising the copyrightable subject matter in the work is clean, undamaged, undeteriorated, and free of splices, and if the copy itself and its physical housing are free of any defects that

would interfere with the performance of the work or that would cause mechanical, visual, or audible defects or distortions.

(iv) In the case of an electronic work published in the United States and available only online, a copy is “complete” if it includes all elements constituting the work in its published form, *i.e.*, the complete work as published, including metadata and formatting codes otherwise exempt from mandatory deposit.

* * * * *

(d) * * *

(2) * * *

(iv) In any case where an individual author is the owner of copyright in a published pictorial or graphic work and:

(A) Less than five copies of the work have been published; or

(B) The work has been published and sold or offered for sale in a limited edition consisting of no more than three hundred numbered copies, the deposit of one complete copy of the best edition of the work or, alternatively, the deposit of photographs or other identifying material in compliance with § 202.21, will suffice in lieu of the two copies required by paragraph (d)(1) of this section.

* * * * *

■ 41. Amend § 202.20 as follows:

■ a. In paragraph (a), remove “, as amended by Pub. L. 94–553” and remove “of these regulations”.

■ b. In paragraph (b)(1), remove “*The*” and add in its place “*The*”.

■ c. In paragraph (b)(2)(ii), remove “(b)(2) (iv)” and add in its place “(b)(2)(iv)”.

■ d. Revise paragraph (b)(2)(iii).

■ e. In paragraph (b)(2)(v), remove “§ 202.19(b)(2) of these regulations;” and add in its place “§ 202.19(b)(2)(i).”

■ f. In paragraph (b)(2)(vi)(B), remove the term “copy;” and add in its place the term “copy.”

■ g. In paragraph (b)(6), remove “§ 202.20” and add in its place “section” and remove the term “as”.

■ h. In paragraph (c)(2)(i)(G), remove “(c)(2)(xi)(B)(5)” and add in its place “(c)(2)(xi)(B)”.

■ i. In paragraphs (c)(2)(ii), (c)(2)(iii)(B), (c)(2)(iv), and (c)(2)(v), remove the phrase “of these regulations” each place it appears.

■ j. In paragraph (c)(2)(vii)(A)(2), remove “units, entire” and add in its place “units, the entire” and remove “proportionately” and add in its place “proportionately”.

■ k. In paragraphs (c)(2)(viii)(A) and (c)(2)(x), remove the phrase “of these regulations” each place it appears.

■ l. In paragraph (c)(2)(xi)(A), remove “of these regulations” and add in its place “of this chapter”.

■ m. In paragraphs (c)(2)(xii) and (xiii), remove the phrase “of these regulations” each place it appears.

■ n. In paragraph (c)(2)(xvi), remove “the deposit phonorecord” and add in its place “the phonorecord”.

■ o. In paragraph (c)(2)(xviii)(A), add a superscript “6” after the first sentence and designate the undesignated paragraph after paragraph (c)(2)(xviii)(A)(4) as footnote 6.

■ p. In paragraph (c)(2)(xviii)(B), remove the phrase “of these regulations”, add a superscript “7” after the second sentence, and designate the undesignated paragraph after paragraph (c)(2)(xviii)(B)(4) as footnote 7.

■ q. In paragraph (d)(1)(iv), remove “of these regulations”.

■ r. In paragraph (d)(3), remove “of these regulations” and remove “for Registration Program of the Copyright Office” and add in its place “of Copyrights and Director of the Office of Registration Policy and Practice”.

■ s. In paragraph (e), remove “section 407 of title 17 and § 202.19 of these regulations” and add in its place “17 U.S.C. 407 and § 202.19”, remove “of claim” and add in its place “of a claim”, and remove the phrase “on the application”.

The revision reads as follows:

§ 202.20 Deposit of copies and phonorecords for copyright registration.

* * * * *

(b) * * *

(2) * * *

(iii) *Works submitted for registration in digital formats.* A “complete” electronically filed work is one which is embodied in a digital file which contains:

(A) If the work is unpublished, all authorship elements for which registration is sought; and

(B) If the work is published solely in an electronic format, all elements constituting the work in its published form, *i.e.*, the complete work as published, including metadata and authorship for which registration is not sought. Publication in an electronic only format requires submission of the digital file(s) in exact first-publication form and content.

(C) For works submitted electronically, any of the following file formats are acceptable for registration: PDF, TXT, WPD, DOC, TIF, SVG, JPG, XML, HTML, WAV, and MPEG family of formats, including MP3. This list of file formats is non-exhaustive and it may change, or be added to periodically. Changes will be noted in the list of

acceptable formats on the Copyright Office website.

(D) Contact with the registration applicant may be necessary if the Copyright Office cannot access, view, or examine the content of any particular digital file that has been submitted for the registration of a work. For purposes of 17 U.S.C. 410(d), a deposit has not been received in the Copyright Office until a copy that can be reviewed by the Office is received.

* * * * *

§ 202.21 [Amended]

■ 42. Amend § 202.21 as follows:

- a. In paragraph (a), remove “and to” from the first sentence and add in its place “and” and remove the phrase “of these regulations”.
- b. In paragraph (g)(1)(i) introductory text, remove “and description” and add in its place “and a description”.
- c. In paragraph (h), remove the phrase “of these regulations”.

§ 202.22 [Amended]

■ 43. Amend § 202.22 as follows:

- a. In paragraph (c)(8), remove “Web site” and add in its place “website”.
- b. In paragraph (f)(1)(i), remove the phrase “not later than” and add in its place the phrase “no later than”.

§ 202.23 [Amended]

■ 44. Amend § 202.23 as follows:

- a. In paragraph (a)(1), remove “708(a)(11)” and add in its place “708(a)”.
- b. In paragraph (b)(2), remove “Chief, Information and Records Division of the Copyright Office,” and add in its place “Director of the Office of Public Records and Repositories at the address specified in § 201.1(b)(1) of this chapter,” and remove “(i)” and “(ii)”.
- c. In paragraph (c)(2), remove the word “of” after “§ 202.20”.
- d. In paragraph (e)(1), remove “708(a)(11)” and add in its place “708(a)” and add “of this chapter” after “§ 201.3(d)”.
- e. In paragraph (e)(2), add “of this chapter” after “§ 201.3(d)” and remove “Register of Copyrights” and add in its place “U.S. Copyright Office”.

§ 202.24 [Amended]

■ 45. Amend § 202.24 as follows:

- a. In paragraphs (a)(1) and (c)(1) and (2) by removing “of these regulations”.
- b. In paragraph (d)(1)(i) by removing “section 407(d) of Title 17” and adding in its place “17 U.S.C. 407(d)”.

Appendix B to Part 202 [Amended]

■ 46. Amend appendix B to part 202 as follows:

- a. In the introductory text, designate the five undesignated paragraphs as a., b., c., d., and e., respectively.
- b. In paragraph III.A., add a colon to the end of the term “Film” and add periods to the ends of paragraphs III.A.1. through III.A.4.
- c. In paragraph III.B., add a colon to the end of the words “Video Formats” and add periods to the ends of paragraphs III.B.1. through III.B.4.
- d. In paragraph VI.A.1., remove “*Vocal music:*” and add in its place “Vocal music:”.
- e. In paragraph VI.A.1.a., remove “accompaniment—” and add in its place “accompaniment:”.
- f. In paragraph VI.A.2., remove “*Instrumental music:*” and add in its place “Instrumental music:”.
- g. In paragraph VIII.A., add a colon to the end of the word “Programs”.
- h. In paragraph VIII.A.3., remove “*Format:*” and add in its place “Format:”.
- i. In paragraph VIII.B.4., remove “*Format:*” and add in its place “Format:”.
- j. In paragraph IX.A., add a colon to the end of the word “Serials”.
- k. In paragraph IX.A.1., add a colon to the end of the word “Format”.

PART 203—FREEDOM OF INFORMATION ACT: POLICIES AND PROCEDURES

■ 47. The authority citation for part 203 continues to read as follows:

Authority: 17 U.S.C. 702, 5 U.S.C. 552, as amended.

■ 48. Revise § 203.2 to read as follows:

§ 203.2 Authority and functions.

The administration of the copyright law was entrusted to the Library of Congress by an act of Congress in 1870, and the Copyright Office has been a separate department of the Library since 1897. The statutory functions of the Copyright Office are contained in and carried out in accordance with the Copyright Act.

- 49. Amend § 203.3 as follows:
 - a. Remove paragraphs (a) through (d).
 - b. Redesignate paragraphs (e) through (g) as paragraphs (j) through (l), respectively.
 - c. Add new paragraphs (a) through (i).
 - d. Revise paragraph (h).
 - e. In newly redesignated paragraph (k), remove “Avenue SE, Washington, DC” and add in its place “Avenue, SE., Washington, DC”.
 - f. Add paragraph (m).

The revisions and additions read as follows:

§ 203.3 Organization.

(a) The Office of the Register of Copyrights has overall responsibility for

the Copyright Office and its statutory mandate, specifically: For legal interpretation of the copyright law; administering the provisions of title 17 of the U.S.C.; promulgating copyright regulations; advising Congress and other government officials on domestic and international copyright policy and other intellectual property issues; determining personnel and other resource requirements for the Office; organizing strategic and annual program planning; and preparing budget estimates for inclusion in the budget of the Library of Congress and U.S. Government.

(b) The Office of the Chief of Operations is headed by the Chief of Operations (“COO”), who advises the Register on core business functions and coordinates and directs the day-to-day operations of the Copyright Office. The Office of the COO supervises human capital, the administration of certain statutory licenses, mandatory deposits and acquisitions, and strategic planning functions. This Office interacts with every other senior management office that reports to the Register and frequently coordinates and assesses institutional projects. The COO chairs the Copyright Office’s operations committee. The following divisions fall under the oversight of the COO:

(1) The Receipt Analysis and Control Division is responsible for sorting, analyzing, and scanning incoming mail; creating initial records; labeling materials; and searching, assembling, and dispatching electronic and hardcopy materials and deposits to the appropriate service areas. The Division is responsible for operating the Copyright Office’s central print room, mail functions, and temporary storage. The Division also processes all incoming fees and maintains accounts, related records, and reports involving fees received.

(2) The Licensing Division administers certain statutory licenses set forth in the Copyright Act. The Division collects royalty payments and examines statements of account for the cable statutory license (17 U.S.C. 111), the satellite statutory license for retransmission of distant television broadcast stations (17 U.S.C. 119), and the statutory license for digital audio recording technology (17 U.S.C. chapter 10). The Division also accepts and records documents associated with the use of the mechanical statutory license (17 U.S.C. 115).

(3) The Copyright Acquisitions Division administers the mandatory deposit requirements of the Copyright Act, acting as an intermediary between copyright owners of certain published works and the acquisitions staff in the

Library of Congress. 17 U.S.C. 407. This Office creates and updates records for the copies received by the Copyright Office; demands particular works or particular formats of works as necessary; and administers deposit agreements between the Library and copyright owners.

(c) The Office of the General Counsel is headed by the General Counsel and Associate Register of Copyrights, who is an expert copyright attorney and one of four legal advisors to the Register. This Office assists the Register in carrying out critical work of the Copyright Office regarding the legal interpretation of the copyright law. The General Counsel liaises with the Department of Justice, other federal departments, and the legal community on a wide range of copyright matters including litigation and the administration of title 17 of the U.S.C. The General Counsel also has primary responsibility for the formulation and promulgation of regulations and the adoption of legal positions governing policy matters and the practices of the Copyright Office.

(d) The Office of Policy and International Affairs is headed by the Associate Register of Copyrights and Director of Policy and International Affairs, who is an expert copyright attorney and one of four legal advisors to the Register. This Office assists the Register with critical policy functions of the Copyright Office, including domestic and international policy analyses, legislative support, and trade negotiations. Policy and International Affairs represents the Copyright Office at meetings of government officials concerned with the international aspects of intellectual property protection, and provides regular support to Congress and its committees on statutory amendments and construction.

(e) The Office of Registration Policy and Practice is headed by the Associate Register of Copyrights and Director of Registration Policy and Practice, who is an expert copyright attorney and one of four legal advisors to the Register. This Office administers the U.S. copyright registration system and advises the Register of Copyrights on questions of registration policy and related regulations and interpretations of copyright law. This Office has three divisions: Literary, Performing Arts, and Visual Arts. It also has a number of specialized sections, for example, in the area of motion pictures. This Office executes major sections of the *Compendium of Copyright Office Practices*, particularly with respect to the examination of claims and related principles of law.

(f) The Office of Public Information and Education is headed by the Associate Register for Public Information and Education, who is an expert copyright attorney and one of four legal advisors to the Register. This Office informs and helps carry out the work of the Register and the Copyright Office in providing authoritative information about the copyright law to the public and establishing educational programs. The Office publishes the copyright law and other provisions of title 17 of the U.S.C.; maintains a robust and accurate public website; creates and distributes a variety of circulars, information sheets, and newsletters, including NewsNet; responds to public inquiries regarding provisions of the law, explaining registration policies, procedures, and other copyright-related topics upon request; plans and executes a variety of educational activities; and engages in outreach with various copyright community stakeholders.

(g) The Office of Public Records and Repositories is headed by the Director, who is an expert in public administration and one of the Register's top business advisors. This Office is responsible for carrying out major provisions of title 17 of the U.S.C., including establishing records policies; ensuring the storage and security of copyright deposits, both analog and digital; recording licenses and transfers of copyright ownership; preserving, maintaining, and servicing copyright related records; researching and providing certified and non-certified reproductions of copyright deposits; and maintaining the official records of the Copyright Office. Additionally, the Office engages regularly in discussions with leaders in the private and public sectors regarding issues of metadata, interoperability, data management, and open government.

(h) The Office of the Chief Information Officer is headed by the Chief Information Officer ("CIO"), who is the Register's top advisor on the development and implementation of technology policy and infrastructure. The Office of the CIO provides strategic leadership and direction for necessary planning, design, development, and implementation of the Copyright Office's automated initiatives. The Office of the CIO is a liaison to the central technology office of the Library of Congress, which administers the Copyright Office's networks and communications. The CIO also supervises the Copyright Technology Office. The Copyright Technology Office maintains certain Copyright Office enterprise-wide IT systems for registration, recordation, public records

management and access, and related public services, as well as certain internal and external help-desk functions.

(i) The Chief Financial Officer ("CFO") is a senior staff position that serves under the Register and oversees all fiscal, financial, budgetary, and procurement-related activities for the Copyright Office.

* * * * *

(m) The U.S. Copyright Office makes certain documents and records available to the public in electronic format pursuant to 5 U.S.C. 552(a)(2). Copyright Office records in machine-readable form cataloged from January 1, 1978, to the present, including information regarding registrations and recorded documents, are available on the Office's website. Frequently requested Copyright Office circulars, announcements, recently proposed regulations, as well as final regulations are also available on the Office's website. The address for the Office's website is www.copyright.gov.

§ 203.4 [Amended]

■ 50. Amend § 203.4 as follows:

- a. In paragraph (c), remove "Avenue, SE" and add in its place "Avenue SE."
- b. In paragraph (d), remove from the second sentence " , Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559-6000," and add in its place "at the address specified in § 201.1(c)(1) of this chapter", remove "Avenue, SE," and add in its place "Avenue SE.," and remove in the last sentence "Office response" and add in its place "Office's response".
- c. Revise paragraphs (f) and (g).
- d. In paragraph (i)(2), remove "ten (10)" and add in its place "10".

The revisions read as follows:

§ 203.4 Methods of operation.

* * * * *

(f) The Office will respond to all properly marked mailed requests and all personally delivered written requests for records within 20 working days of receipt by the Supervisory Copyright Information Specialist. If it is determined that an extension of time greater than 10 working days is necessary to respond to a request due to unusual circumstances, as defined in paragraph (h) of this section, the Supervisory Copyright Information Specialist shall so notify the requester and give the requester the opportunity to:

- (1) Limit the scope of the request so that it may be processed within 20 working days; or

(2) Arrange with the Office an alternative time frame for processing the request or a modified request.

(g) If a request is denied, the written notification will include the basis for the denial, names of all individuals who participated in the determination, and procedures available to appeal the determination. If a requester wishes to appeal a denial of some or all of his or her request for information, he or she must make an appeal in writing within 30 calendar days of the date of the Office's denial. The request should be directed to the General Counsel of the United States Copyright Office at the address specified in § 201.1(c)(1) of this chapter. The appeal should be clearly labeled "Freedom of Information Act Appeal." The appeal shall include a statement explaining the basis for the appeal. Determinations of appeals will be set forth in writing and signed by the General Counsel or his or her delegate within 20 working days. If, on appeal, the denial is upheld in whole or in part, the written determination will include the basis for the appeal denial and will also contain a notification of the provisions for judicial review and the names of the persons who participated in the determination.

* * * * *

§ 203.6 [Amended]

■ 51. Amend § 203.6 as follows:

■ a. In paragraph (a), remove "themselves" from the last sentence and add in its place "themselves".

■ b. In paragraph (e):

■ i. From the first sentence, remove "amount t" and add in its place "amount", remove "practicable" and add in its place "practicable", remove "his willingness" and add in its place "a willingness".

■ ii. From the last sentence, remove "offer him" and add in its place "offer the requester", remove "his request" and add in its place "the request", and remove the "his needs" and add in its place "the requester's needs".

PART 204—PRIVACY ACT: POLICIES AND PROCEDURES

■ 52. The authority citation continues to read as follows:

Authority: 17 U.S.C. 702; 5 U.S.C. 552(a).

§ 204.4 [Amended]

■ 53. Amend § 204.4 as follows:

■ a. In paragraph (a), remove "Copyright Information Section, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024" and add in its place "U.S. Copyright Office, P.O. Box 70400, Washington, DC 20024-0400".

■ b. In paragraph (b), remove "Office" and add in its place "Office's".

■ c. In paragraph (d), remove "Records" and add in its place "records".

§ 204.5 [Amended]

■ 54. Amend § 204.5 as follows:

■ a. In paragraph (a), remove "Copyright Information Section, Copyright GC/I&R" and add in its place "U.S. Copyright Office", remove "20024" and add in its place "20024-0400", and remove the phrase "Avenue, SE" and add in its place the phrase "Avenue SE".

■ b. In paragraph (b), remove "Office" and add in its place "Office's".

§ 204.7 [Amended]

■ 55. Amend § 204.7 as follows:

■ a. In paragraph (a), remove "Copyright Information Section, Copyright GC/I&R" and add in its place "U.S. Copyright Office", remove "20024" and add in its place "20024-0400" and remove "Avenue, SE" and add in its place "Avenue SE".

■ b. In paragraph (b), remove "for Office response" and add in its place "for the Office's response", remove "section 408(d) of Pub. L. 94-553" and add in its place "17 U.S.C. 408(d)" and remove "the Office response" and add in its place "the Office's response".

■ 56. Revise § 204.8 to read as follows:

§ 204.8 Appeal of refusal to correct or amend an individual's record.

(a) An individual who disagrees with a refusal of the Copyright Office to amend his or her record may request a review of the denial. The individual should submit a written appeal to the General Counsel of the United States Copyright Office at the address specified in § 201.1(c)(1) of this chapter. Appeals, and the envelopes containing them, should be plainly marked "Privacy Act Appeal." Failure to so mark the appeal may delay the General Counsel's response. An appeal should contain a copy of the request for amendment or correction and a copy of the record alleged to be untimely, inaccurate, incomplete, or irrelevant.

(b) The General Counsel will issue a written decision granting or denying the appeal within 30 working days after receipt of the appeal unless, after showing good cause, the General Counsel extends the 30-day period. If the appeal is granted, the requested amendment or correction will be made promptly. If the appeal is denied, in whole or in part, the General Counsel's decision will set forth reasons for the denial. Additionally, the decision will advise the requester that he or she has the right to file with the Copyright Office a concise statement of his or her reasons for disagreeing with the refusal to amend the record and that such

statement will be attached to the requester's record and included in any future disclosure of such record. If the requester is dissatisfied with the agency's final determination, the individual may bring a civil action against the Office in the appropriate United States district court.

PART 205—LEGAL PROCESSES

■ 57. The authority citation for part 205 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 58. Revise § 205.1 to read as follows:

§ 205.1 Definitions.

For the purpose of this part:

Demand means an order, subpoena or any other request for documents or testimony for use in a legal proceeding.

Document means any record or paper held by the Copyright Office, including, without limitation, official letters, deposits, recordings, registrations, publications, or other material submitted in connection with a claim for registration of a copyrighted work.

Employee means any current or former officer or employee of the Copyright Office, as well as any individual subject to the jurisdiction, supervision, or control of the Copyright Office.

General Counsel, unless otherwise specified, means the General Counsel and Associate Register of Copyrights or his or her designee.

Legal proceeding means any pretrial, trial, and post-trial stages of existing or reasonably anticipated judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards or other tribunals, foreign or domestic. This phrase includes all phases of discovery as well as responses to formal or informal requests by attorneys or others involved in legal proceedings. This phrase also includes state court proceedings (including grand jury proceedings) and any other state or local legislative and administrative proceedings.

Office means the Copyright Office, including any division, section, or operating unit within the Copyright Office.

Official business means the authorized business of the Copyright Office.

Testimony means a statement in any form, including a personal appearance before a court or other legal tribunal, an interview, a deposition, an affidavit or declaration under penalty of perjury pursuant to 28 U.S.C. 1746, a telephonic, televised, or videotaped statement or any response given during

discovery or similar proceeding, which response would involve more than the production of documents, including a declaration under 35 U.S.C. 25 or a declaration under penalty of perjury pursuant to 28 U.S.C. 1746.

United States means the Federal Government, its departments and agencies, individuals acting on behalf of the Federal Government, and parties to the extent they are represented by the United States.

§ 205.2 [Amended]

■ 59. Amend § 205.2 as follows:

■ a. In paragraph (a), remove “, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024–0400” and add in its place “at the address specified in § 201.1(c)(1) of this chapter”.

■ b. In paragraph (b), remove the comma after “Avenue”.

§§ 205.6 through 205.10 [Added and Reserved]

■ 60. Add and reserve §§ 205.6 through 205.10 to subpart A.

§ 205.11 [Amended]

■ 61. Amend § 205.11 in paragraph (a) by removing “Office response” from the fourth sentence and adding in its place “the Office’s response”.

§ 205.13 [Amended]

■ 62. Amend § 205.13 by removing “, GC/I&R, P.O. Box 70400, Washington, DC 20024–0400” and adding in its place “at the address specified in § 201.1(c)(1) of this chapter” and by removing the comma after “Avenue”.

§§ 205.14 through 205.20 [Added and Reserved]

■ 63. Add and reserve §§ 205.14 through 205.20 to subpart B.

§ 205.22 [Amended]

■ 64. Amend § 205.22 as follows:

■ a. In paragraph (a) introductory text, remove “Web site” and add in its place “website”.

■ b. In paragraph (a)(2), remove “(e.g., 37 CFR, Chapter II; Compendium II, Compendium of Copyright Office Practices” and add in its place “(e.g., 37 CFR, Chapter II; Compendium of U.S. Copyright Office Practices, Third Edition” and remove “Copyright General Counsel” and add in its place “General Counsel of the Copyright Office”.

■ c. In paragraph (b), remove “Counsel, no” and add in its place “Counsel of the Copyright Office, no” and remove “Copyright General Counsel” and add in its place “General Counsel of the Copyright Office”.

■ d. In paragraph (c), remove “Copyright Office General Counsel” and

add in its place “General Counsel of the Copyright Office” and remove “Copyright General Counsel” and add in its place “General Counsel”.

■ e. In the heading to paragraph (f), remove the colon and add in its place a period and remove the space between the heading and paragraph (f)(1).

§ 205.23 [Amended]

■ 65. Amend § 205.23 as follows:

■ a. Redesignate paragraph (b)(4) as paragraph (c).

■ b. In newly redesignated paragraph (c), remove “these limitations” and add in its place “the limitations set forth in paragraph (b) of this section” and remove “of this part”.

PART 210—COMPULSORY LICENSE FOR MAKING AND DISTRIBUTING PHYSICAL AND DIGITAL PHONORECORDS FOR NONDRAMATIC MUSICAL WORKS

■ 66. The authority citation for part 210 continues to read as follows:

Authority: 17 U.S.C. 115, 702.

§ 210.15 [Amended]

■ 67. Amend § 210.15 introductory text by removing the term “Permanently” and adding in its place the term “permanently”.

§ 210.17 [Amended]

■ 68. Amend § 210.17 as follows:

■ a. In paragraph (d)(3)(ix), remove “Compact” and add in its place “compact” and remove “Limited” and add in its place “limited”.

■ b. In paragraph (h), remove “6” from the second sentence and add in its place “six”.

PART 211—MASK WORK PROTECTION

■ 69. The authority citation for part 211 is revised to read as follows:

Authority: 17 U.S.C. 702, 908.

§ 211.1 [Amended]

■ 70. Amend § 211.1 in paragraph (a) by removing “shall be addressed to: Library of Congress, Department MW, Washington, DC 20540” and adding in its place “should be sent to the address specified in § 201.1(b) of this chapter”.

■ 71. Amend § 211.4 by revising paragraphs (b)(1), (d) introductory text, and (d)(2) to read as follows:

§ 211.4 Registration of claims of protection in mask works.

* * * * *

(b) * * *

(1) For purposes of registration of mask work claims, the Register of Copyrights has designated “Form MW”

to be used for all applications. Copies of the form are available free from the Copyright Office website or upon request to the Copyright Information Section, U.S. Copyright Office, Library of Congress, Washington, DC 20559–6000.

* * * * *

(d) *Registration as a single work.* Subject to the exception specified in paragraph (c)(2) of this section, for purposes of registration on a single application and upon payment of a single fee, the following shall be considered a single work:

* * * * *

(2) In the case of a mask work that has been commercially exploited: All original mask work elements fixed in a semiconductor chip product at the time that product was first commercially exploited and in which the owner or owners of the mask work is or are the same.

* * * * *

■ 72. Amend § 211.5 as follows:

■ a. In paragraph (b) introductory text, remove “of these regulations”.

■ b. Redesignate paragraph (b)(2) as paragraph (b)(3).

■ c. Designate the undesignated paragraph preceding newly redesignated paragraph (b)(3) as paragraph (b)(2).

■ d. In newly redesignated paragraph (b)(3)(i), remove the space between “(b)(1)” and “(i)”.

■ e. Revise paragraphs (c)(1) and (2).

■ f. In paragraph (d), remove “granted.” and add in its place “granted.” and remove “for Registration Program, Library of Congress, Copyright Office—RPO, 101 Independence Avenue, SE, Washington, DC 20559–6200,” and add in its place “of Copyrights and Director of Registration Policy and Practice, P.O. Box 70400, Washington, DC 20024–0400.”

The revisions read as follows:

§ 211.5 Deposit of identifying material.

* * * * *

(c) * * *

(1) *Mask works commercially exploited.* For commercially exploited mask works no more than two layers of each five or more layers in the work. In lieu of the visually perceptible representations required under paragraphs (b)(1) and (2) of this section, identifying portions of the withheld material must be submitted. For these purposes, “identifying portions” shall mean:

(i) A printout of the mask work design data pertaining to each withheld layer, reproduced in microform; or

(ii) Visually perceptible representations in accordance with

paragraphs (b)(1)(i), (ii), or (iii) and (b)(2) of this section with those portions containing sensitive information maintained under a claim of trade secrecy blocked out, provided that the portions remaining are greater than those which are blocked out.

(2) *Mask work not commercially exploited.* (i) For mask works not commercially exploited falling under paragraph (b)(3)(i) of this section, any layer may be withheld. In lieu of the visually perceptible representations required under paragraph (b)(3) of this section, “identifying portions” shall mean:

(A) A printout of the mask work design data pertaining to each withheld layer, reproduced in microform, in which sensitive information maintained under a claim of trade secrecy has been blocked out or stripped; or

(B) Visually perceptible representations in accordance with paragraph (b)(3)(i) of this section with those portions containing sensitive information maintained under a claim of trade secrecy blocked out, provided that the portions remaining are greater than those which are blocked out.

(ii) The identifying portions shall be accompanied by a single photograph of the top or other visible layers of the mask work fixed in a semiconductor chip product in which the sensitive information maintained under a claim of trade secrecy has been blocked out, provided that the blocked out portions do not exceed the remaining portions.

* * * * *

PART 212—PROTECTION OF VESSEL DESIGNS

■ 73. The authority citation for part 212 continues to read as follows:

Authority: 17 U.S.C. chapter 13.

■ 74. Revise the heading of part 212 to read as set forth above.

■ 75. In part 212, remove the terms “hull” and “hulls” each place they appear.

§ 212.1 [Amended]

■ 76. Amend § 212.1 by removing “vessel” and adding in its place “vessels”.

§ 212.2 [Amended]

■ 77. Amend § 212.2 by removing “vessel” and adding in its place “vessels”.

§ 212.3 [Amended]

■ 78. Amend § 212.3 in paragraph (h) introductory text by removing “6” and adding in its place “six”.

§ 212.4 [Amended]

■ 79. Amend § 212.4 in paragraph (a)(2) by adding “hull” after “vessel”.

§ 212.5 [Amended]

■ 80. Amend § 212.5 as follows:

■ a. In paragraphs (a) through (c), remove “of a vessel” and add in its place “of a vessel design”.

■ b. In paragraph (d), remove “to: Dept. D–VH, Vessel Hull Registration, P.O. Box 71380, Washington, DC 20024–1380” and add in its place “to the address specified in § 201.1(b)(2) of this chapter”.

§ 212.6 [Amended]

■ 81. Amend § 212.6 by removing “design protection of vessel” and adding in its place “the protection of vessel designs”.

§ 212.8 [Amended]

■ 82. Amend § 212.8 as follows:

■ a. In paragraph (c)(1)(iv), remove “designers of the vessel” and add in its place “designers of the vessel design”.

■ b. In paragraph (c)(2), remove “he” and add in its place “the”, remove the comma after “Avenue”, and remove “Web site” and add in its place “website”.

PARTS 253, 254, 255, 256, 258, 260–263, and 270—[REMOVED AND RESERVED]

■ 83. Remove and reserve parts 253, 254, 255, 256, 258, 260, 261, 262, 263, and 270.

Dated: November 21, 2016.

Karyn Temple Claggett,

Acting Register of Copyrights and Director of the U.S. Copyright Office.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2016–29625 Filed 2–3–17; 8:45 am]

BILLING CODE 1410–30–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 10–210; FCC 16–101]

Relay Services for Deaf-Blind Individuals

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the

information collection associated with rules adopted in the Commission’s document *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Report and Order (*Report and Order*). This document is consistent with the *Report and Order*, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of those rules.

DATES: 47 CFR 64.6207, published at 81 FR 65948, September 26, 2016, is effective February 6, 2017. 47 CFR 64.6209, 64.6211, 64.6213, 64.6215, 64.6217, and 64.6219, published at 81 FR 65948, September 26, 2016, are effective July 1, 2017.

FOR FURTHER INFORMATION CONTACT: Rosaline Crawford, Disability Rights Office, Consumer and Governmental Affairs Bureau, at (202) 418–2075, or email Rosaline.Crawford@fcc.gov.

SUPPLEMENTARY INFORMATION: This document announces that, on January 17, 2017, OMB approved, for a period of three years, the information collection requirements contained in the Commission’s *Report and Order*, FCC 16–101, published at 81 FR 65948, September 26, 2016. The OMB Control Number is 3060–1225. The Commission publishes this notice as an announcement of the effective date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–1225, in your correspondence. The Commission will also accept your comments via the Internet if you send them to PRA@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (844) 432–2275 (videophone), or (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on January 17, 2017, for the information collection requirements contained in the Commission’s rules at 47 CFR 64.6207,

64.6209, 64.6211, 64.6213, 64.6215, 64.6217, and 64.6219.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060-1225.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060-1225.

OMB Approval Date: January 17, 2017.

OMB Expiration Date: January 31, 2020.

Title: National Deaf-Blind Equipment Distribution Program. Form Number: N/A.

Type of Review: New collection.

Respondents: Individuals or household; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 78 respondents; 3,631 responses.

Estimated Time per Response: 0.5 hours (30 minutes) to 40 hours.

Frequency of Response: On occasion, monthly, quarterly, semi-annually, annually, and one-time reporting requirements; Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for the information collections is contained in sections 1, 4(i), 4(j), and 719 of the Communications Act, as amended, 47 U.S.C. 151, 154(i), 154(j), and 620.

Total Annual Burden: 7,995 hours.

Total Annual Cost: \$600.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the Commission's system of records notice (SORN), FCC/CGB-3, "National Deaf-Blind Equipment Distribution Program," which became effective on February 28, 2012.

Privacy Impact Assessment: The Commission completed a Privacy Impact Assessment (PIA) on December 31, 2012. The PIA may be reviewed at http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html. The

Commission is in the process of updating the PIA with respect to the Commission's adoption of rules in document FCC 16-101 on August 4, 2016, which converted the pilot program to a permanent program without change to the PII covered by these information collections.

Needs and Uses: Section 105 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) added section 719 to the Communications Act of 1934, as amended (the Act). Public Law 111-260, 124 Stat. 2751 (2010); Public Law 111-265, 124 Stat. 2795 (2010) (making technical corrections); 47 U.S.C. 620. Section 719 of the Act requires the Commission to establish rules that define as eligible for up to \$10,000,000 of support annually from the Interstate Telecommunications Relay Service Fund (TRS Fund) those programs that are approved by the Commission for the distribution of specialized customer premises equipment designed to make telecommunications service, Internet access service, and advanced communications, including interexchange services and advanced telecommunications and information services, accessible by low-income individuals who are deaf-blind. 47 U.S.C. 620(a), (c). Accordingly, on April 6, 2011, the Commission released document FCC 11-56, published at 76 FR 26641, May 9, 2011, adopting rules to establish the National Deaf-Blind Equipment Distribution Program (NDBEDP), also known as "iCanConnect," as a pilot program. See 47 CFR 64.610(a) through (k). The FCC's Consumer and Governmental Affairs Bureau launched the pilot program on July 1, 2012. In an *Order* released on May 27, 2016, document FCC 16-69, published at 81 FR 36181, June 6, 2016, the Commission extended the pilot program through June 30, 2017, at which time distributing equipment and providing related services under the pilot program will cease.

On August 5, 2016, the Commission released the *Report and Order*, document FCC 16-101, published at 81 FR 65948, September 26, 2016, adopting rules to establish the NDBEDP as a permanent program. See 47 CFR 64.6201 through 64.6219. In document FCC 16-101, the Commission clarified that the pilot program will not terminate until after all reports have been submitted, all payments and adjustments have been made, and all wind-down activities have been completed, and no issues with regard to the NDBEDP pilot program remain pending. Information collections related to NDBEDP pilot program activities are

included in OMB Control Number 3060-1146, Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals, CG Docket No. 10-210, which will expire June 30, 2018.

For a period of 60 days following the publication of this document in the **Federal Register** announcing OMB approval of the information collection associated with the *Report and Order*, document FCC 16-101, new and incumbent entities may apply for certification to participate in the permanent NDBEDP. To minimize any disruption of service in the transition between the pilot program and the permanent program, the FCC's Consumer and Governmental Affairs Bureau will announce its selection of the entities certified to participate in the NDBEDP permanent program as soon as possible, but such certifications will not become effective before July 1, 2017.

Because the information collection burdens related to NDBEDP pilot program activities overlap in time with the information collection burdens related to NDBEDP permanent program activities, the Commission sought approval for a new collection for the information burdens associated with the permanent NDBEDP.

In document FCC 16-101, the Commission adopted rules requiring the following:

(a) Entities must apply to the Commission for certification to receive reimbursement from the TRS Fund for NDBEDP activities.

(b) A program wishing to relinquish its certification before its certification expires must provide written notice of its intent to do so.

(c) Certified programs must disclose to the Commission actual or potential conflicts of interest.

(d) Certified programs must notify the Commission of any substantive change that bears directly on its ability to meet the qualifications necessary for certification.

(e) A certified entity may present written arguments and any relevant documentation as to why suspension or revocation of certification is not warranted.

(f) When a new entity is certified as a state's program, the previously certified entity must take certain actions to complete the transition to the new entity.

(g) Certified programs must require an applicant to provide verification that the applicant is deaf-blind.

(h) Certified programs must require an applicant to provide verification that the

applicant meets the income eligibility requirement.

(i) Certified programs must re-verify the income and disability eligibility of an equipment recipient under certain circumstances.

(j) Certified programs must permit the transfer of an equipment recipient's account when the recipient relocates to another state.

(k) Certified programs must include an attestation on consumer application forms.

(l) Certified programs must conduct annual audits and submit to Commission-directed audits.

(m) Certified programs must document compliance with NDBEDP requirements, provide such documentation to the Commission upon request, and retain such records for at least five years.

(n) Certified programs must submit reimbursement claims as instructed by the TRS Fund Administrator, and supplemental information and documentation as requested. In addition, the entity selected to conduct national outreach will submit claims for reimbursement on a quarterly basis.

(o) Certified programs must submit reports every six months as instructed by the NDBEDP Administrator. In addition, the entity selected to conduct national outreach will submit an annual report.

(p) Informal and formal complaints may be filed against NDBEDP certified programs, and the Commission may conduct such inquiries and hold such proceedings as it may deem necessary.

(q) Certified programs must include the NDBEDP whistleblower protections in appropriate publications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017-02400 Filed 2-3-17; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 585

[Docket No. NHTSA-2016-0125]

RIN 2127-AK93

Federal Motor Vehicle Safety Standards; Minimum Sound Requirements for Hybrid and Electric Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule; delay of effective date.

SUMMARY: This action temporarily delays for 36 days the effective date of the rule entitled "Federal Motor Vehicle Safety Standards; Minimum Sound Requirements for Hybrid and Electric Vehicles," published in the **Federal Register** on December 14, 2016.

DATES: The effective date of the final rule published at 81 FR 90416, December 14, 2016, is delayed until March 21, 2017.

FOR FURTHER INFORMATION CONTACT: For legal issues, contact Tom Healy, Office of Chief Counsel, at (202) 366-2992. For non-legal issues, contact Mike Pyne, Office of Vehicle Safety Compliance, at (202) 366-4171.

SUPPLEMENTARY INFORMATION: In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review,"¹ this action temporarily delays for 36 days² the effective date of the rule entitled "Federal Motor Vehicle Safety Standards; Minimum Sound Requirements for Hybrid and Electric Vehicles," published in the **Federal Register** on December 14, 2016, at 81 FR

¹ Available at <https://www.whitehouse.gov/the-press-office/2017/01/20/memorandum-heads-executive-departments-and-agencies> (last accessed Jan. 24, 2017).

² The delay is 36 days because a delay of 60 days from the date of the "Freeze Memo" is March 21, 2016. The original effective date for the final rule was February 13, 2017.

90416. That rule satisfied the mandate in the Pedestrian Safety Enhancement Act (PSEA) of 2010 by establishing a new Federal motor vehicle safety standards (FMVSS) setting minimum sound requirements for hybrid and electric vehicles. This new standard requires hybrid and electric passenger cars, light trucks and vans, and low speed vehicles to produce sounds meeting the requirements of this standard, and applies to electric vehicles and those hybrid vehicles that are capable of propulsion in any forward or reverse gear without the vehicle's internal combustion engine operating.

To the extent that 5 U.S.C. 553 is applicable, this action is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(3)(A). Alternatively, NHTSA's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is justified based on the good cause exceptions in 5 U.S.C. 553(b)(3)(B) and 553(d)(3). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. The temporary 36-day delay in effective date is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2017. Given the imminence of the effective date, seeking prior public comment on this temporary delay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. The imminence of effective date is also good cause for making this action effective immediately upon publication.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.

Issued on: February 1, 2017.

Jack Danielson,

Acting Deputy Administrator.

[FR Doc. 2017-02428 Filed 2-3-17; 8:45 am]

BILLING CODE 4910-59-P

Proposed Rules

Federal Register

Vol. 82, No. 23

Monday, February 6, 2017

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

[Docket No. MSHA–2014–0019]

RIN 1219–AB78

Proximity Detection Systems for Mobile Machines in Underground Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: In response to a request, the Mine Safety and Health Administration (MSHA) is extending the comment period for its proposed rule on Proximity Detection Systems for Mobile Machines in Underground Mines. This extension gives stakeholders additional time to evaluate the comments and rulemaking record and provide meaningful input.

DATES: Comments must be received by midnight Daylight Saving Time on April 10, 2017.

ADDRESSES: Submit comments and informational materials, identified by RIN 1219–AB78 or Docket No. MSHA–2014–0019, by one of the following methods:

- *Federal E-Rulemaking Portal:* <http://www.regulations.gov>. Follow the

on-line instructions for submitting comments.

- *Email:* zzMSHA-comments@dol.gov. Include RIN 1219–AB78 or Docket No. MSHA–2014–0019 in the subject line of the message.
- *Mail:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.
- *Fax:* 202–693–9441.
- *Hand Delivery or Courier:* MSHA, 201 12th Street South, Suite 4E401, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal holidays. Sign in at the receptionist's desk on the 4th Floor East.

Instructions: All submissions must include RIN 1219–AB78 or Docket No. MSHA–2014–0019. Do not include personal information that you do not want publicly disclosed; MSHA will post all comments without change, including any personal information provided.

Docket: For access to the docket to read comments received, go to <http://www.regulations.gov> or <http://www.msha.gov/currentcomments.asp>. To read background documents, go to <http://www.regulations.gov>. Review the docket in person at MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal Holidays. Sign in at the receptionist's desk on the 4th floor East, Suite 4E401.

Email Notification: To subscribe to receive an email notification when MSHA publishes rules in the **Federal Register**, go to <http://www.msha.gov/subscriptions>.

FOR FURTHER INFORMATION CONTACT:

Sheila A. McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at mccconnell.sheila.a@dol.gov (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION: On September 2, 2015 (80 FR 53070), MSHA published a proposed rule that would require underground coal mine operators to equip coal hauling machines and scoops with proximity detection systems. Miners working near these machines face pinning, crushing, and striking hazards that result in accidents involving life threatening injuries and death. MSHA believes that the use of proximity detection systems would reduce the potential for these pinning, crushing, or striking accidents. The comment period for the proposed rule closed on December 15, 2015.

On January 9, 2017 (82 FR 2285), MSHA published a notice reopening the rulemaking record and requesting comments on issues that were raised by commenters during the comment period and on issues that developed after the record closed. The comment period was scheduled to close on February, 8 2017.

On January 23, 2017, MSHA received a request to extend the comment period an additional 60 days to provide more time for interested parties to comment. In response to this request, MSHA is extending the comment period from February 8, 2017, to April 10, 2017.

Patricia W. Silvey,

Deputy Assistant Secretary for Mine Safety and Health Administration.

[FR Doc. 2017–02388 Filed 2–3–17; 8:45 am]

BILLING CODE 4520–43–P

Notices

Federal Register

Vol. 82, No. 23

Monday, February 6, 2017

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

National Advisory Committee for Implementation of the National Forest System Land Management Planning Rule

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The National Advisory Committee for Implementation of the National Forest System Land Management Planning Rule Committee (Committee) will meet in Washington, DC. Attendees may also participate via webinar and conference call. The Committee operates in compliance with the Federal Advisory Committee Act (FACA). Additional information relating to the Committee, including the meeting summary/minutes, can be found by visiting the Committee's Web site at: <http://www.fs.usda.gov/main/planningrule/committee>.

DATES: The meetings will be held in-person and via webinar/conference call on the following dates and times:

- Tuesday, February 28, 2017 from 8:30 a.m. to 5:00 p.m. EST
- Wednesday, March 1, 2017 from 8:30 a.m. to 5:00 p.m. EST
- Thursday, March 2, 2017 from 8:30 a.m. to 2:00 p.m. EST

All meetings are subject to cancellation. For updated status of meetings prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the USDA Forest Service Washington Office—Yates Building, 201 14th Street SW., Washington, DC 20250–1104.

For anyone who would like to attend via webinar and/or conference call, please visit the Web site listed above or contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. Written comments may be submitted as described under

SUPPLEMENTARY INFORMATION. All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the USDA Forest Service Washington Office—Yates Building, 201 14th Street SW., Mail Stop 1104, Washington, DC 20250–1104. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT:

Crystal Merica, Committee Coordinator, by phone at 202–205–3562, or by email at ckmerica@fs.fed.us. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to provide:

1. Continued deliberations on formulating advice for the Secretary,
2. Discussion of Committee work group findings,
3. Hearing public comments, and
4. Administrative tasks.

This meeting is open to the public. The agenda will include time for people to make oral comments of three minutes or less. Individuals wishing to make an oral comment should submit a request in writing by February 24, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee's staff before or after the meeting. Written comments and time requests for oral comments must be sent to Crystal Merica, USDA Forest Service, Ecosystem Management Coordination, 201 14th Street SW., Mail Stop 1104, Washington, DC 20250–1104, or by email at ckmerica@fs.fed.us. The agenda and summary of the meeting will be posted on the Committee's Web site within 21 days of the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: January 26, 2017.

Jeanne Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–02371 Filed 2–3–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–11–2017]

Foreign-Trade Zone 163—Ponce, Puerto Rico; Application for Subzone, LT Autos, LLC, Ponce, Puerto Rico

An application has been submitted to the Foreign-Trade Zones Board (the Board) by CODEZOL, C.D., grantee of FTZ 163, requesting subzone status for the facility of LT Autos, LLC, located in Ponce, Puerto Rico. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on January 31, 2017.

The proposed subzone (1.505 acres) is located at 3215 Avenida Rafael Lugo González, Urb. Perla del Sur, Ponce. The proposed subzone would be subject to the existing activation limit of FTZ 163. No authorization for production activity has been requested at this time.

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is March 20, 2017. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to April 3, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via www.trade.gov/ftz.

For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482-2350.

Dated: January 31, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017-02424 Filed 2-3-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Cancellation of Meeting of the United States Investment Advisory Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of cancellation of meeting.

SUMMARY: This notice cancels the meeting of the United States Investment Advisory Council previously scheduled for Friday, February 17, 2017 from 2:30 p.m.–3:30 p.m. EST. The **Federal Register** Notice announcing this meeting was published on January 27, 2017 (Document Number 2017-01837).

ADDRESSES: United States Investment Advisory Council, U.S. Department of Commerce, Room 3855, 1401 Constitution Avenue NW., Washington, DC 20230, *IAC@trade.gov*.

FOR FURTHER INFORMATION CONTACT: Danielle Fumagalli, United States Investment Advisory Council, Room 3855, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202-482-2486, email: *IAC@trade.gov*.

SUPPLEMENTARY INFORMATION:

Background: The Council advises the Secretary of Commerce on matters relating to the promotion and retention of foreign direct investment in the United States.

Dated: January 31, 2017.

Danielle Fumagalli,

Executive Secretary, United States Investment Advisory Council.

[FR Doc. 2017-02393 Filed 2-3-17; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-033]

Large Residential Washers From the People's Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the Department) and the International Trade Commission (the ITC), the Department is issuing an antidumping duty order on large residential washers (LRWs) from the People's Republic of China (PRC). In addition, the Department is amending its final affirmative determination to correct ministerial errors.

DATES: Effective February 6, 2017.

FOR FURTHER INFORMATION CONTACT: Brian Smith at (202) 482-1766 or Denisa Ursu at (202) 482-2285, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on December 15, 2016, the Department published its affirmative final determination in the less-than-fair-value (LTFV) investigation of LRWs from the PRC.¹ On January 30, 2017, the ITC notified the Department of its affirmative determination that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act, by reason of the LTFV imports of LRWs from the PRC.²

Scope of the Order

The products covered by this order are all large residential washers and certain parts thereof from the People's Republic of China.

For purposes of this order, the term "large residential washers" denotes all

automatic clothes washing machines, regardless of the orientation of the rotational axis, with a cabinet width (measured from its widest point) of at least 24.5 inches (62.23 cm) and no more than 32.0 inches (81.28 cm), except as noted below.

Also covered are certain parts used in large residential washers, namely: (1) All cabinets, or portions thereof, designed for use in large residential washers; (2) all assembled tubs³ designed for use in large residential washers which incorporate, at a minimum: (a) a tub; and (b) a seal; (3) all assembled baskets⁴ designed for use in large residential washers which incorporate, at a minimum: (a) a side wrapper;⁵ (b) a base; and (c) a drive hub;⁶ and (4) any combination of the foregoing parts or subassemblies.

Excluded from the scope are stacked washer-dryers and commercial washers. The term "stacked washer-dryers" denotes distinct washing and drying machines that are built on a unitary frame and share a common console that controls both the washer and the dryer. The term "commercial washer" denotes an automatic clothes washing machine designed for the "pay per use" segment meeting either of the following two definitions:

(1) (a) it contains payment system electronics;⁷ (b) it is configured with an externally mounted steel frame at least six inches high that is designed to house a coin/token operated payment system (whether or not the actual coin/token operated payment system is installed at the time of importation); (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners;⁸ or

³ A "tub" is the part of the washer designed to hold water.

⁴ A "basket" (sometimes referred to as a "drum") is the part of the washer designed to hold clothing or other fabrics.

⁵ A "side wrapper" is the cylindrical part of the basket that actually holds the clothing or other fabrics.

⁶ A "drive hub" is the hub at the center of the base that bears the load from the motor.

⁷ "Payment system electronics" denotes a circuit board designed to receive signals from a payment acceptance device and to display payment amount, selected settings, and cycle status. Such electronics also capture cycles and payment history and provide for transmission to a reader.

⁸ A "security fastener" is a screw with a non-standard head that requires a non-standard driver. Examples include those with a pin in the center of the head as a "center pin reject" feature to prevent

Continued

¹ See *Large Residential Washers from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 81 FR 90776 (December 15, 2016) (*Final Determination*).

² See ITC Notification Letter to the Deputy Assistant Secretary for Enforcement and Compliance, referencing ITS Investigation No. 731-TA-1306 (January 30, 2017) (ITC Notification).

(2) (a) it contains payment system electronics; (b) the payment system electronics are enabled (whether or not the payment acceptance device has been installed at the time of importation) such that, in normal operation,⁹ the unit cannot begin a wash cycle without first receiving a signal from a bona fide payment acceptance device such as an electronic credit card reader; (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners.

Also excluded from the scope are automatic clothes washing machines that meet all of the following conditions: (1) Have a vertical rotational axis; (2) are top loading;¹⁰ (3) have a drive train consisting, *inter alia*, of (a) a permanent split capacitor (PSC) motor,¹¹ (b) a belt drive,¹² and (c) a flat wrap spring clutch.¹³

Also excluded from the scope are automatic clothes washing machines that meet all of the following conditions: (1) Have a horizontal rotational axis; (2) are front loading;¹⁴ and (3) have a drive train consisting, *inter alia*, of (a) a controlled induction motor (CIM),¹⁵ and (b) a belt drive.

Also excluded from the scope are automatic clothes washing machines that meet all of the following conditions: (1) Have a horizontal rotational axis; (2) are front loading; and (3) have cabinet width (measured from its widest point) of more than 28.5 inches (72.39 cm).

The products subject to this order are currently classifiable under subheadings 8450.20.0040 and 8450.20.0080 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject

standard Allen wrenches or Torx drivers from working.

⁹ "Normal operation" refers to the operating mode(s) available to end users (*i.e.*, not a mode designed for testing or repair by a technician).

¹⁰ "Top loading" means that access to the basket is from the top of the washer.

¹¹ A "PSC motor" is an asynchronous, alternating current (AC), single phase induction motor that employs split phase capacitor technology.

¹² A "belt drive" refers to a drive system that includes a belt and pulleys.

¹³ A "flat wrap spring clutch" is a flat metal spring that, when engaged, links abutted cylindrical pieces on the input shaft with the end of the concentric output shaft that connects to the drive hub.

¹⁴ "Front loading" means that access to the basket is from the front of the washer.

¹⁵ A "controlled induction motor" is an asynchronous, alternating current (AC), polyphase induction motor.

to this order may also enter under HTSUS subheadings 8450.11.0040, 8450.11.0080, 8450.90.2000, and 8450.90.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this order is dispositive.

Amendment to Final Determination

The petitioner alleged in its December 19, 2016, submission¹⁶ that the Department made seven clerical errors in the *Final Determination*. After analyzing the petitioner's allegations and considering the respondents' comments, we agree that four of these seven allegations are ministerial errors within the meaning of 19 CFR 351.224(f) and section 735(e) of the Act.

Accordingly, pursuant to section 735(e) of the Act and 19 CFR 351.224(e) and (f), the Department is amending the *Final Determination* to reflect the correction of ministerial errors¹⁷ it made in calculating the final margin assigned to Nanjing LG-Panda Appliances Co., Ltd. (LG) and Suzhou Samsung Electronics Co., Ltd./Suzhou Samsung Electronics Co. Ltd.—Export (collectively, Samsung).¹⁸ In addition, because the PRC-Wide Entity rate is based on the margins for LG and Samsung, we are revising the PRC-Wide Entity rate.¹⁹

Antidumping Duty Order

As stated above, on January 30, 2017, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determination in this investigation, in which it found material injury with respect to LRWs from the PRC.²⁰ Therefore, in accordance with section 735(c)(2) of the Act, we are issuing this antidumping duty order. Because the ITC determined that imports of LRWs from the PRC are materially injuring a U.S. industry, unliquidated entries of such merchandise from the PRC entered or withdrawn from warehouse for

¹⁶ See letter from the petitioner, "Large Residential Washers from the People's Republic of China: Petitioner's Allegation of Ministerial Errors," dated December 19, 2016.

¹⁷ See section 735(e) of the Act.

¹⁸ For a detailed discussion of the ministerial error allegations, see Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for AD/CVD Operations, from Irene Darzenta Tzafolias, Director, Office VIII, "Less-Than-Fair-Value Investigation of Large Residential Washers from the People's Republic of China: Allegation of Ministerial Errors in the Final Determination," dated concurrently with this notice (Clerical Error Allegation Memorandum).

¹⁹ See the "Estimated Weighted-Average Dumping Margins" section below.

²⁰ See ITC Notification.

consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the constructed export price of the merchandise, for all relevant entries of LRWs from the PRC.

Antidumping duties will be assessed on unliquidated entries of LRWs from the PRC entered, or withdrawn from warehouse, for consumption on or after July 26, 2016, the date of publication of the *Preliminary Determination*.²¹

Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct CBP to continue to suspend liquidation on all relevant entries of LRWs from the PRC. These instructions suspending liquidation will remain in effect until further notice.

We will also instruct CBP to require cash deposits equal to the amounts as indicated below. Accordingly, effective on the date of publication of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit equal to the estimated weighted-average dumping margins listed below.²² The PRC-Wide Entity rate applies to all producers or exporters not specifically listed.

Provisional Measures

Section 733(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that four-month period to no more than six months.

At the request of exporters that account for a significant proportion of LRWs from the PRC, we extended the four-month period to six months in this case.²³ In the underlying investigation, the Department published the *Preliminary Determination* on July 26, 2016. Therefore, the extended period

²¹ See *Large Residential Washers from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, and Postponement of Final Determination*, 81 FR 48741 (July 26, 2016) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

²² See section 736(a)(3) of the Act.

²³ See *Preliminary Determination*.

beginning on the date of publication of the *Preliminary Determination*, ended January 22, 2017. Furthermore, section 737(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the

suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of LRWs from the PRC entered, or withdrawn from warehouse, for consumption on or after January 22, 2017, the date on which the provisional measures expired, until and through the day preceding the date of publication of the ITC's final injury determinations in

the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register**.

Estimated Weighted-Average Dumping Margins

The weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-average margin (%)
Nanjing LG-Panda Appliances Co., Ltd./LG Electronics, Inc* ...	Nanjing LG-Panda Appliances Co., Ltd	38.43
Suzhou Samsung Electronics Co., Ltd./Suzhou Samsung Electronics Co. Ltd—Export/Samsung Electronics Co., Ltd*.	Suzhou Samsung Electronics Co., Ltd./Suzhou Samsung Electronics Co. Ltd—Export.	57.37
PRC-Wide Entity	49.72

* In the *Final Determination*, LG Electronics, Inc. and Samsung Electronics Co., Ltd. Were inadvertently omitted from the margin table.

This notice constitutes the antidumping duty order with respect to LRWs from the PRC pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: January 31, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017-02469 Filed 2-3-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: South Pacific Tuna Act.

OMB Control Number: 0648-0218.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 41.

Average Hours per Response: License application, 15 minutes; VMS registration application, 45 minutes; catch report, 1 hour; and unloading

logsheet, 30 minutes, expression of interest, 2 hours and renewal, 15 minutes.

Burden Hours: 402.

Needs and Uses: Abstract.

The National Oceanic and Atmospheric Administration (NOAA) collects vessel license, vessel registration, catch, and unloading information from operators of United States (U.S.) purse seine vessels fishing within a large region of the western and central Pacific Ocean, which is governed by the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America. The Treaty, along with its annexes, schedules and implementing agreements, was signed in Port Moresby, Papua New Guinea, in 1987. This collection of information is required to meet U.S. obligations under the Treaty.

The Treaty authorizes U.S. tuna vessels to fish within fishing zones of a large region of the Pacific Ocean. The South Pacific Tuna Act of 1988 (16 U.S.C. 973-973r) and U.S. implementing regulations (50 CFR part 300, subpart D) authorize the collection of information from participants in the Treaty fishery. Vessel operators who wish to participate in the Treaty Fishery must submit annual vessel license and registration (including registration of vessel monitoring system (VMS) units) applications and periodic written reports of catch and unloading of fish from licensed vessels. They are also required to ensure the continued operation of VMS units on board licensed vessels, which is expected to require periodic maintenance of the units. The information collected is submitted to the Pacific Islands Forum Fisheries Agency (FFA) through the U.S. government, NOAA's National Marine

Fisheries Service (NMFS). The license and registration application information is used by the FFA to determine the operational capability and financial responsibility of a vessel operator interested in participating in the Treaty fishery. Information obtained from vessel catch and unloading reports is used by the FFA to assess fishing effort and fishery resources in the region and to track the amount of fish caught within each Pacific island state's exclusive economic zone for fair disbursement of Treaty monies. Maintenance of VMS units is needed to ensure the continuous operation of the VMS units, which, as part of the VMS administered by the FFA, are used as an enforcement tool. If the information is not collected, the U.S. government will not meet its obligations under the Treaty, and the lack of fishing information will result in poor management of the fishery resources.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to OIRA_Submission@omb.eop.gov or fax to (202) 395-5806.

Dated: February 1, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017-02416 Filed 2-3-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission****Combined Notice of Filings #2**

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10-1852-016.
Applicants: Florida Power & Light Company.
Description: Notification of Change in Status of Florida Power & Light Company.
Filed Date: 1/30/17.
Accession Number: 20170130-5409.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER10-2633-030; ER10-2570-030; ER10-2717-030; ER10-3140-030; ER13-55-020.
Applicants: Birchwood Power Partners, L.P., Shady Hills Power Company, L.L.C., EFS Parlin Holdings, LLC, Inland Empire Energy Center, LLC, Homer City Generation, L.P.
Description: Notice of Non-Material Change in Status of the GE Companies.
Filed Date: 1/30/17.
Accession Number: 20170130-5422.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER10-2912-005.
Applicants: Alliance For Cooperative Energy Services Power Marketing LLC.
Description: Notice of Change in Status of Alliance for Cooperative Energy Services Power Marketing LLC.
Filed Date: 1/30/17.
Accession Number: 20170130-5410.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER10-2964-012.
Applicants: Selkirk Cogen Partners, L.P.
Description: Notice of Non-Material Change in Status of Selkirk Cogen Partners, L.P.
Filed Date: 1/30/17.
Accession Number: 20170130-5412.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER10-2984-035.
Applicants: Merrill Lynch Commodities, Inc.
Description: Notice of Non-Material Change in Status of Merrill Lynch Commodities, Inc.
Filed Date: 1/30/17.
Accession Number: 20170130-5403.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER11-4436-004; ER10-2473-005; ER10-2502-005; ER10-2472-005; ER11-2724-006.
Applicants: Black Hills Power, Inc., Cheyenne Light, Fuel & Power Company, Black Hills/Colorado Electric Utility Company, LP, Black Hills Wyoming, LLC, Black Hills Colorado IPP, LLC.

Description: Notice of Change in Status of Black Hills MBR Sellers.
Filed Date: 1/30/17.
Accession Number: 20170130-5411.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER16-2577-001; ER16-2653-001.
Applicants: Lindahl Wind Project, LLC, Cimarron Bend Wind Project I, LLC.
Description: Notice of Non-Material Change in Status of Lindahl Wind Project, LLC, et. al.
Filed Date: 1/30/17.
Accession Number: 20170130-5407.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER16-2653-003.
Applicants: Cimarron Bend Wind Project I, LLC.
Description: Notice of Non-Material Change in Status of Cimarron Bend Wind Project I, LLC.
Filed Date: 1/30/17.
Accession Number: 20170130-5413.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER16-2687-001.
Applicants: Chisholm View Wind Project II, LLC.
Description: Notice of Non-Material Change in Status of Chisholm View Wind Project II, LLC.
Filed Date: 1/30/17.
Accession Number: 20170130-5408.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-891-001.
Applicants: Louisville Gas and Electric Company.
Description: Tariff Amendment: Errata IMEA-IPMA Revised PTP Svc Agmts to be effective 2/1/2017.
Filed Date: 1/31/17.
Accession Number: 20170131-5213.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-898-000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of WMPA SA No. 4260, Queue No. AB1-022 to be effective 3/10/2017.
Filed Date: 1/31/17.
Accession Number: 20170131-5108.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-899-000.
Applicants: New England Power Pool Participants Committee.
Description: § 205(d) Rate Filing: Feb 2017 Membership Filing to be effective 1/1/2017.
Filed Date: 1/31/17.
Accession Number: 20170131-5126.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-900-000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2017-01-31_Revisions to Attachment J

for DNR timing requirements to be effective 3/1/2017.
Filed Date: 1/31/17.
Accession Number: 20170131-5187.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-901-000.
Applicants: Avista Corporation.
Description: § 205(d) Rate Filing: Avista Corp Construction Agrmt Chewelah Substation SA T1137 to be effective 4/1/2017.
Filed Date: 1/31/17.
Accession Number: 20170131-5192.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-902-000.
Applicants: Avista Corporation.
Description: § 205(d) Rate Filing: Avista Corp BPA Parallel Capacity Support Agreement to be effective 2/1/2017.
Filed Date: 1/31/17.
Accession Number: 20170131-5205.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-903-000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: 4th Quarter 2016 Update to OA and RAA Member Lists to be effective 12/31/2016.
Filed Date: 1/31/17.
Accession Number: 20170131-5233.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-904-000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3126R2 WAPA NITSA and NOA to be effective 1/1/2017.
Filed Date: 1/31/17.
Accession Number: 20170131-5237.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-905-000.
Applicants: New York Independent System Operator, Inc., PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: NYISO PJM filing re: JOA revisions: Interchange scheduling & M-to-M coordination to be effective 5/1/2017.
Filed Date: 1/31/17.
Accession Number: 20170131-5261.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-906-000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3294 Otter Tail Power Company NITSA and NOA to be effective 1/1/2017.
Filed Date: 1/31/17.
Accession Number: 20170131-5269.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-907-000.
Applicants: International Paper Company.
Description: § 205(d) Rate Filing: Revisions to Market Based Rate to be effective 2/1/2017.

Filed Date: 1/31/17.
Accession Number: 20170131-5272.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-908-000.
Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: ATSI Submits ECSAs Nos. 4556 and 4557 to be effective 4/1/2017.

Filed Date: 1/31/17.
Accession Number: 20170131-5274.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-909-000.
Applicants: Central Maine Power Company.

Description: § 205(d) Rate Filing: Executed Interconnection Agreement with ReEnergy Livermore Falls LLC to be effective 1/1/2017.

Filed Date: 1/31/17.
Accession Number: 20170131-5277.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-910-000.
Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: Quarterly Filing of City and County of San Francisco's WDT SA 275 for Q4 2016 to be effective 12/31/2016.

Filed Date: 1/31/17.
Accession Number: 20170131-5307.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: ER17-911-000.
Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Revisions to Update Attachment AF—Frequently Constrained Areas to be effective 4/1/2017.

Filed Date: 1/31/17.
Accession Number: 20170131-5318.
Comments Due: 5 p.m. ET 2/21/17.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH17-8-000.
Applicants: Southwest Gas Holdings, Inc., Southwest Gas Utility Group, Inc.
Description: Southwest Gas Holdings, Inc., et al. submits FERC 65-A Exemption Notification.

Filed Date: 1/30/17.
Accession Number: 20170130-5419.
Comments Due: 5 p.m. ET 2/21/17.
Docket Numbers: PH17-9-000.
Applicants: Cube Yadkin

Transmission LLC, Cube Hydro Carolinas, LLC, Helix Holdco LLC, Helix Partners LLC, I Squared Capital.

Description: Cube Yadkin Transmission LLC, et al. submits ERC 65-B Waiver Notification.

Filed Date: 1/30/17.
Accession Number: 20170130-5423.
Comments Due: 5 p.m. ET 2/21/17.

The filings are accessible in the Commission's eLibrary system by

clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: January 31, 2017.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2017-02391 Filed 2-3-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice Of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17-73-000.
Applicants: Xcel Energy Services Inc., Northern States Power, a Wisconsin corporation.

Description: Application pursuant to Section 203 of the Federal Power Act of Xcel Energy Services Inc., on behalf of Northern States Power, a Wisconsin corporation, for Acquisition of Jurisdictional Assets.

Filed Date: 1/30/17.
Accession Number: 20170130-5360.
Comments Due: 5 p.m. ET 2/21/17.

Docket Numbers: EC17-74-000.
Applicants: Duke Energy Florida, LLC.

Description: Application for Authorization under Section 203 of the FPA of Duke Energy Florida, LLC.

Filed Date: 1/30/17.
Accession Number: 20170130-5378,
Comments Due: 5 p.m. ET 2/21/17,

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG17-52-000.
Applicants: Cube Yadkin Generation LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Cube Yadkin Generation LLC.

Filed Date: 1/30/17.
Accession Number: 20170130-5239.
Comments Due: 5 p.m. ET 2/21/17.

Docket Numbers: EG17-53-000.
Applicants: Iron Horse Battery Storage, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Iron Horse Battery Storage, LLC.

Filed Date: 1/30/17.
Accession Number: 20170130-5253.
Comments Due: 5 p.m. ET 2/21/17.

Docket Numbers: EG17-54-000.
Applicants: Redbed Plains Wind Farm LLC,

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Redbed Plains Wind Farm LLC.

Filed Date: 1/30/17.
Accession Number: 20170130-5384.
Comments Due: 5 p.m. ET 2/21/17.

Docket Numbers: EG17-55-000.
Applicants: Meadow Lake Wind Farm V LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Meadow Lake Wind Farm V LLC.

Filed Date: 1/31/17.
Accession Number: 20170131-5068.
Comments Due: 5 p.m. ET 2/21/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17-893-000.
Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017-01-30_ETEC Deep East; Jasper-Newton; Sam Houston Att O RTO Adder Request to be effective 4/1/2017.

Filed Date: 1/30/17.
Accession Number: 20170130-5303.
Comments Due: 5 p.m. ET 2/21/17.

Docket Numbers: ER17-894-000.
Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3299 WAPA, Members 1st & Tongue River Electric Inter Agr to be effective 1/1/2017.

Filed Date: 1/31/17.
Accession Number: 20170131-5033.
Comments Due: 5 p.m. ET 2/21/17.

Docket Numbers: ER17-895-000.
Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1534R7 Kansas Municipal Energy Agency NITSA NOA to be effective 1/1/2017.

Filed Date: 1/31/17.
Accession Number: 20170131-5077.
Comments Due: 5 p.m. ET 2/21/17.

Docket Numbers: ER17-896-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA SA No. 4469, Queue No. AA1–106 to be effective 5/3/2016.

Filed Date: 1/31/17.

Accession Number: 20170131–5089.

Comments Due: 5 p.m. ET 2/21/17.

Docket Numbers: ER17–897–000.

Applicants: Entergy Louisiana, LLC.

Description: Request for Limited Waiver of Entergy Louisiana, LLC under ER17–897.

Filed Date: 1/30/17.

Accession Number: 20170130–5394.

Comments Due: 5 p.m. ET 2/21/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 31, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–02389 Filed 2–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL17–39–000]

CPV Maryland, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On January 30, 2017, the Commission issued an order in Docket No. EL17–39–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether the Rate Schedule for Reactive Service of CPV Maryland, LLC may be unjust, unreasonable, unduly discriminatory or preferential. *CPV Maryland, LLC*, 158 FERC 61,084 (2017).

The refund effective date in Docket No. EL17–39–000, established pursuant

to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL17–39–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 21 days of the date of issuance of the order.

Dated: January 31, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–02422 Filed 2–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12756–007]

BOST3 Hydroelectric Company, LLC (BOST3); Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Non-Capacity Amendment of License.

b. *Project No.:* P–12756–007.

c. *Date filed:* November 14, 2016 and supplemented on January 30, 2017.

d. *Applicant:* BOST3 Hydroelectric Company, LLC (BOST3).

e. *Name of Project:* Red River Lock & Dam No. 3 Hydroelectric Project.

f. *Location:* The proposed project would be located at the existing Army Corps of Engineer's (Corps) Red River Lock & Dam No. 3 on the Red River, in Natchitoches Parish near the City of Colfax, Louisiana.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r

h. *Applicant Contact:* Mr. Douglas A. Spalding, BOST3 Hydroelectric Company, LLC, 8441 Wayzata Blvd., Suite 101, Golden Valley, MN 55426; (952) 544–8133.

i. *FERC Contact:* M. Joseph Fayyad (202) 502–8759, or by email at mo.fayyad@ferc.gov.

j. Deadline for filing comments, motions to intervene and protests is 30 days from the issuance of this notice by the Commission. The Commission strongly encourages electronic filing.

Please file comments, motions to intervene, and protests using the

Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/doc-sfiling/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–12756–007.

k. *Description of Amendment:* The licensee proposes certain design changes to the project's powerhouse, generating units, draft tube, switchyard location and transmission line route, as follows: (1) The powerhouse will be 93-foot-long by 198-foot-wide by 83 foot-high, with five 7.2 MW Kaplan bulb turbine-generator units; (2) five 70-foot-long by 198-foot-wide by 73-foot-high draft tubes that would convey water from the turbines to the tailrace; (3) move the location of the project's switchyard about 1400 feet southwest from the current licensed location; and (4) the transmission line would be about 2300-foot-long, 230-kV line connecting the powerhouse to Central Louisiana Electric Company at the project's 100-foot-long by 100-foot-wide switchyard. The design changes would reduce the total project's hydraulic capacity from 19,085 cubic feet per second (cfs) to 19,055 cfs. The amount of federal lands used by the project would increase from 61.8 acres to 76.31 acres.

l. *Locations of the Applications:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. The filing may also be viewed on the Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Motions to Intervene, or Protests: Anyone may submit comments, a motion to intervene, or a protest in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, motions to intervene, or protests must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents: Any filing must (1) bear in all capital letters the title "COMMENTS", "MOTION TO INTERVENE", or "PROTEST" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of this application. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: January 31, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-02420 Filed 2-3-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7569-005]

City of South Bend, Indiana, University of Notre Dame; Notice of Transfer of Exemption

1. By letter filed December 15, 2016, the City of South Bend, Indiana and The University of Notre Dame informed the Commission that the exemption from licensing for the South Bend Hydroelectric Project No. 7569, originally issued April 18, 1984¹ has been transferred to the University of Notre Dame. The project is located on the St. Joseph River in St. Joseph County, Indiana. The transfer of an exemption does not require Commission approval.

2. The University of Notre Dame is now the exemptee of the South Bend Hydroelectric Project No. 7569. All correspondence should be forwarded to: Mr. Paul Kempf, Director of Utilities & Maintenance, The University of Notre Dame, 100 Facilities Building, Notre Dame, IN 46556, Phone: 574-631-0142, Email: Paul.A.Kempf.2@nd.edu.

Dated: January 31, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-02419 Filed 2-3-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR17-6-000]

Discovery DJ Pipeline LLC; Notice of Request for Temporary Waiver

Take notice that on January 25, 2017, pursuant to Rule 204 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.204, Discovery DJ Pipeline LLC (Discovery Pipeline) filed a petition for temporary waiver of the tariff filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act and parts 341 and 357 of the Commission's regulations for a crude petroleum gathering system to be constructed in Adams and Weld Counties, Colorado, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in

¹ Order Granting Exemption from Licensing of a Small Hydroelectric Project of 5 Megawatts or Less. *City of South Bend, Indiana*, 27 FERC 62,056 (1984).

accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 p.m. Eastern time on February 17, 2017.

Dated: January 31, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-02418 Filed 2-3-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL17-38-000]

Alpaca Energy LLC; Milan Energy LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On January 30, 2017, the Commission issued an order in Docket No. EL17-38-000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether the Reactive Service Rate Schedules of Alpaca Energy LLC and Milan Energy LLC may be unjust, unreasonable, unduly discriminatory or

preferential. *Alpaca Energy LLC*, 158 FER 61,087 (2017).

The refund effective date in Docket No. EL17-38-000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL17-38-000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 21 days of the date of issuance of the order.

Dated: January 31, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017-02392 Filed 2-3-17; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-ORD-2015-0765; FRL-9959-20-ORD]

Board of Scientific Counselors Homeland Security Subcommittee; Notification of Public Meeting and Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public meeting and public comment.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, the U.S. Environmental Protection Agency hereby provides notice that the Board of Scientific Counselors (BOSC) Homeland Security Subcommittee (HSS) will host a public meeting at the EPA's Main Campus Facility, 109 T.W. Alexander Drive, Research Triangle Park, North Carolina 27711. The meeting will be held on Tuesday, February 14, 2017 from 8:00 a.m. to 6:00 p.m., Wednesday, February 15, 2017 from 8:00 a.m. to 5:30 p.m. and Thursday, February 16, 2017 from 8:00 a.m. to 1:00 p.m. All times noted are Eastern Time and are approximate. The primary discussions will focus on effective and efficient tools, strategies and methods to characterize and assess exposure and decontamination following a biological contamination incident. There will be a public comment period on Tuesday, February 14, 2017 from 4:30 p.m. to 4:45 p.m. For information on registering to attend the meeting or to provide public comment, please see the **SUPPLEMENTARY INFORMATION** section below. Due to

unforeseen administrative circumstances, EPA is announcing this meeting with less than fifteen calendar days notice.

DATES: The BOSC HSS meeting will be held on Tuesday, February 14, 2017 from 8:00 a.m. to 6:00 p.m., Wednesday, February 15, 2017 from 8:00 a.m. to 5:30 p.m. and Thursday, February 16, 2017 from 8:00 a.m. to 1:00 p.m.. All times noted are Eastern Time and are approximate.

FOR FURTHER INFORMATION CONTACT:

Questions or correspondence concerning the meeting should be directed to Tom Tracy, Designated Federal Officer, Environmental Protection Agency, by mail at 1200 Pennsylvania Avenue NW., (MC 8104 R), Washington, DC 20460; by telephone at 202-564-6518; fax at 202-565-2911; or via email at tracy.tom@epa.gov.

SUPPLEMENTARY INFORMATION: The Charter of the BOSC states that the advisory committee shall provide independent advice to the Administrator on technical and management aspects of the ORD's research program. Additional information about the BOSC is available at: <http://www2.epa.gov/bosc>.

Registration: In order to attend the meeting, you must register at the following site: <https://www.eventbrite.com/e/us-epa-bosc-homeland-security-subcommittee-meeting-registration-31163685422>. Once you have completed the online registration, you will be contacted and provided with the meeting information. In-person participant registration will close on February 6, 2017. Virtual participant registration will close on February 10, 2017.

Oral Statements: Members of the public who wish to provide oral comment during the meeting must preregister. Individuals or groups making remarks during the public comment period will be limited to five (5) minutes. To accommodate the number of people who want to address the BOSC HSS, only one representative of a particular community, organization, or group will be allowed to speak.

Written Statements: Written comments for the public meeting must be received by Friday, February 10, 2017, and will be included in the materials distributed to the BOSC HSS prior to the meeting. Written comments should be sent to Tom Tracy, Environmental Protection Agency, via email at tracy.tom@epa.gov or by mail to 1200 Pennsylvania Avenue NW., (MC 8104 R), Washington, DC 20460, or submitted through regulations.gov, Docket ID No. EPA-HQ-ORD-2015-

0765. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted online at regulations.gov.

Information about Services for Individuals with Disabilities: For information about access or services for individuals with disabilities, please contact Tom Tracy, at 202-564-6518 or via email at tracy.tom@epa.gov. To request special accommodations, please contact Tom Tracy no later than February 10, 2017, to give the Environmental Protection Agency sufficient time to process your request. All requests should be sent to the address, email, or phone number listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Dated: January 26, 2017.

Fred S. Hauchman,

Director, Office of Science Policy.

[FR Doc. 2017-02426 Filed 2-3-17; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0289]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before March 8, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email Nicholas.A.Fraser@omb.eop.gov; and to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov. Include in the comments the OMB control number as shown in the

SUPPLEMENTARY INFORMATION below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418-2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <<http://www.reginfo.gov/public/do/PRAMain>>, (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the

information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060-0289.

Title: Section 76.76.601, Performance Tests; Section 76.1704, Proof of Performance Test Data; Section 76.1705, Performance Tests (Channels Delivered); 76.1717, Compliance with Technical Standards.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, local or Tribal Government.

Number of Respondents and Responses: 4,450 respondents; 5,955 responses.

Estimated Time per Response: 0.5-70 hours.

Frequency of Response: Recordkeeping requirement, Semi-annual and Triennial reporting requirements; Third party disclosure requirement.

Total Annual Burden: 104,125 hours.

Total Annual Costs: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 4(i) and 624(e) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The information collection requirements approved under this collection are as follows:

47 CFR 76.601(b) requires the operator of each cable television system shall conduct complete performance tests of that system at least twice each calendar year (at intervals not to exceed seven months), unless otherwise noted below. The performance tests shall be directed at determining the extent to which the system complies with all the technical standards set forth in § 76.605(a) and shall be as follows:

(1) For cable television systems with 1,000 or more subscribers but with 12,500 or fewer subscribers, proof-of-performance tests conducted pursuant to this section shall include measurements taken at six (6) widely separated points. However, within each cable system, one additional test point shall be added for every additional 12,500 subscribers or fraction thereof

(e.g., 7 test points if 12,501 to 25,000 subscribers; 8 test points if 25,001 to 37,500 subscribers, etc.). In addition, for technically integrated portions of cable systems that are not mechanically continuous (i.e., employing microwave connections), at least one test point will be required for each portion of the cable system served by a technically integrated microwave hub. The proof-of-performance test points chosen shall be balanced to represent all geographic areas served by the cable system. At least one-third of the test points shall be representative of subscriber terminals most distant from the system input and from each microwave receiver (if microwave transmissions are employed), in terms of cable length. The measurements may be taken at convenient monitoring points in the cable network: Provided, that data shall be included to relate the measured performance of the system as would be viewed from a nearby subscriber terminal. An identification of the instruments, including the makes, model numbers, and the most recent date of calibration, a description of the procedures utilized, and a statement of the qualifications of the person performing the tests shall also be included.

(2) Proof-of-performance tests to determine the extent to which a cable television system complies with the standards set forth in § 76.605(a)(3), (4), and (5) shall be made on each of the NTSC or similar video channels of that system. Unless otherwise as noted, proof-of-performance tests for all other standards in § 76.605(a) shall be made on a minimum of four (4) channels plus one additional channel for every 100 MHz, or fraction thereof, of cable distribution system upper frequency limit (e.g., 5 channels for cable television systems with a cable distribution system upper frequency limit of 101 to 216 MHz; 6 channels for cable television systems with a cable distribution system upper frequency limit of 217-300 MHz; 7 channels for cable television systems with a cable distribution upper frequency limit to 300 to 400 MHz, etc.). The channels selected for testing must be representative of all the channels within the cable television system.

(3) The operator of each cable television system shall conduct semi-annual proof-of-performance tests of that system, to determine the extent to which the system complies with the technical standards set forth in § 76.605(a)(4) as follows. The visual signal level on each channel shall be measured and recorded, along with the date and time of the measurement, once

every six hours (at intervals of not less than five hours or no more than seven hours after the previous measurement), to include the warmest and the coldest times, during a 24-hour period in January or February and in July or August.

(4) The operator of each cable television system shall conduct triennial proof-of-performance tests of its system to determine the extent to which the system complies with the technical standards set forth in § 76.605(a)(11).

Note 1 to 47 CFR 76.601 states prior to additional testing pursuant to Section 76.601(c), the local franchising authority shall notify the cable operator, who will then be allowed thirty days to come into compliance with any perceived signal quality problems which need to be corrected.

47 CFR 76.1704 requires that proof of performance test required by 47 CFR 76.601 shall be maintained on file at the operator's local business office for at least five years. The test data shall be made available for inspection by the Commission or the local franchiser, upon request. If a signal leakage log is being used to meet proof of performance test recordkeeping requirement in accordance with Section 76.601, such a log must be retained for the period specified in 47 CFR 76.601(d).

47 CFR 76.1705 requires that the operator of each cable television system shall maintain at its local office a current listing of the cable television channels which that system delivers to its subscribers.

47 CFR 76.1717 states that an operator shall be prepared to show, on request by an authorized representative of the Commission or the local franchising authority, that the system does, in fact, comply with the technical standards rules in part 76, subpart K.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017-02401 Filed 2-3-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[DA 17-69]

Freeze on the Filing of Applications for Digital Companion Channels

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Media Bureau of the Federal Communications Commission (Commission) announces a

freeze on the filing of digital companion channels by low power television and TV translator stations.

DATES: This filing limitation became effective on January 19, 2017.

FOR FURTHER INFORMATION CONTACT:

Shaun Maher, Video Division, Media Bureau, Federal Communications Commission, barbara.kreisman@fcc.gov, (202) 418-2324.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, DA 17-69, released January 19, 2017. The complete text of this document is available for download at http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0119/DA-17-69A1.pdf.

Effective immediately, the Media Bureau announces a freeze on the filing of applications for digital companion channels for low power television (LPTV) and TV translator stations. The incentive auction is being conducted pursuant to Title VI of the Middle Class Tax Relief and Job Creation Act of 2012. It includes a "reverse auction" and reorganization or "repacking" of the broadcast television bands in order to free up a portion of the ultra-high frequency band for new flexible uses. The facilities of LPTV and TV translator stations are not protected during repacking. "Operating" LPTV and TV translator stations displaced by repacking will be permitted to file displacement applications in a special window to be opened following the completion of the auction. "Operating" stations are defined as those that have licensed their authorized construction permit facilities or have an application for a license to cover on file with the Commission on the release date of the incentive auction Closing and Channel Reassignment Public Notice.

To facilitate the special window for displaced LPTV and TV translator stations and to protect the opportunity for LPTV and TV translator stations displaced by the repacking of the television bands to obtain a new channel in the special window from the limited number of channels likely to be available for application after repacking, the Media Bureau deems it appropriate to freeze the acceptance of digital companion channel applications at this time. Because the Commission has postponed the digital transition deadline for LPTV and TV translator stations until 12 months after the completion of the 39-month post-incentive auction transition period (51 months total), temporary postponement of the filing of applications for digital companion channels should not impact stations' efforts to transition to digital.

The Media Bureau will continue to process pending digital companion channel applications. Following completion of the special window for displaced LPTV and TV translator stations, we will announce when we will again begin accepting digital companion channel applications.

The decision to impose this freeze is procedural in nature, and therefore is not subject to the notice and comment and effective date requirements of the Administrative Procedure Act, 5 U.S.C. 553(b)(A), (d). Moreover, we find that there is good cause for not delaying the effect of these procedures until 30 days after publication in the **Federal Register**. Such a delay would be impractical, unnecessary, and contrary to the public interest because it would undercut the purposes of the freeze.

This action is taken by the Chief, Media Bureau pursuant to authority delegated by 47 CFR 0.283 of the Commission's rules.

Federal Communications Commission.

Barbara Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 2017-02355 Filed 2-3-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1022]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated

collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before April 7, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060-1022.

Title: Sections 101.1403, 101.103(f), 101.1413, 101.1440 and 101.1417, MVDDS and DBS Reporting and Third Party Disclosure Requirements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 12 respondents; 101 responses.

Estimated Time per Response: 0.5 hour-40 hours.

Frequency of Response: Annual and on occasion reporting requirements; 5 and 10 years reporting requirements; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. 47 U.S.C. 154(i), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 308, and 309(j).

Total Annual Burden: 543 hours.

Total Annual Cost: \$8,100.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The Commission uses the information to ensure that Multichannel Video Distribution and Data Service (MVDDS) licensees meet the broadcast carriage requirements; to ensure that MVDDS antennas meet minimum spacing requirement; to determine whether a licensee is providing substantial service; to ensure that MVDDS licensees protect DBS customers of record from interference as required by the Commission's rules; and to keep track of the MVDDS service. The information compiled in the annual report will assist the Commission in analyzing trends and competition in the marketplace.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017-02399 Filed 2-3-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, February 9, 2017 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Proposed Final Audit Report on the Conservative Campaign Committee (A13-15)

Audit Division Recommendation Memorandum on the Kansas Democratic Party (KDP) (A13-08)

Audit Division Recommendation Memorandum on Kind for Congress Committee (KFCC) (A15-02)

Management and Administrative Matters

Individuals who plan to attend and require special assistance, such as sign language interpretation or other

reasonable accommodations, should contact Dayna C. Brown, Acting Secretary and Clerk, at (202) 694-1040, at least 72 hours prior to the meeting date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694-1220.

Dayna C. Brown,

Acting Secretary and Clerk of the Commission.

[FR Doc. 2017-02513 Filed 2-2-17; 4:15 pm]

BILLING CODE 6715-01-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 3, 2017.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *Signature Bancshares, Inc. Employee Stock Ownership Plan & Trust, Minnesota;* to become a bank holding company by acquiring up to 35 percent of the voting shares of Signature Bancshares, Inc., Minnetonka,

Minnesota, and thereby indirectly acquire Signature Bank, Minnetonka, Minnesota.

B. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105-1579:

1. *Carpenter Bank Partners, Inc., CCFW, Inc., Carpenter Fund Manager GP, LLC, Carpenter Fund Management Company, LLC, Carpenter Community BancFund, L.P., Carpenter Community BancFund-A, L.P., and Carpenter Community BancFund, L.P., all Irvine, California*; to acquire Pacific Premier Bancorp and thereby indirectly acquire Pacific Premier Bank, Irvine, California.

Board of Governors of the Federal Reserve System, January 31, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017-02368 Filed 2-3-17; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2017-N-0001]

Advisory Committee Nominations; Modification To Process for Collecting and Posting Curricula Vitae

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is modifying the process by which we collect and post curricula vitae (CVs) of advisory committee members so that the CVs will be posted to our Web site without removing or redacting any information. Posting CVs without removing or redacting any information will increase the transparency of FDA's selection of officials who serve on advisory committees, and will ensure greater public access to the qualifications of advisory committee members on an ongoing basis. Because advisory committee members are best situated to determine whether there is confidential information in their CVs, this modified collection and posting process will conserve FDA resources because FDA personnel will no longer be responsible for reviewing and redacting the CVs.

DATES: All nominees for positions on an FDA advisory committee will be required to submit a consent form on or after the date of the Office of Management and Budget (OMB)

approval for this information collection, authorizing FDA to publicly post an unredacted copy of their CV on FDA's Web site. Elsewhere in this issue of the **Federal Register**, FDA is publishing the notice for the proposed information collection. Additionally, effective March 8, 2017, all existing advisory committee members who submit an updated version of their CV to FDA will be required to submit a consent form along with their CV.

FOR FURTHER INFORMATION CONTACT:

Questions should be sent electronically to ACOMSSubmissions@fda.hhs.gov, or by mail to Advisory Committee Oversight and Management Staff, 10903 New Hampshire Ave., Bldg. 32, Rm. 5129, Silver Spring, MD 20993-0002.

SUPPLEMENTARY INFORMATION:

I. Background

FDA generally has posted the CVs of FDA advisory committee members publicly on <http://www.fda.gov/AdvisoryCommittees/> after reviewing the CVs and redacting information that appeared to be confidential. Currently, FDA requires the submission of a CV for each nominee as part of the nomination process for advisory committee members. FDA also requests that existing advisory committee members submit updated versions of their CVs, typically on a yearly basis.

In furtherance of FDA's goal of ensuring transparency regarding the qualifications of individuals selected to serve on FDA advisory committees, and in recognition that individual advisory committee members are best situated to evaluate the confidentiality of information contained in their CVs, including any considerations raised by their relationships and agreements with third parties, FDA will be requiring that all CVs submitted as part of the nomination process for positions on FDA advisory committees be accompanied by a written consent form stating that, if the nominee is accepted as a member of an FDA advisory committee, the individual consents to the publication of the individual's CV to FDA's Web site, without FDA removing or redacting any information. The consent form requires that the nominee affirm that the CV does not include any confidential information, including information pertaining to third parties that the nominee is not permitted to disclose. A nominee will be required to submit a signed consent form in order for the nomination to be considered complete. The consent form will need to be submitted along with the four other types of documents currently requested as part of the nomination process: (1) A

CV for each nominee; (2) a written confirmation that the nominee is aware of the nomination (unless self-nominated); (3) a letter(s) of recommendation; and (4) for Consumer Representative applications, a cover letter that lists consumer or community organizations for which the candidate can demonstrate active participation. In addition to the consent form submitted as part of the application process, FDA will also be requiring that a nearly identical consent form be submitted by all existing advisory committee members each time they submit an updated version of their CV to FDA. The language of the consent for existing advisory committee members will differ only in that it will not include the language "if [the nominee is] selected to serve on an [FDA] advisory committee".

Every day, FDA makes important health and safety decisions about foods, drugs, medical devices, cosmetics, and other widely used consumer products. Transparency in FDA's activities and decision making allows the public to better understand the Agency's decisions, increasing credibility and promoting accountability. Transparency helps the Agency to more effectively protect and promote the public health. Ensuring greater public awareness of the qualifications of individuals responsible for assisting the Agency in making important policy decisions is an important factor in ensuring such transparency. Posting the CVs of advisory committee members helps increase public awareness.

Additionally, requiring advisory committee nominees and advisory committee members to attest that their CVs do not include any confidential information, including information pertaining to third parties that they are not permitted to disclose, will help conserve limited FDA resources by ensuring that the individual most familiar with the information contained in the CV, as well as any contractual or confidentiality agreements that might affect their ability to disclose that information, assumes the responsibility for determining whether the information may be released publicly. Because advisory committee nominees and members are most familiar with the information contained in their CVs, FDA will not be advising potential or current members about whether specific information in their CVs is confidential or otherwise should be removed.

II. Advisory Committee Member CVs and Confidential Information

The consent form will be required to be submitted each time an advisory committee nominee's or existing

advisory committee member's CV is submitted to FDA. All information contained in the CV submission for individuals who are selected for or currently serving on an FDA advisory committee will be available for public posting. Specifically, for nominees for positions on an FDA advisory committee, the required consent will state as follows:

If I am selected to serve on an advisory committee, I consent to publication of my curriculum vitae (CV), and any subsequent updates to my CV that I provide FDA, on FDA's Web site, without removing or redacting any information. My CV does not include any confidential information, including information pertaining to third parties that I am not permitted to disclose.

For existing advisory committee members who submit updated CVs, the required consent will state as follows:

I consent to publication of my curriculum vitae (CV), and any subsequent updates to my CV that I provide FDA, on FDA's Web site, without removing or redacting any information. My CV does not include any confidential information, including information pertaining to third parties that I am not permitted to disclose.

III. Date of Implementation

All nominations for new advisory committee members will be required to be submitted through FDA's Web site at <https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm>, or any successor system, and the submission will be required to be accompanied by the required consent form, on or after the date of OMB approval for this information collection. All updated CVs for existing advisory committee members will be required to be submitted to FDA along with the required consent form after March 8, 2017.

Dated: February 1, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017-02411 Filed 2-3-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2017-N-0366]

Agency Information Collection Activities: Proposed Collection; Comment Request; Collection of Nominations for Candidates To Serve on the Food and Drug Administration's Advisory Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the Agency's process for collecting nominations of candidates to serve on FDA's advisory committees.

DATES: Submit either electronic or written comments on the collection of information by April 7, 2017.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted,

marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2017-N-0366 for "Agency Information Collection Activities: Proposed Collection; Comment Request; Collection of Nominations for Candidates to Serve on FDA's Advisory Committees." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <http://www.fda.gov/regulatoryinformation/dockets/default.htm>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food

and Drug Administration, Three White Flint North 10A63, 11601 Landsdown St., North Bethesda, MD 20852, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Process for Collecting Nominations of Candidates to Serve on FDA’s Advisory Committees—OMB Control Number 0910—NEW

FDA chooses to select advisory committee members through a nomination process.¹ A person can self-nominate or be nominated by another individual. In order to identify and select qualified individuals to serve on its advisory committees, FDA has established an online portal, the FDA Advisory Committee Membership

Application, to accept nominations of potential advisory committee members.

The FDA Advisory Committee Membership Application accepts applications for Academician/ Practitioner, Consumer Representative, and Industry Representative membership types. Nominees who are nominated as scientific members should be technically qualified experts in the field (e.g., clinical medicine, engineering, biological and physical sciences, biostatistics, food sciences) and have experience interpreting complex data. Candidates must be able to analyze detailed scientific data and understand its public health significance. The nomination process has recently been made electronic and is available at <http://accessdata.test.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm>. To submit an application, prospective nominees should upload the following documents in PDF format: ² (1) Curriculum vitae (CV); (2) a written confirmation that the nominee(s) is aware of the nomination (unless self-nominated); and (3) letters of recommendation are also suggested.

For Consumer Representative applications, a cover letter that lists consumer or community organizations for which the candidate can demonstrate active participation is also recommended.

These documents are collected in order to determine if the nominee has the expertise in the subject matter with which the committee is concerned and has diverse professional education, training, and experience so that the committee will reflect a balanced composition of sufficient scientific expertise to handle the problems that come before it (21 CFR 14.80(b)(1)(i)). In the case of Industry and Consumer Representatives, information is collected to assess the candidate’s ability to represent all interested persons within the class which the member is selected to represent (21 CFR 14.86).

Each nominee should be sure to review the Agency Web site for information on:

- Vacancies, Qualifications, and Experience for more details concerning vacancies on each committee and the qualifications and experience common for nominees. Vacancies are updated periodically; therefore, one or more vacancies listed may be in the nomination process or a final appointment may have been made.
- Potential Conflicts of Interest such as financial holdings, employment, and

research grants and/or contracts in order to permit evaluation of possible sources of conflict of interest.

Also, FDA asks that prospective nominees inform us of how they heard about the FDA Advisory Committees (e.g., attendance at a professional meeting, an article in a publication, our Web site, while speaking with a friend or colleague).

To further the Agency’s goals of promoting transparency regarding the advisory committee process, FDA will also require that nominees to serve on advisory committees submit a consent form authorizing FDA to publicly post to FDA’s Web site the CV submitted as part of their nomination materials, if the nominee is selected to serve on an advisory committee. In the past, FDA generally has posted the CVs of FDA advisory committee members publicly on <http://www.fda.gov/AdvisoryCommittees/> after reviewing the CVs and redacting information that appeared to be confidential. However, in furtherance of FDA’s goal of ensuring transparency regarding the qualifications of individuals selected to serve on FDA advisory committees, and in recognition that individual advisory committee members are best situated to evaluate the confidentiality of information contained in their CVs, including any considerations raised by their relationships and agreements with third parties, FDA will now be requiring that all CVs submitted as part of the nomination process for positions on FDA advisory committees be accompanied by a written consent form stating that, if the nominee is accepted as a member of an FDA advisory committee, the individual consents to the publication of the individual’s CV to FDA’s Web site, without FDA removing or redacting any information. The consent form requires that the nominee affirm that the CV does not include any confidential information, including information pertaining to third parties that the nominee is not permitted to disclose. A nominee will be required to submit a signed consent form as a part of the nomination package in order for the nomination to be considered complete.

All nominations for new advisory committee members will be required to be submitted through FDA’s Web site at <https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm>, or any successor system, and the submission will be required to be accompanied by the consent form, on or after the date of OMB approval for this information collection.

An estimate of the burden of this collection is provided in table 1. FDA

¹ Key point and principle I. of Appendix A to Subpart C of 41 CFR 102–3, the Federal Advisory Committee Management Final Rule notes that the Federal Advisory Committee Act does not specify the manner in which advisory committee members and staff must be appointed.

² 21 CFR 14.82(c).

expects that 138.25 burden hours will be expended annually by respondents to the collection of information. FDA estimates that 553 respondents will each submit 1 application for a total of 553 annual responses. We estimate each response will require an average of 0.25

hours (15 minutes) for a total of 138.25 annual hours.

Our estimate of 553 respondents is based on averaging the number of nomination submissions we have received over the past 5 fiscal years. In fiscal year (FY) 2011 we received 638

submissions; FY 2012, 603 submissions; FY 2013, 622 submissions; FY 2014, 545 submissions; and FY 2015, 357 submissions. We believe that each submission will require 15 minutes based on our experience with the submission portal.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN¹

21 CFR Part 14; Subpart E—Members of Advisory Committees	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Advisory Committee Membership Applications	553	1	553	0.25 (15 minutes)	138.25

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: February 1, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017-02412 Filed 2-3-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR-14-355 Panel: Pregnancy in Women With Disabilities (R01).

Date: February 27, 2017.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Martha L. Hare, RN, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3154, MSC 7770, Bethesda, MD 20892, (301) 451-8504, harem@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Pain and Chemosensory Mechanisms.

Date: February 28–March 1, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408-9664, bishopj@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Synthetic Psychoactive Drugs and Strategic Approaches to Counteract their Deleterious Effects.

Date: February 28, 2017.

Time: 2:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jasenka Borzan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214 MSC 7814, Bethesda, MD 20892-7814, 301-435-1787, borzanj@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR16-095: Biopsychosocial Mechanisms in the Management of Chronic Conditions.

Date: February 28–March 1, 2017.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Unja Hayes, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301-435-1037, unja.hayes@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR16-212: Cognitive Neuroscience and Assessment of Cancer Treatment-Related Cognitive Impairment.

Date: March 1, 2017.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437-0911, kramerkm@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neural Trauma and Stroke.

Date: March 1, 2017.

Time: 1:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alexei Kondratyev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301-435-1785, kondratyevad@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 30, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-02385 Filed 2-3-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Population Sciences Subcommittee.

Date: March 3, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Minki Chatterji, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Bethesda Drive, Bethesda, MD 20892, minki.chatterji@nih.gov, 301-827-5435.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Pediatrics Subcommittee.

Date: March 17, 2017.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Rita Anand, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Bethesda Drive, Bethesda, MD 20892, (301) 496-1487, anandr@mail.nih.gov.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Biobehavioral and Behavioral Sciences Subcommittee.

Date: March 31, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Dupont Hotel, 1500 New Hampshire Avenue NW., Washington, DC 20036.

Contact Person: Marita R. Hopmann, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Bethesda Drive, Bethesda, MD 20892, (301) 435-6911, hopmannm@mail.nih.gov.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Population Dynamics Centers Infrastructure.

Date: May 5, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Minki Chatterji, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Bethesda Drive, Bethesda, MD 20892, minki.chatterji@nih.gov, 301-827-5435.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: January 31, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-02382 Filed 2-3-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Prokaryote Replication and Signaling.

Date: February 27, 2017.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Richard A Currie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1108, MSC 7890, Bethesda, MD 20892, (301) 435-1219, currieri@csr.nih.gov.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Infectious Diseases, Reproductive Health, Asthma and Pulmonary Conditions Study Section.

Date: February 28–March 1, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Lisa Steele, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 257-2638, steeleln@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cell Biology, Developmental Biology and Bioengineering.

Date: February 28–March 1, 2017.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Raj K Krishnaraju, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, Bethesda, MD 20892, 301-435-1047, kkrishna@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Vaccine Development Related Immune Response.

Date: March 1, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Liying Guo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4016F, Bethesda, MD 20892, 301-435-0908, lguo@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR16-071-Behavioral Science Award For Rapid Transition.

Date: March 1, 2017.

Time: 10:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Serena Chu, Ph.D., Scientific Review Officer, BBBP IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, 301-500-5829, sechu@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR-16-234: Accelerating the Pace of Drug Abuse Research Using Existing Data (R01).

Date: March 1, 2017.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: George Vogler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3140, MSC 7770, Bethesda, MD 20892, (301) 237-2693, voglergp@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR-15-

357: Understanding Alzheimer's Disease in the Context of the Aging Brain.

Date: March 1, 2017.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Boris P Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301-408-9115, bsokolov@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR-15-020: Systems Developmental Biology for Understanding Embryonic Development and the Ontogeny of Structural Birth Defects.

Date: March 1-2, 2017.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Thomas Beres, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 5201, MSC 7840, Bethesda, MD 20892, 301-435-1175, berestm@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Systems Science and Health in the Behavioral and Social Science.

Date: March 1, 2017.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ping Wu, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301-451-8428, wup4@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 31, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-02384 Filed 2-3-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Pulmonary Diseases.

Date: March 1-2, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC7814, Bethesda, MD 20892, 301-451-8754, nussb@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Alcohol and Motivated Behavior.

Date: March 1-2, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room, 5164, MSC 7844, Bethesda, MD 20892, 301-435-1119, selmanom@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Screenable Disorders: Therapeutics, Tools and Natural History.

Date: March 1, 2017.

Time: 10:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Methode Bacanamwo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2200, Bethesda, MD 20892, 301-827-7088, methode.bacanamwo@nih.gov.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurotransmitters, Receptors, and Calcium Signaling Study Section.

Date: March 2-3, 2017.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Crystal City, 1800 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Peter B. Guthrie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7850, Bethesda, MD 20892, (301) 435-1239, guthriep@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Dental.

Date: March 2, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Baljit S. Moonga, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7806, Bethesda, MD 20892, 301-435-1777, moongabs@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR-15-358-Molecular and Cellular Causal Aspects of Alzheimer's Disease.

Date: March 2, 2017.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Arlington Capital View, 2800 S Potomac Avenue, Arlington, VA 22202.

Contact Person: Afia Sultana, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827-7083, sultanaa@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Review of Neuroscience AREA Grant Applications.

Date: March 2-3, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Wardman Park Washington DC Hotel, 2660 Woodley Road, NW., Washington, DC 20008.

Contact Person: Richard D Crosland, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7850, Bethesda, MD 20892, 301-435-1220, crosland@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurobiology of Brain Disorders.

Date: March 2, 2017.

Time: 10:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7846, Bethesda, MD 20892-7846, 301-827-7238, zhaow@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member

Conflict: Psychosocial Risks and Disease Prevention.

Date: March 2, 2017.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, 301-594-3292, niw@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 31, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-02383 Filed 2-3-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA-2017-0007; OMB No. 1660-0029]

Agency Information Collection Activities: Proposed Collection; Comment Request; Approval and Coordination of Requirements To Use the NETC for Extracurricular and Training Activities

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the collection of information required to request training space and/or housing for emergency preparedness training conducted at the Federal Emergency Management Agency's National Emergency Training Center (NETC).

DATES: Comments must be submitted on or before April 7, 2017.

ADDRESSES: To avoid duplicate submissions to the docket, please use

only one of the following means to submit comments:

(1) *Online.* Submit comments at www.regulations.gov under Docket ID FEMA-2017-0007. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., 8NE, Washington, DC 20472-3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Contact Merrill Sollenberger, Administrative Specialist, FEMA, U.S. Fire Administration, (301) 447-1179 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at email address: FEMA-Information-Collections-Management@fema.dhs.gov.

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121-5207, authorizes the President to establish a program of disaster preparedness that utilizes services of all appropriate agencies and includes training and exercises. Section 611 of the Stafford Act (42 U.S.C. 5196) directs that the Federal Emergency Management Agency (FEMA) may conduct training for the purpose of emergency preparedness. In response, FEMA established the National Emergency Training Center (NETC), located in Emmitsburg, Maryland. The NETC site has facilities and housing available for those participating in emergency preparedness training and a request for use of these areas must be made in advance of the need for such.

Collection of Information

Title: Approval and Coordination of Requirements to Use the NETC for Extracurricular and Training Activities.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660-0029.

FEMA Forms: FEMA Form 119-17-1, Request for Housing Accommodations; FEMA Form 119-17-2, Request for Use of NETC Facilities.

Abstract: FEMA established the National Emergency Training Center (NETC), located in Emmitsburg, Maryland to offer training for the purpose of emergency preparedness. The NETC site has facilities and housing available for those participating in emergency preparedness. When training space and/or housing is required for those attending the training, a request for use of these areas must be made in advance and this collection provides the mechanism for such requests to be made.

Affected Public: Not-for-profit institutions; Federal Government; State, Local or Tribal Government; individuals or households; and business or other for-profit.

Number of Respondents: 60.

Number of Responses: 120.

Estimated Total Annual Burden Hours: 12 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is \$407.04. The annual costs to respondents' operations and maintenance costs for technical services is \$956.40. There are no annual start-up or capital costs. The cost to the Federal Government is \$1,014.60.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: January 27, 2017.

Richard W. Mattison,

Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2017-02364 Filed 2-3-17; 8:45 am]

BILLING CODE 9111-45-P

DEPARTMENT OF HOMELAND SECURITY**U.S. Citizenship and Immigration Services**

[OMB Control Number 1615–0060]

Agency Information Collection Activities: Medical Certification for Disability Exceptions, Form N–648; Extension, Without Change, of a Currently Approved Collection**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.**ACTION:** 30-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on September 20, 2016, at 81 FR 64474, allowing for a 60-day public comment period. USCIS did receive 3 comments in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until March 8, 2017. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at oir_submission@omb.eop.gov. Comments may also be submitted via fax at (202) 395–5806. (This is not a toll-free number.) All submissions received must include the agency name and the OMB Control Number [1615–0060].

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommies, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via

telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at <http://www.uscis.gov>, or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:**Comments:**

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS–2008–0021 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Medical Certification for Disability Exceptions.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–648; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. USCIS uses the Form N–648 to substantiate a claim for an exception to the requirements of section 312(a) of the Act. Only medical doctors, doctors of osteopathy, or clinical psychologists licensed to practice in the

United States are authorized to certify Form N–648.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–648 is 17,302 and the estimated hour burden per response is 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 34,604 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$912,681.

Dated: January 31, 2017.

Samantha Deshommies,
Chief, Regulatory Coordination Division,
Office of Policy and Strategy, U.S. Citizenship
and Immigration Services, Department of
Homeland Security.

[FR Doc. 2017–02366 Filed 2–3–17; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR**Office of Natural Resources Revenue**

[Docket No. ONRR–2012–0006; DS63642000 DR2PS0000.CH7000 167D0102R2]

Agency Information Collection Activities: 30 CFR Parts 1202, 1204, and 1206, Federal Oil and Gas Valuation—OMB Control Number 1012–0005; Comment Request**AGENCY:** Office of Natural Resources Revenue (ONRR), Interior.**ACTION:** Notice of renewal of an existing information collection.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), ONRR is notifying the public that we have submitted to the Office of Management and Budget (OMB) an Information Collection Request (ICR) to renew approval of the paperwork requirements in the regulations under title 30, *Code of Federal Regulations* (CFR), parts 1202, 1204, and 1206. This ICR pertains to (1) Federal oil and gas valuation regulations, which include transportation and processing regulatory allowance limits; and (2) accounting and auditing relief for marginal properties. Also, there is one form (ONRR–4393 [*Request to Exceed Regulatory Allowance Limitation*]) associated with this information collection.

DATES: OMB has up to 60 days to approve or disapprove the information

collection request but may respond after 30 days; therefore, you should submit your public comments to OMB by February 24, 2017 for the assurance of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of Interior (1012-0005), by telefax at (202) 395-5806 or via email to OIRA_Submission@omb.eop.gov. Also, please send a copy of your comments to Luis Aguilar, Regulatory Specialist, Office of Natural Resources Revenue, P.O. Box 25165, MS 61030A, Denver, Colorado 80225. Please reference "ICR 1012-0005" in your comments.

FOR FURTHER INFORMATION CONTACT: Mr. Luis Aguilar, telephone (303) 231-3418, or email at luis.aguilar@onrr.gov. You may also contact Mr. Aguilar to obtain copies, at no cost, of (1) the ICR, (2) any associated forms, and (3) the regulations that require us to collect the information.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Secretary of the United States Department of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary's responsibility, according to various laws, is to manage mineral resource production from Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds collected under those laws. We have posted those laws pertaining to mineral leases on Federal and Indian lands and the OCS at http://www.onrr.gov/Laws_R_D/PubLaws/default.htm.

The Secretary also has a trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. ONRR performs the minerals revenue management functions for the Secretary and assists the Secretary in carrying out the Department's trust responsibility for Indian lands.

You can find the information collections covered in this ICR at 30 CFR parts:

- 1202, subparts C and D, which pertain to Federal oil and gas royalties.
- 1204, subpart C, which pertains to accounting and auditing relief for marginal properties.
- 1206, subparts C and D, which pertain to Federal oil and gas product valuation.

General Information

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in a value of production from the leased lands. The lessee, or designee, must report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals.

Information Collections

ONRR uses the information that we collect in this ICR to ensure that lessees accurately value and appropriately pay royalties on oil and gas produced from Federal onshore and offshore leases. Please refer to the chart for all reporting requirements and associated burden hours. All data submitted is subject to subsequent audit and adjustment.

A. Federal Oil and Gas Valuation Regulations

The valuation regulations at 30 CFR part 1206, subparts C and D, mandate that lessees collect and submit information used to value their Federal oil and gas, including (1) transportation and processing allowances and (2) regulatory allowance limit information. Lessees report certain data on form ONRR-2014, Report of Sales and Royalty Remittance (OMB Control Number 1012-0004). The information that we request is the minimum necessary to carry out our mission and places the least possible burden on respondents. If ONRR does not collect this information, both Federal and State governments may incur a loss of royalties.

Transportation and Processing Regulatory Allowance Limits: Lessees may deduct the reasonable, actual costs of transportation and processing from Federal royalties. The lessees report these allowances on form ONRR-2014. For oil and gas, regulations establish the allowable limit on transportation allowance deductions at 50 percent of the value of the oil or gas. For gas only, regulations establish the allowable limit on processing allowance deductions at 66⅔ percent of the value of each gas plant product.

Request to Exceed Regulatory Allowance Limitation, form ONRR-4393: Lessees may request to exceed regulatory limitations. Upon proper application from the lessee, ONRR may approve oil or gas transportation

allowance in excess of 50 percent or gas processing allowance in excess of 66⅔ percent on Federal leases. Lessees must complete and submit form ONRR-4393, including a letter and supporting documentation, for both Federal and Indian leases to request to exceed allowance limitations. This ICR covers only Federal leases; therefore, we have not included burden hours of form ONRR-4393 for Indian leases in this ICR. We include burden hours of form ONRR-4393 for Indian leases in OMB Control Number 1012-0002.

B. Accounting and Auditing Relief for Marginal Properties

In 2004, we amended our regulations to comply with section 7 of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996. These regulations provide guidance for lessees and designees seeking accounting and auditing relief for qualifying Federal marginal properties. Under the regulations, both ONRR and the State concerned must approve any relief granted for a marginal property.

OMB Approval

We will request OMB approval to continue to collect from companies, lessees, and designees, information used (1) to value their Federal oil and gas, including (a) transportation and processing allowances and (b) the request to exceed regulatory allowance limitation and (2) to request accounting and auditing relief approval for qualifying Federal marginal properties. If ONRR does not collect this information, this would limit the Secretary's ability to discharge fiduciary duties and may also result in loss of royalty payments. ONRR protects the proprietary information that we receive, and we do not collect items of a sensitive nature.

ONRR requires lessees to respond to information collections relating to valuing Federal oil and gas, including (a) transportation and processing allowances and (b) the request to exceed regulatory allowance limit information [form ONRR-4393]. ONRR also requires that lessees submit the allowance information and form to obtain benefits for claiming allowances on form ONRR-2014. In addition, ONRR requires lessees to respond to information collections in regards to requesting approval for accounting and auditing relief.

II. Data

Title: 30 CFR parts 1202, 1204, and 1206, Federal Oil and Gas Valuation.
OMB Control Number: 1012-0005.

Bureau Form Number: Form ONRR-4393.
Frequency: Annually and on occasion.
Estimated Number and Description of Respondents: 120 Federal lessees/designees and 7 States for Federal oil and gas.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: 10,018 hours.

We have not included in our estimates certain requirements performed in the normal course of

business and considered as usual and customary. We display the estimated annual burden hours by CFR section and paragraph in the following chart:

SUMMARY OF INFORMATION COLLECTIONS

Information collections	Requirement to respond	Frequency of response	Number of annual responses	Annual burden hours	Annual cost (\$51/hr.)
<i>Oil and Gas Valuation</i> (Part 1206 not including Sections 1206.109, 1206.156, and 1206.158(c)(3) below).	Mandatory	On occasion	114	8,396	\$428,196
<i>Request to Exceed Regulatory Allowance Limitation (Form ONRR-4393)</i> (Sections 1206.109, 1206.156, and 1206.158(c)(3)).	Required to obtain a benefit.	On occasion	19	1,096	55,896
<i>Accounting and Auditing Relief for Marginal Properties—Industry</i> (Sections 1204.202(b)(1), 1204.203(b), 1204.205(a) & (b), and 1204.206(a)(3)(i), (b)(1), & 1204.209(b)).	Required to obtain a benefit.	Annually	3	246	12,546
<i>Accounting and Auditing Relief for Marginal Properties—States</i> (Section 1204.208(c)(1), (d)(1), & (e)).	Required to obtain a benefit.	Annually	7	280	14,280
Total	143	10,018	\$510,918

Note: Audit Process—The Office of Regulatory Affairs determined that the audit process is exempt from the Paperwork Reduction Act of 1995 because ONRR staff asks non-standard questions to resolve exceptions.

This 30-day **Federal Register** notice burden chart shows an adjustment increase of +820 burden hours. This adjustment is based on analyzed historical data since the last renewal for 1206.153(g), 1206.156(c)(3), 1206.157(a)(1)(i), 1206.157(b)(1), 1206.158(c)(3), 1206.159(a)(1)(i), and 1206.159(b)(1); this also includes addressing industry’s comments.

Estimated Annual Reporting and Recordkeeping "Non-hour" Cost Burden: We have identified no “non-hour” cost burden associated with the collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501 *et seq.*) provides that an agency may not conduct or sponsor, and a person does not have to respond to, a collection of information unless it displays a currently valid OMB control number.

III. Request for Comments

Section 3506(c)(2)(A) of the PRA requires each agency to “* * * provide 60-day notice in the **Federal Register** * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.” Agencies must specifically solicit comments to (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of

information; (c) enhance the quality, usefulness, and clarity of the information that ONRR collects; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the **Federal Register** on June 6, 2016 (81 FR 36325), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no unsolicited comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection, but they may respond after 30 days. Therefore, in order to ensure maximum consideration, OMB should receive public comments by March 6, 2017.

Public Comment Policy: We will post all comments, including names and addresses of respondents at <http://www.regulations.gov>. Before including Personally Identifiable Information (PII), such as your address, phone number, email address, or other personal information in your comment(s), you should be aware that your entire comment (including PII) may be made available to the public at any time. While you may ask us, in your comment, to withhold PII from public

view, we cannot guarantee that we will be able to do so. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: January 31, 2017.

Gregory J. Gould,
 Director, Office of Natural Resources Revenue.

[FR Doc. 2017-02356 Filed 2-3-17; 8:45 am]

BILLING CODE 4335-MR-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-973]

Certain Wearable Activity Tracking Devices, Systems, and Components Thereof; Commission Determination Not To Review an Initial Determination Granting Complainant’s Unopposed Motion To Terminate the Investigation in Its Entirety Based Upon Withdrawal of the Complaint; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 27) of the presiding

administrative law judge (“ALJ”) granting an unopposed motion to terminate the investigation in its entirety based upon withdrawal of the complaint.

FOR FURTHER INFORMATION CONTACT:

Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted Inv. No. 337–TA–973 on December 7, 2015, based on a complaint filed by Fitbit, Inc. of San Francisco, California (“Fitbit”). 80 FR 76040 (Dec. 7, 2015). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain wearable activity tracking devices, systems, and components thereof by reason of infringement of certain claims of U.S. Patent No. 8,920,332 (“the ’332 patent”); U.S. Patent No. 8,868,377 (“the ’377 patent”); and U.S. Patent No. 9,089,760 (“the ’760 patent”). The notice of investigation named the following respondents: AliphCom d/b/a Jawbone of San Francisco, California and BodyMedia, Inc. of Pittsburgh, Pennsylvania (collectively, “Jawbone”). The Office of Unfair Import Investigations (OUII) is a party to the investigation.

On July 19, 2016, the ALJ issued Order No. 24 granting a motion for summary determination that the ’332 patent, the ’377 patent, and the ’760 patent are invalid under 35 U.S.C. 101 for being directed to ineligible subject matter, and terminated the investigation in its entirety. On August 1, 2016, Fitbit petitioned for review of the ID. On August 8, 2016, Jawbone and OUII filed oppositions to Fitbit’s petition. On

September 7, 2016, the Commission determined to review the ID, and on review, vacated and remanded for the ALJ to continue the investigation as to the ’332 patent and the ’377 patent.

On December 23, 2016, Fitbit moved unopposed to terminate the investigation in its entirety based upon withdrawal of the complaint. Fitbit indicated that Jawbone and OUII do not oppose the motion.

On January 3, 2017, the ALJ issued the subject ID (Order No. 27), granting the unopposed motion. The ALJ found that the motion complied with the requirements of Commission Rule 210.21(a)(1) (19 CFR 210.21(a)(1)) and further found that no extraordinary circumstances prohibited granting the motion. None of the parties petitioned for review of the ID.

The Commission has determined not to review the ID. This terminates the investigation.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: February 1, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–02423 Filed 2–3–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–825–826 (Third Review)]

Polyester Staple Fiber From Korea and Taiwan

Determinations

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the antidumping duty orders on polyester staple fiber from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)),

¹ The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).

instituted these reviews on August 1, 2016 (81 FR 50544) and determined on November 4, 2016 that it would conduct expedited reviews (81 FR 87587, December 5, 2016).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on January 31, 2017. The views of the Commission are contained in USITC Publication 4668 (January 2017), entitled Polyester Staple Fiber from Korea and Taiwan: Investigation Nos. 731–TA–825–826 (Third Review).

By order of the Commission.

Issued: January 31, 2017.

Katherine M. Hiner,

Acting Supervisory Attorney.

[FR Doc. 2017–02362 Filed 2–3–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1124–0004]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension With Change, of a Previously Approved Collection; Exhibit B to Registration Statement of Foreign Agents (NSD–4)

AGENCY: Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until April 7, 2017. This process is conducted in accordance with 5 CFR 1320.10.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact

Heather H. Hunt, Chief, Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section, National Security Division, 600 E Street NW., Bicentennial (BICN) Building—Room 1300, Washington, DC 20530 (phone: 202-233-0776).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the National Security Division, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Exhibit B to Registration Statement (Foreign Agents).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is NSD-4. The applicable component within the Department of Justice is the Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section, in the National Security Division. Pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.* (FARA or the Act), the FARA registration forms previously submitted to OMB for 3 year renewal approvals, have since March 2011 contained fillable-fileable, and E-signature capabilities. The FARA eFile system, in operation since March 1, 2011, permits registrants to file their registration forms electronically to the FARA Registration Unit, 24 hours a day, seven days a week. FARA eFile is

accessed via the Department's FARA public Web site located at <https://www.fara.gov/efile.html>, and provides instructions to assist registrants in completing, signing and submitting the required FARA registration forms, as well as instructions on how to electronically pay the required registration fees via online credit or debit card payments.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Private Sector, Business or other for-profit, Not-for-profit institutions, and individuals. The form contains registration statement information used for registering foreign agents under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.*

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The total estimated number of responses to the form is 178 at approximately .33 hours (20 minutes) per response, based on an average of FARA Exhibit B to Registration Statement filings received from January 1, 2014 through December 31, 2016. Internal sample testing shows an average of .33 hours (20 minutes) per respondent is needed to complete form NSD-4 (OMB 1124-0004). The following factors were considered when creating the burden estimate: the estimated total number of registrant respondents, the ability of registrants to access or gather the necessary data from sometimes multiple offices within their corporate structures, and the intuitive registration features NSD makes available for registrant respondents via the online FARA eFile registration and payment system located at <https://www.fara.gov/efile.html>. NSD estimates that nearly all of the approximately 178 respondents will fully complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 58.74 annual burden hours. It is estimated that respondents will take .33 hours (20 minutes) to complete the form. The burden hours for collecting respondent data equals 58.74 annual burden hours (178 respondents × .33 hours (20 minutes) = 58.74 hours).

7. Registrants/foreign agents and the general public are alerted that in the future, the National Security Division will complete its ongoing multi-year design review, testing, and requirements enhancement efforts to offer a web form version of form NSD-4. NSD continues to make progress in enhancing the functionality of FARA eFile. Personnel

are in the process of developing and testing new web form versions of its current fillable FARA registration forms with the intent of providing greater standardization, improved intuitive features, and less burdensome requirements that will benefit registrants and foreign agents who are required to register under FARA. New capabilities are expected to improve online search capabilities. NSD is confident that the new features will offer an enhanced system, promoting greater transparency.

If additional information is required contact: Melody D. Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: February 1, 2017.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017-02395 Filed 2-3-17; 8:45 am]

BILLING CODE 4410-PF-P

DEPARTMENT OF JUSTICE

[OMB Number 1124-0001]

Agency Information Collection Activities; Proposed eCollection Comments Requested; Extension With Change, of a Previously Approved Collection; Registration Statement of Foreign Agents (NSD-1)

AGENCY: Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until April 7, 2017. This process is conducted in accordance with 5 CFR 1320.10.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time,

suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Heather H. Hunt, Chief, Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section, National Security Division, 600 E Street NW., Bicentennial (BICN) Building—Room 1300, Washington, DC 20530 (phone: 202-233-0776).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the National Security Division, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Registration Statement (Foreign Agents).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is NSD-1. The applicable component within the Department of Justice is the Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section, in the National Security Division. Pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.* (FARA or the Act), the FARA registration forms previously submitted to OMB for 3 year renewal approvals, contain fillable-fileable, and E-signature capabilities. The FARA eFile system, in operation since March 1, 2011, permits registrants to file their

registration forms electronically to the FARA Registration Unit, 24 hours a day, seven days a week. FARA eFile is accessed via the Department's FARA public Web site located at <https://www.fara.gov/efile.html>, and provides instructions to assist registrants in completing, signing and submitting the required FARA registration forms, as well as instructions on how to electronically pay the required registration fees via online credit or debit card payments.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Private Sector, Business or other for-profit, Not-for-profit institutions, and individuals. The form contains registration statement information used for registering foreign agents under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.*

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The total estimated number of responses to the form is 61 at approximately 1.375 hours (1 hour and 22 minutes) per response, based on an average of FARA Registration Statement filings received from January 1, 2014 through December 31, 2016. Internal sample testing shows an average of 1 hour and 22 minutes per respondent is needed to complete form NSD-1 (OMB 1124-0001). The following factors were considered when creating the burden estimate: The estimated total number of registrant respondents, the ability of registrants to access or gather the necessary data from sometimes multiple offices within their corporate structures, and the intuitive registration features NSD makes available for registrant respondents via the online FARA eFile registration and payment system located at <https://www.fara.gov/efile.html>. NSD estimates that nearly all of the approximately 61 respondents will fully complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 83.875 annual burden hours. It is estimated that respondents will take 1 hour and 22 minutes to complete the form. The burden hours for collecting respondent data equals 83.875 annual burden hours (61 respondents × 1 hours and 22 minutes (1.375 hours) = 83.875 hours).

7. Registrants/foreign agents and the general public are alerted that in the future, the National Security Division will complete its ongoing multi-year design review, testing, and requirements enhancement efforts to offer a web form version of form NSD-1. NSD continues

to make progress in enhancing the functionality of FARA eFile. Personnel are in the process of developing and testing new web form versions of its current fillable FARA registration forms with the intent of providing greater standardization, improved intuitive features, and less burdensome requirements that will benefit registrants and foreign agents who are required to register under FARA. New capabilities are expected to improve online search capabilities. NSD is confident that the new features will offer an enhanced system, promoting greater transparency.

If additional information is required contact: Melody D. Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: February 1, 2017.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017-02398 Filed 2-3-17; 8:45 am]

BILLING CODE 4410-PF-P

DEPARTMENT OF JUSTICE

[OMB Number 1124-0003]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension With Change, of a Previously Approved Collection Amendment to Registration Statement of Foreign Agents (NSD-5)

AGENCY: Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until April 7, 2017. This process is conducted in accordance with 5 CFR 1320.10.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Heather H. Hunt, Chief, Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section, National Security Division, 600 E Street NW., Bicentennial (BICN) Building—Room 1300, Washington, DC 20530 (phone: 202-233-0776).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the National Security Division, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Amendment to Registration Statement (Foreign Agents).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is NSD-5. The applicable component within the Department of Justice is the Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section, in the National Security Division. Pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.* (FARA or the Act), the FARA registration forms previously

submitted to OMB for 3 year renewal approvals, have since March 2011 contained fillable-fileable, and E-signature capabilities. The FARA eFile system, in operation since March 1, 2011, permits registrants to file their registration forms electronically to the FARA Registration Unit, 24 hours a day, seven days a week. FARA eFile is accessed via the Department's FARA public Web site located at <https://www.fara.gov/efile.html>, and provides instructions to assist registrants in completing, signing and submitting the required FARA registration forms, as well as instructions on how to electronically pay the required registration fees via online credit or debit card payments.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Private Sector, Business or other for-profit, Not-for-profit institutions, and individuals. The form contains registration statement information used for registering foreign agents under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.*

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The total estimated number of responses to the form is 255 at approximately 1.5 hours (1 hour and 30 minutes) per response, based on an average of FARA Amendment to Registration Statement filings received from January 1, 2014 through December 31, 2016. Internal sample testing shows an average of 1 hour and 30 minutes per respondent is needed to complete form NSD-5 (OMB 1124-0003). The following factors were considered when creating the burden estimate: the estimated total number of registrant respondents, the ability of registrants to access or gather the necessary data from sometimes multiple offices within their corporate structures, the review time necessary to identify errors of previously filed FARA registration forms now in need of amending via form NSD-5 with corresponding attached pages of amended disclosure responses, and the intuitive registration features NSD makes available for registrant respondents via the online FARA eFile registration and payment system located at <https://www.fara.gov/efile.html>. NSD estimates that nearly all of the approximately 255 respondents will fully complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 382.50 annual burden hours. It is estimated that respondents will take 1 hour and 30

minutes to complete the form. The burden hours for collecting respondent data equals 382.50 annual burden hours (255 respondents × 1 hours and 30 minutes (1.5 hours) = 382.50 hours).

7. Registrants/foreign agents and the general public are alerted that in the future, the National Security Division will complete its ongoing multi-year design review, testing, and requirements enhancement efforts to offer a Web form version of form NSD-5. NSD continues to make progress in enhancing the functionality of FARA eFile. Personnel are in the process of developing and testing new Web form versions of its current fillable FARA registration forms with the intent of providing greater standardization, improved intuitive features, and less burdensome requirements that will benefit registrants and foreign agents who are required to register under FARA. New capabilities are expected to improve online search capabilities. NSD is confident that the new features will offer an enhanced system, promoting greater transparency.

If additional information is required contact: Melody D. Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: February 1, 2017.

Melody D. Braswell,
Department Clearance Officer for PRA, U.S.
Department of Justice.

[FR Doc. 2017-02396 Filed 2-3-17; 8:45 am]

BILLING CODE 4410-PF-P

DEPARTMENT OF JUSTICE

[OMB Number 1124-0006]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension With Change, of a Previously Approved Collection; Exhibit A to Registration Statement of Foreign Agents (NSD-3)

AGENCY: Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), will be submitting the following information

collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until April 7, 2017. This process is conducted in accordance with 5 CFR 1320.10.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Heather H. Hunt, Chief, Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section, National Security Division, 600 E Street NW., Bicentennial (BICN) Building—Room 1300, Washington, DC 20530 (phone: 202-233-0776).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the National Security Division, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.
2. *The Title of the Form/Collection:* Exhibit A to Registration Statement (Foreign Agents).
3. *The agency form number, if any, and the applicable component of the*

Department sponsoring the collection: The form number is NSD-3. The applicable component within the Department of Justice is the Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section, in the National Security Division. Pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.* (FARA or the Act), the FARA registration forms previously submitted to OMB for 3 year renewal approvals, have since March 2011 contained fillable-fileable, and E-signature capabilities. The FARA eFile system, in operation since March 1, 2011, permits registrants to file their registration forms electronically to the FARA Registration Unit, 24 hours a day, seven days a week. FARA eFile is accessed via the Department's FARA public Web site located at <https://www.fara.gov/efile.html>, and provides instructions to assist registrants in completing, signing and submitting the required FARA registration forms, as well as instructions on how to electronically pay the required registration fees via online credit or debit card payments.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Private Sector, Business or other for-profit, Not-for-profit institutions, and individuals. The form contains registration statement information used for registering foreign agents under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.*

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The total estimated number of responses to the form is 57 at approximately .49 hours (29 minutes) per response, based on an average of FARA Exhibit A to the Registration Statement filings received from January 1, 2014 through December 31, 2016. Internal sample testing shows an average of .49 hours (29 minutes) per respondent is needed to complete form NSD-3 (OMB 1124-0006). The following factors were considered when creating the burden estimate: The estimated total number of registrant respondents, the ability of registrants to access or gather the necessary data from sometimes multiple offices within their corporate structures, and the intuitive registration features NSD makes available for registrant respondents via the online FARA eFile registration and payment system located at <https://www.fara.gov/efile.html>. NSD estimates that nearly all of the approximately 57 respondents will fully complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 27.93 annual burden hours. It is estimated that respondents will take .49 hours (29 minutes) to complete the form. The burden hours for collecting respondent data equals 27.93 annual burden hours (57 respondents × .49 hours (29 minutes) = 27.93 hours).

7. Registrants/foreign agents and the general public are alerted that in the future, the National Security Division will complete its ongoing multi-year design review, testing, and requirements enhancement efforts to offer a web form version of form NSD-3. NSD continues to make progress in enhancing the functionality of FARA eFile. Personnel are in the process of developing and testing new web form versions of its current fillable FARA registration forms with the intent of providing greater standardization, improved intuitive features, and less burdensome requirements that will benefit registrants and foreign agents who are required to register under FARA. New capabilities are expected to improve online search capabilities. NSD is confident that the new features will offer an enhanced system, promoting greater transparency.

If additional information is required contact: Melody D. Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: February 1, 2017.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017-02390 Filed 2-3-17; 8:45 am]

BILLING CODE 4410-PF-P

DEPARTMENT OF JUSTICE

[OMB Number 1124-0002]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension With Change, of a Previously Approved Collection; Supplemental Statement of Foreign Agents (NSD-2)

AGENCY: Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Foreign Agents Registration Act

(FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until April 7, 2017. This process is conducted in accordance with 5 CFR 1320.10.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Heather H. Hunt, Chief, Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section, National Security Division, 600 E Street NW., Bicentennial (BICN) Building—Room 1300, Washington, DC 20530 (phone: 202–233–0776).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the National Security Division, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Supplemental Statement (Foreign Agents).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is NSD–2. The applicable component within the Department of Justice is the Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section, in the National Security Division. Pursuant to the Foreign Agents Registration Act, as amended, 22 U.S.C 611 *et seq.* (FARA or the Act), the FARA registration forms previously submitted to OMB for 3 year renewal approvals, contain fillable-fileable, and E-signature capabilities. The FARA eFile system, in operation since March 1, 2011, permits registrants to file their registration forms electronically to the FARA Registration Unit, 24 hours a day, seven days a week. FARA eFile is accessed via the Department's FARA public Web site located at <https://www.fara.gov/efile.html>, and provides instructions to assist registrants in completing, signing and submitting the required FARA registration forms, as well as instructions on how to electronically pay the required registration fees via online credit or debit card payments.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Private Sector, Business or other for-profit, Not-for-profit institutions, and individuals. The form contains registration statement information used for registering foreign agents under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.*

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The total estimated number of responses to the form is 288 at approximately 2.063 hours (2 hours and 3 minutes) per response (2 responses annually per each registrant, or approximately 576 total responses annually), based on an average of FARA Supplemental Statement to Registration filings received from January 1, 2014 through December 31, 2016. Internal sample testing shows an average of 2 hours and 3 minutes per respondent is needed to complete form NSD–2 (OMB 1124–0002). The following factors were considered when creating the burden estimate: The estimated total number of registrant respondents, the ability of registrants to access or gather the necessary data from sometimes multiple offices within their corporate structures, and the intuitive registration features NSD makes available for registrant respondents via the online FARA eFile

registration and payment system located at <https://www.fara.gov/efile.html>. NSD estimates that nearly all of the approximately 576 (288 × 2 = 576 annually) respondents will fully complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 1,188.29 annual burden hours. It is estimated that respondents will take 2 hours and 3 minutes to complete the form every six months. The burden hours for collecting respondent data equals 1,188.29 annual burden hours (288 respondents × 2 hours and 3 minutes (2.063 hours) = 594.144 hours, @2 responses annually per registrant, 594.144 × 2 = 1,188.29 annual burden hours).

7. Registrants/foreign agents and the general public are alerted that in the future, the National Security Division will complete its ongoing multi-year design review, testing, and requirements enhancement efforts to offer a web form version of form NSD–2. NSD continues to make progress in enhancing the functionality of FARA eFile. Personnel are in the process of developing and testing new web form versions of its current fillable FARA registration forms with the intent of providing greater standardization, improved intuitive features, and less burdensome requirements that will benefit registrants and foreign agents who are required to register under FARA. New capabilities are expected to improve online search capabilities. NSD is confident that the new features will offer an enhanced system, promoting greater transparency.

If additional information is required contact: Melody D. Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: February 1, 2017.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–02397 Filed 2–3–17; 8:45 am]

BILLING CODE 4410–PF–P

DEPARTMENT OF JUSTICE

[OMB Number 1124-0005]

Agency Information Collection Activities; Proposed eCollection Comments Requested; Extension With Change, of a Previously Approved Collection; Short Form Registration Statement of Foreign Agents (NSD-6)

AGENCY: Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until April 7, 2017. This process is conducted in accordance with 5 CFR 1320.10.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Heather H. Hunt, Chief, Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section, National Security Division, 600 E Street NW., Bicentennial (BICN) Building—Room 1300, Washington, DC 20530 (phone: 202-233-0776).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the National Security Division, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Short Form Registration Statement (Foreign Agents).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is NSD-6. The applicable component within the Department of Justice is the Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section, in the National Security Division. Pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C 611 *et seq.* (FARA or the Act), the FARA registration forms previously submitted to OMB for 3 year renewal approvals, contain fillable-fileable, and E-signature capabilities. The FARA eFile system, in operation since March 1, 2011, permits registrants to file their registration forms electronically to the FARA Registration Unit, 24 hours a day, seven days a week. FARA eFile is accessed via the Department's FARA public Web site located at <https://www.fara.gov/efile.html>, and provides instructions to assist registrants in completing, signing and submitting the required FARA registration forms, as well as instructions on how to electronically pay the required registration fees via online credit or debit card payments.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Private Sector, Business or other for-profit, Not-for-profit institutions, and individuals. The form contains registration statement information used for registering foreign agents under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.*

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The total estimated number of responses to the form is 328 at approximately .429 hours (25 minutes)

per response, based on an average of FARA Short Form to Registration Statement filings received from January 1, 2014 through December 31, 2016. Internal sample testing shows an average of 25 minutes per respondent is needed to complete form NSD-6 (OMB 1124-0005). The following factors were considered when creating the burden estimate: The estimated total number of registrant respondents, the ability of registrants to access or gather the necessary data from sometimes multiple offices within their corporate structures, and the intuitive registration features NSD makes available for registrant respondents via the online FARA eFile registration and payment system located at <https://www.fara.gov/efile.html>. NSD estimates that nearly all of the approximately 328 respondents will fully complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 140.71 annual burden hours. It is estimated that respondents will take 25 minutes to complete the form. The burden hours for collecting respondent data equals 140.71 annual burden hours (328 respondents × .429 hours (25 minutes) = 140.712 hours).

7. Registrants/foreign agents and the general public are alerted that in the future, the National Security Division will complete its ongoing multi-year design review, testing, and requirements enhancement efforts to offer a web form version of form NSD-6. NSD continues to make progress in enhancing the functionality of FARA eFile. Personnel are in the process of developing and testing new web form versions of its current fillable FARA registration forms with the intent of providing greater standardization, improved intuitive features, and less burdensome requirements that will benefit registrants and foreign agents who are required to register under FARA. New capabilities are expected to improve online search capabilities. NSD is confident that the new features will offer an enhanced system, promoting greater transparency.

If additional information is required contact: Melody D. Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: February 1, 2017.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017-02405 Filed 2-3-17; 8:45 am]

BILLING CODE 4410-PF-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Benefit Appeals Report

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) revision titled, "Benefit Appeals Report," to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before March 8, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201611-1205-004 (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-ETA, Office of Management and Budget, Room 10235, 725 17th Street, NW., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue, NW., Washington, DC 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT:

Contact Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Benefit Appeals Report, Form ETA 5130. The form contains information on the number of appeals and the resultant decisions classified by program, appeal level, cases filed and disposed of (workload flow), and decisions by level, appellant and issue. The data on this form are used to monitor the benefit appeals process in the State Workforce Agencies. Data are also used for budgeting and workload data. This information collection has been classified as a revision, because adjustments were made to reflect the expiration of Federal Emergency Unemployment Compensation Program. Social Security Act section 303(a)(6) authorizes this information collection. See 42 U.S.C. 503(a)(6).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205-0172. The current approval is scheduled to expire on March 31, 2017; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on August 5, 2016 (81 FR 51941).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205-0172. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
 - Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
 - Enhance the quality, utility, and clarity of the information to be collected; and
 - Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.
- Agency:* DOL-ETA.
Title of Collection: Benefit Appeals Report.
OMB Control Number: 1205-0172.
Affected Public: State, Local, and Tribal Governments.
Total Estimated Number of Respondents: 53.
Total Estimated Number of Responses: 1,272.
Total Estimated Annual Time Burden: 1,272 hours.
Total Estimated Annual Other Costs Burden: \$0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: January 19, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017-02314 Filed 2-3-17; 8:45 am]

BILLING CODE 4510-FW-P

NATIONAL SCIENCE FOUNDATION

Proposal Review; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces its intent to hold proposal review meetings throughout the year. The purpose of these meetings is to provide advice and recommendations concerning proposals submitted to the NSF for financial support. The agenda for each of these meetings is to review and evaluate proposals as part of the selection process for awards. The review and evaluation may also include assessment of the progress of awarded proposals. The majority of these meetings will take place at NSF, 4201 Wilson Blvd., Arlington, Virginia 22230.

These meetings will be closed to the public. The proposals being reviewed

include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act. NSF will continue to review the agenda and merits of each meeting for overall compliance of the Federal Advisory Committee Act.

These closed proposal review meetings will not be announced on an individual basis in the **Federal Register**. NSF intends to publish a notice similar to this on a quarterly basis. For an advance listing of the closed proposal review meetings that include the names of the proposal review panel and the time, date, place, and any information on changes, corrections, or cancellations, please visit the NSF Web site: <http://www.nsf.gov/events/>. This information may also be requested by telephoning, 703/292-8687.

Dated: February 1, 2017.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2017-02380 Filed 2-3-17; 8:45 am]

BILLING CODE 7555-01-P

NATIONAL SCIENCE FOUNDATION

Measuring the Impact of Digital Repositories

AGENCY: The National Coordination Office (NCO) for Networking and Information Technology Research and Development (NITRD).

ACTION: Request for public comment.

SUMMARY: Representatives from Federal research agencies, academia and the private sector will identify the current metrics, tools and practices that are effective, and the issues that will require additional research.

DATES: February 28–March 1, 2017.

FOR FURTHER INFORMATION, CONTACT: Wendy Wigen at 703-292-4873 or wigen@nitrd.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Overview: This notice is issued by the National Coordination Office for the Networking and Information Technology Research and Development (NITRD) Program. Agencies of the NITRD Program are holding a workshop of experts from government, private industry, and academia to help identify

the current metrics, tools and practices that are effective, and the issues that will require additional research in order to measure the impact of digital repositories. The workshop will take place on February 28 from 8:30 a.m. to 5:00 p.m. ET and continue on March 1 from 8:00 a.m. 12:15 p.m. ET at the National Science Foundation, 4201 Wilson Blvd. Arlington, VA 22230. This event will be available on webcast. The event agenda and information about the webcast will be available the week of the event at: <https://www.nitrd.gov/nitrdgroups/index.php?title=DigitalRepositories>.

Workshop Goal: Managers, funders, and users of digital data repositories are interested in assessing and communicating the impact of such repositories. A systematic approach and well-understood metrics, that may be quantitative or qualitative in nature, are needed to determine “impact.” The goal of this workshop is to identify the current metrics, tools and practices that are effective, and the issues that will require additional research.

Workshop Objectives: The objectives of the workshop include the following: Identify current metrics, tools, and methodologies for assessing and communicating the impact of digital repositories (DRs); identify technical, social and financial obstacle; and synthesize the results into a set of best practices for both near and long term success. In addition, a list of ideas (research and resources) that could accelerate the creation and adoption of high quality evaluation criteria will be developed.

Submitted by the National Science Foundation for the National Coordination Office (NCO) for Networking and Information Technology Research and Development (NITRD) on February 1, 2017.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2017-02387 Filed 2-3-17; 8:45 am]

BILLING CODE 7555-01-P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting; National Science Board

The National Science Board’s Committee on External Engagement (EE), pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n-5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of

National Science Board business, as follows:

DATE AND TIME: Friday, February 10, 2017 at 3:30 p.m. EST.

SUBJECT MATTER: Review and discuss draft charge for the Committee on External Engagement.

STATUS: Open.

LOCATION: This meeting will be held by teleconference at the National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. An audio link will be available for the public. Members of the public must contact the Board Office to request the public audio link by sending an email to nationalsciencebrd@nsf.gov at least 24 hours prior to the teleconference.

UPDATES AND POINT OF CONTACT: Please refer to the National Science Board Web site www.nsf.gov/nsb for additional information. Meeting information and updates (time, place, subject matter or status of meeting) may be found at <http://www.nsf.gov/nsb/notices/>. Point of contact for this meeting is: Nadine Lymn (nlymn@nsf.gov), 4201 Wilson Blvd., Arlington, VA 22230.

Chris Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2017-02484 Filed 2-2-17; 4:15 pm]

BILLING CODE 7555-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52-025 and 52-026; NRC-2008-0252]

Southern Nuclear Operating Company, Vogtle Electric Generating Station, Units 3 and 4; Qualified Data Processing System and Safety Display

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment No. 60 to Combined Licenses (COLs), NPF-91 and NPF-92. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, Authority of Georgia, and the City of Dalton, Georgia (the licensee); for construction and operation of the Vogtle Electric Generating Plant

(VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on December 16, 2016.

ADDRESSES: Please refer to Docket ID NRC-2008-0252 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2008-0252. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The request for the amendment and exemption was submitted by letter dated September 9, 2016 (ADAMS Accession No. ML16327A639).

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Paul Kallan, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2809; email: Paul.Kallan@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting an exemption from Paragraph B of Section III, "Scope and Contents," of appendix D, "Design

Certification Rule for the AP1000," to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), and issuing License Amendment No. 60 to COLs, NPF-91 and NPF-92, to the licensee. The exemption is required by Paragraph A.4 of Section VIII, "Processes for Changes and Departures," appendix D, to 10 CFR part 52 to allow the licensee to depart from Tier 1 information. With the requested amendment, the licensee sought proposed changes that would revise the Updated Final Safety Analysis report in the form of departures from the incorporated plant-specific DCD Tier 2 information. The proposed amendment also involves related changes to plant-specific Tier 1 information, with corresponding changes to the associated COL Appendix C information.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in 10 CFR 50.12, 10 CFR 52.7, and Section VIII.A.4 of appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML16327A639.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to the licensee for VEGP Units 3 and 4 (COLs NPF-91 and NPF-92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML16327A628 and ML16327A632, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF-91 and NPF-92 are available in ADAMS under Accession Nos. ML16327A623 and ML16327A626, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to Vogtle Units 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated September 9, 2016, the licensee requested from the Commission an exemption from the provisions of 10 CFR part 52, appendix D, Section III.B, as part of license amendment request 16-020, "Qualified Data Processing System and Safety Display (LAR 16-020)."

For the reasons set forth in Section 3.1, "Evaluation of Exemption," of the NRC staff's Safety Evaluation, which can be found in ADAMS under Accession No. ML16327A639, the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, the licensee is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the Facility Combined Licenses as described in the licensee's request dated September 9, 2016. This exemption is related to, and necessary for, the granting of License Amendment No. 60, which is being issued concurrently with this exemption.

3. As explained in Section 5.0, "Environmental Consideration," of the NRC staff's Safety Evaluation (ADAMS Accession No. ML16327A639), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated September 9, 2016, the licensee requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF-91 and NPF-92. The proposed amendment is described in Section I of this **Federal Register** notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the

Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and an opportunity for a hearing in connection with these actions, was published in the **Federal Register** on October 11, 2016 (81 FR 70175). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that the licensee requested on September 9, 2016. The exemption and amendment were issued on December 16, 2016, as part of a combined package to the licensee (ADAMS Accession No. ML16327A606).

Dated at Rockville, Maryland, this 31st day of January 2017.

For the Nuclear Regulatory Commission.

Jennifer Dixon-Herrity,

Chief, Licensing Branch 4, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2017-02414 Filed 2-3-17; 8:45 am]

BILLING CODE 7590-01-P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before March 8, 2017.

ADDRESSES: Comments should be addressed to Denora Miller, FOIA/Privacy Act Officer. Denora Miller can be contacted by telephone at 202-692-1236 or email at pcf@peacecorps.gov. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION:

Title: Individual Specific Medical Evaluation Forms (15).

OMB Control Number: 0420-0550.

Type of Request: Revision/New.

Affected Public: Individuals/Physicians.

Respondents Obligation to Reply: Voluntary.

Respondents: Potential and current volunteers.

Burden to the Public:

- Asthma Evaluation Form

(a) *Estimated number of Applicants/physicians:* 700/700.

(b) *Frequency of response:* one time.

(c) *Estimated average burden per response:* 75 minutes/30 minutes.

(d) *Estimated total reporting burden:* 875 hours/350 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection:

When an Applicant reports on the Health History Form any history of asthma, he or she will be provided an Asthma Evaluation Form for the treating physician to complete. The Asthma Evaluation Form asks for the physician to document the Applicant's condition of asthma, including any asthma symptoms, triggers, treatments, or limitations or restrictions due to the condition. This form will be used as the basis for an individualized determination as to whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without unreasonable disruption due to health problems. This form will also be used to determine the type of accommodation that may be needed, such as placement of the Applicant within reasonable proximity to a hospital in case treatment is needed for a severe asthma attack.

- Diabetes Diagnosis Form

(a) *Estimated number of Applicants/physicians:* 55/55.

(b) *Frequency of response:* one time.

(c) *Estimated average burden per response:* 75 minutes/30 minutes.

(d) *Estimated total reporting burden:* 69 hours/28 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection:

When an Applicant reports the condition of diabetes Type 1 on the Health History Form, the Applicant will be provided a Diabetes Diagnosis Form for the treating physician to complete. In certain cases, the Applicant may also be asked to have the treating physician complete a Diabetes Diagnosis Form if the Applicant reports the condition of diabetes Type 2 on the Health History Form. The Diabetes Diagnosis Form asks the physician to document the diabetes diagnosis, etiology, possible complications, and treatment. This form will be used as the basis for an individualized determination as to whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer assignment and complete a tour of service without unreasonable disruption due to health problems. This form will also be used to determine the type of accommodation that may be needed, such as placement of an Applicant who requires the use of insulin in order to ensure that adequate insulin storage facilities are available at the Applicant's site.

- Transfer of Care—Request for Information Form

(a) *Estimated number of Applicants/physicians:* 1270/1270.

(b) *Frequency of response:* One time.

(c) *Estimated average burden per response:* 75 minutes/30 minutes.

(d) *Estimated total reporting burden:* 1588 hours/635 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection:

When an Applicant reports on the Health History Form a medical condition of significant severity (other than one covered by another form), he or she may be provided the Transfer of Care—Request for Information Form for the treating physician to complete. The Transfer of Care—Request for Information Form may also be provided to an Applicant whose responses on the Health History Form indicate that the Applicant may have an unstable medical condition that requires ongoing treatment. The Transfer of Care—Request for Information Form asks the physician to document the diagnosis, current treatment, physical limitations and the likelihood of significant progression of the condition over the next three years. This form will be used as the basis for an individualized determination as to whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer assignment and complete a tour of service without unreasonable

disruption due to health problems. This form will also be used to determine the type of accommodation (e.g., avoidance of high altitudes or proximity to a hospital) that may be needed to manage the Applicant's medical condition.

- Mental Health Current Evaluation and Treatment Summary Form

(a) *Estimated number of Applicants/professional:* 1221/1221.

(b) *Frequency of response:* One time.

(c) *Estimated average burden per response:* 105 minutes/60 minutes.

(d) *Estimated total reporting burden:* 2137 hours/1221 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection: The Mental Health Current Evaluation Form will be used when an Applicant reports on the Health History Form a history of certain serious mental health conditions, such as bipolar disorder, schizophrenia, mental health hospitalization, attempted suicide or cutting, or treatments or medications related to these conditions. In these cases, an Applicant will be provided a Mental Health Current Evaluation and Treatment Summary Form for a licensed mental health counselor, psychiatrist or psychologist to complete. The Mental Health Current Evaluation and Treatment Summary Form asks the counselor, psychiatrist or psychologist to document the dates and frequency of therapy sessions, clinical diagnoses, symptoms, course of treatment, psychotropic medications, mental health history, level of functioning, prognosis, risk of exacerbation or recurrence while overseas, recommendations for follow up and any concerns that would prevent the Applicant from completing 27 months of service without unreasonable disruption. A current mental health evaluation might be needed if information on the condition is outdated or previous reports on the condition do not provide enough information to adequately assess the current status of the condition. This form will be used as the basis for an individualized determination as to whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without unreasonable disruption due to health problems. This form will also be used to determine the type of accommodation that may be needed, such as placement of the Applicant in a country with appropriate mental health support.

- Functional Abilities Evaluation Form

(a) *Estimated number of Applicants/professional:* 300/300.

(b) *Frequency of response:* One time.

(c) *Estimated average burden per response:* 90 minutes/45 minutes.

(d) *Estimated total reporting burden:* 390 hours/225 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection: When an Applicant reports on the Health History Form a functional ability limitation he or she will be provided this form to determine the type of accommodation and/or placement program support (e.g., proximity to program site, support support devices) that may be needed to manage the Applicant's medical condition. This form will be used as the basis for an individualized determination as to whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer assignment and complete a tour of service without unreasonable disruption due to health problems.

- Eating Disorder Treatment Summary Form

(a) *Estimated number of Applicants/physicians:* 282/282.

(b) *Frequency of response:* One time.

(c) *Estimated average burden per response:* 105 minutes/60 minutes.

(d) *Estimated total reporting burden:* 494 hours/282 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection: The Eating Disorder Treatment Summary will be used when an Applicant reports a past or current eating disorder diagnosis in the Health History Form. In these cases the Applicant is provided an Eating Disorder Treatment Summary Form for a mental health specialist, preferably with eating disorder training, to complete. The Eating Disorder Treatment Summary Form asks the mental health specialist to document the dates and frequency of therapy sessions, clinical diagnoses, presenting problems and precipitating factors, symptoms, Applicant's weight over the past three years, relevant family history, course of treatment, psychotropic medications, mental health history inclusive of eating disorder behaviors, level of functioning, prognosis, risk of recurrence in a stressful overseas environment, recommendations for follow up, and any concerns that would prevent the Applicant from completing 27 months of service without unreasonable disruption due to the diagnosis. This form will be used as the basis for an individualized determination as to whether the

Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer assignment and complete a tour of service without unreasonable disruption due to health problems. This form will also be used to determine the type of accommodation that may be needed, such as placement of the Applicant in a country with appropriate mental health support.

- Substance-Related and Addictive Disorders Current Evaluation Form

(a) *Estimated number of Applicants/specialist:* 373/373.

(b) *Frequency of response:* One time.

(c) *Estimated average burden per response:* 165 minutes/60 minutes.

(d) *Estimated total reporting burden:* 1026 hours/373 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection: The Alcohol/Substance Abuse Current Evaluation Form is used when an Applicant reports in the Health History Form a history of substance abuse (i.e., alcohol or drug related problems such as blackouts, daily or heavy drinking patterns or the misuse of illegal or prescription drugs) and that this substance abuse affects the Applicant's daily living or that the Applicant has ongoing symptoms of substance abuse. In these cases, the Applicant is provided an Substance-Related and Addictive Disorders Current Evaluation Form for a substance abuse specialist to complete. The Substance-Related and Addictive Disorders Current Evaluation Form asks the substance abuse specialist to document the history of alcohol/substance abuse, dates and frequency of any therapy sessions, which alcohol/substance abuse assessment tools were administered, mental health diagnoses, psychotropic medications, self harm behavior, current clinical assessment of alcohol/substance use, clinical observations, risk of recurrence in a stressful overseas environment, recommendations for follow up, and any concerns that would prevent the Applicant from completing a tour of service without unreasonable disruption due to the diagnosis. This form will be used as the basis for an individualized determination as to whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without unreasonable disruption due to health problems. This form will also be used to determine the type of accommodation that may be needed, such as placement of the Applicant in a country with appropriate sobriety support or counseling support.

- Mammogram Waiver Form
- (a) *Estimated number of Applicants:* 148.

(b) *Frequency of response:* One time.

(c) *Estimated average burden per response:* 105 minutes.

(d) *Estimated total reporting burden:* 259 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection: The Mammogram Form is used for all Applicants who have female breasts and will be 50 years of age or older during service who wish to waive routine mammogram screening during service. If an Applicant waives routine mammogram screening during service, the Applicant's physician is asked to complete this form in order to make a general assessment of the Applicant's statistical breast cancer risk and discussed the results with the Applicant including the potential adverse health consequence of foregoing screening mammography.

- Cervical Cancer Screening Form

(a) *Estimated number of Applicants:* 3600/3600.

(b) *Frequency of response:* One time.

(c) *Estimated average burden per response:* 40 minutes/30 minutes.

(d) *Estimated total reporting burden:* 2400 hours/1800 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection: The Cervical Cancer Screening Form is used with all Applicants with a cervix. Prior to medical clearance, female Applicants are required to submit a current cervical cancer screening examination and Pap cytology report based the American Society for Colposcopy and Cervical Pathology (ASCCP) screening time-line for their age and Pap history. This form assists the Peace Corps in determining whether an Applicant with mildly abnormal Pap history will need to be placed in a country with appropriate support.

- Colon Cancer Screening Form

(a) *Estimated number of Applicants:* 575.

(b) *Frequency of response:* One time.

(c) *Estimated average burden per response:* 60 minutes–165 minutes.

(d) *Estimated total reporting burden:* 575 hours–1581 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection: The Colon Cancer Screening Form is used with all Applicants who are 50 years of age or older to provide the Peace Corps with the results of the Applicant's latest colon cancer screening. Any testing deemed appropriate by the American Cancer Society is accepted. The Peace

Corps uses the information in the Colon Cancer Screening Form to determine if the Applicant currently has colon cancer. Additional instructions are included pertaining to abnormal test results.

- ECG Form

(a) *Estimated number of Applicants/physicians:* 575/575.

(b) *Frequency of response:* One time.

(c) *Estimated average burden per response:* 25 minutes/15 minutes.

(d) *Estimated total reporting burden:* 240 hours/144 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection: The ECG/EKG Form is used with all Applicants who are 50 years of age or older to provide the Peace Corps with the results of an electrocardiogram. The Peace Corps uses the information in the electrocardiogram to assess whether the Applicant has any cardiac abnormalities that might affect the Applicant's service. Additional instructions are included pertaining to abnormal test results. The electrocardiogram is performed as part of the Applicant's physical examination.

- Reactive Tuberculin Test

Evaluation Form

(a) *Estimated number of Applicants/physicians:* 392/392.

(b) *Frequency of response:* One time.

(c) *Estimated average burden per response:* 75–105 minutes/30 minutes.

(d) *Estimated total reporting burden:* 490–686 hours/196 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection: The Reactive Tuberculin Test Evaluation Form is used when an Applicant reports a history of treatment for active tuberculosis or a history of a positive tuberculosis (TB) test on their Health History Form or if a positive TB test result is noted as a component of the Applicant's physical examination findings. In these cases, the Applicant is provided a Reactive Tuberculin Test Evaluation Form for the treating physician to complete. The treating physician is asked to document the type and date of a current TB test, TB test history, diagnostic tests if indicated, treatment history, risk assessment for developing active TB, current TB symptoms, and recommendations for further evaluation and treatment. In the case of a positive result on the TB test, a chest x-ray may be required, along with treatment for latent TB.

- Insulin Dependent Supplemental Documentation Form

(a) *Estimated number of Applicants/physicians:* 14/14.

(b) *Frequency of response:* One time.

(c) *Estimated average burden per response:* 70 minutes/60 minutes.

(d) *Estimated total reporting burden:* 16 hours/14 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection: The Insulin Dependent Supplemental Documentation Form is used with Applicants who have reported on the Health History Form that they have insulin dependent diabetes. In these cases, the Applicant is provided an Insulin Dependent Supplemental Documentation Form for the treating physician to complete. The Insulin Dependent Supplemental Documentation Form asks the treating physician to document that he or she has discussed with the Applicant medication (insulin) management, including whether an insulin pump is required, as well as the care and maintenance of all required diabetes related monitors and equipment. This form assists the Peace Corps in determining whether the Applicant will be in need of insulin storage while in service and, if so, will assist the Peace Corps in determining an appropriate placement for the Applicant.

- Prescription for Eyeglasses Form

(a) *Estimated number of Applicants/physicians:* 3,293/3,293.

(b) *Frequency of response:* One time.

(c) *Estimated average burden per response:* 60 minutes/15 minutes.

(d) *Estimated total reporting burden:* 3,293 hours/824 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection: The Prescription for Eyeglasses is used with Applicants who have reported on the Health History Form that they use corrective lenses or otherwise have uncorrected vision that is worse than 20/40. In these cases, Applicants are provided a Prescription for Eyeglasses Form for their prescriber to indicate eyeglasses frame measurements, lens instructions, type of lens, gross vision and any special instructions. This form is used in order to enable the Peace Corps to obtain replacement eyeglasses for a Volunteer during service.

- Required Peace Corps

Immunizations Form

(a) *Estimated number of Applicants/physicians:* 5,600.

(b) *Frequency of response:* One time.

(c) *Estimated average burden per response:* 60 minutes.

(d) *Estimated total reporting burden:* 5,600 hours.

(e) *Estimated annual cost to respondents:* Indeterminate.

General Description of Collection: The Required Peace Corps Immunizations Form is used to inform Applicants of the specific vaccines and/or

documented proof of immunity required for medical clearance for the specific country of service. The form advises the Applicant that all other Center for Disease Control (CDC) recommended vaccinations will be administered after arrival in-country. This form assists the Peace Corps with establishing a baseline of the Applicant's immunization history and prepare for any additional vaccines recommended for country of service.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC on January 31, 2017.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2017-02369 Filed 2-3-17; 8:45 am]

BILLING CODE 6051-01-P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before March 8, 2017.

ADDRESSES: Comments should be addressed to Denora Miller, FOIA/Privacy Act Officer. Denora Miller can be contacted by telephone at 202-692-1236 or email at pcf@peacecorps.gov. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION:

Title: Peace Corps Report of Physical Examination (PC 1790S).

OMB Control Number: 0420-0549.

Type of Request: Revision.

Affected Public: Individuals/Physicians.

Respondents Obligation to Reply: Voluntary.

Respondents: Potential and current volunteers.

Burden to the Public:

a. Estimated number of respondents.	5,600/5,600.
b. Estimated average burden per response.	45 min/90 min.
c. Frequency of response.	One time.
d. Annual reporting burden.	4,200 hours/8,400 hours.

General Description of Collection: The information in this form will be used by the Peace Corps Office of Medical Services to determine whether an Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer assignment and complete a tour of service without unreasonable disruption due to health problems and, if so, to establish the level of medical and other support, if any, that may be required to reasonably accommodate the Applicant. The information in this form is also used as a baseline assessment for the Peace Corps Medical Officers overseas who are responsible for the Volunteer's medical care. Finally, the Peace Corps may use the information in this form as a point of reference in the event that, after completion of the Applicant's service as a Volunteer, he or she makes a worker's compensation claim under the Federal Employee Compensation Act (FECA).

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC on January 31, 2017.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2017-02370 Filed 2-3-17; 8:45 am]

BILLING CODE 6051-01-P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before April 7, 2017.

ADDRESSES: Comments should be addressed to Denora Miller, FOIA/Privacy Act Officer. Denora Miller can be contacted by telephone at 202-692-1236 or email at pcf@peacecorps.gov. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION:

Title: Global Health Service Application.

OMB Control Number: 0420-0005.

Type of Request: New.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Respondents: Potential Volunteers.

Burden to the Public:

Estimated burden (hours) of the collection of information:

- Number of respondents: 200.
- Frequency of response: One time.
- Completion time: 60 minutes.
- Annual burden hours: 200 hours.

General Description of Collection: The Global Health Service Partnership Application (hereinafter "the Application") is necessary to recruit qualified volunteers to serve in Peace Corps Response, as Global Health Service Partnership Volunteers to build institutional capacity and help strengthen the quality of medical and nursing education. Applicants are selected based on their qualifications for a specific Volunteer assignment.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC on January 31, 2017.

Denora Mill,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2017-02367 Filed 2-3-17; 8:45 am]

BILLING CODE 6051-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2017-83 and CP2017-112]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 8, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service

agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s):* MC2017-83 and CP2017-112; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 43 to Competitive Products List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* January 31, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Erin E. Mahagan; *Comments Due:* February 8, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,
Secretary.

[FR Doc. 2017-02406 Filed 2-3-17; 8:45 am]

BILLING CODE 7710-FW-P

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* February 6, 2017.

FOR FURTHER INFORMATION CONTACT:

Elizabeth A. Reed, 202-268-3179.

SUPPLEMENTARY INFORMATION:

The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on January 31, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 43 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2017-83, CP2017-112.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017-02365 Filed 2-3-17; 8:45 am]

BILLING CODE 7710-12-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79906; File No. SR-CBOE-2017-008]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

January 31, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 18, 2017, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is also available on the Exchange’s Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

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

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

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

1. Purpose

The Exchange proposes to make a number of changes to its Fees Schedule.³

Electronic Transaction Fees for Clearing Trading Permit Holder Proprietary

The Exchange proposes to increase the transaction fees for electronic executions for Clearing Trading Permit Holder Proprietary (origin codes “F” and “L”) orders in Penny Pilot equity, ETF, ETN and index options (excluding Underlying Symbol List A *) classes from \$0.35 per contract to \$0.38 per contract and in Non-Penny Pilot equity, ETF, ETN and index options (excluding Underlying Symbol List A) classes from \$0.35 per contract to \$0.65 per contract. The Exchange notes that this increase is in line with the amounts assessed by others exchanges for similar transactions.⁵

³ The Exchange initially filed the proposed fee changes on January 3, 2017 (SR-CBOE-2017-001). On January 18, 2017, the Exchange withdrew that filing and submitted this filing.

⁴ As of January 3, 2017, Underlying Symbol List A includes Underlying Symbol List A consists of OEX, XEO, RUT, RLG, RLV, RUI, AWDE, FTEM, FXTM, UKXM SPX/SPXW, SPXpm, SRO, VIX, Volatility Indexes and binary options.

⁵ See e.g., NASDAQ PHLX LLC (“PHLX”) Pricing Schedule, Section II, Multiply Listed Options Fees and NYSE Amex Options Fees Schedule, Section

Complex Taker Fee

Currently, the Complex Taker Fee is \$0.08 per contract per side for non-customer complex order executions that take liquidity from the COB and auction responses in the Complex Order Auction (“COA”) and the Automated Improvement Mechanism (“AIM”) in all classes except Underlying Symbol List A and Mini-Options. Additionally, the Complex Taker Fee is not assessed on orders originating from a Floor Broker PAR, electronic executions against single leg markets, or stock-option order executions. The Exchange proposes to increase the amount of the fee from \$0.08 per contract to \$0.10 per contract. The Exchange also proposes to provide that auction responses in COA and AIM for noncustomer complex orders in Penny classes will be subject to a cap of \$0.50 per contract, which includes the applicable transaction fee, Complex Surcharge and Marketing Fee (if applicable).⁶ The Exchange also wishes to rename the fee from “Complex Taker Fee” to “Complex Surcharge”.

SPX Index License Surcharge

The Exchange proposes to increase the Index License Surcharge Fee for SPX (including SPXW) and SPXpm (the “SPX Surcharge”) from \$0.13 per contract to \$0.14 per contract. The Exchange licenses from Standard & Poor’s the right to offer an index option product based on the S&P 500 index (that product being SPX and other SPX-based index option products). In order to recoup the costs of the SPX license, the Exchange assesses the SPX Surcharge. However, the cost of that license works out to more than the current SPX Surcharge amount of \$0.13 per SPX contract traded (or even the proposed SPX Surcharge amount of \$0.14 per contract), so the Exchange ends up subsidizing that SPX license cost. The Exchange therefore proposes to increase the SPX Surcharge from \$0.13 per contract to \$0.14 per contract in order to recoup more of the costs associated with the SPX license.

VIX License Index Surcharge

The Exchange proposes to extend the current waiver of the VIX Index License Surcharge of \$0.10 per contract for Clearing Trading Permit Holder Proprietary (“Firm”) (origin codes “F”

IA, Options Transaction Fees and Credits, Rates for Standard Options Transactions.

⁶ For example, a Market-Maker COA response in a Penny class that is subject to the Marketing Fee (\$0.25 per contract), the Liquidity Provider Sliding Scale Tier 1 rate (\$0.23 per contract) and Complex Surcharge (\$0.10 per contract), would only be charged \$0.50 per contract, instead of \$0.58 per contract.

or “L”) VIX orders that have a premium of \$0.10 or lower and have series with an expiration of seven (7) calendar days or less. The Exchange adopted the current waiver to reduce transaction costs on expiring, low-priced VIX options, which the Exchange believed would encourage Firms to seek to close and/or roll over such positions close to expiration at low premium levels, including facilitating customers to do so, in order to free up capital and encourage additional trading. The Exchange had proposed to waive the surcharge through December 31, 2016, at which time the Exchange had stated that it would evaluate whether the waiver has in fact prompted Firms to close and roll over these positions close to expiration as intended. The Exchange believes the proposed change has in fact encouraged Firms to do so and as such, proposes to extend the waiver of the surcharge through June 30, 2017, at which time the Exchange will again reevaluate whether the waiver has continued to prompt Firms to close and roll over positions close to expiration at low premium levels. Accordingly, the Exchange proposes to delete the reference to the current waiver period of December 31, 2016 from the Fees Schedule and replace it with June 30, 2017.

Liquidity Provider Sliding Scale for SPX, SPXW and SPXpm

The Exchange proposes to adopt a sliding scale for Liquidity Provider (origin code “M”) (“LP”) transaction fees in SPX, SPXW and SPXpm (“SPX LP Sliding Scale”). Currently, LPs are assessed \$0.20 per contract for SPX, SPXW and SPXpm (collectively, “SPX options”) executions. The new SPX LP Sliding Scale will assess LPs increased transaction fees in SPX. Of the increased rates however, the SPX LP Sliding Scale will provide progressively lower rates if certain volume thresholds in SPX options are attained during a month. The SPX LP Sliding Scale will be as follows:

Tier	Volume thresholds	Rate
1	0.00%–1.50%	\$0.25
2	Greater than 1.50%–10.0%	0.23
3	Above 10.0%	0.21

The volume thresholds will be based on total Liquidity Provider Volume in SPX, SPXW and SPXpm. The purpose of the SPX LP Sliding Scale is to provide an incremental incentive for LPs to reach the highest tier level and encourage trading of SPX options.

Volume Incentive Program

The Exchange proposes to amend its Volume Incentive Program (“VIP”). By way of background, under VIP, the Exchange credits each Trading Permit

Holder (“TPH”) the per contract amount set forth in the VIP table resulting from each public customer (“C” origin code) order transmitted by that TPH (with certain exceptions) which is executed electronically on the Exchange,

provided the TPH meets certain volume thresholds in a month.⁷ The Exchange proposes to adopt separate pricing for orders executed electronically via AIM. The proposed pricing is as follows:

Tier	Percentage thresholds of national customer multiply-listed monthly volume	Per contract credit			
		Simple		Complex	
		Non-AIM	AIM	Non-AIM	AIM
1	0.00%–0.75%	\$0.00	\$0.00	\$0.00	\$0.00
2	Above 0.75% to 1.80%	0.10	0.09	0.21	0.20
3	Above 1.80% to 3.00%	0.12	0.11	0.24	0.23
4	Above 3.00%	0.15	0.14	0.25	0.24

The Exchange notes that AIM transactions are assessed lower transaction fees than non-AIM transactions. As such, the Exchange no longer wishes to provide the same amount in credits for these transactions.⁸

The Exchange also proposes to amend the aggregation timer under VIP. The Exchange notes that currently, credits on orders executed electronically in AIM are capped at 1,000 contracts per order for simple executions and 1,000 contracts per leg for complex executions. Additionally, credits on orders executed electronically in HAL are capped at 1,000 contracts per auction quantity. Additionally, multiple simple orders from the same affiliated TPH(s) in the same series on the same side of the market that are executed in AIM or HAL within a 300 second period will be aggregated for purposes of determining the order quantity subject to the cap. The AIM aggregation timer begins with an order entered into AIM and continues for 300 seconds, aggregating any other orders entered into AIM in the same series on the same side of the market by the same affiliated TPH. The HAL aggregation timer also begins at the start of a HAL auction and continues for 300 seconds, aggregating any other orders executed in HAL in the same series on the same side of the market for the same affiliated TPH. The Exchange had adopted the aggregation timer to prevent TPHs from breaking up their orders in order to avoid the fee cap. The Exchange believes however, that it can accomplish its objective with a shorter timer period. As such, the Exchange proposes to reduce the aggregation timer for AIM and HAL to 3 seconds.

Permit Fees

The Exchange proposes to reduce Market-Maker Trading Permit monthly costs from \$5,500 per permit to \$5,000 per permit. Furthermore, for those who commit to the Market-Maker Trading Permit Holder Sliding Scale, which is available for all Market-Maker Trading Permits held by affiliated TPHs and TPH organizations that are used for appointments in any options classes other than RUT, SPX, SPXpm, VIX, OEX and XEO, the Exchange proposes to reduce the monthly cost from \$5,500 per permit to \$5,000 per permit for the first 10 permits, from \$4,000 to \$3,700 per permit for permits 11–20, and from \$2,500 to \$1,800 per permit for permits 21 and greater. The purpose of this change is to reduce access costs and thereby encourage greater Market-Maker access, which thereby brings greater trading activity, volume and liquidity, benefitting all market participants.

The Exchange next notes that the “Notes” section of the Market-Maker Trading Permit Sliding Scale table provides that the sliding scale is available for Market-Maker Trading Permits used for appointments “in any options classes other than SPX, SPXpm, VIX, OEX, and XEO.” The Exchange notes that last year, the Exchange also excepted from the scale RUT appointments.⁹ While the Exchange acknowledged this change in Footnote 24, it inadvertently did not add “RUT” to the exclusion list in the Notes section described above. The Exchange therefore proposes to correct that error and add the reference to “RUT” being excluded.

The Exchange also proposes to reduce the Floor Broker Trading Permit monthly fee for Tier 1 of the Floor Broker Trading Permit Holder Sliding Scale. Specifically, Tier 1 of the Floor

Broker Trading Permit Holder Sliding Scale is available for TPHs and TPH Organizations that commit in advance to that tier each calendar year. The Exchange proposes to reduce the monthly cost from \$6,000 per Floor Broker Trading Permit to \$5,000 per Floor Broker Trading Permit for permits 2–7.

Extended Trading Hour Fees

In order to promote and encourage trading during the Extended Trading Hours (“ETH”) session, the Exchange currently waives ETH Trading Permit and Bandwidth Packet fees for one (1) of each initial Trading Permits and one (1) of each initial Bandwidth Packet, per affiliated TPH. The Exchange notes that waiver is set to expire December 31, 2016. The Exchange also waives fees through December 31, 2016 for a CMI and FIX login ID if the CMI and/or FIX login ID is related to a waived ETH Trading Permit and/or waived Bandwidth packet. In order to continue to promote trading during ETH, the Exchange wishes to extend these waivers through June 30, 2017.

CBOE Command Connectivity Charges

Next, the Exchange proposes to increase CBOE Command Connectivity Fees. First, the Exchange proposes to increase the monthly fee for 10 gigabit per second (“Gbps”) Network Access Ports from \$3,500 per port to \$4,000 per port. The Exchange has expended significant resources setting up, providing and maintaining this connectivity, and the costs related to such provision and maintenance has increased. The Exchange desires to recoup such increased costs. This fee amount is still within the range of, and

⁷ See CBOE Fees Schedule, Volume Incentive Program.

⁸ See CBOE Fees Schedule, Equity, ETF, ETN and Index Options (excluding Underlying Symbol List A) rate tables.

⁹ See Securities Exchange Act Release No. 76923 (January 15, 2016), 81 FR 3841 (January 22, 2016) (SR-CBOE-2016-002).

in some cases less than, similar fees assessed by other exchanges.¹⁰

The Exchange also proposes to increase the fees charged for a CMI Login ID and FIX Login ID from \$500 per month to \$750 per month. TPHs may access CBOE Command via either a CMI Client Application Server or a FIX Port, depending on how their systems are configured. As with Network Access Ports, the Exchange has expended significant resources setting up, providing and maintaining this connectivity, and the costs related to such provision and maintenance has increased. The Exchange desires to recoup such increased costs. This fee amount is still within the range of, and in some cases less than, similar fees assessed by other exchanges.¹¹

Linkage

The Exchange proposes to increase the Linkage fee (in addition to the applicable away fees) for Customer

orders from \$0.05 to \$0.10. The Fees Schedule currently provides that, in addition to the customary CBOE execution charges, for each customer order that is routed, in whole or in part, to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Rule 6.80, CBOE shall pass through the actual transaction fee assessed by the exchange(s) to which the order was routed. The Exchange proposes to assess an additional \$0.10 per contract for customer orders routed away in addition to the applicable pass through fees. The purpose of these proposed increase is to help recoup costs incurred by the Exchange associated with routing customer orders through linkage. The Exchange notes that other exchanges also assess an additional fee on top of passing through transaction fees for customer orders and that the proposed amount of the fee is in line with the amount assessed at other exchanges.¹²

Frequent Trader

The Exchange next proposes to amend its Frequent Trader Program. By way of background, the Frequent Trader Program offers transaction fee rebates to registered Customers, Professional Customers and Voluntary Professionals (origin codes “C” and “W”) that meet certain volume thresholds in CBOE VIX Volatility Index options (“VIX options”), Russell 2000 Index (“RUT”) options, and S&P 500 Index options (“SPX”), weekly S&P 500 options (“SPXW”) and p.m.-settled SPX Index options (“SPXpm”) (collectively referred to as “SPX options”) provided the Customer registers for the program. The Exchange proposes to amend the Frequent Trader Program to (i) increase the volume thresholds and (ii) reduce the rebates. Specifically, the proposed changes will be as follows:

Tier	VIX		SPX, SPXW and SPXpm		RUT	
	Monthly contracts traded	Fee rebate (%)	Monthly contracts traded	Fee rebate (%)	Monthly contracts trade	Fee rebate (%)
1	10,000–49,999	3	10,000–49,999	3	5,000–9,999	3
2	50,000–99,999	6	50,000–99,999	6	10,000–12,999	6
3	100,000 and above	9	100,000 and above	9	13,000 and above	9

Floor Broker Trading Permit Rebates

Footnote 25, which governs rebates on Floor Broker Trading Permits, currently provides that any Floor Broker that executes a certain average of customer open-outcry contracts per day over the course of a calendar month in all underlying symbols excluding Underlying Symbol List A (except RLG, RLV, RUI, AWDE, FTEM, FXTM and UKXM), DJX, XSP, XSPAM, mini-options and subcabinet trades (“Qualifying Symbols”), will receive a rebate on that TPH’s Floor Broker Trading Permit Fees. Specifically, any Floor Broker Trading Permit Holder that executes an average of 15,000 customer open-outcry contracts per day over the course of a calendar month in Qualifying Symbols will receive a rebate of \$7,500 on that Floor Broker Trading Permit Holder’s Floor Broker Trading Permit fees. Additionally, any Floor Broker Trading Permit Holder that executes an average of 25,000 customer open-outcry contracts per day over the course of a calendar month in

Qualifying Symbols will receive a rebate of \$15,000 on that TPH’s Floor Broker Trading Permit fees. The Exchange proposes to increase the rebate received for executing an average of 15,000 customer open-outcry contracts to \$9,000 and reduce the rebate received for executing an average of 25,000 customer open-outcry contracts to \$14,000.

RLG, RLV, RUI, AWDE, FTEM, FXTM and UKXM Transaction Fees

The Exchange recently began trading options on seven FTSE Russell Indexes (i.e., Russell 1000 Growth Index (“RLG”), Russell 1000 Value Index (“RLV”), Russell 1000 Index (“RUI”), FTSE Developed Europe Index (“AWDE”), FTSE Emerging Markets Index (“FTEM”), China 50 Index (“FXTM”) and FTSE 100 Index (“UKXM”). In order to promote and encourage trading of these new products, the Exchange currently waives all transaction fees (including the Floor Brokerage Fee, Index License Surcharge

and CFLEX Surcharge Fee) for each of these products. This waiver however is set to expire December 31, 2016. In order to continue to promote trading of these new options classes, the Exchange proposes to extend the fee waiver of through June 30, 2017.

FLEX Asian and Cliquet Flex Trader Incentive Program

By way of background, a FLEX Trader is entitled to a pro-rata share of the monthly compensation pool based on the customer order fees collected from customer orders traded against that FLEX Trader’s orders with origin codes other than “C” in FLEX Broad-Based Index Options with Asian or Cliquet style settlement (“Exotics”) each month (“Incentive Program”). The Fees Schedule provides that the Incentive Program is set to expire either by December 31, 2016 or until total average daily volume in Exotics exceeds 15,000 contracts for three consecutive months, whichever comes first. The Exchange notes that total average daily volume in

¹⁰ See e.g., Miami International Securities Exchange LLC (“MIAX”) Options Fees Schedule, Section 5(a), which lists connectivity fees of \$5,500 per month for 10 Gbps.

¹¹ See e.g., International Securities Exchange (“ISE”) Schedule of Fees, Section V(C), FIX Session/API Session Fees. See also PHLX Pricing Schedule, Section VII(B), Port Fees.

¹² See e.g., PHLX Pricing Schedule, Section V., Customer Routing Fees. See also, MIAX Options Fees Schedule, Section 1(c), Fees and Rebates for Customer Orders Routed to Another Options Exchange.

Exotics has not yet exceeded 15,000 contracts for three consecutive months. In order to continue to incentivize FLEX Traders to provide liquidity in FLEX Asian and Cliquet options, the Exchange proposes to extend the program to June 30, 2017 or until total average daily volume in Exotics exceeds 15,000 contracts for three consecutive months, whichever comes first.

AWDE, FTEM, FXTM and UKXM DPM Payment

The Exchange currently offers a compensation plan to the Designated Primary Market-Maker(s) ("DPM(s)") appointed in AWDE, FTEM, FXTM or UKXM to offset the initial DPM costs. Specifically, the Fees Schedule provides that DPM(s) appointed for an entire month in these classes will receive a payment of \$7,500 per class per month through December 31, 2016. The Exchange notes that DPMs appointed in these products still have ongoing costs, which the Exchange desires to continue to help offset. As such, the Exchange proposes to extend the DPM payment plan through June 30, 2017.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,¹⁵ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

Increasing the fee for electronic executions for Clearing Trading Permit Holder Proprietary orders in Penny and

Non-Penny Pilot equity, ETF, ETN and index options (excluding Underlying Symbol List A) classes is reasonable because the proposed fee amount is in line with the amounts assessed by another exchange for similar transactions.¹⁶ The Exchange believes that this proposed change is also equitable and not unfairly discriminatory because the proposed changes will apply equally to all Clearing Trading Permit Holders. The Exchange notes that it does not assess Customers the electronic options transaction fees in Penny and Non-Penny Pilot options because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market-Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The Exchange notes that Market-Makers are assessed lower electronic options transaction fees in Penny and Non-Penny Pilot options as compared to Clearing Trading Permit Holders, as well as Professionals, JBOs, Broker Dealers and non-Trading Permit Holder Market-Makers because they have obligations to the market and regulatory requirements, which normally do not apply to other market participants (e.g., obligations to make continuous markets). Professionals, JBOs, Broker Dealers and non-Trading Permit Holder Market-Makers are assessed higher fees as compared to the proposed fees for Clearing Trading Permit Holder Proprietary orders because Clearing Trading Permit Holders also have obligations, which normally do not apply to other market participants (e.g., must have higher capital requirements, clear trades for other market participants, must be members of OCC). Accordingly, the differentiation between electronic transaction fees for Customers, Market-Makers, Clearing Trading Permit Holders and other market participants recognizes the differing obligations and contributions made to the liquidity and trading environment on the Exchange by these market participants. The Exchange also believes it's equitable and not unfairly discriminatory to assess higher fees for Non-Penny option classes than

Penny option classes because Penny classes and Non-Penny classes offer different pricing, liquidity, spread and trading incentives. The spreads in Penny classes are tighter than those in Non-Penny classes (which trade in \$0.05 increments). The wider spreads in non-Penny option classes allow for greater profit potential.

The Exchange believes that the proposed increase of the Complex Taker Fee from \$0.08 per contract per side to \$0.10 per contract per side is reasonable because it helps offset the increased credits given to complex orders under VIP. Indeed, the Exchange notes that VIP credits for complex orders have increased since the Complex Taker Fee was increased to \$0.08 per contract.¹⁷ The Exchange believes capping noncustomer COA and AIM auction responses in Penny classes is reasonable because those market participants would be paying lower fees. Applying the Complex Surcharge to all market participants except customers is equitable and not unfairly discriminatory because customer order flow enhances liquidity on the Exchange for the benefit of all market participants. As noted above, customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market-Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. By exempting customer orders, the fee will not discourage the sending of customer orders, and therefore there should still be plenty of customer orders for other market participants to trade with. The Exchange also believes capping auction responses in COA and AIM at \$0.50 per contract is reasonable, equitable and not unfairly discriminatory because the Exchange does not want to discourage the use of these price improvement mechanisms. The Exchange lastly believes renaming the fee to Complex Surcharge may alleviate confusion, which removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

The Exchange believes increasing the SPX Surcharge is reasonable because the Exchange still pays more for the SPX license than the amount of the proposed SPX Surcharge (meaning that the

¹⁶ See e.g., PHLX Pricing Schedule, Section II, Multiply Listed Options Fees and NYSE Amex Options Fees Schedule, Section I.A, Options Transaction Fees and Credits, Rates for Standard Options Transactions.

¹⁷ See Securities Exchange Act Release No. 75188 (June 17, 2015), 80 FR 36021 (June 23, 2015) (SR-CBOE-2015-058) and See CBOE Fees Schedule, Volume Incentive Program.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 15 U.S.C. 78f(b)(4).

Exchange is, and will still be, subsidizing the costs of the SPX license). This increase is equitable and not unfairly discriminatory because all non-Customer market participants will be assessed the same increased SPX Surcharge. Not applying the SPX Surcharge Fee to customer orders is equitable and not unfairly discriminatory because this is designed to attract customer SPX orders, which increases liquidity and provides greater trading opportunities to all market participants.

The Exchange believes it's reasonable to continue to waive the VIX Index License Surcharge for Clearing Trading Permit Holder Proprietary VIX orders that have a premium of \$0.10 or lower and have series with an expiration of 7 calendar days or less because the Exchange wants to continue encouraging Firms to roll and close over positions close to expiration at low premium levels. The Exchange notes that without the waiver, firms are less likely to engage in these transactions, as opposed to other VIX transactions, due to the associated transaction costs. The Exchange believes it's equitable and not unfairly discriminatory to limit the waiver to Clearing Trading Permit Holder Proprietary orders because they contribute capital to facilitate the execution of VIX customer orders with a premium of \$0.10 or lower and series with an expiration of 7 calendar days or less. Finally, the Exchange believes it's reasonable, equitable and not unfairly discriminatory to provide that the surcharge will be waived through June 2017, as it gives the Exchange additional time to evaluate if the waiver is continuing to have the desired effect of encouraging these transactions.

The Exchange believes increasing SPX transaction fees for Liquidity Providers is reasonable because the Exchange has expended considerable resources developing and maintaining SPX. The Exchange believes that this proposed change is equitable and not unfairly discriminatory because although Liquidity Providers still pay lower SPX transaction fees than certain other market participants, Liquidity Providers are valuable market participants that provide liquidity in the marketplace and incur costs that other market participants do not incur. For example, Liquidity Providers have a number of obligations, including quoting obligations that other market participants do not have. The Exchange also believes establishing a Sliding Scale for LPs in SPX options is reasonable because it will allow LPs who engage in SPX options trading the opportunity to pay progressively lower

fees for such transactions as increased volume thresholds are met. Specifically, the SPX LP Sliding Scale allows the Exchange to provide an incremental incentive for Liquidity Providers to strive for the highest tier level, which provides increasingly lower fees.

The Exchange believes the proposed reduced credits for AIM executions under VIP is reasonable because it still provides TPHs an opportunity to receive notable credits for reaching certain qualifying volume thresholds that they would not otherwise receive (now just a smaller credit). The Exchange also believes it's reasonable, equitable and not unfairly discriminatory to establish lower credits for AIM executions than non-AIM executions under VIP because AIM transactions are already assessed lower transaction fees than non-AIM transactions and the Exchange no longer wishes to provide the same amount of credits for these transactions.¹⁸ Additionally, the Exchange believes the proposed change is equitable and not unfairly discriminatory because it applies to all TPHs that meet the qualifying volume thresholds.

The Exchange also believes it's reasonable, equitable and not unfairly discriminatory to provide that multiple simple orders from the same TPH in the same series on the same side of the market that are received within three (3) seconds (instead of three hundred (300) seconds) will be aggregated for purposes of determining the order quantity subject to the AIM and HAL cap because the Exchange believes this amount of time is still sufficient to prevent TPHs from breaking up their orders in order to avoid the fee cap and it would apply to all TPHs.

The lowered costs for Market-Maker Trading Permits is reasonable because the fees will be lower than previously, and the reduced access costs may encourage greater Market-Maker access, which thereby brings greater trading activity, volume and liquidity, benefitting all market participants. The Exchange believes the proposed change is equitable and not unfairly discriminatory because it applies to all Market-Makers.

The Exchange believes adding "RUT" to the Notes section of the Market-Maker Trading Permits Sliding Scale will alleviate confusion as to what Trading Permits the sliding scale does and does not apply to. The alleviation of confusion removes impediments to and perfects the mechanism of a free and open market and a national market

system, and, in general, protects investors and the public interest.

The lowered costs for Floor Broker Trading Permits in Tier 1 of the Floor Broker Trading Permits Sliding Scale is reasonable because the fee for that tier will be lower than previously, and the reduced access costs may encourage greater Floor Broker access, which thereby brings greater trading activity, volume and liquidity, benefitting all market participants. The Exchange believes the proposed change is equitable and not unfairly discriminatory because it applies to all Floor Brokers.

The Exchange believes extending the waiver of ETH Trading Permit and Bandwidth Packet fees for one of each type of Trading Permit and Bandwidth Packet, per affiliated TPH through June 30, 2017 is reasonable, equitable and not unfairly discriminatory, because it promotes and encourages trading during the ETH session and applies to all ETH TPHs. The Exchange believes it's also reasonable, equitable and not unfairly discriminatory to waive fees for Login IDs related to waived Trading Permits and/or Bandwidth Packets in order to promote and encourage ongoing participation in ETH and also applies to all ETH TPHs.

The proposed change to increase the 10 Gbps Network Access Port fee is reasonable because the fees are within the same range as those assessed on other exchanges,¹⁹ and because such increase will assist in recouping ongoing expenditures made by the Exchange. This proposed change is equitable and not unfairly discriminatory because the proposed change will apply to all TPHs. The proposed change to increase the fees assessed for CMI Login IDs and FIX Login IDs is also reasonable because the Exchange desires to recoup increasing costs associated with maintaining connectivity to the Exchange. The Exchange believes it's equitable and not unfairly discriminatory because all TPHs will be assessed the same amount for Login ID fees.

The Exchange's proposal to increase the Linkage fee from \$0.05 per contract to \$0.10 per contract (in addition to applicable transaction fees) for customer orders is reasonable because the increase will help offset the costs associated with routing orders through Linkage. Additionally, the proposed amount is reasonable as it is in line with amounts charged by other Exchanges for similar transactions.²⁰ The Exchange

¹⁸ See CBOE Fees Schedule, Equity, ETF, ETN and Index Options (excluding Underlying Symbol List A) rate tables.

¹⁹ See supra Note 10.

²⁰ See supra Note 12.

believes it's equitable and not unfairly discriminatory because the proposed change will apply to all customer orders that are linked away.

The Exchange believes it is reasonable to increase the volume thresholds in Frequent Trader because it adjusts for current volume trends. The Exchange notes that the rebalance of tiers still allows the Exchange to maintain an incremental incentive for Customers to strive for the highest tier level. The Exchange believes the proposed change is also equitable and not unfairly discriminatory because it applies to all Customers. The Exchange believes it's reasonable to reduce the Frequent Trader rebates because it still provides Customers an opportunity to receive notable discounted rates for reaching certain qualifying volume thresholds that they would not otherwise receive (now just a smaller discount). The Exchange believes that the proposed change is not unfairly discriminatory because it will apply to all Customers that meet the qualifying volume thresholds.

The Exchange believes that increasing the first tier of the Floor Broker Access Rebate (*i.e.*, the rebate received when executing 15,000 contracts or more per day) is reasonable because it allows the qualifying Floor Brokers to pay even lower Floor Broker Trading Permit fees than before. The Exchange believes that it is reasonable to reduce the second tier rebate of the Floor Broker Access (*i.e.*, the rebate received when executing 25,000 contracts or more per day), because qualifying Floor Brokers are still paying lower Floor Broker Trading Permit fees than they otherwise would have. The Exchange notes that the purpose of both rebates incentives is to encourage the execution of orders via open outcry, which should increase volume, which would benefit all market participants (including Floor Brokers who do not hit the either contracts-per-day thresholds) trading via open outcry (and indeed, this increased volume could make it possible for some Floor Brokers to hit the contracts-per-day thresholds). The Exchange believes the proposed changes are equitable and not unfairly discriminatory because they apply to qualifying Floor Brokers equally.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to extend the waiver of all transaction fees for RLG, RLV, RUI, AWDE, FTEM, FXTM and UKXM transactions, including the Floor Brokerage fee, the License Index Surcharge and CFLEX Surcharge Fee, because it promotes and encourages

trading of these products which are still new and applies to all TPHs.

The Exchange believes extending the FLEX Asian and Cliquet Flex Trading Incentive Program is reasonable, equitable and not unfairly discriminatory because providing FLEX Traders with incentives to trade FLEX Asian and Cliquet options should result in a more robust price discovery process that will result in better execution prices for customers. In addition, the proposed change applies equally to all FLEX Traders.

Finally, the Exchange believes that it is reasonable, equitable and not unfairly discriminatory to extend the compensation plan to the DPM(s) appointed in AWDE, FTEM, FXTM or UKXM to continue to offset their ongoing DPM costs.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while different fees and rebates are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances (as described in the "Statutory Basis" section above). For example, Clearing TPHs have clearing obligations that other market participants do not have. Market-Makers have quoting obligations that other market participants do not have. There is a history in the options markets of providing preferential treatment to customers, as they often do not have as sophisticated trading operations and systems as other market participants, which often makes other market participants prefer to trade with customers. Further, the Exchange fees and rebates, both current and those proposed to be changed, are intended to encourage market participants to bring increased volume to the Exchange (which benefits all market participants), while still covering Exchange costs (including those associated with the upgrading and maintenance of Exchange systems).

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes are

intended to promote competition and better improve the Exchange's competitive position and make CBOE a more attractive marketplace in order to encourage market participants to bring increased volume to the Exchange (while still covering costs as necessary). Further, the proposed changes only affect trading on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

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

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

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²¹ and paragraph (f) of Rule 19b-4²² thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CBOE-2017-008 on the subject line.

Paper Comments

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

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f).

All submissions should refer to File Number SR-CBOE-2017-008. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2017-008, and should be submitted on or before February 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-02374 Filed 2-3-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79907; File No. SR-NYSE-2017-01]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, to Adopt the Rule 6800 Series To Implement the Compliance Rule Regarding the National Market System Plan Governing the Consolidated Audit Trail

January 31, 2017.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the

“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on January 17, 2017, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On January 30, 2017, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposed rule change to adopt the Rule 6800 Series to implement the compliance rule (“Compliance Rule”) regarding the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”).⁴ The proposed rule change is available on the Exchange's Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

This Amendment No. 1 amends and replaces in its entirety the original proposal filed by the Exchange on January 17, 2017. The Exchange submits this Amendment No. 1 in order to clarify certain points and add additional

details to the Compliance Rule as proposed herein.

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, Investors' Exchange LLC, ISE Gemini, LLC, ISE Mercury, LLC, Miami International Securities Exchange LLC, MAX PEARL, LLC, NASDAQ BX, Inc., NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. (collectively, the “Participants”) filed with the Commission, pursuant to Section 11A of the Exchange Act⁵ and Rule 608 of Regulation NMS thereunder,⁶ the CAT NMS Plan.⁷ The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,⁸ and approved by the Commission, as modified, on November 15, 2016.⁹

The Plan is designed to create, implement and maintain a consolidated audit trail (“CAT”) that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Each Participant is required to enforce compliance by its Industry Member, as applicable, with the provisions of the Plan, by adopting a Compliance Rule applicable to their Industry Members.¹⁰ As is described

⁵ 15 U.S.C. 78k-1.

⁶ 17 CFR 242.608.

⁷ See Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. See Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

⁸ See Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

⁹ See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (“Order Approving the National Market System Plan Governing the Consolidated Audit Trail”) (“Approval Order”).

¹⁰ See SEC Rule 613(g)(1). The proposed Rule 6800 Series would be applicable to member organizations. The term “member organization” means a “registered broker or dealer (unless exempt pursuant to the Securities Exchange Act of 1934) (the “Act”) that is a member of the Financial Industry Regulatory Authority, Inc. (“FINRA”) or

Continued

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein or in the CAT NMS Plan.

more fully below, the proposed Rule 6800 Series sets forth the Compliance Rule to require Industry Member [sic] to comply with the provisions of the CAT NMS Plan. The proposed Rule 6800 Series includes twelve proposed rules covering the following areas: (1) Definitions; (2) clock synchronization; (3) Industry Member Data reporting; (4) Customer information reporting; (5) Industry Member information reporting; (6) time stamps; (7) clock synchronization rule violations; (8) connectivity and data transmission; (9) development and testing; (10) recordkeeping; (11) timely, accurate and complete data; and (12) compliance dates. Each of these proposed rules is discussed in detail below.

(i) Definitions

Proposed Rule 6810 (Consolidated Audit Trail—Definitions) sets forth the definitions for the terms used in the proposed Rule 6800 Series. Each of the defined terms in proposed Rule 6810 is discussed in detail in this section.

(A) Account Effective Date

(I) Customer Information Approach

SEC Rule 613 requires that numerous data elements be reported to the CAT to ensure there is sufficient information to create the lifecycle of an order, and provide regulators with sufficient detail about an order to perform their regulatory duties. Certain required elements are intended to ensure that the regulators can identify the Customer's associated with orders. For example, SEC Rule 613(c)(7)(i)(A) requires an Industry Member to report the "Customer-IDs" for each Customer for the original receipt or origination of an order. "Customer-ID" is defined in SEC Rule 613(j)(5) to mean "with respect to a customer, a code that uniquely and consistently identifies such customer for purposes of providing data to the Central Repository." SEC Rule 613(c)(8) requires Industry Members to use the

another registered securities exchange. Member organizations that transact business with public customers or conduct business on the Floor of the Exchange shall at all times be members of FINRA. A registered broker or dealer must also be approved by the Exchange and authorized to designate an associated natural person to effect transactions on the floor of the Exchange or any facility thereof. This term shall include a natural person so registered, approved and licensed who directly effects transactions on the floor of the Exchange or any facility thereof. See Rule 2(b)(i). The term "member organization" also includes any registered broker or dealer that is a member of FINRA or a registered securities exchange, consistent with the requirements of section 2(b)(i) of this Rule, which does not own a trading license and agrees to be regulated by the Exchange as a member organization and which the Exchange has agreed to regulate. See Rule 2(b)(ii).

same Customer-ID for each Customer. The SEC granted the Participants exemptive relief to permit the use of an alternative approach to the requirement that an Industry Member report a Customer-ID for every Customer upon original receipt or origination.¹¹ The alternative approach is called the Customer Information Approach.

Under the Customer Information Approach, the CAT NMS Plan would require each Industry Member to assign a unique Firm Designated ID to each Customer. As the Firm Designated ID, Industry Members would be permitted to use an account number or any other identifier defined by the firm, provided each identifier is unique across the firm for each business date (*i.e.*, a single firm may not have multiple separate customers with the same identifier on any given date). Prior to their commencement of reporting to the CAT, Industry Members would submit an initial set of Customer information to the Central Repository, including the Firm Designated ID, Customer Identifying Information and Customer Account Information (which may include, as applicable, the Customer's name, address, date of birth, individual tax payer identifier number ("ITIN")/social security number ("SSN"), individual's role in the account (*e.g.*, primary holder, joint holder, guardian, trustee, person with power of attorney) and LEI and/or Larger Trader ID ("LTID")). This process is referred to as the customer definition process.

In accordance with the Customer Information Approach, Industry Members would be required to report only the Firm Designated ID for each new order submitted to the Central Repository, rather than the "Customer-ID" with individual order events. Within the Central Repository, each Customer would be uniquely identified by identifiers or a combination of identifiers such as ITIN/SSN, date of birth, and as applicable, LEI and LTID. The Plan Processor would be required to use these unique identifiers to map orders to specific Customers across all Industry Members and Participants. To ensure information identifying a Customer is up to date, Industry Members would be required to submit to the Central Repository daily and periodic updates for reactivated accounts, newly established accounts, and revised Firm Designated IDs or

¹¹ See Securities Exchange Act Release No. 77265 (March 1, 2016), 81 FR 11856 (March 7, 2016) ("Exemption Order"). See also Letter from Participants to Brent J. Fields, Secretary, Commission, dated January 30, 2015 at 12 ("Exemptive Request Letter"); and CAT NMS Plan at Appendix C, Section A.1(a)(iii).

associated reportable Customer information.

(II) Definition of Account Effective Date

In connection with the Customer Information Approach, Industry Members would be required to report Customer Account Information to the Central Repository. "Customer Account Information" is defined in SEC Rule 613(j)(4) to "include, but not be limited to, account number, account type, customer type, date account opened, and large trader identifier (if applicable)." Therefore, when reporting Customer Account Information, and Industry Member is required to report the date an account was opened. The Participants requested and received an exemption to allow an "Account Effective Date" to be reported in lieu of an account open date in certain limited circumstances. The definition of "Account Effective Date" as set forth in paragraph (a) of proposed Rule 6810 describes those limited circumstances in which an Industry Member may report an "Account Effective Date" rather than the account open date. The proposed definition is the same as the definition of "Account Effective Date" set forth in Section 1.1 of the CAT NMS Plan, provided, however, that specific dates have replaced the descriptions of those dates set forth in Section 1.1 of the Plan.

Specifically, Paragraph (a)(1) defines "Account Effective Date" to mean, with regard to those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution: (1) When the trading relationship was established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, either (a) the date the relationship identifier was established within the Industry Member; (b) the date when trading began (*i.e.*, the date the first order was received) using the relevant relationship identifier; or (c) if both dates are available, the earlier date will be used to the extent that the dates differ; or (2) when the trading relationship was established on or after November 15, 2018 for Industry Members other than Small Industry Members, or on or after November 15, 2019 for Small Industry Members, the date the Industry Member established the relationship identifier, which would be no later than the date the first order was received.

Paragraph (a)(2) of proposed Rule 6810 states that an "Account Effective Date" means, where an Industry Member changes back office providers or clearing firms prior to November 15,

2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the date an account was established at the relevant Industry Member, either directly or via transfer.

Paragraph (a)(3) states that an “Account Effective Date” means, where an Industry Member acquires another Industry Member prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the date an account was established at the relevant Industry Member, either directly or via transfer.

Paragraph (a)(4) states that “Account Effective Date” means, where there are multiple dates associated with an account established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the earliest available date.

Paragraph (a)(5) states that an “Account Effective Date” means, with regard to Industry Member proprietary accounts established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members: (1) The date established for the account in the Industry Member or in a system of the Industry Member or (2) the date when proprietary trading began in the account (*i.e.*, the date on which the first orders were submitted from the account). With regard to paragraphs (a)(2)–(5), the Account Effective Date will be no later than the date trading occurs at the Industry Member or in the Industry Member’s system.

(B) Active Account

Under the Customer Information Approach, Industry Members are required to report Customer Identifying Information and Customer Account Information for only those accounts that are active. This will alleviate the need for Industry Members to update such information for non-active accounts, but still ensure that the Central Repository will collect audit trail data for Customer accounts that have any Reportable Events. Accordingly, paragraph (b) of proposed Rule 6810 defines an “Active Account” as an account that has had activity in Eligible Securities within the last six months. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(C) Allocation Report

(I) Allocation Report Approach

SEC Rule 613(c)(7)(vi)(A) requires each Industry Member to record and

report to the Central Repository “the account number for any subaccounts to which the execution is allocated (in whole or in part).” The SROs requested and received from the SEC exemptive relief from SEC Rule 613 for an alternative to this approach (“Allocation Report Approach”). The Allocation Report Approach would permit Industry Members to record and report to the Central Repository an Allocation Report that includes, among other things, the Firm Designated ID for any account(s) to which executed shares are allocated when an execution is allocated in whole or part in lieu of requiring the reporting of the account number for any subaccount to which an execution is allocated, as is required by SEC Rule 613.¹² Under SEC Rule 613, regulators would be able to link the subaccount to which an allocation was made to a specific order. In contrast, under the Allocation Report Approach, regulators would only be able to link an allocation to the account to which it was made, and not to a specific order.

(II) Definition of Allocation Report

To assist in implementing the Allocation Report Approach, paragraph (c) of proposed Rule 6810 defines an “Allocation Report.” Specifically, an “Allocation Report” means a report made to the Central Repository by an Industry Member that identifies the Firm Designated ID for any account(s), including subaccount(s), to which executed shares are allocated and provides the security that has been allocated, the identifier of the firm reporting the allocation, the price per share of shares allocated, the side of shares allocated, the number of shares allocated to each account, and the time of the allocation; provided, for the avoidance of doubt, any such Allocation Report shall not be required to be linked to particular orders or executions. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(D) Business Clock

To create the required audit trail, Industry Members are required to record the date and time of various Reportable Events to the Central Repository. Industry Members will use “Business Clocks” to record such dates and times. Accordingly, paragraph (d) of proposed Rule 6810 defines the term “Business Clock” as a clock used to record the date and time of any Reportable Event required to be reported under this Rule 6800 Series. This is the same definition as set forth in Section 1.1 of the CAT

NMS Plan, except the Exchange proposes to replace the phrase “under SEC Rule 613” at the end of the definition in Section 1.1 of the Plan with the phrase “under this Rule Series.” This change is intended to recognize that the Industry Members’ obligations with regard to the CAT are set forth in this Rule 6800 Series.

(E) CAT

Paragraph (e) of proposed Rule 6810 defines the term “CAT” to mean the consolidated audit trail contemplated by SEC Rule 613. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(F) CAT NMS Plan

Paragraph (f) of proposed Rule 6810 defines the term “CAT NMS Plan” to mean the National Market System Plan Governing the Consolidated Audit Trail, as amended from time to time.

(G) CAT-Order-ID

(I) Daisy Chain Approach

Under the CAT NMS Plan, the Daisy Chain Approach is used to link and reconstruct the complete lifecycle of each Reportable Event in CAT. According to this Approach, Industry Members assign their own identifiers to each order event. Within the Central Repository, the Plan Processor later replaces the identifier provided by the Industry Member for each Reportable Event with a single identifier, called the CAT Order-ID, for all order events pertaining to the same order. This CAT Order-ID is used to link the Reportable Events related to the same order.

(II) Definition of CAT-Order-ID

To implement the Daisy Chain Approach, paragraph (g) of proposed Rule 6810 defines the term “CAT-Order-ID.” The term “CAT-Order-ID” is defined to mean a unique order identifier or series of unique order identifiers that allows the Central Repository to efficiently and accurately link all Reportable Events for an order, and all orders that result from the aggregation or disaggregation of such order. This is the same definition as set forth in SEC Rule 613(j)(1), and Section 1.1 of the CAT NMS Plan defines “CAT-Order-ID” by reference to SEC Rule 613(j)(1).

(H) CAT Reporting Agent

The CAT NMS Plan permits an Industry Member to use a third party, such as a vendor, to report the required data to the Central Repository on behalf

¹² See Exemptive Request Letter, *supra* note 11, at 26–27; and Exemption Order.

of the Industry Member.¹³ Such a third party, referred to in this proposed Rule 6800 Series as a “CAT Reporting Agent,” would be one type of a Data Submitter, that is, a party that submit data to the Central Repository. Paragraph (h) of proposed Rule 6810 defines the term “CAT Reporting Agent” to mean a Data Submitter that is a third party that enters into an agreement with an Industry Member pursuant to which the CAT Reporting Agent agrees to fulfill such Industry Member’s obligations under this Rule 6800 Series.

This definition is based on FINRA’s definition of a “Reporting Agent” as set forth in FINRA’s rule related to its Order Audit Trail System (“OATS”). Specifically, FINRA Rule 7410(n) defines a “Reporting Agent” as a third party that enters into any agreement with a member pursuant to which the Reporting Agent agrees to fulfill such member’s reporting obligations under FINRA Rule 7450. The Reporting Agent for OATS fulfills a similar role to the CAT Reporting Agent.

(I) Central Repository

Paragraph (i) of proposed Rule 6810 defines the term “Central Repository” to mean the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT pursuant to SEC Rule 613 and the CAT NMS Plan. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, except the Exchange proposes to use the phrase “CAT NMS Plan” in place of the phrase “this Agreement.”

(J) Compliance Threshold

Paragraph (j) of proposed Rule 6810 defines the term “Compliance Threshold” as having the meaning set forth in proposed Rule 6893(d). This definition has the same substantive meaning as the definition set forth in Section 1.1 of the CAT NMS Plan. As discussed in detail below with regard to Proposed Rule 6893(d), each Industry Member is required to meet a separate compliance threshold which will be an Industry Member-specific rate that may be used as the basis for further review or investigation into the Industry Member’s performance with regard to the CAT. This Industry Member-specific rate is the “Compliance Threshold.”

(K) Customer

Industry Members are required to submit to the Central Repository certain information related to their Customers,

including Customer Identifying Information and Customer Account Information, as well as data related to their Customer’s Reportable Events. Accordingly, paragraph (k) of proposed Rule 6810 proposes to define the term “Customer.” Specifically, the term “Customer” would be defined to mean: (1) The account holder(s) of the account at an Industry Member originating the order; and (2) any person from whom the Industry Member is authorized to accept trading instructions for such account, if different from the account holder(s). This is the same definition as set forth in SEC Rule 613(j)(3), except the Exchange proposes to replace the references to a registered broker-dealer or broker-dealer with a reference to an Industry Member for consistency of terms used in the proposed Rule 6800 Series. The Exchange also notes that Section 1.1 of the CAT NMS Plan defines “Customer” by reference to SEC Rule 613(j)(3).

(L) Customer Account Information

As discussed above, under the Customer Information Approach, Industry Members are required to report Customer Account Information to the Central Repository as part of the customer definition process. Accordingly, the Exchange proposes to define the term “Customer Account Information” to clarify what customer information would need to be reported to the Central Repository.

Paragraph (l) of proposed Rule 6810 defines the term “Customer Account Information” to include, in part, account number, account type, customer type, date account opened, and large trader identifier (if applicable). Proposed Rule 6810(l), however, provides an alternative definition of “Customer Account Information” in two limited circumstances. First, in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will (1) provide the Account Effective Date in lieu of the “date account opened”; (2) provide the relationship identifier in lieu of the “account number”; and (3) identify the “account type” as a “relationship.” Second, in those circumstances in which the relevant account was established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, and no “date account opened” is available for the account, the Industry Member will provide the Account Effective Date in the following circumstances: (1) Where

an Industry Member changes back office providers or clearing firms and the date account opened is changed to the date the account was opened on the new back office/clearing firm system; (2) where an Industry Member acquires another Industry Member and the date account opened is changed to the date the account was opened on the post-merger back office/clearing firm system; (3) where there are multiple dates associated with an account in an Industry Member’s system, and the parameters of each date are determined by the individual Industry Member; and (4) where the relevant account is an Industry Member proprietary account. The proposed definition is the same as the definition of “Customer Account Information” set forth in Section 1.1 of the CAT NMS Plan, provided, however, that specific dates have replaced the descriptions of those dates set forth in Section 1.1 of the Plan.

(M) Customer Identifying Information

As discussed above, under the Customer Information Approach, Industry Members are required to report Customer Identifying Information to the Central Repository as part of the customer definition process. Accordingly, the Exchange proposes to define the term “Customer Account Information” to clarify what Customer information would need to be reported to the Central Repository.

Paragraph (m) of proposed Rule 6810 defines the term “Customer Identifying Information” to mean information of sufficient detail to identify a Customer. With respect to individuals, “Customer Identifying Information” includes, but is not limited to, name, address, date of birth, individual tax payer identification number (“ITIN”)/social security number (“SSN”), individual’s role in the account (e.g., primary holder, joint holder, guardian, trustee, person with the power of attorney). With respect to legal entities, “Customer Identifying Information” includes, but is not limited to, name, address, Employer Identification Number (“EIN”)/Legal Entity Identifier (“LEI”) or other comparable common entity identifier, if applicable. The definition further notes that an Industry Member that has a LEI for a Customer must submit the Customer’s LEI in addition to other information of sufficient detail to identify the Customer. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(N) Data Submitter

The CAT NMS Plan uses the term “Data Submitter” to refer to any person that reports data to the Central

¹³ See Appendix C, Section A.1(a) of the CAT NMS Plan.

Repository.¹⁴ Such Data Submitters may include those entities that are required to submit data to the Central Repository (e.g., national securities exchanges, national securities associations and Industry Members), third-parties that may submit data to the CAT on behalf of CAT Reporters (i.e., CAT Reporting Agents), and outside parties that are not required to submit data to the CAT but from which the CAT may receive data (e.g., securities information processors (“SIPs”)). To include this term in the proposed Rule 6800 Series, the Exchange proposes to define “Data Submitter” in paragraph (n) of proposed Rule 6810. Specifically, paragraph (n) of proposed Rule 6810 defines a “Data Submitter” to mean any person that reports data to the Central Repository, including national securities exchanges, national securities associations, broker-dealers, the SIPs for the CQS, CTA, UTP and Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (“OPRA”) Plans, and certain other vendors or third parties that may submit data to the Central Repository on behalf of Industry Members.

(O) Eligible Security

The reporting requirements of the proposed Rule 6800 Series only apply to Reportable Events in Eligible Securities. Currently, an Eligible Security includes NMS Securities and OTC Equity Securities. Accordingly, paragraph (o) of proposed Rule 6810 defines the term “Eligible Security” to include: (1) All NMS Securities; and (2) all OTC Equity Securities. The terms “NMS Securities” and “OTC Equity Securities” are defined, in turn, below. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(P) Error Rate

(I) Maximum Error Rate

Under the CAT NMS Plan, the Operating Committee sets the maximum Error Rate that the Central Repository would tolerate from an Industry Member reporting data to the Central Repository.¹⁵ The Operating Committee reviews and resets the maximum Error Rate, at least annually.¹⁶ If an Industry Member reports CAT data to the Central Repository with errors such that their error percentage exceeds the maximum Error Rate, then such Industry Member would not be in compliance with the

CAT NMS Plan or Rule 613.¹⁷ As such, the Exchange or the SEC “may take appropriate action against an Industry Member for failing to comply with its CAT reporting obligations.¹⁸ The CAT NMS Plan sets the initial Error Rate at 5%.¹⁹ It is anticipated that the maximum Error Rate will be reviewed and lowered by the Operating Committee once Industry Members begin to report to the Central Repository.²⁰

The CAT NMS Plan requires the Plan Processor to: (1) Measure and report errors every business day; (2) provide Industry Members daily statistics and error reports as they become available, including a description of such errors; (3) provide monthly reports to Industry Members that detail an Industry Member’s performance and comparison statistics; (4) define educational and support programs for Industry Members to minimize Error Rates; and (5) identify, daily, all Industry Members exceeding the maximum allowable Error Rate. To timely correct data-submitted errors to the Central Repository, the CAT NMS Plan requires that the Central Repository receive and process error corrections at all times. Further, the CAT NMS Plan requires that Industry Members be able to submit error corrections to the Central Repository through a web-interface or via bulk uploads or file submissions, and that the Plan Processor, subject to the Operating Committee’s approval, support the bulk replacement of records and the reprocessing of such records. The Participants, furthermore, require that the Plan Processor identify Industry Member data submission errors based on the Plan Processor’s validation processes.²¹

(II) Definition of Error Rate

To implement the requirements of the CAT NMS Plan related to the Error Rate, the Exchange proposes to define the term “Error Rate” in proposed Rule 6810. Paragraph (p) of proposed Rule 6810 defines the term “Error Rate” to mean the percentage of Reportable Events collected by the Central Repository in which the data reported does not fully and accurately reflect the order event that occurred in the market. This is the same definition as set forth in SEC Rule 613(j)(6), and Section 1.1 of

the CAT NMS Plan defines “Error Rate” by reference to SEC Rule 613(j)(6).

(Q) Firm Designated ID

As discussed above, under the Customer Information Approach, the CAT NMS Plan would require each Industry Member to assign a unique Firm Designated ID to each Customer. Industry Members would be permitted to use as the Firm Designated ID an account number or any other identifier defined by the firm, provided each identifier is unique across the firm for each business date (i.e., a single firm may not have multiple separate customers with the same identifier on any given date). Industry members would be required to report only the Firm Designated ID for each new order submitted to the Central Repository, rather than the “Customer-ID” with individual order events. Accordingly, the Exchange proposes to define the term “Firm Designated ID” in proposed Rule 6810. Specifically, paragraph (q) of proposed Rule 6810 defines the term “Firm Designated ID” to mean a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan. Industry Members would be permitted to use an account number or any other identifier defined by the firm, provided each identifier is unique across the firm for each business date (i.e., a single firm may not have multiple separate customers with the same identifier on any given date).

(R) Industry Member

Paragraph (r) of proposed Rule 6810 defines the term “Industry Member” to mean a member of a national securities exchange or a member of a national securities association.” This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(S) Industry Member Data

Paragraph (s) of proposed Rule 6810 states that the term “Industry Member Data” has the meaning set forth in Rule 6830(a)(2). This definition has the same substantive meaning as the definition set forth in in Section 1.1 of the CAT NMS Plan. The definition of “Industry Member Data” is discussed more fully in the discussion below regarding proposed Rule 6830(a)(2).

(T) Initial Plan Processor

Paragraph (t) of proposed Rule 6810 defines the term “Initial Plan Processor”

¹⁴ See Appendix C, Section A.1(a) of the CAT NMS Plan.

¹⁵ See Section 6.5(d)(i) of the CAT NMS Plan.

¹⁶ See Appendix C, Section A.3(b) of the CAT NMS Plan.

¹⁷ See Appendix C, Section A.3(b) of the CAT NMS Plan; SEC Rule 613(g)–(h).

¹⁸ See Appendix C, Section A.3(b) of the CAT NMS Plan.

¹⁹ See Section 6.5(d)(i) of the CAT NMS Plan.

²⁰ See Appendix C, Section A.3(b) of the CAT NMS Plan.

²¹ See Approval Order, *supra* note 9, at 84718.

to mean the first Plan Processor selected by the Operating Committee in accordance with SEC Rule 613, Section 6.1 of the CAT NMS Plan and the National Market System Plan Governing the Process for Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, although the proposed definition uses the full name of the “Selection Plan.”

(U) Listed Option or Option

The CAT NMS Plan and this proposed Rule 6800 Series applies to Eligible Securities, which includes NMS Securities, which, in turn, includes Listed Options. Certain requirements of the proposed Rule 6800 Series apply specifically to Listed Options. Accordingly, paragraph (u) of proposed Rule 6810 defines the term “Listed Option” or “Option.” Specifically, paragraph (u) of proposed Rule 6810 states that the term “Listed Option” or “Option” has the meaning set forth in SEC Rule 600(b)(35) of Regulation NMS. SEC Rule 600(b)(35), in turn, defines a listed option as “any option traded on a registered national securities exchange or automated facility of a national securities association.” The Exchange notes that the proposed definition of “Listed Option” is the same definition as the definition set forth in Section 1.1 of the CAT NMS Plan.

(V) Manual Order Event

(I) Manual Order Event Approach

The CAT NMS Plan sets forth clock synchronization and timestamp requirements for Industry Members which reflect exemptions for Manual Order Events granted by the Commission.²² Specifically, the Plan requires Industry Members to record and report the time of each Reportable Event using timestamps reflecting current industry standards (which must be at least to the millisecond) or, if an Industry Member’s order handling or execution system uses timestamps in increments finer than milliseconds, such finer increments, when reporting to the Central Repository. For Manual Order Events, however, the Plan provides that such events must be recorded in increments up to and including one second, provided that Industry Members record and report the time the event is captured electronically in an order handling and execution system (“Electronic Capture Time”) in milliseconds. In addition, Industry Members are required to synchronize

their respective Business Clocks (other than such Business Clocks used solely for Manual Order Events) at a minimum to within 50 milliseconds of the time maintained by the National Institute of Standards and Technology (“NIST”), and maintain such synchronization. Each Industry Member is required to synchronize their Business Clocks used solely for Manual Order Events, however, at a minimum to within one second of the time maintained by the NIST.

(II) Definition of Manual Order Event

In order to clarify what a Manual Order Event is for clock synchronization and time stamp purposes, the Exchange proposes to define the term “Manual Order Event” in proposed Rule 6810. Specifically, paragraph (v) of proposed Rule 6810 defines the term “Manual Order Event” to mean a non-electronic communication of order-related information for which Industry Members must record and report the time of the event. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(W) Material Terms of the Order

Proposed Rule 6830 requires Industry Members to record and report to the Central Repository Material Terms of the Order with certain Reportable Events (*e.g.*, for the original receipt or origination of an order, for the routing of an order). Accordingly, the Exchange proposes to define the term “Material Terms of the Order” in proposed Rule 6810. Specifically, paragraph (w) of proposed Rule 6810 defines the term “Material Terms of the Order” to include: The NMS Security or OTC Equity Security symbol; security type; price (if applicable); size (displayed and non-displayed); side (buy/sell); order type; if a sell order, whether the order is long, short, short exempt; open/close indicator (except on transactions in equities); time in force (if applicable); if the order is for a Listed Option, option type (put/call), option symbol or root symbol, underlying symbol, strike price, expiration date, and open/close (except on market maker quotations); and any special handling instructions. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(X) NMS Security

NMS Securities are one of the types of Eligible Securities for the CAT. Therefore, the Exchange proposes to define the term “NMS Security” in proposed Rule 6810. Specifically, paragraph (x) of proposed Rule 6810 defines the term “NMS Security” to mean any security or class of securities

for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in Listed Options. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(Y) NMS Stock

Under the CAT NMS Plan, the Operating Committee may establish different Trading Days for NMS Stocks (as defined in SEC Rule 600(b)(47)), Listed Options, OTC Equity Securities, and any other securities that are included as Eligible Securities from time to time. Accordingly, the Exchange proposes to define the term “NMS Stock” in Paragraph (y) of Proposed Rule 6810 to mean any NMS Security other than an option. This is the same definition as set forth in SEC Rule 600(b)(47) of Regulation NMS.

(Z) Operating Committee

Paragraph (z) of proposed Rule 6810 defines the term “Operating Committee” to mean the governing body of the CAT NMS, LLC designated as such and described in Article IV of the CAT NMS Plan. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, except the Exchange proposes to use the phrase “CAT NMS LLC” in place of the phrase “the Company” for clarity.

(AA) Options Market Maker

(I) Options Market Maker Quote Exemption

SEC Rule 613(c)(7) provides that the CAT NMS Plan must require each Industry Member to record and electronically report to the Central Repository details for each order and each reportable event, including the routing and modification or cancellation of an order. SEC Rule 613(j)(8) defines “order” to include “any bid or offer.” Therefore, under SEC Rule 613, the details for each Options Market Maker quotation must be reported to the Central Repository by both the Options Market Maker and the options exchange to which it routes its quote.

The Exchange, however, requested and received exemptive relief from SEC Rule 613 so that the CAT NMS Plan may permit Options Market Maker quotes to be reported to the Central Repository by the relevant options exchange in lieu of requiring that such reporting be done by both the options exchange and the Options Market Maker, as is required by

²² See Exemption Order, *supra* note 11.

SEC Rule 613.²³ In accordance with the exemptive relief, Options Market Makers would be required to report to the options exchange the time at which a quote in a Listed Option is sent to the options exchange. Such time information also will be reported to the Central Repository by the options exchange in lieu of reporting by the Options Market Maker.

(II) Definition of Options Market Maker

To implement the requirements related to Options Market Maker quotes, the Exchange proposes to define the term “Options Market Maker” in proposed Rule 6810. Specifically, paragraph (aa) of proposed Rule 6810 defines the term “Options Market Maker” to mean a broker-dealer registered with an exchange for the purpose of making markets in options contracts traded on the exchange. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(BB) Order

The proposed Rule 6800 Series requires each Industry Member to record and electronically report to the Central Repository certain details for each order. Accordingly, the Exchange proposes to define the term “Order” in proposed Rule 6810. Specifically, paragraph (bb) of proposed Rule 6810 defines the term “Order”, with respect to Eligible Securities, to include: (1) Any order received by an Industry Member from any person; (2) any order originated by an Industry Member; or (3) any bid or offer. This is the same definition as set forth in SEC Rule 613(j)(8), except the Exchange proposes to replace the phrase “member of a national securities exchange or national securities association” with the term “Industry Member.” The Exchange notes that Section 1.1 of the CAT NMS Plan defines “Order” by reference to SEC Rule 613(j)(8).

(CC) OTC Equity Security

OTC Equity Securities are one of the types of Eligible Securities for the CAT. Therefore, the Exchange proposes to define the term “OTC Equity Security” in proposed Rule 6810. Specifically, paragraph (cc) of proposed Rule 6810 defines the term “OTC Equity Security” to mean any equity security, other than an NMS Security, subject to prompt last sale reporting rules of a registered national securities association and reported to one of such association’s equity trade reporting facilities. This is

the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(DD) Participant

Paragraph (dd) of proposed Rule 6810 defines the term “Participant” to mean each Person identified as such in Exhibit A of the CAT NMS Plan, as amended, in such Person’s capacity as a Participant in CAT NMS, LLC. This is the same definition in substance as set forth in Section 1.1 of the CAT NMS Plan.

(EE) Person

Paragraph (ee) of proposed Rule 6810 defines the term “Person” to mean any individual, partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association and any heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so permits. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(FF) Plan Processor

Paragraph (ff) of proposed Rule 6810 defines the term “Plan Processor” to mean the Initial Plan Processor or any other Person selected by the Operating Committee pursuant to SEC Rule 613 and Sections 4.3(b)(i) and 6.1 of the CAT NMS Plan, and with regard to the Initial Plan Processor, the National Market System Plan Governing the Process for Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail, to perform the CAT processing functions required by SEC Rule 613 and set forth in the CAT NMS Plan.

(GG) Received Industry Member Data

Paragraph (gg) of proposed Rule 6810 states that the term “Received Industry Member Data” has the meaning set forth in Rule 6830(a)(2). This definition has the same substantive meaning as the definition set forth in Section 1.1 of the CAT NMS Plan. The definition of “Received Industry Member Data” is discussed more fully in the discussion below regarding proposed Rule 6830(a)(2).

(HH) Recorded Industry Member Data

Paragraph (hh) of proposed Rule 6810 states that the term “Recorded Industry Member Data” has the meaning set forth in Rule 6830(a)(1). This definition has the same substantive meaning as the definition set forth in Section 1.1 of the CAT NMS Plan. The definition of “Recorded Industry Member Data” is discussed more fully in the discussion below regarding proposed Rule 6830(a)(1).

(II) Reportable Event

The proposed Rule 6800 Series requires each Industry Member to record and electronically report to the Central Repository certain details for each Reportable Event. To clarify these requirements, the Exchange proposes to define the term “Reportable Event” in proposed Rule 6810. Specifically, paragraph (ii) of proposed Rule 6810 states that the term “Reportable Event” includes, but is not limited to, the original receipt or origination, modification, cancellation, routing, execution (in whole or in part) and allocation of an order, an receipt of a routed order. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(JJ) SRO

Paragraph (jj) of proposed Rule 6810 defines the term “SRO” to mean any self-regulatory organization within the meaning of Section 3(a)(26) of the Exchange Act. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(KK) SRO-Assigned Market Participant Identifier

(I) Existing Identifier Approach

The Exchange requested and received exemptive relief from SEC Rule 613 so that the CAT NMS Plan may permit the Existing Identifier Approach, which would allow an Industry Member to report an existing SRO-Assigned Market Participant Identifier in lieu of requiring the reporting of a universal CAT-Reporter-ID (that is, a code that uniquely and consistently identifies an Industry Member for purposes of providing data to the Central Repository).²⁴ The CAT NMS Plan reflects the “Existing Identifier Approach” for purposes of identifying each Industry Member associated with an order or Reportable Event. Under the Existing Identifier Approach, Industry Members are required to record and report to the Central Repository an SRO-Assigned Market Participant Identifier for orders and certain Reportable Events to be used by the Central Repository to assign a unique CAT-Reporter-ID to identify Industry Members.

For the Central Repository to link the SRO-Assigned Market Participant Identifier to the CAT-Reporter-ID, the Exchange will submit to the Central Repository, on a daily basis, all SRO-Assigned Market Participant Identifiers used by its Industry Members, as well as information to identify each such

²³ See Exemptive Request Letter, *supra* note 11, at 2, and Exemption Order.

²⁴ See Exemptive Request Letter, *supra* note 11, at 19, and Exemption Order.

Industry Member, including CRD number and LEI, if the SRO has collected such LEI of the Industry Member. Additionally, each Industry Member is required to submit to the Central Repository the CRD number of the Industry Member as well as the LEI of the Industry Member (if the Industry Member has an LEI). The Plan Processor will use this information to assign a CAT-Reporter-ID to each Industry Member for internal use within the Central Repository.

(II) Definition of SRO-Assigned Market Participant Identifier

To implement the Existing Identifier Approach, the Exchange proposes to define the term “SRO-Assigned Market Participant” in proposed Rule 6810. Specifically, paragraph (kk) of proposed Rule 6810 defines the term “SRO-Assigned Market Participant Identifier” to mean an identifier assigned to an Industry Member by the Exchange or an identifier used by a Participant. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan. For example, an Industry Member would be permitted to use any existing SRO-Assigned Market Participant Identifier (e.g., FINRA MPID, NASDAQ MPID, NYSE Mnemonic, CBOE User Acronym and CHX Acronym) when reporting order information to the Central Repository.

(LL) Small Industry Member

The requirements of the proposed Rule 6800 Series differ to some extent for Small Industry Members versus Industry Members other than Small Industry Members. For example, the compliance dates for reporting data to the CAT are different for Small Industry Members versus other Industry Members. Accordingly, to clarify the requirements that apply to which Industry Members, the Exchange proposes to define the term “Small Industry Member” in proposed Rule 6810. Specifically, paragraph (ll) of proposed Rule 6810 defines the term “Small Industry Member” to mean an Industry Member that qualifies as a small broker-dealer as defined in Rule 0–10(c) under the Securities Exchange Act of 1934, as amended. This is the same in substance as the definition of “Small Industry Member” as set forth in Section 1.1 of the CAT NMS Plan. Specifically, Section 1.1 of the CAT NMS Plan defines a “Small Industry Member” as “an Industry Member that qualifies as a small broker-dealer as defined in SEC Rule 613.” The definition of a small broker-dealer under SEC Rule 613, in turn, is a small broker-dealer as defined in SEC Rule 0–10(c).

(MM) Trading Day

Proposed Rule 6830(b) establishes the deadlines for reporting certain data to the Central Repository using the term “Trading Day.” Accordingly, the Exchange proposes to define the term “Trading Day” in proposed Rule 6810. Specifically, paragraph (mm) of proposed Rule 6810 states that the term “Trading Day” shall have the meaning as is determined by the Operating Committee. For the avoidance of doubt, the Operating Committee may establish different Trading Days for NMS Stocks (as defined in SEC Rule 600(b)(47), Listed Options, OTC Equity Securities, and any other securities that are included as Eligible Securities from time to time.

(ii) Clock Synchronization

SEC Rule 613(d)(1) under Regulation NMS requires Industry Members to synchronize their Business Clocks to the time maintained by NIST, consistent with industry standards. To comply with this provision, Section 6.8 of the Plan sets forth the clock synchronization requirements for Industry Members.²⁵ To implement these provisions with regard to Industry Members, the Exchange proposes new Rule 6820 (Consolidated Audit Trail—Clock Synchronization) to require Industry Members to comply with the clock synchronization requirements of the Plan.

Paragraph (a) of proposed Rule 6820 sets forth the manner in which Industry Members must synchronize their Business Clocks. Paragraph (a)(1) of proposed Rule 6820 requires each Industry Member to synchronize its Business Clocks, other than such Business Clocks used solely for Manual Order Events or used solely for the time of allocation on Allocation Reports, at a minimum to within a fifty (50) millisecond tolerance of the time maintained by the NIST atomic clock, and maintain such synchronization. This is the same requirement as set forth in Section 6.8(a)(ii)(A) of the CAT NMS Plan.

Paragraph (a)(2) of proposed Rule 6820 requires each Industry Member to synchronize (1) its Business Clocks used solely for Manual Order Events and (2) its Business Clocks used solely for the time of allocation on Allocation Reports at a minimum to within a one second tolerance of the time maintained by the NIST atomic clock, and maintain such synchronization. This is the same

requirement as set forth in Section 6.8(a)(iii) and (iv) of the CAT NMS Plan.

Paragraph (a)(3) of proposed Rule 6820 clarifies that the tolerance described in paragraphs (a)(1) and (2) of the proposed Rule 6820 includes all of the following: (1) The time difference between the NIST atomic clock and the Industry Member’s Business Clock; (2) the transmission delay from the source; and (3) the amount of drift of the Industry Member’s Business Clock. This description of the clock synchronization tolerance is the same as set forth in paragraph (b) of FINRA Rule 4590 (Synchronization of Member Business Clocks).

Paragraph (a)(4) of proposed Rule 6820 requires Industry Members to synchronize their Business Clocks every business day before market open to ensure that timestamps for Reportable Events are accurate. In addition, to maintain clock synchronization, Business Clocks must be checked against the NIST atomic clock and re-synchronized, as necessary, throughout the day. This description of the required frequency of clock synchronization is the same as set forth in paragraph (c) of FINRA Rule 4590 (Synchronization of Member Business Clocks).

Paragraph (b) of proposed Rule 6820 sets forth documentation requirements with regard to clock synchronization. Specifically, paragraph (b) requires Industry Members to document and maintain their synchronization procedures for their Business Clocks. The proposed Rule requires Industry Members to keep a log of the times when they synchronize their Business Clocks and the results of the synchronization process. This log is required to include notice of any time a Business Clock drifts more than the applicable tolerance specified in paragraph (a) of the proposed rule. Such logs must include results for a period of not less than five years ending on the then current date, or for the entire period for which the Industry Member has been required to comply with this Rule if less than five years. These documentation requirements are the same as those set forth in the “Sequencing Orders and Clock Synchronization” section of Appendix C of the CAT NMS Plan. Moreover, these documentation requirements regarding clock synchronization are comparable to those set forth in Supplementary Material .01 of FINRA Rule 4590 (Synchronization of Member Business Clocks).

Paragraph (c) of proposed Rule 6820 sets forth certification requirements with regard to clock synchronization. Specifically, paragraph (c) of proposed

²⁵ In addition, Section 6.7(a)(ii) of the Plan sets forth the timeline for CAT Reporters to comply with the clock synchronization requirements.

Rule 6820 requires each Industry Member to certify to the Exchange that its Business Clocks satisfy the synchronization requirements set forth in paragraph (a) of proposed Rule 6820 periodically in accordance with the certification schedule established by the Operating Committee pursuant to the CAT NMS Plan. This requirement is the same requirement as set forth in Section 6.8(a)(ii)(B), (iii) and (iv) of the CAT NMS Plan. The Exchange intends to announce to its Industry Members the certification schedule established by the Operating Committee via Trader Update.

Paragraph (d) of proposed Rule 6820 establishes reporting requirements with regard to clock synchronization. Paragraph (d) of proposed Rule 6820 requires Industry Members to report to the Plan Processor and the Exchange violations of paragraph (a) of this Rule pursuant to the thresholds set by the Operating Committee pursuant to the CAT NMS Plan. This requirement is the same requirement as set forth in Section 6.8(a)(ii)(C), (iii) and (iv) of the CAT NMS Plan. The Exchange intends to announce to its Industry Members the relevant thresholds established by the Operating Committee via Trader Update.

(iii) Industry Member Data Reporting

SEC Rule 613(c) under Regulation NMS requires the CAT NMS Plan to set forth certain provisions requiring Industry Members to record and report data to the CAT. To comply with this provision, Section 6.4 of the CAT NMS Plan sets forth the data reporting requirements for Industry Members. To implement these provisions with regard to its Industry Members, the Exchange proposes Rule 6830 (Consolidated Audit Trail—Industry Member Data Reporting) to require Industry Members to comply with the Industry Member Data reporting requirements of the Plan. Proposed Rule 6830 has six sections covering (1) recording and reporting Industry Member Data, (2) timing of the recording and reporting, (3) the applicable securities covered by the recording and reporting requirements, (4) format, (5) the security symbology to be used in the recording and reporting, and (6) error correction requirements, each of which is described below.

(A) Recording and Reporting Industry Member Data

Paragraph (a) of proposed Rule 6830 describes the recording and reporting of Industry Member Data to the Central Repository. Paragraph (a) consists of paragraphs (a)(1)–(a)(3), which cover Recorded Industry Member Data,

Received Industry Member Data and Options Market Maker data, respectively. Paragraphs (a)(1)–(a)(3) of proposed Rule 6830 set forth the recording and reporting requirements required in Section 6.4(d)(i)–(iii) of the CAT NMS Plan, respectively.

Paragraph (a)(1) requires, subject to paragraph (a)(3) regarding Options Market Makers, each Industry Member to record and electronically report to the Central Repository the following details for each order and each Reportable Event, as applicable (“Recorded Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan:

- For original receipt or origination of an order: (1) Firm Designated ID(s) for each Customer; (2) CAT-Order-ID; (3) SRO-Assigned Market Participant Identifier of the Industry Member receiving or originating the order; (4) date of order receipt or origination; (5) time of order receipt or origination (using timestamps pursuant to proposed Rule 6860); and (6) Material Terms of the Order;

- for the routing of an order: (1) CAT-Order-ID; (2) date on which the order is routed; (3) time at which the order is routed (using timestamps pursuant to proposed Rule 6860); (4) SRO-Assigned Market Participant Identifier of the Industry Member routing the order; (5) SRO-Assigned Market Participant Identifier of the Industry Member or Participant to which the order is being routed; (6) if routed internally at the Industry Member, the identity and nature of the department or desk to which the order is routed; and (7) Material Terms of the Order;

- for the receipt of an order that has been routed, the following information: (1) CAT-Order-ID; (2) date on which the order is received; (3) time at which the order is received (using timestamps pursuant to proposed Rule 6860); (4) SRO-Assigned Market Participant Identifier of the Industry Member receiving the order; (5) SRO-Assigned Market Participant Identifier of the Industry Member or Participant routing the order; and (6) Material Terms of the Order;

- if the order is modified or cancelled: (1) CAT-Order-ID; (2) date the modification or cancellation is received or originated; (3) time at which the modification or cancellation is received or originated (using timestamps pursuant to proposed Rule 6860); (4) price and remaining size of the order, if modified; (5) other changes in the Material Terms of the Order, if modified; and (6) whether the modification or cancellation instruction

was given by the Customer or was initiated by the Industry Member;

- if the order is executed, in whole or in part: (1) CAT-Order-ID; (2) date of execution; (3) time of execution (using timestamps pursuant to proposed Rule 6860); (4) execution capacity (principal, agency or riskless principal); (5) execution price and size; (6) SRO-Assigned Market Participant Identifier of the Industry Member executing the order; (7) whether the execution was reported pursuant to an effective transaction reporting plan or the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information; and

- other information or additional events as may be prescribed pursuant to the CAT NMS Plan.

Paragraph (a)(2) of proposed Rule 6830 requires, subject to paragraph (a)(3) regarding Options Market Makers, each Industry Member to record and report to the Central Repository the following, as applicable (“Received Industry Member Data”) and collectively with the information referred to in proposed Rule 6830(a)(1) “Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan:

- If the order is executed, in whole or in part: (1) An Allocation Report; (2) SRO-Assigned Market Participant Identifier of the clearing broker or prime broker, if applicable; and (3) CAT-Order-ID of any contra-side order(s);

- if the trade is cancelled, a cancelled trade indicator; and

- for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with proposed Rule 6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

Paragraph (a)(3) of proposed Rule 6830 states that each Industry Member that is an Options Market Maker is not required to report to the Central Repository the Industry Member Data regarding the routing, modification or cancellation of its quotes in Listed Options. Each Industry Member that is an Options Market Maker, however, is required to report to the Exchange the time at which its quote in a Listed Option is sent to the Exchange (and, if applicable, any subsequent quote modification time and/or cancellation time when such modification or cancellation is originated by the Options Market Maker). This paragraph implements the Options Market Maker Quote Exemption, as discussed above.

(B) Timing of Recording and Reporting

Paragraph (b) of proposed Rule 6830 describes the requirements related to the timing of recording and reporting of Industry Member Data. Paragraphs (b)(1)–(b)(3) of proposed Rule 6830 set forth the requirements related to the timing of the recording and reporting requirements required in Section 6.4(b)(i)–(ii) of the CAT NMS Plan.

Paragraph (b)(1) of proposed Rule 6830 requires each Industry Member to record Recorded Industry Member Data contemporaneously with the applicable Reportable Event. Paragraph (b)(2) of proposed Rule 6830 requires each Industry Member to report: (1) Recorded Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member records such Recorded Industry Member Data; and (2) Received Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member receives such Received Industry Member Data. Paragraph (b)(3) of proposed Rule 6830 states that Industry Members may, but are not required to, voluntarily report Industry Member Data prior to the applicable 8:00 a.m. Eastern Time deadline.

(C) Applicable Securities

Paragraph (c) of proposed Rule 6830 describes the securities to which the recording and reporting requirements of proposed Rule 6830 apply. Paragraphs (c)(1) and (c)(2) of proposed Rule 6830 set forth the description of applicable securities as set forth in Section 6.4(c)(i) and (ii) of the CAT NMS Plan, respectively. Paragraph (c)(1) of proposed Rule 6830 requires each Industry Member to record and report to the Central Repository the Industry Member Data as set forth in paragraph (a) of proposed Rule 6830 for each NMS Security registered or listed for trading on such exchange or admitted to unlisted trading privileges on such exchange. Paragraph (c)(2) of proposed Rule 6830 requires each Industry Member to record and report to the Central Repository the Industry Member Data as set forth in paragraph (a) of this proposed Rule 6830 for each Eligible Security for which transaction reports are required to be submitted to FINRA.

(D) Security Symbolology

Paragraph (d) of proposed Rule 6830 describes the security symbolology that Industry Members are required to use when reporting Industry Member Data to the Central Repository. Paragraph (d)(1) of proposed Rule 6830 requires,

for each exchange-listed Eligible Security, each Industry Member to report Industry Member Data to the Central Repository using the symbolology format of the exchange listing the security. This requirement implements the requirement set forth in Section 2 of Appendix D of the CAT NMS Plan to use the listing exchange symbolology when reporting data to the Central Repository for exchange-listed Eligible Securities.

For each Eligible Security that is not exchange-listed, however, there is no listing exchange to provide the symbolology format. Moreover, to date, the requisite symbolology format has not been determined. Therefore, paragraph (d)(2) of proposed Rule 6830 requires, for each Eligible Security that is not exchange-listed, each Industry Member to report Industry Member Data to the Central Repository using such symbolology format as approved by the Operating Committee pursuant to the CAT NMS Plan. The Exchange intends to announce to its Industry Members the relevant symbolology formats established by the Operating Committee via Trader Update.

(E) Error Correction

To ensure that the CAT contains accurate data, the CAT NMS Plan requires Industry Members to correct erroneous data submitted to the Central Repository. Therefore, the Exchange proposes to adopt paragraph (e) of proposed Rule 6830, which addresses the correction of erroneous data reported to the Central Repository. Paragraph (e) of proposed Rule 6830 requires, for each Industry Member for which errors in Industry Member Data submitted to the Central Repository have been identified by the Plan Processor or otherwise, that such Industry Member submit corrected Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on T+3. This requirement implements the error correction requirement set forth in Section 6 of Appendix D of the CAT NMS Plan.

(iv) Customer Information Reporting

Section 6.4(d)(iv) of the CAT NMS Plan requires Industry Members to submit to the Central Repository certain information related to their Customers in accordance with the Customer Information Approach discussed above. The Exchange proposes new Rule 6840 (Consolidated Audit Trail—Customer Information Reporting) to implement this provision of the CAT NMS Plan with regard to its Industry Members. Specifically, paragraph (a) of proposed Rule 6840 requires each Industry

Member to submit to the Central Repository the Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in proposed Rule 6880. Paragraph (b) of proposed Rule 6840 requires each Industry Member to submit to the Central Repository any updates, additions or other changes to the Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account on a daily basis. Paragraph (c) of proposed Rule 6840 requires each Industry Member, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, to submit to the Central Repository a complete set of Firm Designated IDs, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account. This periodic refresh is intended to ensure that the Central Repository has the most current information identifying a Customer. The Exchange intends to announce to its Industry Members when such a periodic refresh is required by the Plan Processor and the Operating Committee via Trade Update.

Paragraph (d) of proposed Rule 6840 addresses the correction of erroneous Customer data reported to the Central Repository to ensure an accurate audit trail. Paragraph (d) requires, for each Industry Member for which errors in Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such CAT Reporting Member to submit corrected data to the Central Repository by 5:00 p.m. Eastern Time on T+3. This requirement implements the error correction requirement set forth in Appendix C of the CAT NMS Plan.

(v) Industry Member Information Reporting

Section 6.4(d)(vi) of the CAT NMS Plan requires Industry Members to submit to the Central Repository information sufficient to identify such Industry Member, including CRD number and LEI, if such LEI has been obtained in accordance with the Existing Identifier Approach discussed above. The Exchange proposes Rule 6850 (Consolidated Audit Trail—Industry Member Information Reporting) to implement this provision

of the CAT NMS Plan with regard to its Industry Members. Specifically, proposed Rule 6850 requires each Industry Member to submit to the Central Repository information sufficient to identify such Industry Member, including CRD number and LEI, if such LEI has been obtained prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in proposed Rule 6880, and keep such information up to date as necessary.

(vi) Time Stamps

SEC Rule 613(d)(3) under Regulation NMS sets forth requirements for time stamps used by CAT Reporters in recording and reporting data to the CAT.²⁶ To comply with this provision, Section 6.8(b) of the Plan sets forth time stamp requirements for Industry Members. To implement this provision with regard to its Industry Members, the Exchange proposes new Rule 6860 (Consolidated Audit Trail—Time Stamps) to require its Industry Members to comply with the time stamp requirements of the CAT NMS Plan.

Paragraph (a) of proposed Rule 6860 sets forth the time stamp increments to be used by Industry Members in their CAT reporting. Paragraph (a)(1) of proposed Rule 6860 requires each Industry Member to record and report Industry Member Data to the Central Repository with time stamps in milliseconds, subject to paragraphs (a)(2) and (b) of proposed Rule 6860. To the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, paragraph (a)(2) of proposed Rule 6860 requires such Industry Member to record and report Industry Member Data to the Central Repository with time stamps in such finer increment, subject to paragraph (b) of proposed Rule 6860 regarding Manual Order Events and Allocation Reports.

Paragraph (b) of proposed Rule 6860 sets forth the permissible time stamp increments for Manual Order Events and Allocation Reports. Specifically, paragraph (b)(1) of proposed Rule 6860 permits each Industry Member to record and report Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Member is required to record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member ("Electronic Capture Time") in

milliseconds. In addition, paragraph (b)(2) of proposed Rule 6860 permits each Industry Member to record and report the time of Allocation Reports in increments up to and including one second.

(vii) Clock Synchronization Rule Violations

Proposed Rule 6865 (Consolidated Audit Trail—Clock Synchronization Rule Violations) describes potential violations of the clock synchronization time period requirements set forth in the proposed Rule 6800 Series. Proposed Rule 6865 states that an Industry Member that engages in a pattern or practice of reporting Reportable Events outside of the required clock synchronization time period as set forth in this Rule Series without reasonable justification or exceptional circumstances may be considered in violation of this Rule. This provision implements the requirements of Section 6.8 of the CAT NMS Plan which requires the Compliance Rule to provide that a pattern or practice of reporting events outside of the required clock synchronization time period without reasonable justification or exceptional circumstances may be considered a violation of SEC Rule 613 or the CAT NMS Plan.

(viii) Connectivity and Data Transmission

Proposed Rule 6870 (Consolidated Audit Trail—Connectivity and Data Transmission) addresses connectivity and data transmission requirements related to the CAT. Paragraph (a) of proposed Rule 6870 describes the format(s) for reporting Industry Member Data to the Central Repository, thereby implementing the formatting requirements as set forth in Section 6.4(a) of the CAT NMS Plan. Specifically, paragraph (a) of proposed Rule 6870 requires each Industry Member to transmit data as required under the CAT NMS Plan to the Central Repository utilizing such format(s) as may be provided by the Plan Processor and approved by the Operating Committee.

Paragraph (b) of proposed Rule 6870 addresses connectivity requirements related to the CAT. Paragraph (b) of proposed Rule 6870 requires each Industry Member to connect to the Central Repository using a secure method(s), including, but not limited to, private line(s) and virtual private network connection(s). This provision implements the connectivity requirements set forth in Section 4 of Appendix D to the CAT NMS Plan.

Paragraph (c) of proposed Rule 6870 permits Industry Members to use CAT Reporting Agents to fulfill their data reporting obligations related to the CAT. Paragraph (c) is based on FINRA Rule 7450(c), which permits OATS Reporting Members to enter into agreements with Reporting Agents to fulfill the OATS obligations of the OATS Reporting Member. Specifically, Paragraph (c)(1) of proposed Rule 6870 states that any Industry Member may enter into an agreement with a CAT Reporting Agent pursuant to which the CAT Reporting Agent agrees to fulfill the reporting obligations of such Industry Member under the proposed Rule 6800 Series. Any such agreement must be evidenced in writing, which specifies the respective functions and responsibilities of each party to the agreement that are required to effect full compliance with the requirements of the proposed Rule 6800 Series. The Exchange notes that, currently, no standardized form agreement for CAT Reporting Agent arrangements has been adopted. Paragraph (c)(2) of proposed Rule 6870 requires that all written documents evidencing an agreement with a CAT Reporting Agent be maintained by each party to the agreement. Paragraph (c)(3) of proposed Rule 6870 states that each Industry Member remains primarily responsible for compliance with the requirements of the proposed Rule 6800 Series, notwithstanding the existence of an agreement described in paragraph (c) of proposed Rule 6870.

(ix) Development and Testing

The Exchange proposed Rule 6880 (Consolidated Audit Trail—Development and Testing) to address requirements for Industry Members related to CAT development and testing. Paragraph (a) of proposed Rule 6880 sets forth the testing requirements and deadlines for Industry Members to develop and commence reporting to the Central Repository. These requirements are set forth in Appendix C to the CAT NMS Plan.

Paragraph (a)(1) sets forth the deadlines related to connectivity and acceptance testing. Industry Members (other than Small Industry Members) are required to begin connectivity and acceptance testing with the Central Repository no later than August 15, 2018, and Small Industry Members are required to begin connectivity and acceptance testing with the Central Repository no later than August 15, 2019.

Paragraph (a)(2) sets forth the deadlines related to reporting Customer and Industry Member information. Paragraph (a)(2)(i) requires Industry

²⁶ 17 CFR 242.613(d)(3).

Members (other than Small Industry Members) to begin reporting Customer and Industry Member information, as required by Rules 6840(a) and 6850, respectively, to the Central Repository for processing no later than October 15, 2018. Paragraph (a)(2)(ii) requires Small Industry Members to begin reporting Customer and Industry Member information, as required by Rules 6840(a) and 6850, respectively, to the Central Repository for processing no later than October 15, 2019.

Paragraph (a)(3) sets forth the deadlines related to the submission of order data. Under paragraph (a)(3)(i), Industry Members (other than Small Industry Members) are permitted, but not required, to submit order data for testing purposes beginning no later than May 15, 2018. In addition, Industry Members (other than Small Industry Members) are required to participate in the coordinated and structured testing of order submission, which will begin no later than August 15, 2018. Under paragraph (a)(3)(ii), Small Industry Members are permitted, but not required, to submit order data for testing purposes beginning no later than May 15, 2019. In addition, Small Industry Members are required to participate in the coordinated and structured testing of order submission, which will begin no later than August 15, 2019.

Paragraph (a)(4) states that Industry Members are permitted, but not required to, submit Quote Sent Times on Options Market Maker quotes, beginning no later than October 15, 2018.

Paragraph (b) of proposed Rule 6880 implements the requirement under the CAT NMS Plan that Industry Members participate in required industry testing with the Central Repository.²⁷ Specifically, proposed Rule 6880 requires that each Industry Member participate in testing related to the Central Repository, including any industry-wide disaster recovery testing, pursuant to the schedule established pursuant to the CAT NMS Plan. The Exchange intends to announce to its Industry Members the schedule established pursuant to the CAT NMS Plan via Trader Update.

(x) Recordkeeping

Proposed Rule 6890 (Consolidated Audit Trail—Recordkeeping) sets forth the recordkeeping obligations related to the CAT for Industry Members. Proposed Rule 6890 requires each Industry Member to maintain and preserve records of the information required to be recorded under the proposed Rule 6800 Series for the

period of time and accessibility specified in SEC Rule 17a-4(b). The records required to be maintained and preserved under the proposed Rule 6800 Series may be immediately produced or reproduced on “micrographic media” as defined in SEC Rule 17a-4(f)(1)(i) or by means of “electronic storage media” as defined in SEC Rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEC Rule 17a-4(f) and be maintained and preserved for the required time in that form. Proposed Rule 6890 is based on FINRA Rule 7440(a)(5), which sets forth the recordkeeping requirements related to OATS.

(xi) Timely, Accurate and Complete Data

SEC Rule 613 and the CAT NMS Plan emphasize the importance of the timeliness, accuracy, completeness and integrity of the data submitted to the CAT.²⁸ Accordingly, proposed Rule 6893 (Consolidated Audit Trail—Timely, Accurate and Complete Data) implements this requirement with regard to Industry Members. Paragraph (a) of proposed Rule 6893 requires that Industry Members record and report data to the Central Repository as required by the proposed Rule 6800 Series in a manner that ensures the timeliness, accuracy, integrity and completeness of such data.

In addition, without limiting the general requirement as set forth in paragraph (a), paragraph (b) of proposed Rule 6893 requires Industry Members to accurately provide the LEIs in their records as required by the proposed Rule 6800 Series and states that Industry Members may not knowingly submit inaccurate LEIs to the Central Repository. Paragraph (b) notes, however, that this requirement does not impose any additional due diligence obligations on Industry Members with regard to LEIs for CAT purposes. Accordingly, this provision does not impose any due diligence obligations beyond those that may exist today with respect to information associated with a LEI. Although Industry Members will not be required to perform additional with regard to the LEIs for CAT purposes, Industry Members will be required to accurately provide the LEIs in their records and may not knowingly submit inaccurate LEIs to the CAT. Paragraph (b) is consistent with the SEC’s statements in the Approval Order for the CAT NMS Plan regarding an Industry Member’s obligations regarding LEIs.²⁹

²⁸ See SEC Rule 613(e)(4)(i)(D)(ii); and Section 6.5(d) of the CAT NMS Plan.

²⁹ See Approval Order, *supra* note 9, at 84745.

Paragraph (c) of proposed Rule 6893 states that, if an Industry Member reports data to the Central Repository with errors such that its error percentage exceeds the maximum Error Rate established by the Operating Committee pursuant to the CAT NMS Plan, then such Industry Member would not be in compliance with the Rule 6800 Series. As discussed above, the initial maximum Error Rate is 5%, although the Error Rate is expected to be reduced over time. The Exchange intends to announce to its Industry Members changes to the Error Rate established pursuant to the CAT NMS Plan via Trader Update.

Furthermore, paragraph (d) of proposed Rule 6893 addresses Compliance Thresholds related to reporting data to the CAT. Paragraph (c) of proposed Rule 6893 states that each Industry Member is required to meet a separate compliance threshold which will be an Industry Member-specific rate that may be used as the basis for further review or investigation into the Industry Member’s performance with regard to the CAT (the “Compliance Thresholds”). Compliance Thresholds will compare an Industry Member’s error rate to the aggregate Error Rate over a period of time to be defined by the Operating Committee. Compliance Thresholds will be set by the Operating Committee, and will be calculated at intervals to be set by the Operating Committee.³⁰ Compliance Thresholds will include compliance with the data reporting and clock synchronization requirements. Proposed Rule 6893 states that an Industry Member’s performance with respect to its Compliance Threshold will not signify, as a matter of law, that such Industry Member has violated this proposed Rule 6800 Series.

(xii) Compliance Dates

Proposed Rule 6895 (Consolidated Audit Trail—Compliance Dates) sets forth the compliance dates for the various provisions of proposed Rules 6800 through 6895. Paragraphs (b) and (c) of this Rule set forth the additional details with respect to the compliance date of the proposed Rules 6800 through 6895. Unless otherwise noted, proposed Rules 6800 through 6895 will be fully effective upon approval by the Commission and member organizations must comply with their terms.

Paragraph (b) of proposed Rule 6895 establishes the compliance dates for the clock synchronization requirements as set forth in proposed Rule 6820. Paragraph (b)(1) of proposed Rule 6895 states that each Industry Member shall

³⁰ See Appendix C of the CAT NMS Plan.

²⁷ See Approval Order, *supra* note 9, at 84725.

comply with Rule 6820 with regard to Business Clocks that capture time in milliseconds commencing on or before March 15, 2017. Paragraph (b)(2) states that each Industry Member shall comply with Rule 6820 with regard to Business Clocks that do not capture time in milliseconds commencing on or before February 19, 2018. The compliance date set forth in paragraph (b)(1) reflects the exemptive relief requested by the Participants with regard to the clock synchronization requirements related to Business Clocks that do not capture time in milliseconds.³¹

Paragraph (c) of proposed Rule 6895 establishes the compliance dates for the data recording and reporting requirements for Industry Members. Paragraph (c)(1) of proposed Rule 6895 requires each Industry Member (other than a Small Industry Member) to record and report the Industry Member Data to the Central Repository by November 15, 2018. Paragraph (c)(2) of proposed Rule 6895 requires that each Industry Member that is a Small Industry Member to record and report the Industry Member Data to the Central Repository by November 15, 2019. Such compliance dates are consistent with the compliance dates set forth in SEC Rule 613(a)(3)(v) and (vi), and Section 6.7(a)(v) and (vi) of the CAT NMS Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,³² which require, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 6(b)(8) of the Act,³³ which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies the provisions of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for

the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."³⁴ To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements provisions of the CAT NMS Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the proposed Rule Series implementing provisions of the CAT NMS Plan will apply equally to all firms that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing this proposed Rule 6800 Series. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

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

No written comments were solicited or received with respect to the proposed rule change.

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

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSE-2017-01 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NYSE-2017-01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2017-01 and should be submitted on or before February 27, 2017.

³¹ Concurrently with this filing, the Participants submitted a request for exemptive relief from SEC Rule 613(a)(3)(ii) of Regulation NMS under the Securities Exchange Act of 1934 and Section 6.7(a)(ii) of the CAT NMS Plan. See Letter from Participants to Brent J. Fields, Secretary, Commission, dated January 17, 2017.

³² 15 U.S.C. 78f(b)(5).

³³ 15 U.S.C. 78f(b)(8).

³⁴ See Approval Order, *supra* note 9, at 84697.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁵

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-02375 Filed 2-3-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-32461; File No. 812-13764]

Golub Capital BDC, Inc., et al.; Notice of Application

January 31, 2017.

AGENCY: Securities and Exchange Commission (“Commission”).

ACTION: Notice of application for an order under sections 17(d), 57(a)(4) and 57(i) of the Investment Company Act of 1940 (the “Act”) and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (“BDCs”) and certain closed-end management investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

APPLICANTS: Golub Capital BDC, Inc. (“GBDC”), Golub Capital Investment Corporation (“GCIC”); GC Advisors LLC (“GC Advisors”); GC Synexus Advisors, LLC, and GC Investment Management LLC (each a “Controlled Adviser”); Golub Capital Partners V, L.P., Golub Capital Partners VI, L.P., Golub Capital Partners VII, L.P., Golub Capital Partners VIII, L.P., Golub Capital Partners 9, L.P., Golub Capital Partners 10, L.P., Golub Capital Partners International VII, L.P., Golub Capital Partners International VIII, L.P., Golub Capital Partners International 9, L.P., Golub Capital Partners International 10, L.P., Golub Capital International Ltd., GC 2009 Mezzanine Partners, L.P., GEMS Fund, L.P., GEMS Fund 4, L.P., Golub Capital Pearls Direct Lending Program, L.P., Golub Capital Coinvestment, L.P., Golub Capital Finance, LLC, GC Finance Operations LLC, Golub Capital Finance Funding LLC, Golub Capital Partners Ltd., Golub Capital Partners CLO 11 Ltd., Golub Capital Partners CLO 14 Ltd., Golub Capital Partners CLO 15 Ltd., Golub Capital Partners CLO 16 Ltd., Golub Capital Partners CLO 17 Ltd., Golub

Capital Partners CLO 18(M) Ltd., Golub Capital Partners CLO 19(B) Ltd., Pearls X, L.P., SG-E2 LLC, Golub Capital Partners CLO 21(M), Ltd., Golub Capital Partners Warehouse CLO 22(B), Ltd., Golub Capital Partners CLO 23 (B), Ltd., Golub Capital Partners CLO 24(M), Ltd., Golub Capital Partners CLO 25 (M), Ltd., Golub Capital Partners CLO 26(B), Ltd., Golub Capital Partners CLO 28(M), Ltd., Golub Capital Partners CLO 29(B), Ltd., Golub Capital Partners CLO 30(M), Ltd., Golub Capital Partners CLO 31(M), Ltd., Golub Capital Partners CLO 32(M), Ltd., GCP Finance 2 Ltd., GCP Finance Ltd., GCP Finance 4, Ltd., GC International Ladder Ltd., GCP Finance 3 Ltd., GCP Finance 5 Ltd., GCP Finance 6 Ltd., Golub Capital Partners CLO 33(M), Ltd., Golub Capital Partners 11, L.P., Golub Capital Partners International 11, L.P., and Golub Capital Partners 11 Rollover Fund, L.P. (collectively, “Existing Affiliated Funds”); Golub GP V, LLC, Golub GP VI, LLC, Golub Onshore GP, LLC, Golub Offshore GP, Ltd., Golub Capital Coinvestment, LLC, Golub Onshore GP 2, LLC and Golub Onshore GP NC, LLC; and Golub Capital LLC.

FILING DATES: The application was filed on April 1, 2010, and amended on September 30, 2010, December 10, 2012, June 6, 2013, December 2, 2013, December 5, 2013, August 11, 2014, January 28, 2015, October 29, 2015, June 2, 2016, September 23, 2016 and January 26, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 24, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549-1090. Applicants: 666 Fifth Avenue, 18th Floor, New York, New York 10103.

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Counsel, at (202) 551-6990 or Daniele Marchesani, Assistant Director, at (202) 551-6821

(Chief Counsel’s Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission’s Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

Applicants’ Representations

1. GBDC and GCIC, a Delaware corporation and a Maryland corporation, respectively, are organized as non-diversified, closed-end management investment companies that have elected to be regulated as BDCs under section 54(a) of the Act.¹ GBDC and GCIC (the “Regulated Funds”)² seek to maximize the total return to their stockholders through both current income and capital appreciation through debt and minority equity investments. The boards of directors (each a “Board”)³ of GBDC and GCIC consist of the same six members, four of whom are not “interested persons” as defined in section 2(a)(19) of the Act (“Non-Interested Directors”).⁴

2. Each of the Existing Affiliated Funds would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act.

3. GC Advisors, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940 (the “Advisers Act”) and serves as the investment adviser to each of GBDC and GCIC pursuant to the applicable Investment Advisory Agreement. GC Advisors or a Controlled Adviser currently serves as investment adviser to each of the Existing Affiliated Funds. Golub Capital LLC, a wholly-owned subsidiary of GC Advisors, makes experienced investment professionals

¹ Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

² The term “Regulated Funds” means GBDC, GCIC, and any future closed-end management investment company that has elected to be regulated as a BDC or is registered under the Act, whose investment adviser is an Adviser (as defined below) and who intends to participate in the Co-Investment Program (as defined below).

³ The term “Board” means the board of directors of a Regulated Fund.

⁴ Currently, Lawrence E. Golub serves as a Director and Chairman of the Board of each of GBDC and GCIC and David B. Golub serves as a Director and Chief Executive Officer of GBDC and as a Director, President and Chief Executive Officer of GCIC (“Principals”).

available to GC Advisors pursuant to a staffing agreement.

4. Applicants seek an order (“Order”) to permit one or more Regulated Funds and Affiliated Funds⁵ to participate in the same investment opportunities through a proposed co-investment program where such participation would otherwise be prohibited under sections 17(d) and 57(a)(4) and the rules under the Act (the “Co-Investment Program”).⁶ A “Co-Investment Transaction” means any transaction in which one or more Regulated Funds (or a Wholly-Owned Investment Subsidiary, as defined below) participated together with one or more Regulated Funds and Affiliated Funds in reliance on the Order. A “Potential Co-Investment Transaction” means any investment opportunity in which the Regulated Funds (or its Wholly-Owned Investment Subsidiary, as defined below) could not participate together with one or more Regulated Funds and Affiliated Funds without obtaining and relying on the Order.

5. Applicants state that a Regulated Fund may, from time to time, form one or more Wholly-Owned Investment Subsidiaries.⁷ A Wholly-Owned Investment Subsidiary would be prohibited from investing in a Co-Investment Transaction with another

Regulated Fund or any Affiliated Fund because it would be a company controlled by the applicable Regulated Fund for purposes of sections 17(d) and 57(a)(4) and rule 17d-1. Applicants request that a Wholly-Owned Investment Subsidiary be permitted to participate in Co-Investment Transactions in lieu of the applicable Regulated Fund, and that such Wholly-Owned Investment Subsidiary’s participation in any such transaction be treated, for purposes of the requested Order, as though the Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Subsidiary would have no purpose other than serving as a holding vehicle for the Regulated Fund’s investments and, therefore, no conflicts of interest could arise between such Regulated Fund and its respective Wholly-Owned Investment Subsidiaries. The Board of the Regulated Fund would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Subsidiary’s participation in a Co-Investment Transaction, and the Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Subsidiary in place of the Regulated Fund. If a Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subsidiaries, its Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Subsidiary.

6. When considering Potential Co-Investment Transactions for any Regulated Fund, an Adviser will consider only the Objectives and Strategies,⁸ Board-Established Criteria,⁹

investment policies, investment positions, capital available for investment (“Available Capital”),¹⁰ and other pertinent factors applicable to that Regulated Fund. The participation of a Regulated Fund in a Potential Co-Investment Transaction may only be approved by a Required Majority, as defined in section 57(o) (a “Required Majority”), of the directors of the Board eligible to vote on that Co-Investment Transaction under section 57(o) (the “Eligible Directors”).¹¹ When selecting investments for the Affiliated Funds, an Adviser will select investments separately for each Affiliated Fund, considering in each case, only the investment objective, investment policies, investment position, capital available for investment, and other pertinent factors applicable to that particular Affiliated Fund. Applicants’ state that the Objectives and Strategies of each Regulated Fund and the investment objectives and strategies of the Affiliated Funds are substantially similar, and GC Advisors anticipates that a portfolio company that is an appropriate investment for one or more Regulated Funds will normally be an appropriate investment for one or more Affiliated Funds. To the extent a Potential Co-Investment Transaction falls within any Board-Established Criteria of a Regulated Fund and the objectives and strategies of one or more Regulated Funds and Affiliated Funds, each Regulated Fund intends to co-invest with the Affiliated Funds, with certain exceptions based on factors such as available capital, investment size or diversification.¹²

7. With respect to participation in a Potential Co-Investment Transaction by

amortization of the issuer, asset class of the investment opportunity or required commitment size, and not on characteristics that involve discretionary assessment. The Adviser to the Regulated Fund may from time to time recommend criteria for the applicable Board’s consideration, but Board-Established Criteria will only become effective if approved by a majority of the Non-Interested Directors. The Non-Interested Directors of a Regulated Fund may at any time rescind, suspend or qualify its approval of any Board-Established Criteria, though Applicants anticipate that, under normal circumstances, the Board would not modify these criteria more often than quarterly.

¹⁰ Available Capital will be determined based on the amount of cash on hand, existing commitments and reserves, if any, the targeted leverage level, targeted asset mix and other investment policies and restrictions set from time to time by the Board of the applicable Regulated Fund or imposed by applicable laws, rules, or regulations or interpretations.

¹¹ With respect to Regulated Funds that are not BDCs, the defined terms Eligible Directors and Required Majority apply as if each Regulated Fund were a BDC subject to section 57(o) of the Act.

¹² A Regulated Fund, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

⁵ The term “Affiliated Fund” means (a) the Existing Affiliated Funds and (b) any Future Affiliated Fund. “Future Affiliated Fund” means an entity (a) whose investment adviser is an Adviser and (b) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act, and (iii) that intends to participate in the Co-Investment Program. The term “Adviser” means (a) GC Advisors, (b) the Controlled Advisers, and (c) any future investment adviser that controls, is controlled by or is under common control with GC Advisors and is registered as an investment adviser under the Advisers Act.

⁶ All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that relies on the Order in the future will comply with the terms and conditions of the application.

⁷ The term “Wholly-Owned Investment Subsidiary” means an entity (a) whose sole business purpose is to hold one or more investments on behalf of a Regulated Fund (and, in the case of an SBIC Subsidiary (as defined below), maintain a license under the SBA Act (as defined below) and issue debentures guaranteed by the SBA (as defined below)); (b) that is wholly-owned by a Regulated Fund (with such Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (c) with respect to which the Board of the Regulated Fund has the sole authority to make all determinations with respect to the Wholly-Owned Investment Subsidiary’s participation under the conditions of the application; and (d) that is and entity that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. The term “SBIC Subsidiary” means a Wholly-Owned Investment Subsidiary that is licensed by the Small Business Administration (the “SBA”) to operate under the Small Business Investment Act of 1958, as amended, (the “SBA Act”) as a small business investment company.

⁸ The term “Objectives and Strategies” means a Regulated Fund’s investment objectives and strategies as described in the Regulated Fund’s registration statement, other filings the Regulated Fund has made with the Commission under the Securities Act of 1933 or the Securities Exchange Act of 1934, and the Regulated Fund’s reports to shareholders.

⁹ The term “Board-Established Criteria” means criteria that the Board of the applicable Regulated Fund may establish from time to time to describe the characteristics of Potential Co-Investment Transactions regarding which an Adviser to the Regulated Fund should be notified under Condition 1. The Board-Established Criteria will be consistent with the Regulated Fund’s then-current Objectives and Strategies. If no Board-Established Criteria are in effect, then the Regulated Fund’s Adviser will be notified of all Potential Co-Investment Transactions that fall within the Regulated Fund’s then current Objectives and Strategies. Board-Established Criteria will be objective and testable, meaning that they will be based on observable information, such as industry/sector of the issuer, minimum earnings before interest, taxes, depreciation, and

a Regulated Fund, the applicable Adviser will present each Potential Co-Investment Transaction and the proposed allocation of each investment opportunity to the Eligible Directors. The Required Majority of a Regulated Fund will approve each Co-Investment Transaction prior to any investment by the Regulated Fund.

8. With respect to the pro rata dispositions and Follow-On Investments¹³ provided in conditions 7 and 8, a participating Regulated Fund may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Affiliated Fund and Regulated Fund in such disposition or Follow-On Investment is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the applicable Board has approved such Regulated Fund's participation in pro rata dispositions and Follow-On Investments as being in the best interests of such Regulated Fund. If the Board of a Regulated Fund does not so approve, any such disposition or Follow-On Investment will be submitted to the Eligible Directors. The Board of a Regulated Fund may at any time rescind, suspend or qualify their respective approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

9. No Director will be considered a Non-Interested Director with respect to a particular Co-Investment Transaction unless the Director has no direct or indirect financial interest in that Co-Investment Transaction or any interest in any portfolio company, other than through an interest in the securities of a Regulated Fund.

10. Applicants represent that if an Adviser, the Principals, any person controlling, controlled by, or under common control with an Adviser or the Principals, and the Affiliated Funds (collectively, the "Holders") own in the aggregate more than 25% of the outstanding voting securities of a Regulated Fund ("Shares"), then the Holders will vote such Shares as required under condition 14. Applicants believe that this condition will ensure

that the Non-Interested Directors will act independently in evaluating the Co-Investment Program, because the ability of an Adviser or the Principals to influence the Non-Interested Directors by a suggestion, explicit or implied, that the Non-Interested Directors can be removed will be limited significantly. The Non-Interested Directors shall evaluate and approve any such independent third party, taking into account its qualifications, reputation for independence, cost to the shareholders, and other factors they deem relevant.

Applicants' Legal Analysis

1. Section 57(a)(4) of the Act prohibits any person who is related to a BDC in the manner described in section 57(b) from participating in joint transactions with the BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by our under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the Regulated Funds and Affiliated Funds could be deemed to be a person related to a Regulated Fund in a manner described in section 57(b) of the Act. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the rules under section 17(d) of the Act applicable to registered closed-end investment companies, are deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d-1 applies to joint transaction involving a BDC.

2. Section 17(d) of the Act and rule 17d-1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d-1, the Commission will consider whether the participation by the Regulated Fund in such joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that the Co-Investment Program will increase favorable investment opportunities for the Regulated Funds and allow the Regulated Funds to participate in attractive opportunities at levels that are appropriate. The conditions are designed to ensure that GC Advisors would not be able to favor any Regulated Fund or Affiliated Funds over other Regulated Funds through the

allocation of investment opportunities among them. Applicants state that the Regulated Fund's participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that any Order granting the requested relief will be subject to the following conditions:

1. (a) The Advisers will establish, maintain and implement policies and procedures reasonably designed to ensure that each Adviser is promptly notified, for each Regulated Fund the Adviser manages, of all Potential Co-Investment Transactions that (i) an Adviser considers for any other Regulated Fund or Affiliated Fund and (ii) fall within the Regulated Fund's then-current Objectives and Strategies and Board-Established Criteria.

(b) When an Adviser to a Regulated Fund is notified of a Potential Co-Investment Transaction under condition 1(a), such Adviser will make an independent determination of the appropriateness of the investment for the Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. (a) If the Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, it will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Potential Co-Investment Transaction, together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, then the investment opportunity will be allocated among them pro rata based on each participant's Available Capital up to the amount proposed to be invested by each. The applicable Adviser will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's Available Capital to assist the Eligible Directors with their review of the Regulated Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable Adviser will distribute written information concerning the Potential Co-Investment Transaction

¹³ "Follow-On Investment" means any additional investment in an existing portfolio company whose securities were acquired in a Co-Investment Transaction, including the exercise of warrants, conversion privileges or other similar rights to acquire additional securities of the portfolio company.

(including the amount proposed to be invested by each participating Regulated Fund and Affiliated Fund) to the Eligible Directors of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with one or more other Regulated Funds and/or one or more Affiliated Funds only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its shareholders and do not involve overreaching in respect of the Regulated Fund or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) The interests of the shareholders of the Regulated Fund; and

(B) the Regulated Funds then-current Objectives and Strategies;

(iii) the investment by any other Regulated Funds or Affiliated Funds would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from or less advantageous than that of other Regulated Funds or Affiliated Funds; provided that, if any other Regulated Fund or Affiliated Fund, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) The Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the applicable Adviser agrees to, and does, provide periodic reports to the Regulated Fund's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Affiliated Fund or any Regulated Fund or any affiliated person of any Affiliated Fund or any Regulated Fund receives in connection with the right of an Affiliated Fund or a Regulated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company

will be shared proportionately among the participating Affiliated Funds (who each may, in turn, share its portion with its affiliated persons), and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the Advisers, the Affiliated Funds or the other Regulated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except

(A) to the extent permitted by condition 13;

(B) to the extent permitted by section 17(e) or 57(k) of the Act, as applicable;

(C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction; or

(D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable Adviser will present to the Board of each Regulated Fund, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or Affiliated Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies and Board Established Criteria that were not made available to the Regulated Fund, and an explanation of why the investment opportunities were not offered to the Regulated Fund. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8,¹⁴ a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund, Affiliated Fund or any affiliated person of another Regulated Fund or Affiliated Fund is an existing investor. The Adviser will maintain books and records that demonstrate compliance with this condition for each Regulated Fund.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the

¹⁴ This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Fund and Affiliated Fund. The grant to an Affiliated Fund or another Regulated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Affiliated Fund or any Regulated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Adviser will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Fund in the disposition.

(b) Each Regulated Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Affiliated Funds and Regulated Funds.

(c) A Regulated Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(d) Each Affiliated Fund and each Regulated Fund will bear its own expenses in connection with any such disposition.

8. (a) If any Affiliated Fund or any Regulated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of the opportunity is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity; then the will be allocated among them pro rata based on each party's Available Capital, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Non-Interested Directors of each Regulated Fund will be provided quarterly for review all information

concerning Potential Co-Investment Transactions that fell within the Regulated Fund's then-current Objectives and Strategies and Board-Established Criteria, including investments in Potential Co-Investment Transactions made by other Regulated Funds or Affiliated Funds that the Regulated Fund considered but declined to participate in, and concerning Co-Investment Transactions in which the Regulated Fund participated, so that the Non-Interested Directors may determine whether all Potential Co-Investment Transactions and Co-Investment Transactions during the preceding quarter, including those Potential Co-Investment Transactions which the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Non-Interested Directors will consider at least annually: (a) The continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions, and (b) the continued appropriateness of any Board-Established Criteria.

10. Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f) of the Act.

11. No Non-Interested Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an "affiliated person" (as defined in the Act) of any of the Affiliated Funds.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the Advisers under their respective investment advisory agreements with Affiliated Funds and the Regulated Funds, be shared by the Regulated Funds and the Affiliated Funds in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee¹⁵ (including break-up or commitment fees but excluding broker's fees contemplated section 17(e) or 57(k) of the Act, as applicable), received in connection with a Co-Investment Transaction will be

distributed to the participating Regulated Funds and Affiliated Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Funds and Affiliated Funds based on the amount they invest in such Co-Investment Transaction. None of the Advisers, the Affiliated Funds, the other Regulated Funds nor any affiliated person of the Regulated Funds or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C), and (b) in the case of an Adviser, investment advisory fees paid in accordance with their respective agreements between the Advisers and the Regulated Fund or Affiliated Fund).

14. If the Holders own in the aggregate more than 25% of the Shares, then the Holders will vote such Shares as directed by an independent third party when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) all other matters under either the Act or applicable state law affecting the Board's composition, size or manner of election.

15. Each Regulated Fund's chief compliance officer, as defined in rule 38a-1(a)(4), will prepare an annual report for its Board each year that evaluates (and documents the basis of that evaluation) the Regulated Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-02361 Filed 2-3-17; 8:45 am]

BILLING CODE 8011-01-P

¹⁵ Applicants are not requesting and the staff is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. IC-32460; File No. 812-14702]

Goldman, Sachs & Co.; Notice of Application

January 31, 2017.

AGENCY: Securities and Exchange Commission (“Commission”).

ACTION: Notice of application for an order under section 12(d)(1)(j) of the Investment Company Act of 1940 (the “Act”) for an exemption from section 12(d)(1) of the Act, under section 6(c) of the Act for an exemption from section 14(a) of the Act, and under section 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Goldman, Sachs & Co. (the “Applicant”) requests an order to amend and supersede a prior order¹ with respect to all existing and future Automatic Common Exchange Security Trusts (“ACES Trusts”) and future trusts that are substantially similar to the ACES Trusts and for which Applicant will serve as a principal underwriter (collectively, the “Trusts”) that would (i) permit other registered investment companies, and companies excepted from the definition of investment company under section 3(c)(1) or (3)(c)(7) of the Act, to own a greater percentage of the total outstanding voting stock (the “Securities”) of any Trust than that permitted by section 12(d)(1), (ii) exempt the Trusts from the initial net worth requirements of section 14(a), and (iii) permit the Trusts to purchase U.S. government securities from Applicant at the time of a Trust’s initial issuance of Securities.

FILING DATE: The application was filed on September 21, 2016.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 27, 2017, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a

hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090; Applicant: 200 West Street, New York, NY 10282.

FOR FURTHER INFORMATION CONTACT: Robert Shapiro, Senior Counsel, at (202) 551-7758 or Mary Kay Frech, Branch Chief, at (202) 551-6821 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission’s Web site by searching for the file number, or an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

Applicant’s Representations

1. Each Trust will be a limited-life, grantor trust registered under the Act as a non-diversified, closed-end management investment company. Applicant will serve as a principal underwriter (as defined in section 2(a)(29) of the Act) of the Securities issued by each Trust (including in offerings under Rule 144A under the Securities Act of 1933 (“Rule 144A”).

2. Each Trust will, at the time of its issuance of Securities, (i) enter into one or more forward purchase contracts (the “Contracts”) with a counterparty to purchase a formulaically-determined number of a specified equity security or securities (the “Shares”) of one specified issuer,² and (ii) in some cases, purchase certain U.S. Treasury securities (“Treasuries”), which may include interest-only or principal-only securities maturing at or prior to the Trust’s termination. The Trusts will purchase the Contracts from counterparties that are not affiliated with either the relevant Trust or Applicant. The investment objective of each Trust will be to provide to each holder of Securities (“Holder”) (i) current cash distributions from the proceeds of any Treasuries, and (ii) participation in, or limited exposure to, changes in the market value of the underlying Shares.

² No Trust will hold Contracts initially relating to the Shares of more than one issuer. However, if certain events specified in the Contracts occur (such as the spin-off by the issuer of Shares of securities of another issuer to the holders of the Shares) the Trust may receive at the termination of the Contracts shares of more than one issuer.

3. In all cases, the Shares will trade in the secondary market and the issuer of the Shares will be a reporting company under the Securities Exchange Act of 1934. The number of Shares, or the value thereof, that will be delivered to a Trust pursuant to the Contracts may be fixed (e.g., one Share per Security issued) or may be determined pursuant to a formula, the product of which will vary with the price of the Shares during a period proximate to the termination of the Contracts and the Trust. A formula generally will result in each Holder of Securities receiving fewer Shares as the market value of the Shares increases, and more Shares as their market value decreases.³ At the termination of each Trust, each Holder will receive the number of Shares per Security, or the value thereof, as determined by the terms of the Contracts, that is equal to the Holder’s pro rata interest in the Shares or amount received by the Trust under the Contracts.⁴

4. Securities issued by the Trusts in a public offering (but not a private offering) will be listed on a national securities exchange. Thus, Securities issued in a public offering will be “national market system” securities subject to public price quotation and trade reporting requirements. After the Securities are issued, the trading price of the Securities is expected to vary from time to time based primarily upon the price of the underlying Shares, interest rates, and other factors affecting conditions and prices in the debt and equity markets. Applicant currently intends, but will not be obligated, to make a market in the Securities of each Trust.

5. Each Trust will be internally managed by three trustees and will not have a separate investment adviser. The trustees will have limited or no power to vary the investments held by each Trust. A bank or banks qualified to serve as a trustee under the Trust Indenture Act of 1939, as amended, will act as custodian for each Trust’s assets and as administrator, paying agent, registrar, and transfer agent with respect to the

³ A formula is likely to limit the Holder’s participation in any appreciation of the underlying Shares, and it may, in some cases, limit the Holder’s exposure to any depreciation in the underlying Shares. It is anticipated that the Holders will receive a yield greater than the ordinary dividend yield on the Shares at the time of the issuance of the Securities, which is intended to compensate Holders for the limit on the Holders’ participation in any appreciation of the underlying Shares. In some cases, there may be an upper limit on the value of the Shares that a Holder will ultimately receive.

⁴ The contracts may provide for an option on the part of a counterparty to deliver Shares, cash, or a combination of Shares and cash to the Trust at the termination of each Trust.

¹ Investment Company Act Release Nos. 22578 (March 21, 1997) (notice) and 22622 (April 16, 1997) (order).

Securities of each Trust. Any such bank will have no other affiliation with, and will not be engaged in any other transaction with, any Trust. The day-to-day administration of each Trust will be carried out by Applicant or by the bank.

6. The Trusts will be structured so that the trustees are not authorized to sell the Contracts or Treasuries under any circumstances or are permitted to sell them only under specified limited circumstances. If the trustees of the Trusts are not authorized to dispose of the Contracts in any circumstances, the Trusts will hold such Contracts until maturity or any earlier acceleration, at which time they will be settled according to their terms. However, the occurrence of certain defaults by a counterparty under a Contract (including, by way of example, the bankruptcy or insolvency of such counterparty) might result in the acceleration of the obligations of one or more counterparties under Contracts with the Trust. If all the Contracts with a Trust were to be so accelerated, that Trust would be terminated immediately after the distributions received from the accelerated Contracts were distributed to Holders.

7. The trustees of each Trust will be selected initially by Applicant, together with any other initial Holders, or by the grantors of the Trust. The Holders of each Trust will have the right, upon the declaration in writing or vote of more than two-thirds of the outstanding Securities of the Trust, to remove a trustee. Holders will be entitled to a full vote, for each Security held, on all matters to be voted on by Holders and will not be able to cumulate their votes in the election of trustees. The investment objectives and policies of each Trust may be changed only with the approval of a "majority of the Trust's outstanding Securities"⁵ or any greater number required by the Trust's constituent documents. Unless Holders so request, it is not expected that the Trusts will hold any meetings of Holders, or that Holders will ever vote.

8. The Trusts will not be entitled to any rights with respect to the Shares until any Contracts requiring delivery of the Shares to the Trust are settled, at which time the Shares will be promptly distributed to Holders. The Holders, therefore, will not be entitled to any rights with respect to the Shares (including voting rights or the right to receive any dividends or other

distributions) until receipt by them of the Shares at the time the Trust is liquidated.

9. Each Trust's organizational and ongoing expenses will not be borne by the Holders, but rather, directly or indirectly, by Applicant, the counterparties, or another third party, as will be described in the prospectus for the relevant Trust. At the time of the original issuance of the Securities of any Trust, there will be paid to each of the administrator, the custodian, and the paying agent, and to each trustee, a one-time amount in respect of such agent's or trustee's fee over the term of the Trust and, in the case of the administrator, anticipated expenses of the Trust over its term. Any expenses of the Trust in excess of this anticipated amount will be paid as incurred by a party other than the Trust itself (which party may be Applicant).

10. Applicant asserts that the investment product offered by the Trusts serves a valid business purpose. The Trusts, unlike most registered investment companies, are not marketed to provide investors with either professional investment asset management or the benefits of investment in a diversified pool of assets. Rather, Applicant asserts that the Securities are intended to provide Holders with an investment having unique payment and risk characteristics, including an anticipated higher current yield than the ordinary dividend yield on the Shares at the time of the issuance of the Securities.

Applicant's Legal Analysis

Section 12(d)(1)

1. Section 12(d)(1)(A)(i) of the Act prohibits (i) any registered investment company from owning in the aggregate more than 3% of the total outstanding voting stock of any other investment company, and (ii) any investment company from owning in the aggregate more than 3% of the total outstanding voting stock of any registered investment company. A company that is excepted from the definition of investment company under section 3(c)(1) or (c)(7) of the Act is deemed to be an investment company for purposes of section 12(d)(1)(A)(i) of the Act under sections 3(c)(1) and (c)(7)(D) of the Act. Section 12(d)(1)(C) of the Act similarly prohibits any investment company, other investment companies having the same investment adviser, and companies controlled by such investment companies from owning more than 10% of the total outstanding voting stock of any closed-end investment company.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1), if, and to the extent that, the exemption is consistent with the public interest and protection of investors.

3. Applicant states that, in order for the Trusts to be marketed most successfully, and to be traded at a price that most accurately reflects their value, it is necessary for the Securities of each Trust to be offered to large investment companies and investment company complexes. Applicant states that these investors seek to spread the fixed costs of analyzing specific investment opportunities by making sizable investments in those opportunities. Conversely, Applicant asserts that it may not be economically rational for the investors, or their advisers, to take the time to review an investment opportunity if the amount that the investors would ultimately be permitted to purchase is immaterial in light of the total assets of the investment company or investment company complex. Therefore, Applicant argues that in order for the Trusts to be economically attractive to large investment companies and investment company complexes, these investors should be able to acquire Securities in each Trust in excess of the limitations imposed by sections 12(d)(1)(A)(i) and 12(d)(1)(C). Applicant requests that the Commission issue an order under section 12(d)(1)(J) exempting the Trusts from such limitations.

4. Applicant states that section 12(d)(1) was designed to prevent one investment company from buying control of other investment companies and creating complicated pyramidal structures. Applicant also states that section 12(d)(1) was intended to address the layering of costs to investors.

5. Applicant asserts that the concerns about pyramiding and undue influence generally do not arise in the case of the Trusts because neither the trustees nor the Holders will have the power to vary the investments held by each Trust or to acquire or dispose of the assets of the Trusts. To the extent that Holders can change the composition of the board of trustees or the fundamental policies of each Trust by vote, Applicant argues that any concerns regarding undue influence will be eliminated by a provision in the charter documents of the Trusts that will require any investment companies owning voting stock of any Trust in excess of the limits imposed by sections 12(d)(1)(A)(i) and 12(d)(1)(C) to vote their Securities in proportion to the votes of all other Holders. Applicant also states that the

⁵ A "majority of the Trust's outstanding Securities" means the lesser of (i) 67% of the Securities represented at a meeting at which more than 50% of the outstanding Securities are represented, and (ii) more than 50% of the outstanding Securities.

concern about undue influence through a threat to redeem does not arise in the case of the Trusts because the Securities will not be redeemable.

6. Section 12(d)(1) also was designed to address the excessive costs and fees that may result from multiple layers of investment companies. Applicant states that these concerns do not arise in the case of the Trusts because of the limited ongoing fees and expenses incurred by the Trusts and because generally these fees and expenses will be borne, directly or indirectly, by Applicant or another third party, not by the Holders. In addition, the Holders will not, as a practical matter, bear the organizational expenses (including underwriting expenses) of the Trusts. Applicant asserts that the organizational expenses effectively will be borne by the counterparties in the form of a discount in the price paid to them for the Contracts, or will be borne directly by Applicant, the counterparties, or other third parties. Thus, a Holder will not pay duplicative charges to purchase securities in any Trust. Finally, there will be no duplication of advisory fees because the Trusts will be internally managed by their trustees.

Section 14(a)

7. Section 14(a) of the Act requires, in pertinent part, that an investment company have a net worth of at least \$100,000 before making any public offering of its shares. The purpose of section 14(a) is to ensure that investment companies are adequately capitalized prior to or simultaneously with the sale of their securities to the public. Rule 14a-3 exempts from section 14(a) unit investment trusts ("UITs") that meet certain conditions in recognition of the fact that, once the units are sold, a UIT requires much less commitment on the part of the sponsor than does a management investment company. Rule 14a-3 provides that a UIT investing in eligible trust securities shall be exempt from the net worth requirement, provided that, among other things, the trust holds at least \$100,000 of eligible trust securities at the commencement of a public offering.

8. Section 6(c) of the Act provides that the Commission may exempt persons or transactions if, and to the extent that, the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

9. Applicant requests an order under section 6(c) exempting the Trusts from the requirements of section 14(a). Applicant believes that the exemption is

appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the Act. Applicant asserts that, while the Trusts are classified as management companies, they have the characteristics of UITs. Investors in the Trusts, like investors in a UIT, will not be purchasing interests in a managed pool of securities, but rather in a fixed and disclosed portfolio that is held until maturity. Applicant believes therefore, that there is no need for an ongoing commitment on the part of the underwriter.

10. Applicant states that, in order to ensure that each Trust will become a going concern, the Securities will be offered pursuant to firm commitment arrangements, whether in an offering registered under the Securities Act of 1933 (the "1933 Act") or in a private placement, in either event resulting in net proceeds to each Trust of at least \$10,000,000. If the Securities of a Trust are placed in an offering registered under the 1933 Act, prior to the issuance and delivery of such Securities to the underwriters, the underwriters will enter into an underwriting agreement pursuant to which they will agree to purchase the Securities subject to customary conditions to closing. The underwriters will not be entitled to purchase less than all of such Securities. If the Securities of a Trust are placed in a private offering, prior to the issuance and delivery of such Securities, the placement agent(s) (or initial purchasers) will enter into a placement agent agreement (or purchase agreement) pursuant to which they will agree to purchase the Securities subject to customary conditions to closing. The placement agent(s) or initial purchasers will not be entitled to purchase less than all of such Securities. Accordingly, Applicant states that either the offering will not be completed at all or each Trust will have a net worth substantially in excess of \$100,000 on the date of the issuance of the Securities. Applicant also does not anticipate that the net worth of the Trusts will fall below \$100,000 before they are terminated.

Section 17(a)

11. Sections 17(a)(1) and (2) of the Act generally prohibit the principal underwriter, or any affiliated person of the principal underwriter, of a registered investment company from selling or purchasing any securities to or from that investment company. The result of these provisions is to preclude the Trusts from purchasing Treasuries from Applicant.

12. Section 17(b) of the Act provides that the Commission shall exempt a

proposed transaction from section 17(a) if evidence establishes that the terms of the proposed transaction are reasonable and fair and do not involve overreaching, and the proposed transaction is consistent with the policies of the registered investment company involved and the purposes of the Act. Applicant requests an exemption from sections 17(a)(1) and (2) to permit the Trusts to purchase Treasuries from Applicant.

13. Applicant states that the policy rationale underlying section 17(a) is the concern that an affiliated person of an investment company, by virtue of this relationship, could cause the investment company to purchase securities of poor quality from the affiliated person or to overpay for securities. Applicant argues that it is unlikely that it would be able to exercise any adverse influence over the Trusts with respect to purchases of Treasuries because Treasuries do not vary in quality and are traded in one of the most liquid markets in the world. Treasuries are available through both primary and secondary dealers, making the Treasury market very competitive. In addition, market prices on Treasuries can be confirmed on a number of commercially available information screens. Applicant argues that because it is one of a limited number of primary dealers in Treasuries, it will be able to offer the Trusts prompt execution of their Treasury purchases at very competitive prices.

14. Applicant states that it is only seeking relief from section 17(a) with respect to the initial purchase of the Treasuries and not with respect to an ongoing course of business. Consequently, investors will know before they purchase a Trust's Securities the Treasuries that will be owned by the Trust and the amount of the cash payments that will be provided periodically by the Treasuries to the Trust and distributed to Holders. Applicant also asserts that whatever risk there is of overpricing the Treasuries will be borne by the counterparties and not by the Holders because the cost of the Treasuries will be calculated into the amount paid on the Contracts. Applicant argues that, for this reason, the counterparties will have a strong incentive to monitor the price paid for the Treasuries, because any overpayment could result in a reduction in the amount that they would be paid on the Contracts.

Applicant's Conditions

Applicant agrees that the order granting the requested relief will be subject to the following conditions:

1. Any investment company owning voting stock of any Trust in excess of the limits imposed by section 12(d)(1) of the Act will be required by the Trust's charter documents, or will undertake, to vote its Trust shares in proportion to the vote of all other Holders.

2. The trustees of each Trust, including a majority of the trustees who are not interested persons of the Trust, (a) will adopt procedures that are reasonably designed to provide that the conditions set forth below have been complied with; (b) will make and approve such changes as are deemed necessary; and (c) will determine that the transactions made pursuant to the order were effected in compliance with such procedures.

3. The Trusts (1) will maintain and preserve in an easily accessible place a written copy of the procedures (and any modifications thereto), and (ii) will maintain and preserve for the longer of (x) the life of the Trusts and (y) six years following the purchase of any Treasuries, the first two years in an easily accessible place, a written record of all Treasuries purchased, whether or not from Applicant, setting forth a description of the Treasuries purchased, the identity of the seller, the terms of the purchase, and the information or materials upon which the determinations described below were made.

4. The Treasuries to be purchased by each Trust will be sufficient to provide payments to Holders that are consistent with the investment objectives and policies of the Trust as recited in the Trust's registration statement and will be consistent with the interests of the Trust and the Holders of its Securities.

5. The terms of the transactions will be reasonable and fair to the Holders of the Securities issued by each Trust and will not involve overreaching of the Trust or the Holders of Securities of the Trust on the part of any person concerned.

6. The fee, spread, or other remuneration to be received by Applicant will be reasonable and fair compared to the fee, spread, or other remuneration received by dealers in connection with comparable transactions at such time, and will comply with section 17(e)(2)(C) of the Act.

7. Before any Treasuries are purchased by the Trust, the Trust must obtain such available market information as it deems necessary to determine that the price to be paid for, and the terms of, the transaction are at least as favorable as that available from other sources. This shall include the Trust obtaining and documenting the

competitive indications with respect to the specific proposed transaction from two other independent government securities dealers. Competitive quotation information must include price and settlement terms. These dealers must be those who, in the experience of the Trust's trustees, have demonstrated the consistent ability to provide professional execution of Treasury transactions at competitive market prices. They also must be those who are in a position to quote favorable prices.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-02360 Filed 2-3-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[**Securities Act of 1933, Release No. 33-10297/January 31, 2017; Securities Exchange Act of 1934, Release No. 34-79912/January 31, 2017**]

Order Regarding Review of FASB Accounting Support Fee for 2017 Under Section 109 of The Sarbanes-Oxley Act of 2002

The Sarbanes-Oxley Act of 2002 (the "Act") provides that the Securities and Exchange Commission (the "Commission") may recognize, as generally accepted for purposes of the securities laws, any accounting principles established by a standard setting body that meets certain criteria. Consequently, Section 109 of the Act provides that all of the budget of such a standard setting body shall be payable from an annual accounting support fee assessed and collected against each issuer, as may be necessary or appropriate to pay for the budget and provide for the expenses of the standard setting body, and to provide for an independent, stable source of funding, subject to review by the Commission. Under Section 109(f) of the Act, the amount of fees collected for a fiscal year shall not exceed the "recoverable budget expenses" of the standard setting body. Section 109(h) amends Section 13(b)(2) of the Securities Exchange Act of 1934 to require issuers to pay the allocable share of a reasonable annual accounting support fee or fees, determined in accordance with Section 109 of the Act.

On April 25, 2003, the Commission issued a policy statement concluding that the Financial Accounting Standards Board ("FASB") and its parent organization, the Financial Accounting

Foundation ("FAF"), satisfied the criteria for an accounting standard-setting body under the Act, and recognizing the FASB's financial accounting and reporting standards as "generally accepted" under Section 108 of the Act.¹ As a consequence of that recognition, the Commission undertook a review of the FASB's accounting support fee for calendar year 2017.² In connection with its review, the Commission also reviewed the budget for the FAF and the FASB for calendar year 2017.

Section 109 of the Act also provides that the standard setting body can have additional sources of revenue for its activities, such as earnings from sales of publications, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual or perceived independence of the standard setter. In this regard, the Commission also considered the interrelation of the operating budgets of the FAF, the FASB, and the Governmental Accounting Standards Board ("GASB"), the FASB's sister organization, which sets accounting standards used by state and local government entities. The Commission has been advised by the FAF that neither the FAF, the FASB, nor the GASB accept contributions from the accounting profession.

The Commission understands that the Office of Management and Budget ("OMB") has determined the FASB's spending of the 2017 accounting support fee is sequestrable under the Budget Control Act of 2011.³ So long as sequestration is applicable, we anticipate that the FAF will work with the Commission and Commission staff as appropriate regarding its implementation of sequestration.

The Commission understands that FASB recently conducted a review of its Investor Advisory Committee ("IAC"). We anticipate that the FASB will keep the Commission informed of IAC-related actions, including any efforts the FASB undertakes to improve the functioning of the IAC. In this regard, the Commission requests that the FASB provide the Commission with quarterly updates of its efforts to reach a broader set of investors as well as the IAC's recommendations, funding,

¹ Financial Reporting Release No. 70.

² The Financial Accounting Foundation's Board of Trustees approved the FASB's budget on November 15, 2016. The FAF submitted the approved budget to the Commission on November 22, 2016.

³ See "OMB Report Pursuant to the Sequestration Transparency Act of 2012" (Pub. L. 112-155), page 222 of 224 at: http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/stareport.pdf.

membership, meetings, research, and substantive public sessions.

The Commission understands that the FASB continues to take steps to implement improvements to the performance and management of its standard-setting process. The Commission requests that the FASB provide the Commission with timely updates throughout the year on the progress of this initiative as well as on any significant recommended or anticipated changes to processes or funding.

The Commission requests that the FASB conduct an assessment of the efficiency and effectiveness of the U.S. GAAP Financial Reporting Taxonomy and report the findings, including suggested improvements, to the Commission prior to the FAF's approval of the FASB's 2018 budget and associated accounting support fee for review by the Commission. The Commission also requests that the FAF provide information to the Commission regarding the nature, timing, and extent of public solicitation of potential candidates for FASB Board member vacancies.

After its review, the Commission determined that the 2017 annual accounting support fee for the FASB is consistent with Section 109 of the Act. Accordingly,

It is ordered, pursuant to Section 109 of the Act, that the FASB may act in accordance with this determination of the Commission.

By the Commission.

Brent J. Fields,
Secretary.

[FR Doc. 2017-02413 Filed 2-3-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79911; File No. SR-NYSEMKT-2017-02]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, To Adopt the Rule 6800 Series To Implement the Compliance Rule Regarding the National Market System Plan Governing the Consolidated Audit Trail

January 31, 2017.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³

notice is hereby given that, on January 17, 2017, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On January 30, 2017, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposed rule change to adopt the Rule 6800 Series to implement the compliance rule ("Compliance Rule") regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan").⁴ The proposed rule change is available on the Exchange's Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

This Amendment No. 1 amends and replaces in its entirety the original proposal filed by the Exchange on January 17, 2017. The Exchange submits this Amendment No. 1 in order to clarify certain points and add additional details to the Compliance Rule as proposed herein.

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, Investors' Exchange LLC, ISE Gemini, LLC, ISE Mercury, LLC, Miami International Securities Exchange LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. (collectively, the "Participants") filed with the Commission, pursuant to Section 11A of the Exchange Act⁵ and Rule 608 of Regulation NMS thereunder,⁶ the CAT NMS Plan.⁷ The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,⁸ and approved by the Commission, as modified, on November 15, 2016.⁹

The Plan is designed to create, implement and maintain a consolidated audit trail ("CAT") that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Each Participant is required to enforce compliance by its Industry Member, as applicable, with the provisions of the Plan, by adopting a Compliance Rule applicable to their Industry Members.¹⁰ As is described

⁵ 15 U.S.C. 78k-1.

⁶ 17 CFR 242.608.

⁷ See Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. See Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

⁸ See Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

⁹ See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) ("Order Approving the National Market System Plan Governing the Consolidated Audit Trail") ("Approval Order").

¹⁰ See SEC Rule 613(g)(1). The proposed Rule 6800 Series would be applicable to member organization. The term "member organization" is defined in Rule 24 (Office Rules) as "a partnership, corporation or such other entity as the Exchange may, by Rule, permit to become a member organization, and which meets the qualifications specified in the Rules." The term "member organization" is defined in Rule 2(b)(i) (Equities

Continued

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein or in the CAT NMS Plan.

more fully below, the proposed Rule 6800 Series sets forth the Compliance Rule to require Industry Members to comply with the provisions of the CAT NMS Plan. The requirements of the proposed Rule 6800 Series would apply to Industry Members of the Exchange's equities and options markets.¹¹ The proposed Rule 6800 Series includes twelve proposed rules covering the following areas: (1) Definitions; (2) clock synchronization; (3) Industry Member Data reporting; (4) Customer information reporting; (5) Industry Member information reporting; (6) time stamps; (7) clock synchronization rule violations; (8) connectivity and data transmission; (9) testing; (10) recordkeeping; (11) timely, accurate and complete data; and (12) compliance dates. Each of these proposed rules is discussed in detail below.

(i) Definitions

Proposed Rule 6810 (Consolidated Audit Trail—Definitions) sets forth the definitions for the terms used in the proposed Rule 6800 Series. Each of the defined terms in proposed Rule 6810 is discussed in detail in this section.

(A) Account Effective Date

(I) Customer Information Approach

SEC Rule 613 requires that numerous data elements be reported to the CAT to ensure there is sufficient information to create the lifecycle of an order, and provide regulators with sufficient detail about an order to perform their regulatory duties. Certain required elements are intended to ensure that the regulators can identify the Customer's associated with orders. For example, SEC Rule 613(c)(7)(i)(A) requires an Industry Member to report the

Rules) as a registered broker or dealer (unless exempt pursuant to the Securities Exchange Act of 1934) (the "Act") that is a member of the Financial Industry Regulatory Authority, Inc. ("FINRA") or another registered securities exchange. Member organizations that transact business with public customers or conduct business on the Floor of the Exchange shall at all times be members of FINRA. A registered broker or dealer must also be approved by the Exchange and authorized to designate an associated natural person to effect transactions on the floor of the Exchange or any facility thereof. This term shall include a natural person so registered, approved and licensed who directly effects transactions on the floor of the Exchange or any facility thereof." The term "member organization" also includes any registered broker or dealer that is a member of FINRA or a registered securities exchange, consistent with the requirements of section 2(b)(i) of this Rule, which does not own a trading license and agrees to be regulated by the Exchange as a member organization and which the Exchange has agreed to regulate." See Rule 2(a)(ii) (Equities Rules).

¹¹ A rule reference has been added to Rule 0—Equities to make clear that the proposed rule applies to transactions conducted on the Equities Trading Systems.

"Customer-IDs" for each Customer for the original receipt or origination of an order. "Customer-ID" is defined in SEC Rule 613(j)(5) to mean "with respect to a customer, a code that uniquely and consistently identifies such customer for purposes of providing data to the Central Repository." SEC Rule 613(c)(8) requires Industry Members to use the same Customer-ID for each Customer. The SEC granted the Participants exemptive relief to permit the use of an alternative approach to the requirement that an Industry Member report a Customer-ID for every Customer upon original receipt or origination.¹² The alternative approach is called the Customer Information Approach.

Under the Customer Information Approach, the CAT NMS Plan would require each Industry Member to assign a unique Firm Designated ID to each Customer. As the Firm Designated ID, Industry Members would be permitted to use an account number or any other identifier defined by the firm, provided each identifier is unique across the firm for each business date (*i.e.*, a single firm may not have multiple separate customers with the same identifier on any given date). Prior to their commencement of reporting to the CAT, Industry Members would submit an initial set of Customer information to the Central Repository, including the Firm Designated ID, Customer Identifying Information and Customer Account Information (which may include, as applicable, the Customer's name, address, date of birth, individual tax payer identifier number ("ITIN")/social security number ("SSN"), individual's role in the account (*e.g.*, primary holder, joint holder, guardian, trustee, person with power of attorney) and LEI and/or Larger Trader ID ("LTID")). This process is referred to as the customer definition process.

In accordance with the Customer Information Approach, Industry Members would be required to report only the Firm Designated ID for each new order submitted to the Central Repository, rather than the "Customer-ID" with individual order events. Within the Central Repository, each Customer would be uniquely identified by identifiers or a combination of identifiers such as ITIN/SSN, date of birth, and as applicable, LEI and LTID. The Plan Processor would be required to use these unique identifiers to map

¹² See Securities Exchange Act Release No. 77265 (March 1, 2016), 81 FR 11856 (March 7, 2016) ("Exemption Order"). See also Letter from Participants to Brent J. Fields, Secretary, Commission, dated January 30, 2015 at 12 ("Exemptive Request Letter"); and CAT NMS Plan at Appendix C, Section A.1(a)(iii).

orders to specific Customers across all Industry Members and Participants. To ensure information identifying a Customer is up to date, Industry Members would be required to submit to the Central Repository daily and periodic updates for reactivated accounts, newly established accounts, and revised Firm Designated IDs or associated reportable Customer information.

(II) Definition of Account Effective Date

In connection with the Customer Information Approach, Industry Members would be required to report Customer Account Information to the Central Repository. "Customer Account Information" is defined in SEC Rule 613(j)(4) to "include, but not be limited to, account number, account type, customer type, date account opened, and large trader identifier (if applicable)." Therefore, when reporting Customer Account Information, and Industry Member is required to report the date an account was opened. The Participants requested and received an exemption to allow an "Account Effective Date" to be reported in lieu of an account open date in certain limited circumstances. The definition of "Account Effective Date" as set forth in paragraph (a) of proposed Rule 6810 describes those limited circumstances in which an Industry Member may report an "Account Effective Date" rather than the account open date. The proposed definition is the same as the definition of "Account Effective Date" set forth in Section 1.1 of the CAT NMS Plan, provided, however, that specific dates have replaced the descriptions of those dates set forth in Section 1.1 of the Plan.

Specifically, Paragraph (a)(1) defines "Account Effective Date" to mean, with regard to those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution: (1) When the trading relationship was established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, either (a) the date the relationship identifier was established within the Industry Member; (b) the date when trading began (*i.e.*, the date the first order was received) using the relevant relationship identifier; or (c) if both dates are available, the earlier date will be used to the extent that the dates differ; or (2) when the trading relationship was established on or after November 15, 2018 for Industry Members other than Small Industry Members, or on or after November 15, 2019 for Small Industry

Members, the date the Industry Member established the relationship identifier, which would be no later than the date the first order was received.

Paragraph (a)(2) of proposed Rule 6810 states that an “Account Effective Date” means, where an Industry Member changes back office providers or clearing firms prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the date an account was established at the relevant Industry Member, either directly or via transfer.

Paragraph (a)(3) states that an “Account Effective Date” means, where an Industry Member acquires another Industry Member prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the date an account was established at the relevant Industry Member, either directly or via transfer.

Paragraph (a)(4) states that “Account Effective Date” means, where there are multiple dates associated with an account established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the earliest available date.

Paragraph (a)(5) states that an “Account Effective Date” means, with regard to Industry Member proprietary accounts established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members: (1) The date established for the account in the Industry Member or in a system of the Industry Member or (2) the date when proprietary trading began in the account (*i.e.*, the date on which the first orders were submitted from the account). With regard to paragraphs (a)(2)—(5), the Account Effective Date will be no later than the date trading occurs at the Industry Member or in the Industry Member’s system.

(B) Active Account

Under the Customer Information Approach, Industry Members are required to report Customer Identifying Information and Customer Account Information for only those accounts that are active. This will alleviate the need for Industry Members to update such information for non-active accounts, but still ensure that the Central Repository will collect audit trail data for Customer accounts that have any Reportable Events. Accordingly, paragraph (b) of proposed Rule 6810 defines an “Active Account” as an account that has had

activity in Eligible Securities within the last six months. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(C) Allocation Report

(I) Allocation Report Approach

SEC Rule 613(c)(7)(vi)(A) requires each Industry Member to record and report to the Central Repository “the account number for any subaccounts to which the execution is allocated (in whole or in part).” The SROs requested and received from the SEC exemptive relief from SEC Rule 613 for an alternative to this approach (“Allocation Report Approach”). The Allocation Report Approach would permit Industry Members to record and report to the Central Repository an Allocation Report that includes, among other things, the Firm Designated ID for any account(s) to which executed shares are allocated when an execution is allocated in whole or part in lieu of requiring the reporting of the account number for any subaccount to which an execution is allocated, as is required by SEC Rule 613.¹³ Under SEC Rule 613, regulators would be able to link the subaccount to which an allocation was made to a specific order. In contrast, under the Allocation Report Approach, regulators would only be able to link an allocation to the account to which it was made, and not to a specific order.

(II) Definition of Allocation Report

To assist in implementing the Allocation Report Approach, paragraph (c) of proposed Rule 6810 defines an “Allocation Report.” Specifically, an “Allocation Report” means a report made to the Central Repository by an Industry Member that identifies the Firm Designated ID for any account(s), including subaccount(s), to which executed shares are allocated and provides the security that has been allocated, the identifier of the firm reporting the allocation, the price per share of shares allocated, the side of shares allocated, the number of shares allocated to each account, and the time of the allocation; provided, for the avoidance of doubt, any such Allocation Report shall not be required to be linked to particular orders or executions. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(D) Business Clock

To create the required audit trail, Industry Members are required to record the date and time of various Reportable Events to the Central Repository.

¹³ See Exemptive Request Letter, *supra* note 12, at 26–27; and Exemption Order.

Industry Members will use “Business Clocks” to record such dates and times. Accordingly, paragraph (d) of proposed Rule 6810 defines the term “Business Clock” as a clock used to record the date and time of any Reportable Event required to be reported under this Rule 6800 Series. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, except the Exchange proposes to replace the phrase “under SEC Rule 613” at the end of the definition in Section 1.1 of the Plan with the phrase “under this Rule Series.” This change is intended to recognize that the Industry Members’ obligations with regard to the CAT are set forth in this Rule 6800 Series.

(E) CAT

Paragraph (e) of proposed Rule 6810 defines the term “CAT” to mean the consolidated audit trail contemplated by SEC Rule 613. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(F) CAT NMS Plan

Paragraph (f) of proposed Rule 6810 defines the term “CAT NMS Plan” to mean the National Market System Plan Governing the Consolidated Audit Trail, as amended from time to time.

(G) CAT-Order-ID

(I) Daisy Chain Approach

Under the CAT NMS Plan, the Daisy Chain Approach is used to link and reconstruct the complete lifecycle of each Reportable Event in CAT. According to this Approach, Industry Members assign their own identifiers to each order event. Within the Central Repository, the Plan Processor later replaces the identifier provided by the Industry Member for each Reportable Event with a single identifier, called the CAT Order-ID, for all order events pertaining to the same order. This CAT Order-ID is used to link the Reportable Events related to the same order.

(II) Definition of CAT-Order-ID

To implement the Daisy Chain Approach, paragraph (g) of proposed Rule 6810 defines the term “CAT-Order-ID.” The term “CAT-Order-ID” is defined to mean a unique order identifier or series of unique order identifiers that allows the Central Repository to efficiently and accurately link all Reportable Events for an order, and all orders that result from the aggregation or disaggregation of such order. This is the same definition as set forth in SEC Rule 613(j)(1), and Section 1.1 of the CAT NMS Plan defines “CAT-Order-ID” by reference to SEC Rule 613(j)(1).

(H) CAT Reporting Agent

The CAT NMS Plan permits an Industry Member to use a third party, such as a vendor, to report the required data to the Central Repository on behalf of the Industry Member.¹⁴ Such a third party, referred to in this proposed Rule 6800 Series as a “CAT Reporting Agent,” would be one type of a Data Submitter, that is, a party that submit data to the Central Repository. Paragraph (h) of proposed Rule 6810 defines the term “CAT Reporting Agent” to mean a Data Submitter that is a third party that enters into an agreement with an Industry Member pursuant to which the CAT Reporting Agent agrees to fulfill such Industry Member’s reporting obligations under this Rule 6800 Series.

This definition is based on FINRA’s definition of a “Reporting Agent” as set forth in FINRA’s rule related to its Order Audit Trail System (“OATS”). Specifically, FINRA Rule 7410(n) defines a “Reporting Agent” as a third party that enters into any agreement with a member pursuant to which the Reporting Agent agrees to fulfill such member’s obligations under FINRA Rule 7450. The Reporting Agent for OATS fulfills a similar role to the CAT Reporting Agent.

(I) Central Repository

Paragraph (i) of proposed Rule 6810 defines the term “Central Repository” to mean the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT pursuant to SEC Rule 613 and the CAT NMS Plan. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, except the Exchange proposes to use the phrase “CAT NMS Plan” in place of the phrase “this Agreement.”

(J) Compliance Threshold

Paragraph (j) of proposed Rule 6810 defines the term “Compliance Threshold” as having the meaning set forth in proposed Rule 6893(d). This definition has the same substantive meaning as the definition set forth in Section 1.1 of the CAT NMS Plan. As discussed in detail below with regard to proposed Rule 6893(d), each Industry Member is required to meet a separate compliance threshold which will be an Industry Member-specific rate that may be used as the basis for further review or investigation into the Industry Member’s performance with regard to the CAT. This Industry Member-specific rate is the “Compliance Threshold.”

(K) Customer

Industry Members are required to submit to the Central Repository certain information related to their Customers, including Customer Identifying Information and Customer Account Information, as well as data related to their Customer’s Reportable Events. Accordingly, paragraph (k) of proposed Rule 6810 proposes to define the term “Customer.” Specifically, the term “Customer” would be defined to mean: (1) the account holder(s) of the account at an Industry Member originating the order; and (2) any person from whom the Industry Member is authorized to accept trading instructions for such account, if different from the account holder(s). This is the same definition as set forth in SEC Rule 613(j)(3), except the Exchange proposes to replace the references to a registered broker-dealer or broker-dealer with a reference to an Industry Member for consistency of terms used in the proposed Rule 6800 Series. The Exchange also notes that Section 1.1 of the CAT NMS Plan defines “Customer” by reference to SEC Rule 613(j)(3).

(L) Customer Account Information

As discussed above, under the Customer Information Approach, Industry Members are required to report Customer Account Information to the Central Repository as part of the customer definition process. Accordingly, the Exchange proposes to define the term “Customer Account Information” to clarify what customer information would need to be reported to the Central Repository.

Paragraph (l) of proposed Rule 6810 defines the term “Customer Account Information” to include, in part, account number, account type, customer type, date account opened, and large trader identifier (if applicable). Proposed Rule 6810(l), however, provides an alternative definition of “Customer Account Information” in two limited circumstances. First, in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will (1) provide the Account Effective Date in lieu of the “date account opened”; (2) provide the relationship identifier in lieu of the “account number”; and (3) identify the “account type” as a “relationship.” Second, in those circumstances in which the relevant account was established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019

for Small Industry Members, and no “date account opened” is available for the account, the Industry Member will provide the Account Effective Date in the following circumstances: (1) Where an Industry Member changes back office providers or clearing firms and the date account opened is changed to the date the account was opened on the new back office/clearing firm system; (2) where an Industry Member acquires another Industry Member and the date account opened is changed to the date the account was opened on the post-merger back office/clearing firm system; (3) where there are multiple dates associated with an account in an Industry Member’s system, and the parameters of each date are determined by the individual Industry Member; and (4) where the relevant account is an Industry Member proprietary account. The proposed definition is the same as the definition of “Customer Account Information” set forth in Section 1.1 of the CAT NMS Plan, provided, however, that specific dates have replaced the descriptions of those dates set forth in Section 1.1 of the Plan.

(M) Customer Identifying Information

As discussed above, under the Customer Information Approach, Industry Members are required to report Customer Identifying Information to the Central Repository as part of the customer definition process. Accordingly, SRO [sic] proposes to define the term “Customer Account Information” to clarify what Customer information would need to be reported to the Central Repository.

Paragraph (m) of proposed Rule 6810 defines the term “Customer Identifying Information” to mean information of sufficient detail to identify a Customer. With respect to individuals, “Customer Identifying Information” includes, but is not limited to, name, address, date of birth, individual tax payer identification number (“ITIN”)/social security number (“SSN”), individual’s role in the account (e.g., primary holder, joint holder, guardian, trustee, person with the power of attorney). With respect to legal entities, “Customer Identifying Information” includes, but is not limited to, name, address, Employer Identification Number (“EIN”)/Legal Entity Identifier (“LEI”) or other comparable common entity identifier, if applicable. The definition further notes that an Industry Member that has a LEI for a Customer must submit the Customer’s LEI in addition to other information of sufficient detail to identify the Customer. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

¹⁴ See Appendix C, Section A.1(a) of the CAT NMS Plan.

(N) Data Submitter

The CAT NMS Plan uses the term “Data Submitter” to refer to any person that reports data to the Central Repository.¹⁵ Such Data Submitters may include those entities that are required to submit data to the Central Repository (e.g., national securities exchanges, national securities associations and Industry Members), third-parties that may submit data to the CAT on behalf of CAT Reporters (i.e., CAT Reporting Agents), and outside parties that are not required to submit data to the CAT but from which the CAT may receive data (e.g., securities information processors (“SIPs”). To include this term in the proposed Rule 6800 Series, the Exchange proposes to define “Data Submitter” in paragraph (n) of proposed Rule 6810. Specifically, paragraph (n) of proposed Rule 6810 defines a “Data Submitter” to mean any person that reports data to the Central Repository, including national securities exchanges, national securities associations, broker-dealers, the SIPs for the CQS, CTA, UTP and Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (“OPRA”) Plans, and certain other vendors or third parties that may submit data to the Central Repository on behalf of Industry Members.

(O) Eligible Security

The reporting requirements of the proposed Rule 6800 Series only apply to Reportable Events in Eligible Securities. Currently, an Eligible Security includes NMS Securities and OTC Equity Securities. Accordingly, paragraph (o) of proposed Rule 6810 defines the term “Eligible Security” to include: (1) All NMS Securities; and (2) all OTC Equity Securities. The terms “NMS Securities” and “OTC Equity Securities” are defined, in turn, below. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(P) Error Rate

(I) Maximum Error Rate

Under the CAT NMS Plan, the Operating Committee sets the maximum Error Rate that the Central Repository would tolerate from an Industry Member reporting data to the Central Repository.¹⁶ The Operating Committee reviews and resets the maximum Error Rate, at least annually.¹⁷ If an Industry Member reports CAT data to the Central Repository with errors such that their

error percentage exceeds the maximum Error Rate, then such Industry Member would not be in compliance with the CAT NMS Plan or Rule 613.¹⁸ As such, the Exchange or the SEC “may take appropriate action against an Industry Member for failing to comply with its CAT reporting obligations.¹⁹ The CAT NMS Plan sets the initial Error Rate at 5%.²⁰ It is anticipated that the maximum Error Rate will be reviewed and lowered by the Operating Committee once Industry Members begin to report to the Central Repository.²¹

The CAT NMS Plan requires the Plan Processor to: (1) Measure and report errors every business day; (2) provide Industry Members daily statistics and error reports as they become available, including a description of such errors; (3) provide monthly reports to Industry Members that detail an Industry Member’s performance and comparison statistics; (4) define educational and support programs for Industry Members to minimize Error Rates; and (5) identify, daily, all Industry Members exceeding the maximum allowable Error Rate. To timely correct data-submitted errors to the Central Repository, the CAT NMS Plan requires that the Central Repository receive and process error corrections at all times. Further, the CAT NMS Plan requires that Industry Members be able to submit error corrections to the Central Repository through a web-interface or via bulk uploads or file submissions, and that the Plan Processor, subject to the Operating Committee’s approval, support the bulk replacement of records and the reprocessing of such records. The Participants, furthermore, require that the Plan Processor identify Industry Member data submission errors based on the Plan Processor’s validation processes.²²

(II) Definition of Error Rate

To implement the requirements of the CAT NMS Plan related to the Error Rate, the Exchange proposes to define the term “Error Rate” in proposed Rule 6810. Paragraph (p) of proposed Rule 6810 defines the term “Error Rate” to mean the percentage of Reportable Events collected by the Central Repository in which the data reported does not fully and accurately reflect the order event that occurred in the market.

¹⁸ See Appendix C, Section A.3(b) of the CAT NMS Plan; SEC Rule 613(g)–(h).

¹⁹ See Appendix C, Section A.3(b) of the CAT NMS Plan.

²⁰ See Section 6.5(d)(i) of the CAT NMS Plan.

²¹ Appendix C, Section A.3(b) of the CAT NMS Plan.

²² See Approval Order, *supra* note 9, at 84718.

This is the same definition as set forth in SEC Rule 613(j)(6), and Section 1.1 of the CAT NMS Plan defines “Error Rate” by reference to SEC Rule 613(j)(6).

(Q) Firm Designated ID

As discussed above, under the Customer Information Approach, the CAT NMS Plan would require each Industry Member to assign a unique Firm Designated ID to each Customer. Industry Members would be permitted to use as the Firm Designated ID an account number or any other identifier defined by the firm, provided each identifier is unique across the firm for each business date (i.e., a single firm may not have multiple separate customers with the same identifier on any given date). Industry members would be required to report only the Firm Designated ID for each new order submitted to the Central Repository, rather than the “Customer-ID” with individual order events. Accordingly, the Exchange proposes to define the term “Firm Designated ID” in proposed Rule 6810. Specifically, paragraph (q) of proposed Rule 6810 defines the term “Firm Designated ID” to mean a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan. Industry Members would be permitted to use an account number or any other identifier defined by the firm, provided each identifier is unique across the firm for each business date (i.e., a single firm may not have multiple separate customers with the same identifier on any given date).

(R) Industry Member

Paragraph (r) of proposed Rule 6810 defines the term “Industry Member” to mean a member of a national securities exchange or a member of a national securities association.” This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(S) Industry Member Data

Paragraph (s) of proposed Rule 6810 states that the term “Industry Member Data” has the meaning set forth in Rule 6830(a)(2). This definition has the same substantive meaning as the definition set forth in Section 1.1 of the CAT NMS Plan. The definition of “Industry Member Data” is discussed more fully in the discussion below regarding proposed Rule 6830(a)(2).

¹⁵ See Appendix C, Section A.1(a) of the CAT NMS Plan.

¹⁶ See Section 6.5(d)(i) of the CAT NMS Plan.

¹⁷ See Appendix C, Section A.3(b) of the CAT NMS Plan.

(T) Initial Plan Processor

Paragraph (t) of proposed Rule 6810 defines the term “Initial Plan Processor” to mean the first Plan Processor selected by the Operating Committee in accordance with SEC Rule 613, Section 6.1 of the CAT NMS Plan and the National Market System Plan Governing the Process for Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, although the proposed definition uses the full name of the “Selection Plan.”

(U) Listed Option or Option

The CAT NMS Plan and this proposed Rule 6800 Series applies to Eligible Securities, which includes NMS Securities, which, in turn, includes Listed Options. Certain requirements of the proposed Rule 6800 Series apply specifically to Listed Options. Accordingly, paragraph (u) of proposed Rule 6810 defines the term “Listed Option” or “Option.” Specifically, paragraph (u) of proposed Rule 6810 states that the term “Listed Option” or “Option” has the meaning set forth in SEC Rule 600(b)(35) of Regulation NMS. SEC Rule 600(b)(35), in turn, defines a listed option as “any option traded on a registered national securities exchange or automated facility of a national securities association.” The Exchange notes that the proposed definition of “Listed Option” is the same definition as the definition set forth in Section 1.1 of the CAT NMS Plan.

(V) Manual Order Event**(I) Manual Order Event Approach**

The CAT NMS Plan sets forth clock synchronization and timestamp requirements for Industry Members which reflect exemptions for Manual Order Events granted by the Commission.²³ Specifically, the Plan requires Industry Members to record and report the time of each Reportable Event using timestamps reflecting current industry standards (which must be at least to the millisecond) or, if an Industry Member’s order handling or execution system uses timestamps in increments finer than milliseconds, such finer increments, when reporting to the Central Repository. For Manual Order Events, however, the Plan provides that such events must be recorded in increments up to and including one second, provided that Industry Members record and report the time the event is captured electronically in an order handling and execution

system (“Electronic Capture Time”) in milliseconds. In addition, Industry Members are required to synchronize their respective Business Clocks (other than such Business Clocks used solely for Manual Order Events) at a minimum to within 50 milliseconds of the time maintained by the National Institute of Standards and Technology (“NIST”), and maintain such synchronization. Each Industry Member is required to synchronize their Business Clocks used solely for Manual Order Events, however, at a minimum to within one second of the time maintained by the NIST.

(II) Definition of Manual Order Event

In order to clarify what a Manual Order Event is for clock synchronization and time stamp purposes, the Exchange proposes to define the term “Manual Order Event” in proposed Rule 6810. Specifically, paragraph (v) of proposed Rule 6810 defines the term “Manual Order Event” to mean a non-electronic communication of order-related information for which Industry Members must record and report the time of the event. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(W) Material Terms of the Order

Proposed Rule 6830 requires Industry Members to record and report to the Central Repository Material Terms of the Order with certain Reportable Events (*e.g.*, for the original receipt or origination of an order, for the routing of an order). Accordingly, the Exchange proposes to define the term “Material Terms of the Order” in proposed Rule 6810. Specifically, paragraph (w) of proposed Rule 6810 defines the term “Material Terms of the Order” to include: The NMS Security or OTC Equity Security symbol; security type; price (if applicable); size (displayed and non-displayed); side (buy/sell); order type; if a sell order, whether the order is long, short, short exempt; open/close indicator (except on transactions in equities); time in force (if applicable); if the order is for a Listed Option, option type (put/call), option symbol or root symbol, underlying symbol, strike price, expiration date, and open/close (except on market maker quotations); and any special handling instructions. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(X) NMS Security

NMS Securities are one of the types of Eligible Securities for the CAT. Therefore, the Exchange proposes to define the term “NMS Security” in proposed Rule 6810. Specifically,

paragraph (x) of proposed Rule 6810 defines the term “NMS Security” to mean any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in Listed Options. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(Y) NMS Stock

Under the CAT NMS Plan, the Operating Committee may establish different Trading Days for NMS Stocks (as defined in SEC Rule 600(b)(47)), Listed Options, OTC Equity Securities, and any other securities that are included as Eligible Securities from time to time. Accordingly, the Exchange proposes to define the term “NMS Stock” in Paragraph (y) of Proposed Rule 6810 to mean any NMS Security other than an option. This is the same definition as set forth in SEC Rule 600(b)(47) of Regulation NMS.

(Z) Operating Committee

Paragraph (z) of proposed Rule 6810 defines the term “Operating Committee” to mean the governing body of the CAT NMS, LLC designated as such and described in Article IV of the CAT NMS Plan. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, except the Exchange proposes to use the phrase “CAT NMS LLC” in place of the phrase “the Company” for clarity.

(AA) Options Market Maker**(I) Options Market Maker Quote Exemption**

SEC Rule 613(c)(7) provides that the CAT NMS Plan must require each Industry Member to record and electronically report to the Central Repository details for each order and each reportable event, including the routing and modification or cancellation of an order. SEC Rule 613(j)(8) defines “order” to include “any bid or offer.” Therefore, under SEC Rule 613, the details for each Options Market Maker quotation must be reported to the Central Repository by both the Options Market Maker and the options exchange to which it routes its quote.

The Exchange, however, requested and received exemptive relief from SEC Rule 613 so that the CAT NMS Plan may permit Options Market Maker quotes to be reported to the Central Repository by the relevant options exchange in lieu of requiring that such reporting be done by both the options exchange and the Options Market Maker, as is required by

²³ See Exemption Order, *supra* note 12.

SEC Rule 613.²⁴ In accordance with the exemptive relief, Options Market Makers would be required to report to the options exchange the time at which a quote in a Listed Option is sent to the options exchange. Such time information also will be reported to the Central Repository by the options exchange in lieu of reporting by the Options Market Maker.

(II) Definition of Options Market Maker

To implement the requirements related to Options Market Maker quotes, the Exchange proposes to define the term “Options Market Maker” in proposed Rule 6810. Specifically, paragraph (aa) of proposed Rule 6810 defines the term “Options Market Maker” to mean a broker-dealer registered with an exchange for the purpose of making markets in options contracts traded on the exchange. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(BB) Order

The proposed Rule 6800 Series requires each Industry Member to record and electronically report to the Central Repository certain details for each order. Accordingly, the Exchange proposes to define the term “Order” in proposed Rule 6810. Specifically, paragraph (bb) of proposed Rule 6810 defines the term “Order”, with respect to Eligible Securities, to include: (1) Any order received by an Industry Member from any person; (2) any order originated by an Industry Member; or (3) any bid or offer. This is the same definition as set forth in SEC Rule 613(j)(8), except the Exchange proposes to replace the phrase “member of a national securities exchange or national securities association” with the term “Industry Member.” The Exchange notes that Section 1.1 of the CAT NMS Plan defines “Order” by reference to SEC Rule 613(j)(8).

(CC) OTC Equity Security

OTC Equity Securities are one of the types of Eligible Securities for the CAT. Therefore, the Exchange proposes to define the term “OTC Equity Security” in proposed Rule 6810. Specifically, paragraph (cc) of proposed Rule 6810 defines the term “OTC Equity Security” to mean any equity security, other than an NMS Security, subject to prompt last sale reporting rules of a registered national securities association and reported to one of such association’s equity trade reporting facilities. This is

the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(DD) Participant

Paragraph (dd) of proposed Rule 6810 defines the term “Participant” to mean each Person identified as such in Exhibit A of the CAT NMS Plan, as amended, in such Person’s capacity as a Participant in CAT NMS, LLC. This is the same definition in substance as set forth in Section 1.1 of the CAT NMS Plan.

(EE) Person

Paragraph (ee) of proposed Rule 6810 defines the term “Person” to mean any individual, partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association and any heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so permits. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(FF) Plan Processor

Paragraph (ff) of proposed Rule 6810 defines the term “Plan Processor” to mean the Initial Plan Processor or any other Person selected by the Operating Committee pursuant to SEC Rule 613 and Sections 4.3(b)(i) and 6.1 of the CAT NMS Plan, and with regard to the Initial Plan Processor, the National Market System Plan Governing the Process for Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail, to perform the CAT processing functions required by SEC Rule 613 and set forth in the CAT NMS Plan.

(GG) Received Industry Member Data

Paragraph (gg) of proposed Rule 6810 states that the term “Received Industry Member Data” has the meaning set forth in Rule 6830(a)(2). This definition has the same substantive meaning as the definition set forth in Section 1.1 of the CAT NMS Plan. The definition of “Received Industry Member Data” is discussed more fully in the discussion below regarding proposed Rule 6830(a)(2).

(HH) Recorded Industry Member Data

Paragraph (hh) of proposed Rule 6810 states that the term “Recorded Industry Member Data” has the meaning set forth in Rule 6830(a)(1). This definition has the same substantive meaning as the definition set forth in Section 1.1 of the CAT NMS Plan. The definition of “Recorded Industry Member Data” is discussed more fully in the discussion below regarding proposed Rule 6830(a)(1).

(II) Reportable Event

The proposed Rule 6800 Series requires each Industry Member to record and electronically report to the Central Repository certain details for each Reportable Event. To clarify these requirements, the Exchange proposes to define the term “Reportable Event” in proposed Rule 6810. Specifically, paragraph (ii) of proposed Rule 6810 states that the term “Reportable Event” includes, but is not limited to, the original receipt or origination, modification, cancellation, routing, execution (in whole or in part) and allocation of an order, an receipt of a routed order. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(JJ) SRO

Paragraph (jj) of proposed Rule 6810 defines the term “SRO” to mean any self-regulatory organization within the meaning of Section 3(a)(26) of the Exchange Act. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(KK) SRO-Assigned Market Participant Identifier

(I) Existing Identifier Approach

The Exchange requested and received exemptive relief from SEC Rule 613 so that the CAT NMS Plan may permit the Existing Identifier Approach, which would allow an Industry Member to report an existing SRO-Assigned Market Participant Identifier in lieu of requiring the reporting of a universal CAT-Reporter-ID (that is, a code that uniquely and consistently identifies an Industry Member for purposes of providing data to the Central Repository).²⁵ The CAT NMS Plan reflects the “Existing Identifier Approach” for purposes of identifying each Industry Member associated with an order or Reportable Event. Under the Existing Identifier Approach, Industry Members are required to record and report to the Central Repository an SRO-Assigned Market Participant Identifier for orders and certain Reportable Events to be used by the Central Repository to assign a unique CAT-Reporter-ID to identify Industry Members.

For the Central Repository to link the SRO-Assigned Market Participant Identifier to the CAT-Reporter-ID, the Exchange will submit to the Central Repository, on a daily basis, all SRO-Assigned Market Participant Identifiers used by its Industry Members, as well as information to identify each such

²⁴ See Exemptive Request Letter, *supra* note 12, at 2, and Exemption Order.

²⁵ See Exemptive Request Letter, *supra* note 12, at 19, and Exemption Order.

Industry Member, including CRD number and LEI, if the SRO has collected such LEI of the Industry Member. Additionally, each Industry Member is required to submit to the Central Repository the CRD number of the Industry Member as well as the LEI of the Industry Member (if the Industry Member has an LEI). The Plan Processor will use this information to assign a CAT-Reporter-ID to each Industry Member for internal use within the Central Repository.

(II) Definition of SRO-Assigned Market Participant Identifier

To implement the Existing Identifier Approach, the Exchange proposes to define the term “SRO-Assigned Market Participant” in proposed Rule 6810. Specifically, paragraph (kk) of proposed Rule 6810 defines the term “SRO-Assigned Market Participant Identifier” to mean an identifier assigned to an Industry Member by the Exchange or an identifier used by a Participant. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan. For example, an Industry Member would be permitted to use any existing SRO-Assigned Market Participant Identifier (e.g., FINRA MPID, NASDAQ MPID, NYSE Mnemonic, CBOE User Acronym and CHX Acronym) when reporting order information to the Central Repository.

(LL) Small Industry Member

The requirements of the proposed Rule 6800 Series differ to some extent for Small Industry Members versus Industry Members other than Small Industry Members. For example, the compliance dates for reporting data to the CAT are different for Small Industry Members versus other Industry Members. Accordingly, to clarify the requirements that apply to which Industry Members, the Exchange proposes to define the term “Small Industry Member” in proposed Rule 6810. Specifically, paragraph (ll) of proposed Rule 6810 defines the term “Small Industry Member” to mean an Industry Member that qualifies as a small broker-dealer as defined in Rule 0–10(c) under the Securities Exchange Act of 1934, as amended. This is the same in substance as the definition of “Small Industry Member” as set forth in Section 1.1 of the CAT NMS Plan. Specifically, Section 1.1 of the CAT NMS Plan defines a “Small Industry Member” as “an Industry Member that qualifies as a small broker-dealer as defined in SEC Rule 613.” The definition of a small broker-dealer under SEC Rule 613, in turn, is a small broker-dealer as defined in SEC Rule 0–10(c).

(MM) Trading Day

Proposed Rule 6830(b) establishes the deadlines for reporting certain data to the Central Repository using the term “Trading Day.” Accordingly, the Exchange proposes to define the term “Trading Day” in proposed Rule 6810. Specifically, paragraph (mm) of proposed Rule 6810 states that the term “Trading Day” shall have the meaning as is determined by the Operating Committee. For the avoidance of doubt, the Operating Committee may establish different Trading Days for NMS Stocks (as defined in SEC Rule 600(b)(47), Listed Options, OTC Equity Securities, and any other securities that are included as Eligible Securities from time to time.

(ii) Clock Synchronization

SEC Rule 613(d)(1) under Regulation NMS requires Industry Members to synchronize their Business Clocks to the time maintained by NIST, consistent with industry standards. To comply with this provision, Section 6.8 of the Plan sets forth the clock synchronization requirements for Industry Members.²⁶ To implement these provisions with regard to Industry Members, the Exchange proposes new Rule 6820 (Consolidated Audit Trail—Clock Synchronization) to require Industry Members to comply with the clock synchronization requirements of the Plan.

Paragraph (a) of proposed Rule 6820 sets forth the manner in which Industry Members must synchronize their Business Clocks. Paragraph (a)(1) of proposed Rule 6820 requires each Industry Member to synchronize its Business Clocks, other than such Business Clocks used solely for Manual Order Events or used solely for the time of allocation on Allocation Reports, at a minimum to within a fifty (50) millisecond tolerance of the time maintained by the NIST atomic clock, and maintain such synchronization. This is the same requirement as set forth in Section 6.8(a)(ii)(A) of the CAT NMS Plan.

Paragraph (a)(2) of proposed Rule 6820 requires each Industry Member to synchronize (1) its Business Clocks used solely for Manual Order Events and (2) its Business Clocks used solely for the time of allocation on Allocation Reports at a minimum to within a one second tolerance of the time maintained by the NIST atomic clock, and maintain such synchronization. This is the same

requirement as set forth in Section 6.8(a)(iii) and (iv) of the CAT NMS Plan.

Paragraph (a)(3) of proposed Rule 6820 clarifies that the tolerance described in paragraphs (a)(1) and (2) of the proposed Rule 6820 includes all of the following: (1) The time difference between the NIST atomic clock and the Industry Member’s Business Clock; (2) the transmission delay from the source; and (3) the amount of drift of the Industry Member’s Business Clock. This description of the clock synchronization tolerance is the same as set forth in paragraph (b) of FINRA Rule 4590 (Synchronization of Member Business Clocks).

Paragraph (a)(4) of proposed Rule 6820 requires Industry Members to synchronize their Business Clocks every business day before market open to ensure that timestamps for Reportable Events are accurate. In addition, to maintain clock synchronization, Business Clocks must be checked against the NIST atomic clock and re-synchronized, as necessary, throughout the day. This description of the required frequency of clock synchronization is the same as set forth in paragraph (c) of FINRA Rule 4590 (Synchronization of Member Business Clocks).

Paragraph (b) of proposed Rule 6820 sets forth documentation requirements with regard to clock synchronization. Specifically, paragraph (b) requires Industry Members to document and maintain their synchronization procedures for their Business Clocks. The proposed Rule requires Industry Members to keep a log of the times when they synchronize their Business Clocks and the results of the synchronization process. This log is required to include notice of any time a Business Clock drifts more than the applicable tolerance specified in paragraph (a) of the proposed rule. Such logs must include results for a period of not less than five years ending on the then current date, or for the entire period for which the Industry Member has been required to comply with this Rule if less than five years. These documentation requirements are the same as those set forth in the “Sequencing Orders and Clock Synchronization” section of Appendix C of the CAT NMS Plan. Moreover, these documentation requirements regarding clock synchronization are comparable to those set forth in Supplementary Material .01 of FINRA Rule 4590 (Synchronization of Member Business Clocks).

Paragraph (c) of proposed Rule 6820 sets forth certification requirements with regard to clock synchronization. Specifically, paragraph (c) of proposed

²⁶In addition, Section 6.7(a)(ii) of the Plan sets forth the timeline for CAT Reporters to comply with the clock synchronization requirements.

Rule 6820 requires each Industry Member to certify to the Exchange that its Business Clocks satisfy the synchronization requirements set forth in paragraph (a) of proposed Rule 6820 periodically in accordance with the certification schedule established by the Operating Committee pursuant to the CAT NMS Plan. This requirement is the same requirement as set forth in Section 6.8(a)(ii)(B), (iii) and (iv) of the CAT NMS Plan. The Exchange intends to announce to its Industry Members the certification schedule established by the Operating Committee via Trader Update.

Paragraph (d) of proposed Rule 6820 establishes reporting requirements with regard to clock synchronization. Paragraph (d) of proposed Rule 6820 requires Industry Members to report to the Plan Processor and the Exchange violations of paragraph (a) of this Rule pursuant to the thresholds set by the Operating Committee pursuant to the CAT NMS Plan. This requirement is the same requirement as set forth in Section 6.8(a)(ii)(C), (iii) and (iv) of the CAT NMS Plan. The Exchange intends to announce to its Industry Members the relevant thresholds established by the Operating Committee via Trader Update.

(iii) Industry Member Data Reporting

SEC Rule 613(c) under Regulation NMS requires the CAT NMS Plan to set forth certain provisions requiring Industry Members to record and report data to the CAT. To comply with this provision, Section 6.4 of the CAT NMS Plan sets forth the data reporting requirements for Industry Members. To implement these provisions with regard to its Industry Members, the Exchange proposes Rule 6830 (Consolidated Audit Trail—Industry Member Data Reporting) to require Industry Members to comply with the Industry Member Data reporting requirements of the Plan. Proposed Rule 6830 has six sections covering (1) recording and reporting Industry Member Data, (2) timing of the recording and reporting, (3) the applicable securities covered by the recording and reporting requirements, (4) format, (5) the security symbology to be used in the recording and reporting, and (6) error correction requirements, each of which is described below.

(A) Recording and Reporting Industry Member Data

Paragraph (a) of proposed Rule 6830 describes the recording and reporting of Industry Member Data to the Central Repository. Paragraph (a) consists of paragraphs (a)(1)–(a)(3), which cover Recorded Industry Member Data,

Received Industry Member Data and Options Market Maker data, respectively. Paragraphs (a)(1)–(a)(3) of proposed Rule 6830 set forth the recording and reporting requirements required in Section 6.4(d)(i)–(iii) of the CAT NMS Plan, respectively.

Paragraph (a)(1) requires, subject to paragraph (a)(3) regarding Options Market Makers, each Industry Member to record and electronically report to the Central Repository the following details for each order and each Reportable Event, as applicable (“Recorded Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan:

- For original receipt or origination of an order: (1) Firm Designated ID(s) for each Customer; (2) CAT-Order-ID; (3) SRO-Assigned Market Participant Identifier of the Industry Member receiving or originating the order; (4) date of order receipt or origination; (5) time of order receipt or origination (using timestamps pursuant to proposed Rule 6860); and (6) Material Terms of the Order;

- for the routing of an order: (1) CAT-Order-ID; (2) date on which the order is routed; (3) time at which the order is routed (using timestamps pursuant to proposed Rule 6860); (4) SRO-Assigned Market Participant Identifier of the Industry Member routing the order; (5) SRO-Assigned Market Participant Identifier of the Industry Member or Participant to which the order is being routed; (6) if routed internally at the Industry Member, the identity and nature of the department or desk to which the order is routed; and (7) Material Terms of the Order;

- for the receipt of an order that has been routed, the following information: (1) CAT-Order-ID; (2) date on which the order is received; (3) time at which the order is received (using timestamps pursuant to proposed Rule 6860); (4) SRO-Assigned Market Participant Identifier of the Industry Member receiving the order; (5) SRO-Assigned Market Participant Identifier of the Industry Member or Participant routing the order; and (6) Material Terms of the Order;

- if the order is modified or cancelled: (1) CAT-Order-ID; (2) date the modification or cancellation is received or originated; (3) time at which the modification or cancellation is received or originated (using timestamps pursuant to proposed Rule 6860); (4) price and remaining size of the order, if modified; (5) other changes in the Material Terms of the Order, if modified; and (6) whether the modification or cancellation instruction

was given by the Customer or was initiated by the Industry Member;

- if the order is executed, in whole or in part: (1) CAT-Order-ID; (2) date of execution; (3) time of execution (using timestamps pursuant to proposed Rule 6860); (4) execution capacity (principal, agency or riskless principal); (5) execution price and size; (6) SRO-Assigned Market Participant Identifier of the Industry Member executing the order; (7) whether the execution was reported pursuant to an effective transaction reporting plan or the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information; and

- other information or additional events as may be prescribed pursuant to the CAT NMS Plan.

Paragraph (a)(2) of proposed Rule 6830 requires, subject to paragraph (a)(3) regarding Options Market Makers, each Industry Member to record and report to the Central Repository the following, as applicable (“Received Industry Member Data”) and collectively with the information referred to in proposed Rule 6830(a)(1) “Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan:

- If the order is executed, in whole or in part: (1) An Allocation Report; (2) SRO-Assigned Market Participant Identifier of the clearing broker or prime broker, if applicable; and (3) CAT-Order-ID of any contra-side order(s);

- if the trade is cancelled, a cancelled trade indicator; and

- for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with proposed Rule 6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

Paragraph (a)(3) of proposed Rule 6830 states that each Industry Member that is an Options Market Maker is not required to report to the Central Repository the Industry Member Data regarding the routing, modification or cancellation of its quotes in Listed Options. Each Industry Member that is an Options Market Maker, however, is required to report to the Exchange the time at which its quote in a Listed Option is sent to the Exchange (and, if applicable, any subsequent quote modification time and/or cancellation time when such modification or cancellation is originated by the Options Market Maker). This paragraph implements the Options Market Maker Quote Exemption, as discussed above.

(B) Timing of Recording and Reporting

Paragraph (b) of proposed Rule 6830 describes the requirements related to the timing of recording and reporting of Industry Member Data. Paragraphs (b)(1)–(b)(3) of proposed Rule 6830 set forth the requirements related to the timing of the recording and reporting requirements required in Section 6.4(b)(i)–(ii) of the CAT NMS Plan.

Paragraph (b)(1) of proposed Rule 6830 requires each Industry Member to record Recorded Industry Member Data contemporaneously with the applicable Reportable Event. Paragraph (b)(2) of proposed Rule 6830 requires each Industry Member to report: (1) Recorded Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member records such Recorded Industry Member Data; and (2) Received Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member receives such Received Industry Member Data. Paragraph (b)(3) of proposed Rule 6830 states that Industry Members may, but are not required to, voluntarily report Industry Member Data prior to the applicable 8:00 a.m. Eastern Time deadline.

(C) Applicable Securities

Paragraph (c) of proposed Rule 6830 describes the securities to which the recording and reporting requirements of proposed Rule 6830 apply. Paragraphs (c)(1) and (c)(2) of proposed Rule 6830 set forth the description of applicable securities as set forth in Section 6.4(c)(i) and (ii) of the CAT NMS Plan, respectively. Paragraph (c)(1) of proposed Rule 6830 requires each Industry Member to record and report to the Central Repository the Industry Member Data as set forth in paragraph (a) of proposed Rule 6830 for each NMS Security registered or listed for trading on such exchange or admitted to unlisted trading privileges on such exchange. Paragraph (c)(2) of proposed Rule 6830 requires each Industry Member to record and report to the Central Repository the Industry Member Data as set forth in paragraph (a) of this proposed Rule 6830 for each Eligible Security for which transaction reports are required to be submitted to FINRA.

(D) Security Symbolology

Paragraph (d) of proposed Rule 6830 describes the security symbolology that Industry Members are required to use when reporting Industry Member Data to the Central Repository. Paragraph (d)(1) of proposed Rule 6830 requires,

for each exchange-listed Eligible Security, each Industry Member to report Industry Member Data to the Central Repository using the symbolology format of the exchange listing the security. This requirement implements the requirement set forth in Section 2 of Appendix D of the CAT NMS Plan to use the listing exchange symbolology when reporting data to the Central Repository for exchange-listed Eligible Securities.

For each Eligible Security that is not exchange-listed, however, there is no listing exchange to provide the symbolology format. Moreover, to date, the requisite symbolology format has not been determined. Therefore, paragraph (d)(2) of proposed Rule 6830 requires, for each Eligible Security that is not exchange-listed, each Industry Member to report Industry Member Data to the Central Repository using such symbolology format as approved by the Operating Committee pursuant to the CAT NMS Plan. The Exchange intends to announce to its Industry Members the relevant symbolology formats established by the Operating Committee via Trader Update.

(E) Error Correction

To ensure that the CAT contains accurate data, the CAT NMS Plan requires Industry Members to correct erroneous data submitted to the Central Repository. Therefore, the Exchange proposes to adopt paragraph (e) of proposed Rule 6830, which addresses the correction of erroneous data reported to the Central Repository. Paragraph (e) of proposed Rule 6830 requires, for each Industry Member for which errors in Industry Member Data submitted to the Central Repository have been identified by the Plan Processor or otherwise, that such Industry Member submit corrected Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on T+3. This requirement implements the error correction requirement set forth in Section 6 of Appendix D of the CAT NMS Plan.

(iv) Customer Information Reporting

Section 6.4(d)(iv) of the CAT NMS Plan requires Industry Members to submit to the Central Repository certain information related to their Customers in accordance with the Customer Information Approach discussed above. The Exchange proposes new Rule 6840 (Consolidated Audit Trail—Customer Information Reporting) to implement this provision of the CAT NMS Plan with regard to its Industry Members. Specifically, paragraph (a) of proposed Rule 6840 requires each Industry

Member to submit to the Central Repository the Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in proposed Rule 6880. Paragraph (b) of proposed Rule 6840 requires each Industry Member to submit to the Central Repository any updates, additions or other changes to the Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account on a daily basis. Paragraph (c) of proposed Rule 6840 requires each Industry Member, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, to submit to the Central Repository a complete set of Firm Designated IDs, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account. This periodic refresh is intended to ensure that the Central Repository has the most current information identifying a Customer. The Exchange intends to announce to its Industry Members when such a periodic refresh is required by the Plan Processor and the Operating Committee via Trade Update.

Paragraph (d) of proposed Rule 6840 addresses the correction of erroneous Customer data reported to the Central Repository to ensure and accurate audit trail. Paragraph (d) requires, for each Industry Member for which errors in Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such CAT Reporting Member to submit corrected data to the Central Repository by 5:00 p.m. Eastern Time on T+3. This requirement implements the error correction requirement set forth in Appendix C of the CAT NMS Plan.

(v) Industry Member Information Reporting

Section 6.4(d)(vi) of the CAT NMS Plan requires Industry Members to submit to the Central Repository information sufficient to identify such Industry Member, including CRD number and LEI, if such LEI has been obtained in accordance with the Existing Identifier Approach discussed above. The Exchange proposes Rule 6850 (Consolidated Audit Trail—Industry Member Information Reporting) to implement this provision

of the CAT NMS Plan with regard to its Industry Members. Specifically, proposed Rule 6850 requires each Industry Member to submit to the Central Repository information sufficient to identify such Industry Member, including CRD number and LEI, if such LEI has been obtained prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in proposed Rule 6880, and keep such information up to date as necessary.

(vi) Time Stamps

SEC Rule 613(d)(3) under Regulation NMS sets forth requirements for time stamps used by CAT Reporters in recording and reporting data to the CAT.²⁷ To comply with this provision, Section 6.8(b) of the Plan sets forth time stamp requirements for Industry Members. To implement this provision with regard to its Industry Members, the Exchange proposes new Rule 6860 (Consolidated Audit Trail—Time Stamps) to require its Industry Members to comply with the time stamp requirements of the CAT NMS Plan.

Paragraph (a) of proposed Rule 6860 sets forth the time stamp increments to be used by Industry Members in their CAT reporting. Paragraph (a)(1) of proposed Rule 6860 requires each Industry Member to record and report Industry Member Data to the Central Repository with time stamps in milliseconds, subject to paragraphs (a)(2) and (b) of proposed Rule 6860. To the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, paragraph (a)(2) of proposed Rule 6860 requires such Industry Member to record and report Industry Member Data to the Central Repository with time stamps in such finer increment, subject to paragraph (b) of proposed Rule 6860 regarding Manual Order Events and Allocation Reports.

Paragraph (b) of proposed Rule 6860 sets forth the permissible time stamp increments for Manual Order Events and Allocation Reports. Specifically, paragraph (b)(1) of proposed Rule 6860 permits each Industry Member to record and report Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Member is required to record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member ("Electronic Capture Time") in

milliseconds. In addition, paragraph (b)(2) of proposed Rule 6860 permits each Industry Member to record and report the time of Allocation Reports in increments up to and including one second.

(vii) Clock Synchronization Rule Violations

Proposed Rule 6865 (Consolidated Audit Trail—Clock Synchronization Rule Violations) describes potential violations of the clock synchronization time period requirements set forth in the proposed Rule 6800 Series. Proposed Rule 6865 states that an Industry Member that engages in a pattern or practice of reporting Reportable Events outside of the required clock synchronization time period as set forth in this Rule Series without reasonable justification or exceptional circumstances may be considered in violation of this Rule. This provision implements the requirements of Section 6.8 of the CAT NMS Plan which requires the Compliance Rule to provide that a pattern or practice of reporting events outside of the required clock synchronization time period without reasonable justification or exceptional circumstances may be considered a violation of SEC Rule 613 or the CAT NMS Plan.

(viii) Connectivity and Data Transmission

Proposed Rule 6870 (Consolidated Audit Trail—Connectivity and Data Transmission) addresses connectivity and data transmission requirements related to the CAT. Paragraph (a) of proposed Rule 6870 describes the format(s) for reporting Industry Member Data to the Central Repository, thereby implementing the formatting requirements as set forth in Section 6.4(a) of the CAT NMS Plan. Specifically, paragraph (a) of proposed Rule 6870 requires each Industry Member to transmit data as required under the CAT NMS Plan to the Central Repository utilizing such format(s) as may be provided by the Plan Processor and approved by the Operating Committee.

Paragraph (b) of proposed Rule 6870 addresses connectivity requirements related to the CAT. Paragraph (b) of proposed Rule 6870 requires each Industry Member to connect to the Central Repository using a secure method(s), including, but not limited to, private line(s) and virtual private network connection(s). This provision implements the connectivity requirements set forth in Section 4 of Appendix D to the CAT NMS Plan.

Paragraph (c) of proposed Rule 6870 permits Industry Members to use CAT Reporting Agents to fulfill their data reporting obligations related to the CAT. Paragraph (c) is based on FINRA Rule 7450(c), which permits OATS Reporting Members to enter into agreements with Reporting Agents to fulfill the OATS obligations of the OATS Reporting Member. Specifically, Paragraph (c)(1) of proposed Rule 6870 states that any Industry Member may enter into an agreement with a CAT Reporting Agent pursuant to which the CAT Reporting Agent agrees to fulfill the reporting obligations of such Industry Member under the proposed Rule 6800 Series. Any such agreement must be evidenced in writing, which specifies the respective functions and responsibilities of each party to the agreement that are required to effect full compliance with the requirements of the proposed Rule 6800 Series. The Exchange notes that, currently, no standardized form agreement for CAT Reporting Agent arrangements has been adopted. Paragraph (c)(2) of proposed Rule 6870 requires that all written documents evidencing an agreement with a CAT Reporting Agent be maintained by each party to the agreement. Paragraph (c)(3) of proposed Rule 6870 states that each Industry Member remains primarily responsible for compliance with the requirements of the proposed Rule 6800 Series, notwithstanding the existence of an agreement described in paragraph (c) of proposed Rule 6870.

(ix) Development and Testing

The Exchange proposed Rule 6880 (Consolidated Audit Trail—Development and Testing) to address requirements for Industry Members related to CAT development and testing. Paragraph (a) of proposed Rule 6880 sets forth the testing requirements and deadlines for Industry Members to develop and commence reporting to the Central Repository. These requirements are set forth in Appendix C to the CAT NMS Plan.

Paragraph (a)(1) sets forth the deadlines related to connectivity and acceptance testing. Industry Members (other than Small Industry Members) are required to begin connectivity and acceptance testing with the Central Repository no later than August 15, 2018, and Small Industry Members are required to begin connectivity and acceptance testing with the Central Repository no later than August 15, 2019.

Paragraph (a)(2) sets forth the deadlines related to reporting Customer and Industry Member information. Paragraph (a)(2)(i) requires Industry

²⁷ 17 CFR 242.613(d)(3).

Members (other than Small Industry Members) to begin reporting Customer and Industry Member information, as required by Rules 6840(a) and 6850, respectively, to the Central Repository for processing no later than October 15, 2018. Paragraph (a)(2)(ii) requires Small Industry Members to begin reporting Customer and Industry Member information, as required by Rules 6840(a) and 6850, respectively, to the Central Repository for processing no later than October 15, 2019.

Paragraph (a)(3) sets forth the deadlines related to the submission of order data. Under paragraph (a)(3)(i), Industry Members (other than Small Industry Members) are permitted, but not required, to submit order data for testing purposes beginning no later than May 15, 2018. In addition, Industry Members (other than Small Industry Members) are required to participate in the coordinated and structured testing of order submission, which will begin no later than August 15, 2018. Under paragraph (a)(3)(ii), Small Industry Members are permitted, but not required, to submit order data for testing purposes beginning no later than May 15, 2019. In addition, Small Industry Members are required to participate in the coordinated and structured testing of order submission, which will begin no later than August 15, 2019.

Paragraph (a)(4) states that Industry Members are permitted, but not required to, submit Quote Sent Times on Options Market Maker quotes, beginning no later than October 15, 2018.

Paragraph (b) of proposed Rule 6880 implements the requirement under the CAT NMS Plan that Industry Members participate in required industry testing with the Central Repository.²⁸ Specifically, proposed Rule 6880 requires that each Industry Member participate in testing related to the Central Repository, including any industry-wide disaster recovery testing, pursuant to the schedule established pursuant to the CAT NMS Plan. The Exchange intends to announce to its Industry Members the schedule established pursuant to the CAT NMS Plan via Trader Update.

(x) Recordkeeping

Proposed Rule 6890 (Consolidated Audit Trail—Recordkeeping) sets forth the recordkeeping obligations related to the CAT for Industry Members. Proposed Rule 6890 requires each Industry Member to maintain and preserve records of the information required to be recorded under the proposed Rule 6800 Series for the

period of time and accessibility specified in SEC Rule 17a-4(b). The records required to be maintained and preserved under the proposed Rule 6800 Series may be immediately produced or reproduced on “micrographic media” as defined in SEC Rule 17a-4(f)(1)(i) or by means of “electronic storage media” as defined in SEC Rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEC Rule 17a-4(f) and be maintained and preserved for the required time in that form. Proposed Rule 6890 is based on FINRA Rule 7440(a)(5), which sets forth the recordkeeping requirements related to OATS.

(xi) Timely, Accurate and Complete Data

SEC Rule 613 and the CAT NMS Plan emphasize the importance of the timeliness, accuracy, completeness and integrity of the data submitted to the CAT.²⁹ Accordingly, proposed Rule 6893 (Consolidated Audit Trail—Timely, Accurate and Complete Data) implements this requirement with regard to Industry Members. Paragraph (a) of proposed Rule 6893 requires that Industry Members record and report data to the Central Repository as required by the proposed Rule 6800 Series in a manner that ensures the timeliness, accuracy, integrity and completeness of such data.

In addition, without limiting the general requirement as set forth in paragraph (a), paragraph (b) of proposed Rule 6893 requires Industry Members to accurately provide the LEIs in their records as required by the proposed Rule 6800 Series and states that Industry Members may not knowingly submit inaccurate LEIs to the Central Repository. Paragraph (b) notes, however, that this requirement does not impose any additional due diligence obligations on Industry Members with regard to LEIs for CAT purposes. Accordingly, this provision does not impose any due diligence obligations beyond those that may exist today with respect to information associated with a LEI. Although Industry Members will not be required to perform additional with regard to the LEIs for CAT purposes, Industry Members will be required to accurately provide the LEIs in their records and may not knowingly submit inaccurate LEIs to the CAT. Paragraph (b) is consistent with the SEC’s statements in the Approval Order for the CAT NMS Plan regarding an Industry Member’s obligations regarding LEIs.³⁰

²⁹ See SEC Rule 613(e)(4)(i)(D)(ii); and Section 6.5(d) of the CAT NMS Plan.

³⁰ See Approval Order, *supra* note 9, at 84745.

Paragraph (c) of proposed Rule 6893 states that, if an Industry Member reports data to the Central Repository with errors such that its error percentage exceeds the maximum Error Rate established by the Operating Committee pursuant to the CAT NMS Plan, then such Industry Member would not be in compliance with the Rule 6800 Series. As discussed above, the initial maximum Error Rate is 5%, although the Error Rate is expected to be reduced over time. The Exchange intends to announce to its Industry Members changes to the Error Rate established pursuant to the CAT NMS Plan via Trader Update.

Furthermore, paragraph (d) of proposed Rule 6893 addresses Compliance Thresholds related to reporting data to the CAT. Paragraph (c) of proposed Rule 6893 states that each Industry Member is required to meet a separate compliance threshold which will be an Industry Member-specific rate that may be used as the basis for further review or investigation into the Industry Member’s performance with regard to the CAT (the “Compliance Thresholds”). Compliance Thresholds will compare an Industry Member’s error rate to the aggregate Error Rate over a period of time to be defined by the Operating Committee. Compliance Thresholds will be set by the Operating Committee, and will be calculated at intervals to be set by the Operating Committee.³¹ Compliance Thresholds will include compliance with the data reporting and clock synchronization requirements. Proposed Rule 6893 states that an Industry Member’s performance with respect to its Compliance Threshold will not signify, as a matter of law, that such Industry Member has violated this proposed Rule 6800 Series.

(xii) Compliance Dates

Proposed Rule 6895 (Consolidated Audit Trail—Compliance Dates) sets forth the compliance dates for the various provisions of proposed Rules 6800 through 6895. Paragraphs (b) and (c) of this Rule set forth the additional details with respect to the compliance date of the proposed Rules 6800 through 6895. Unless otherwise noted, proposed Rules 6800 through 6895 will be fully effective upon approval by the Commission and member organizations must comply with their terms.

Paragraph (b) of proposed Rule 6895 establishes the compliance dates for the clock synchronization requirements as set forth in proposed Rule 6820. Paragraph (b)(1) of proposed Rule 6895 states that each Industry Member shall

³¹ See Appendix C of the CAT NMS Plan.

²⁸ See Approval Order, *supra* note 9, at 84725.

comply with Rule 6820 with regard to Business Clocks that capture time in milliseconds commencing on or before March 15, 2017. Paragraph (b)(2) states that each Industry Member shall comply with Rule 6820 with regard to Business Clocks that do not capture time in milliseconds commencing on or before February 19, 2018. The compliance date set forth in paragraph (b)(1) reflects the exemptive relief requested by the Participants with regard to the clock synchronization requirements related to Business Clocks that do not capture time in milliseconds.³²

Paragraph (c) of proposed Rule 6895 establishes the compliance dates for the data recording and reporting requirements for Industry Members. Paragraph (c)(1) of proposed Rule 6895 requires each Industry Member (other than a Small Industry Member) to record and report the Industry Member Data to the Central Repository by November 15, 2018. Paragraph (c)(2) of proposed Rule 6895 requires that each Industry Member that is a Small Industry Member to record and report the Industry Member Data to the Central Repository by November 15, 2019. Such compliance dates are consistent with the compliance dates set forth in SEC Rule 613(a)(3)(v) and (vi), and Section 6.7(a)(v) and (vi) of the CAT NMS Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,³³ which require, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 6(b)(8) of the Act,³⁴ which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies the provisions of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for

the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."³⁵ To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements provisions of the CAT NMS Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the proposed Rule Series implementing provisions of the CAT NMS Plan will apply equally to all firms that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing this proposed Rule 6800 Series. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

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

No written comments were solicited or received with respect to the proposed rule change.

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

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEMKT-2017-02 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NYSEMKT-2017-02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEMKT-2017-02 and should be submitted on or before February 27, 2017.

³² Concurrently with this filing, the Participants submitted a request for exemptive relief from SEC Rule 613(a)(3)(ii) of Regulation NMS under the Securities Exchange Act of 1934 and Section 6.7(a)(ii) of the CAT NMS Plan. See Letter from Participants to Brent J. Fields, Secretary, Commission, dated January 17, 2017.

³³ 15 U.S.C. 78f(b)(5).

³⁴ 15 U.S.C. 78f(b)(8).

³⁵ See Approval Order, *supra* note 9, at 84697.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁶

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79904; File No. SR-NSCC-2016-008]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Approval of Proposed Rule Change To Reflect Updates to the Consolidated Trade Summary, Eliminate Re-Pricing in the Foreign Security Accounting Operation and Make Other Changes

January 31, 2017.

On December 15, 2016, National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-NSCC-2016-008, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder.² The proposed rule change was published for comment in the **Federal Register** on December 29, 2016.³ The Commission did not receive any comment letters on the proposed rule change. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description of the Proposed Rule Change

The proposed rule change consists of amendments to NSCC’s Rules & Procedures (“Rules”)⁴ in order to (1) consolidate the file layouts into one common file layout, (2) provide more details in the revised Consolidated Trade Summary (“CTSs”), (3) discontinue a current output format (print image) and introduce a more user-friendly format (referred to as comma separated value or “CSV”) and an online query tool, (4) simplify the terminology in the Rules by referring to each iteration of the CTS as the “Consolidated Trade Summary” (instead of the way in which the Rules are currently drafted to refer to a

“Consolidated Trade Summary” and a “Supplemental Consolidated Trade Summary”), and (5) discontinue the Foreign Securities transaction file because information contained in that additional file would be reflected in the revised CTSs, each of which is described below.

A. Changes to the CTS and Technical Changes to the CTS-Related Rules

First, the proposed rule change would consolidate the file layouts of the current CTSs into one common file layout that would be used for each of the three CTSs that are issued each day. Currently, each of the main CTS file, the supplemental CTS file, and the Foreign Securities file has its own individual file layout. NSCC would consolidate these multiple file layouts into one common file layout in the revised CTS file. Having one common layout in the revised CTS would eliminate the need for Members to maintain coding for multiple file layouts.

Second, the proposal would update the CTS output file layout to provide Members with additional transparency and clarity regarding their trade summary, balance orders and receive and deliver instructions, which would help with reconciliation. For example, the current CTS output file layout specifies if a security is a CNS security or a non-CNS security but does not further clarify the non-CNS obligations as guaranteed or not guaranteed. Under the proposal, the CTS output file layout would be expanded to include a field for the guarantee/not guarantee designation to clearly indicate to users whether a trade obligation is guaranteed or not guaranteed. Other examples of new fields that would be added include: (1) Netting type to describe whether netted (e.g., multilaterally netted or bilaterally netted) or trade-for-trade instructions resulted, and (2) a net reason code to add clarity as to the netting type.

Third, Members have also expressed interest in having NSCC change the current file format of the CTSs, which are currently available in print image format and machine-readable (“MRO”) format. As a result, NSCC would discontinue the current print image format while maintaining the current MRO format and would also introduce an online query tool. The print image format would be replaced by CSV which can be downloaded into spreadsheet programs. In addition to the three iterations of the CTS that would continue to be distributed to Members, Members would also be able to use a new online query tool to search information and create their own

custom data view and custom reports. The new online query tool would enable users to research information that has been previously distributed in a CTS. Members have expressed interest in this change in file formats and the online query tool which allows results to be downloaded to spreadsheet programs.

Fourth, from a Rules perspective, the terminology in Procedure II, Section H, Procedure V, Section E and Procedure VII, Section B would be revised, so that each CTS would be referred to as the “Consolidated Trade Summary” and more than one CTS would be referred to as the “Consolidated Trade Summaries.” The proposed rule change would eliminate references to alternate terminology such as “Supplemental Consolidated Trade Summary,” “Supplemental Consolidated Trade Summaries,” and “CTS.” In addition, conforming changes would be made to Procedure V, Section C and Procedure VII, Section B to add phrases and terms such as “next available,” “applicable” and “prior” before references to “Consolidated Trade Summary.” Additional technical changes would be made to clarify that the CTS would continue to be issued to Members three times a day and would continue to be non-cumulative; these changes would apply to Procedure II, Section H, Procedure V, Section E and Procedure VII, Section B. Procedure VII, Section B would also be amended to reflect the change in output format of the Consolidated Trade Summaries (specifically, because the print image format is being discontinued and the CSV format is being introduced, the Rules and terminology must be changed to use terminology consistent with the different format).

Fifth, the Foreign Securities transaction file would be discontinued. Information that is currently in this additional file would be reflected in the revised CTSs.

NSCC would continue to issue the CTSs to Members three times a day, at approximately the same intervals as it does today.⁵ The revised CTSs would continue to be iterative (i.e., any information that appeared on prior CTSs would not appear again on any successive CTSs), and also continue to be available in MRO format.

⁵ The header of the CTS output file would indicate whether the CTS is for Cycle 1 (i.e., the one issued at approximately 21:00 ET), Cycle 2 (i.e., the one issued at approximately 24:00 ET) or Cycle 3 (i.e., the one issued at approximately 12:00 ET on the next business day).

³⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 79655 (December 22, 2016), 81 FR 96146 (December 29, 2016) (SR-NSCC-2016-008) (“Notice”).

⁴ Capitalized terms not defined herein are defined in the Rules, available at http://dtcc.com/-/media/Files/Downloads/legal/rules/nsc_rules.pdf.

B. Discontinuation of the Re-Pricing of Foreign Securities and Technical Clarifications/Corrections to Procedure VI (Foreign Security Accounting Operation)

Based on Member feedback, NSCC is also proposing to update the code associated with NSCC's Foreign Security Accounting Operation, which receives and processes Foreign Securities traded over-the-counter and settled in U.S. Dollars.⁶ The current foreign netting process aggregates Foreign Securities obligations, bilaterally nets these obligations and then re-prices these obligations using a uniform Settlement Price. As further explained below, NSCC is proposing to no longer re-price these Foreign Securities obligations.

Foreign Securities would continue to be bilaterally netted, but would no longer be re-priced at uniform Settlement Prices. Instead, they would be bilaterally netted at their contract prices to eliminate the risk of a cash adjustment (which is not guaranteed by NSCC) due to re-pricing.

To effectuate this proposed change, NSCC proposes to remove language in Procedure VI, Section C that permits NSCC to establish a uniform Settlement Price and calculate any related Foreign Security Clearance Cash Adjustment associated with the re-pricing. Unlike the underlying Foreign Securities transactions (which are settled in the local markets and not at NSCC), the payments of any Foreign Security Clearance Cash Adjustment (whether due to netting or re-pricing) related to those underlying Foreign Securities transactions are made through NSCC today and under the proposed rule change, this would continue to be the case with respect to Foreign Security Clearance Cash Adjustments that arise due to netting. The proposed rule change would revise the language in Procedure VI to clearly state that the failure of a Member to make payment of the Foreign Security Clearance Cash Adjustment with NSCC will cause NSCC to reverse all such cash adjustment debits and credits (rather than generally stating this would be caused by the failure to "make settlement with the Corporation"). The proposed rule change would further clarify that neither the settlement of the underlying transaction nor the payment of the related Foreign Security Clearance Cash Adjustment would be

guaranteed by NSCC (which is also the case today).⁷

Additional clarifying changes to Procedure VI include revising the reference from "T+2" in Section B to "SD-1" because Foreign Securities transactions are not always settled on T+3 (according to local market practices) and thus, are not always compared on T+2, as Section B of Procedure VI states. Therefore, using Settlement Date (*i.e.*, "SD") as the reference point is more appropriate. Furthermore, Foreign Securities transactions are reported on the CTSs, which are Settlement Date-based. In addition, in Section C, "produced" would be revised to "reported," because "reported" more accurately describes what occurs today—that is, NSCC reports the netted Member-to-Member receive and deliver instructions. In addition, the proposed rule change would make the following corrections: (i) The reference in Section C to "Foreign Security Clearing Cash Adjustment" would be revised to the correct term, "Foreign Security Clearance Cash Adjustment" and (ii) the cross-references to "Section II" and "Section IV" in Section A would be replaced with references to "Procedure II" and "Procedure IV," respectively.

C. Implementation Timeframe

These proposed rule changes would become effective by July 14, 2017. After Commission approval of these proposed rule changes, a legend would be added to each of Procedures II, V, VI and VII stating that there are approved but not yet operative changes to the respective Procedure and specifying the applicable section or sections that would be amended by the proposed rule change. The legend would state that such changes would be operative by July 14, 2017, but if such changes become operative before July 14, 2017, NSCC would notify Members by Important Notice 30 days before the actual implementation date. The legend would also state that underlined and boldface text indicates new text and strikethrough and boldface text indicates deleted text. Additionally, the legend would include a reference to the file number of the proposed rule change and would state that once operative, the legend would automatically be removed from the Rules, and the formatting of the text of the changes in the applicable section or sections would automatically

be revised to reflect that these changes have become operative.

II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act⁸ directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. The Commission believes the proposal is consistent with Section 17A(b)(3)(F) of the Act.

Section 17A(b)(3)(F) of the Act requires, in part, that NSCC's Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to protect investors and the public interest.⁹ The Commission believes that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to NSCC, in particular Section 17(A)(b)(3)(F), because the proposed rule changes promote the prompt and accurate clearance and settlement of securities transactions.¹⁰

Specifically, by updating the CTS to provide more details and information in one common file layout, the proposal would provide Members with more transparency and clarity regarding their trade obligations, which could help Members better understand their reconciliation of trades for settlement. Furthermore, Members would receive the CTS in a more user-friendly format (*i.e.*, CSV). With the new online query tool, Members would also be able to access trade obligation information that has been distributed in prior CTSs and customize searches of trade obligation information according to their needs. Therefore, the Commission believes that these changes to the CTS would make it a more effective tool for Members to help manage their settlement obligations, thus promoting the prompt and accurate clearance of securities transactions.

Additionally, the Commission believes that the proposed rule changes associated with the Foreign Security Accounting Operation are designed to protect investors and the public interest.¹¹ Specifically, the proposed rule change would address the timing mismatch between the receipt of the CTS by Members and the settlement of Foreign Securities trades in the local markets by Members by discontinuing

⁷ Under the proposed rule change, only a Foreign Security Clearance Cash Adjustment due to re-pricing would be eliminated. A Foreign Security Clearance Cash Adjustment due to netting is still possible, so this Procedure is still applicable to such Foreign Security Clearance Cash Adjustments.

⁸ 15 U.S.C. 78s(b)(2)(C).

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ *Id.*

¹¹ *Id.*

⁶ See Procedure VI (Foreign Security Accounting Operation).

the practice of re-pricing Foreign Securities at the uniform Settlement Prices. This change also would eliminate Member exposure from a cash adjustment due to re-pricing and the associated risk that a solvent Member could be liable for the cash adjustment if its counterparty defaults because the cash adjustment is not guaranteed by NSCC. Therefore, the Commission believes that the proposed rule change promotes investor protection and the public interest.¹²

As the proposed rule change pertains to technical changes to the Rules, the Commission finds the technical changes also consistent with Section 17A(b)(3)(F) of the Act¹³ because the technical updates are designed to make the Rules more clear, consistent, and current for Members that rely on them. Therefore, the proposed technical changes help support NSCC's prompt and accurate clearance and settlement of securities transactions made by Members.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposals are consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act¹⁴ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that proposed rule change SR–NSCC–2016–008 be, and hereby is, *approved*.¹⁵

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79908; File No. SR–NYSEARCA–2017–04]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, To Adopt the Rule 6.6800 Series To Implement the Compliance Rule Regarding the National Market System Plan Governing the Consolidated Audit Trail

January 31, 2017.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b–4 thereunder,³ notice is hereby given that, on January 17, 2017, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On January 30, 2017, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposed rule change to adopt the Rule 6.6800 Series to implement the compliance rule (“Compliance Rule”) regarding the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”).⁴ The proposed rule change is available on the Exchange's Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization 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 those statements may be examined at

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

This Amendment No. 1 amends and replaces in its entirety the original proposal filed by the Exchange on January 17, 2017. The Exchange submits this Amendment No. 1 in order to clarify certain points and add additional details to the Compliance Rule as proposed herein.

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, Investors' Exchange LLC, ISE Gemini, LLC, ISE Mercury, LLC, Miami International Securities Exchange LLC, MIA X PEARL, LLC, NASDAQ BX, Inc., NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. (collectively, the “Participants”) filed with the Commission, pursuant to Section 11A of the Exchange Act⁵ and Rule 608 of Regulation NMS thereunder,⁶ the CAT NMS Plan.⁷ The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,⁸ and approved by the Commission, as modified, on November 15, 2016.⁹

The Plan is designed to create, implement and maintain a consolidated audit trail (“CAT”) that would capture customer and order event information

⁵ 15 U.S.C. 78k–1.

⁶ 17 CFR 242.608.

⁷ See Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. See Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

⁸ See Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

⁹ See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (“Order Approving the National Market System Plan Governing the Consolidated Audit Trail”) (“Approval Order”).

¹² *Id.*

¹³ *Id.*

¹⁴ 15 U.S.C. 78q–1.

¹⁵ In approving the proposed rule change, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁶ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

⁴ Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein or in the CAT NMS Plan.

for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Each Participant is required to enforce compliance by its Industry Member, as applicable, with the provisions of the Plan, by adopting a Compliance Rule applicable to their Industry Members.¹⁰ As is described more fully below, the proposed Rule 6.6800 Series sets forth the Compliance Rule to require Industry Members to comply with the provisions of the CAT NMS Plan. The proposed Rule 6.6800 Series includes twelve proposed rules covering the following areas: (1) Definitions; (2) clock synchronization; (3) Industry Member Data reporting; (4) Customer information reporting; (5) Industry Member information reporting; (6) time stamps; (7) clock synchronization rule violations; (8) connectivity and data transmission; (9) testing; (10) recordkeeping; (11) timely, accurate and complete data; and (12) compliance dates. Each of these proposed rules is discussed in detail below.

(i) Definitions

Proposed Rule 6.6810 (Consolidated Audit Trail—Definitions) sets forth the definitions for the terms used in the proposed Rule 6.6800 Series. Each of the defined terms in proposed Rule 6.6810 is discussed in detail in this section.

(A) Account Effective Date

(I) Customer Information Approach

SEC Rule 613 requires that numerous data elements be reported to the CAT to ensure there is sufficient information to create the lifecycle of an order, and provide regulators with sufficient detail about an order to perform their regulatory duties. Certain required elements are intended to ensure that the regulators can identify the Customer's associated with orders. For example, SEC Rule 613(c)(7)(i)(A) requires an Industry Member to report the "Customer-IDs" for each Customer for the original receipt or origination of an order. "Customer-ID" is defined in SEC Rule 613(j)(5) to mean "with respect to

a customer, a code that uniquely and consistently identifies such customer for purposes of providing data to the Central Repository." SEC Rule 613(c)(8) requires Industry Members to use the same Customer-ID for each Customer. The SEC granted the Participants exemptive relief to permit the use of an alternative approach to the requirement that an Industry Member report a Customer-ID for every Customer upon original receipt or origination.¹¹ The alternative approach is called the Customer Information Approach.

Under the Customer Information Approach, the CAT NMS Plan would require each Industry Member to assign a unique Firm Designated ID to each Customer. As the Firm Designated ID, Industry Members would be permitted to use an account number or any other identifier defined by the firm, provided each identifier is unique across the firm for each business date (*i.e.*, a single firm may not have multiple separate customers with the same identifier on any given date). Prior to their commencement of reporting to the CAT, Industry Members would submit an initial set of Customer information to the Central Repository, including the Firm Designated ID, Customer Identifying Information and Customer Account Information (which may include, as applicable, the Customer's name, address, date of birth, individual tax payer identifier number ("ITIN")/ social security number ("SSN"), individual's role in the account (*e.g.*, primary holder, joint holder, guardian, trustee, person with power of attorney) and LEI and/or Larger Trader ID ("LTID")). This process is referred to as the customer definition process.

In accordance with the Customer Information Approach, Industry Members would be required to report only the Firm Designated ID for each new order submitted to the Central Repository, rather than the "Customer-ID" with individual order events. Within the Central Repository, each Customer would be uniquely identified by identifiers or a combination of identifiers such as ITIN/SSN, date of birth, and as applicable, LEI and LTID. The Plan Processor would be required to use these unique identifiers to map orders to specific Customers across all Industry Members and Participants. To ensure information identifying a Customer is up to date, Industry

Members would be required to submit to the Central Repository daily and periodic updates for reactivated accounts, newly established accounts, and revised Firm Designated IDs or associated reportable Customer information.

(II) Definition of Account Effective Date

In connection with the Customer Information Approach, Industry Members would be required to report Customer Account Information to the Central Repository. "Customer Account Information" is defined in SEC Rule 613(j)(4) to "include, but not be limited to, account number, account type, customer type, date account opened, and large trader identifier (if applicable)." Therefore, when reporting Customer Account Information, and Industry Member is required to report the date an account was opened. The Participants requested and received an exemption to allow an "Account Effective Date" to be reported in lieu of an account open date in certain limited circumstances. The definition of "Account Effective Date" as set forth in paragraph (a) of proposed Rule 6.6810 describes those limited circumstances in which an Industry Member may report an "Account Effective Date" rather than the account open date. The proposed definition is the same as the definition of "Account Effective Date" set forth in Section 1.1 of the CAT NMS Plan, provided, however, that specific dates have replaced the descriptions of those dates set forth in Section 1.1 of the Plan.

Specifically, Paragraph (a)(1) defines "Account Effective Date" to mean, with regard to those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution: (1) When the trading relationship was established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, either (a) the date the relationship identifier was established within the Industry Member; (b) the date when trading began (*i.e.*, the date the first order was received) using the relevant relationship identifier; or (c) if both dates are available, the earlier date will be used to the extent that the dates differ; or (2) when the trading relationship was established on or after November 15, 2018 for Industry Members other than Small Industry Members, or on or after November 15, 2019 for Small Industry Members, the date the Industry Member established the relationship identifier, which would be no later than the date the first order was received.

¹⁰ See SEC Rule 613(g)(1). The proposed Rule 6.6800 Series would be applicable to ETP Holders. Pursuant to NYSE Arca Equities Rule 1.1(n), the term "ETP Holder" refers to a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing that has been issued an ETP. An ETP Holder must be a registered broker or dealer pursuant to Section 15 of the Act. NYSE Arca Equities Rule 1.1(m) defines "ETP" as an Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange.

¹¹ See Securities Exchange Act Release No. 77265 (March 1, 2016), 81 FR 11856 (March 7, 2016) ("Exemption Order"). See also Letter from Participants to Brent J. Fields, Secretary, Commission, dated January 30, 2015 at 12 ("Exemptive Request Letter"); and CAT NMS Plan at Appendix C, Section A.1(a)(iii).

Paragraph (a)(2) of proposed Rule 6.6810 states that an “Account Effective Date” means, where an Industry Member changes back office providers or clearing firms prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the date an account was established at the relevant Industry Member, either directly or via transfer.

Paragraph (a)(3) states that an “Account Effective Date” means, where an Industry Member acquires another Industry Member prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the date an account was established at the relevant Industry Member, either directly or via transfer.

Paragraph (a)(4) states that “Account Effective Date” means, where there are multiple dates associated with an account established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the earliest available date.

Paragraph (a)(5) states that an “Account Effective Date” means, with regard to Industry Member proprietary accounts established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members: (1) The date established for the account in the Industry Member or in a system of the Industry Member or (2) the date when proprietary trading began in the account (*i.e.*, the date on which the first orders were submitted from the account). With regard to paragraphs (a)(2)–(5), the Account Effective Date will be no later than the date trading occurs at the Industry Member or in the Industry Member’s system.

(B) Active Account

Under the Customer Information Approach, Industry Members are required to report Customer Identifying Information and Customer Account Information for only those accounts that are active. This will alleviate the need for Industry Members to update such information for non-active accounts, but still ensure that the Central Repository will collect audit trail data for Customer accounts that have any Reportable Events. Accordingly, paragraph (b) of proposed Rule 6.6810 defines an “Active Account” as an account that has had activity in Eligible Securities within the last six months. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(C) Allocation Report

(I) Allocation Report Approach

SEC Rule 613(c)(7)(vi)(A) requires each Industry Member to record and report to the Central Repository “the account number for any subaccounts to which the execution is allocated (in whole or in part).” The SROs requested and received from the SEC exemptive relief from SEC Rule 613 for an alternative to this approach (“Allocation Report Approach”). The Allocation Report Approach would permit Industry Members to record and report to the Central Repository an Allocation Report that includes, among other things, the Firm Designated ID for any account(s) to which executed shares are allocated when an execution is allocated in whole or part in lieu of requiring the reporting of the account number for any subaccount to which an execution is allocated, as is required by SEC Rule 613.¹² Under SEC Rule 613, regulators would be able to link the subaccount to which an allocation was made to a specific order. In contrast, under the Allocation Report Approach, regulators would only be able to link an allocation to the account to which it was made, and not to a specific order.

(II) Definition of Allocation Report

To assist in implementing the Allocation Report Approach, paragraph (c) of proposed Rule 6.6810 defines an “Allocation Report.” Specifically, an “Allocation Report” means a report made to the Central Repository by an Industry Member that identifies the Firm Designated ID for any account(s), including subaccount(s), to which executed shares are allocated and provides the security that has been allocated, the identifier of the firm reporting the allocation, the price per share of shares allocated, the side of shares allocated, the number of shares allocated to each account, and the time of the allocation; provided, for the avoidance of doubt, any such Allocation Report shall not be required to be linked to particular orders or executions. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(D) Business Clock

To create the required audit trail, Industry Members are required to record the date and time of various Reportable Events to the Central Repository. Industry Members will use “Business Clocks” to record such dates and times. Accordingly, paragraph (d) of proposed Rule 6.6810 defines the term “Business

Clock” as a clock used to record the date and time of any Reportable Event required to be reported under this Rule 6.6800 Series. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, except the Exchange proposes to replace the phrase “under SEC Rule 613” at the end of the definition in Section 1.1 of the Plan with the phrase “under this Rule Series.” This change is intended to recognize that the Industry Members’ obligations with regard to the CAT are set forth in this Rule 6.6800 Series.

(E) CAT

Paragraph (e) of proposed Rule 6.6810 defines the term “CAT” to mean the consolidated audit trail contemplated by SEC Rule 613. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(F) CAT NMS Plan

Paragraph (f) of proposed Rule 6.6810 defines the term “CAT NMS Plan” to mean the National Market System Plan Governing the Consolidated Audit Trail, as amended from time to time.

(G) CAT-Order-ID

(I) Daisy Chain Approach

Under the CAT NMS Plan, the Daisy Chain Approach is used to link and reconstruct the complete lifecycle of each Reportable Event in CAT. According to this Approach, Industry Members assign their own identifiers to each order event. Within the Central Repository, the Plan Processor later replaces the identifier provided by the Industry Member for each Reportable Event with a single identifier, called the CAT Order-ID, for all order events pertaining to the same order. This CAT Order-ID is used to link the Reportable Events related to the same order.

(II) Definition of CAT-Order-ID

To implement the Daisy Chain Approach, paragraph (g) of proposed Rule 6.6810 defines the term “CAT-Order-ID.” The term “CAT-Order-ID” is defined to mean a unique order identifier or series of unique order identifiers that allows the Central Repository to efficiently and accurately link all Reportable Events for an order, and all orders that result from the aggregation or disaggregation of such order. This is the same definition as set forth in SEC Rule 613(j)(1), and Section 1.1 of the CAT NMS Plan defines “CAT-Order-ID” by reference to SEC Rule 613(j)(1).

(H) CAT Reporting Agent

The CAT NMS Plan permits an Industry Member to use a third party,

¹² See Exemptive Request Letter, *supra* note 11, at 26–27; and Exemption Order.

such as a vendor, to report the required data to the Central Repository on behalf of the Industry Member.¹³ Such a third party, referred to in this proposed Rule 6.6800 Series as a “CAT Reporting Agent,” would be one type of a Data Submitter, that is, a party that submit data to the Central Repository. Paragraph (h) of proposed Rule 6.6810 defines the term “CAT Reporting Agent” to mean a Data Submitter that is a third party that enters into an agreement with an Industry Member pursuant to which the CAT Reporting Agent agrees to fulfill such Industry Member’s obligations under this Rule 6.6800 Series.

This definition is based on FINRA’s definition of a “Reporting Agent” as set forth in FINRA’s rule related to its Order Audit Trail System (“OATS”). Specifically, FINRA Rule 7410(n) defines a “Reporting Agent” as a third party that enters into any agreement with a member pursuant to which the Reporting Agent agrees to fulfill such member’s reporting obligations under FINRA Rule 7450. The Reporting Agent for OATS fulfills a similar role to the CAT Reporting Agent.

(I) Central Repository

Paragraph (i) of proposed Rule 6.6810 defines the term “Central Repository” to mean the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT pursuant to SEC Rule 613 and the CAT NMS Plan. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, except the Exchange proposes to use the phrase “CAT NMS Plan” in place of the phrase “this Agreement.”

(J) Compliance Threshold

Paragraph (j) of proposed Rule 6.6810 defines the term “Compliance Threshold” as having the meaning set forth in proposed Rule 6.6893(d). This definition has the same substantive meaning as the definition set forth in Section 1.1 of the CAT NMS Plan. As discussed in detail below with regard to proposed Rule 6.6893(d), each Industry Member is required to meet a separate compliance threshold which will be an Industry Member-specific rate that may be used as the basis for further review or investigation into the Industry Member’s performance with regard to the CAT. This Industry Member-specific rate is the “Compliance Threshold.”

(K) Customer

Industry Members are required to submit to the Central Repository certain information related to their Customers, including Customer Identifying Information and Customer Account Information, as well as data related to their Customer’s Reportable Events. Accordingly, paragraph (k) of proposed Rule 6.6810 proposes to define the term “Customer.” Specifically, the term “Customer” would be defined to mean: (1) The account holder(s) of the account at an Industry Member originating the order; and (2) any person from whom the Industry Member is authorized to accept trading instructions for such account, if different from the account holder(s). This is the same definition as set forth in SEC Rule 613(j)(3), except the Exchange proposes to replace the references to a registered broker-dealer or broker-dealer with a reference to an Industry Member for consistency of terms used in the proposed Rule 6.6800 Series. The Exchange also notes that Section 1.1 of the CAT NMS Plan defines “Customer” by reference to SEC Rule 613(j)(3).

(L) Customer Account Information

As discussed above, under the Customer Information Approach, Industry Members are required to report Customer Account Information to the Central Repository as part of the customer definition process. Accordingly, the Exchange proposes to define the term “Customer Account Information” to clarify what customer information would need to be reported to the Central Repository.

Paragraph (l) of proposed Rule 6.6810 defines the term “Customer Account Information” to include, in part, account number, account type, customer type, date account opened, and large trader identifier (if applicable). Proposed Rule 6.6810(l), however, provides an alternative definition of “Customer Account Information” in two limited circumstances. First, in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will (1) provide the Account Effective Date in lieu of the “date account opened”; (2) provide the relationship identifier in lieu of the “account number”; and (3) identify the “account type” as a “relationship.” Second, in those circumstances in which the relevant account was established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019

for Small Industry Members, and no “date account opened” is available for the account, the Industry Member will provide the Account Effective Date in the following circumstances: (1) Where an Industry Member changes back office providers or clearing firms and the date account opened is changed to the date the account was opened on the new back office/clearing firm system; (2) where an Industry Member acquires another Industry Member and the date account opened is changed to the date the account was opened on the post-merger back office/clearing firm system; (3) where there are multiple dates associated with an account in an Industry Member’s system, and the parameters of each date are determined by the individual Industry Member; and (4) where the relevant account is an Industry Member proprietary account. The proposed definition is the same as the definition of “Customer Account Information” set forth in Section 1.1 of the CAT NMS Plan, provided, however, that specific dates have replaced the descriptions of those dates set forth in Section 1.1 of the Plan.

(M) Customer Identifying Information

As discussed above, under the Customer Information Approach, Industry Members are required to report Customer Identifying Information to the Central Repository as part of the customer definition process. Accordingly, SRO proposes to define the term “Customer Account Information” to clarify what Customer information would need to be reported to the Central Repository.

Paragraph (m) of proposed Rule 6.6810 defines the term “Customer Identifying Information” to mean information of sufficient detail to identify a Customer. With respect to individuals, “Customer Identifying Information” includes, but is not limited to, name, address, date of birth, individual tax payer identification number (“ITIN”)/social security number (“SSN”), individual’s role in the account (*e.g.*, primary holder, joint holder, guardian, trustee, person with the power of attorney). With respect to legal entities, “Customer Identifying Information” includes, but is not limited to, name, address, Employer Identification Number (“EIN”)/Legal Entity Identifier (“LEI”) or other comparable common entity identifier, if applicable. The definition further notes that an Industry Member that has a LEI for a Customer must submit the Customer’s LEI in addition to other information of sufficient detail to identify the Customer. This is the same

¹³ See Appendix C, Section A.1(a) of the CAT NMS Plan.

definition as set forth in Section 1.1 of the CAT NMS Plan.

(N) Data Submitter

The CAT NMS Plan uses the term “Data Submitter” to refer to any person that reports data to the Central Repository.¹⁴ Such Data Submitters may include those entities that are required to submit data to the Central Repository (e.g., national securities exchanges, national securities associations and Industry Members), third-parties that may submit data to the CAT on behalf of CAT Reporters (i.e., CAT Reporting Agents), and outside parties that are not required to submit data to the CAT but from which the CAT may receive data (e.g., securities information processors (“SIPs”)). To include this term in the proposed Rule 6.6800 Series, the Exchange proposes to define “Data Submitter” in paragraph (n) of proposed Rule 6.6810. Specifically, paragraph (n) of proposed Rule 6.6810 defines a “Data Submitter” to mean any person that reports data to the Central Repository, including national securities exchanges, national securities associations, broker-dealers, the SIPs for the CQS, CTA, UTP and Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (“OPRA”) Plans, and certain other vendors or third parties that may submit data to the Central Repository on behalf of Industry Members.

(O) Eligible Security

The reporting requirements of the proposed Rule 6.6800 Series only apply to Reportable Events in Eligible Securities. Currently, an Eligible Security includes NMS Securities and OTC Equity Securities. Accordingly, paragraph (o) of proposed Rule 6.6810 defines the term “Eligible Security” to include: (1) All NMS Securities; and (2) all OTC Equity Securities. The terms “NMS Securities” and “OTC Equity Securities” are defined, in turn, below. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(P) Error Rate

(I) Maximum Error Rate

Under the CAT NMS Plan, the Operating Committee sets the maximum Error Rate that the Central Repository would tolerate from an Industry Member reporting data to the Central Repository.¹⁵ The Operating Committee reviews and resets the maximum Error

Rate, at least annually.¹⁶ If an Industry Member reports CAT data to the Central Repository with errors such that their error percentage exceeds the maximum Error Rate, then such Industry Member would not be in compliance with the CAT NMS Plan or Rule 613.¹⁷ As such, the Exchange or the SEC “may take appropriate action against an Industry Member for failing to comply with its CAT reporting obligations.¹⁸ The CAT NMS Plan sets the initial Error Rate at 5%.¹⁹ It is anticipated that the maximum Error Rate will be reviewed and lowered by the Operating Committee once Industry Members begin to report to the Central Repository.²⁰

The CAT NMS Plan requires the Plan Processor to: (1) Measure and report errors every business day; (2) provide Industry Members daily statistics and error reports as they become available, including a description of such errors; (3) provide monthly reports to Industry Members that detail an Industry Member’s performance and comparison statistics; (4) define educational and support programs for Industry Members to minimize Error Rates; and (5) identify, daily, all Industry Members exceeding the maximum allowable Error Rate. To timely correct data-submitted errors to the Central Repository, the CAT NMS Plan requires that the Central Repository receive and process error corrections at all times. Further, the CAT NMS Plan requires that Industry Members be able to submit error corrections to the Central Repository through a web-interface or via bulk uploads or file submissions, and that the Plan Processor, subject to the Operating Committee’s approval, support the bulk replacement of records and the reprocessing of such records. The Participants, furthermore, require that the Plan Processor identify Industry Member data submission errors based on the Plan Processor’s validation processes.²¹

(II) Definition of Error Rate

To implement the requirements of the CAT NMS Plan related to the Error Rate, the Exchange proposes to define the term “Error Rate” in proposed Rule 6.6810. Paragraph (p) of proposed Rule 6.6810 defines the term “Error Rate” to

mean the percentage of Reportable Events collected by the Central Repository in which the data reported does not fully and accurately reflect the order event that occurred in the market. This is the same definition as set forth in SEC Rule 613(j)(6), and Section 1.1 of the CAT NMS Plan defines “Error Rate” by reference to SEC Rule 613(j)(6).

(Q) Firm Designated ID

As discussed above, under the Customer Information Approach, the CAT NMS Plan would require each Industry Member to assign a unique Firm Designated ID to each Customer. Industry Members would be permitted to use as the Firm Designated ID an account number or any other identifier defined by the firm, provided each identifier is unique across the firm for each business date (i.e., a single firm may not have multiple separate customers with the same identifier on any given date). Industry members would be required to report only the Firm Designated ID for each new order submitted to the Central Repository, rather than the “Customer-ID” with individual order events. Accordingly, the Exchange proposes to define the term “Firm Designated ID” in proposed Rule 6.6810. Specifically, paragraph (q) of proposed Rule 6.6810 defines the term “Firm Designated ID” to mean a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan. Industry Members would be permitted to use an account number or any other identifier defined by the firm, provided each identifier is unique across the firm for each business date (i.e., a single firm may not have multiple separate customers with the same identifier on any given date).

(R) Industry Member

Paragraph (r) of proposed Rule 6.6810 defines the term “Industry Member” to mean a member of a national securities exchange or a member of a national securities association.” This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(S) Industry Member Data

Paragraph (s) of proposed Rule 6.6810 states that the term “Industry Member Data” has the meaning set forth in Rule 6.6830(a)(2). This definition has the same substantive meaning as the definition set forth in Section 1.1 of the

¹⁴ See Appendix C, Section A.1(a) of the CAT NMS Plan.

¹⁵ See Section 6.5(d)(i) of the CAT NMS Plan.

¹⁶ See Appendix C, Section A.3(b) of the CAT NMS Plan.

¹⁷ See Appendix C, Section A.3(b) of the CAT NMS Plan; SEC Rule 613(g)–(h).

¹⁸ See Appendix C, Section A.3(b) of the CAT NMS Plan.

¹⁹ See Section 6.5(d)(i) of the CAT NMS Plan.

²⁰ See Appendix C, Section A.3(b) of the CAT NMS Plan.

²¹ See Approval Order, *supra* note 9, at 84718.

CAT NMS Plan. The definition of “Industry Member Data” is discussed more fully in the discussion below regarding proposed Rule 6.6830(a)(2).

(T) Initial Plan Processor

Paragraph (t) of proposed Rule 6.6810 defines the term “Initial Plan Processor” to mean the first Plan Processor selected by the Operating Committee in accordance with SEC Rule 613, Section 6.1 of the CAT NMS Plan and the National Market System Plan Governing the Process for Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, although the proposed definition uses the full name of the “Selection Plan.”

(U) Listed Option or Option

The CAT NMS Plan and this proposed Rule 6.6800 Series applies to Eligible Securities, which includes NMS Securities, which, in turn, includes Listed Options. Certain requirements of the proposed Rule 6.6800 Series apply specifically to Listed Options. Accordingly, paragraph (u) of proposed Rule 6.6810 defines the term “Listed Option” or “Option.” Specifically, paragraph (u) of proposed Rule 6.6810 states that the term “Listed Option” or “Option” has the meaning set forth in SEC Rule 600(b)(35) of Regulation NMS. SEC Rule 600(b)(35), in turn, defines a listed option as “any option traded on a registered national securities exchange or automated facility of a national securities association.” The Exchange notes that the proposed definition of “Listed Option” is the same definition as the definition set forth in Section 1.1 of the CAT NMS Plan.

(V) Manual Order Event

(I) Manual Order Event Approach

The CAT NMS Plan sets forth clock synchronization and timestamp requirements for Industry Members which reflect exemptions for Manual Order Events granted by the Commission.²² Specifically, the Plan requires Industry Members to record and report the time of each Reportable Event using timestamps reflecting current industry standards (which must be at least to the millisecond) or, if an Industry Member’s order handling or execution system uses timestamps in increments finer than milliseconds, such finer increments, when reporting to the Central Repository. For Manual Order Events, however, the Plan provides that such events must be recorded in increments up to and

including one second, provided that Industry Members record and report the time the event is captured electronically in an order handling and execution system (“Electronic Capture Time”) in milliseconds. In addition, Industry Members are required to synchronize their respective Business Clocks (other than such Business Clocks used solely for Manual Order Events) at a minimum to within 50 milliseconds of the time maintained by the National Institute of Standards and Technology (“NIST”), and maintain such synchronization. Each Industry Member is required to synchronize their Business Clocks used solely for Manual Order Events, however, at a minimum to within one second of the time maintained by the NIST.

(II) Definition of Manual Order Event

In order to clarify what a Manual Order Event is for clock synchronization and time stamp purposes, the Exchange proposes to define the term “Manual Order Event” in proposed Rule 6.6810. Specifically, paragraph (v) of proposed Rule 6.6810 defines the term “Manual Order Event” to mean a non-electronic communication of order-related information for which Industry Members must record and report the time of the event. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(W) Material Terms of the Order

Proposed Rule 6.6830 requires Industry Members to record and report to the Central Repository Material Terms of the Order with certain Reportable Events (e.g., for the original receipt or origination of an order, for the routing of an order). Accordingly, the Exchange proposes to define the term “Material Terms of the Order” in proposed Rule 6.6810. Specifically, paragraph (w) of proposed Rule 6.6810 defines the term “Material Terms of the Order” to include: The NMS Security or OTC Equity Security symbol; security type; price (if applicable); size (displayed and non-displayed); side (buy/sell); order type; if a sell order, whether the order is long, short, short exempt; open/close indicator (except on transactions in equities); time in force (if applicable); if the order is for a Listed Option, option type (put/call), option symbol or root symbol, underlying symbol, strike price, expiration date, and open/close (except on market maker quotations); and any special handling instructions. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(X) NMS Security

NMS Securities are one of the types of Eligible Securities for the CAT. Therefore, the Exchange proposes to define the term “NMS Security” in proposed Rule 6.6810. Specifically, paragraph (x) of proposed Rule 6.6810 defines the term “NMS Security” to mean any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in Listed Options. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(Y) NMS Stock

Under the CAT NMS Plan, the Operating Committee may establish different Trading Days for NMS Stocks (as defined in SEC Rule 600(b)(47)), Listed Options, OTC Equity Securities, and any other securities that are included as Eligible Securities from time to time. Accordingly, the Exchange proposes to define the term “NMS Stock” in Paragraph (y) of Proposed Rule 6.6810 to mean any NMS Security other than an option. This is the same definition as set forth in SEC Rule 600(b)(47) of Regulation NMS.

(Z) Operating Committee

Paragraph (z) of proposed Rule 6.6810 defines the term “Operating Committee” to mean the governing body of the CAT NMS, LLC designated as such and described in Article IV of the CAT NMS Plan. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, except the Exchange proposes to use the phrase “CAT NMS LLC” in place of the phrase “the Company” for clarity.

(AA) Options Market Maker

(I) Options Market Maker Quote Exemption

SEC Rule 613(c)(7) provides that the CAT NMS Plan must require each Industry Member to record and electronically report to the Central Repository details for each order and each reportable event, including the routing and modification or cancellation of an order. SEC Rule 613(j)(8) defines “order” to include “any bid or offer.” Therefore, under SEC Rule 613, the details for each Options Market Maker quotation must be reported to the Central Repository by both the Options Market Maker and the options exchange to which it routes its quote.

The Exchange, however, requested and received exemptive relief from SEC

²² See Exemption Order, *supra* note 11.

Rule 613 so that the CAT NMS Plan may permit Options Market Maker quotes to be reported to the Central Repository by the relevant options exchange in lieu of requiring that such reporting be done by both the options exchange and the Options Market Maker, as is required by SEC Rule 613.²³ In accordance with the exemptive relief, Options Market Makers would be required to report to the options exchange the time at which a quote in a Listed Option is sent to the options exchange. Such time information also will be reported to the Central Repository by the options exchange in lieu of reporting by the Options Market Maker.

(II) Definition of Options Market Maker

To implement the requirements related to Options Market Maker quotes, the Exchange proposes to define the term “Options Market Maker” in proposed Rule 6.6810. Specifically, paragraph (aa) of proposed Rule 6.6810 defines the term “Options Market Maker” to mean a broker-dealer registered with an exchange for the purpose of making markets in options contracts traded on the exchange. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(BB) Order

The proposed Rule 6.6800 Series requires each Industry Member to record and electronically report to the Central Repository certain details for each order. Accordingly, the Exchange proposes to define the term “Order” in proposed Rule 6.6810. Specifically, paragraph (bb) of proposed Rule 6.6810 defines the term “Order”, with respect to Eligible Securities, to include: (1) Any order received by an Industry Member from any person; (2) any order originated by an Industry Member; or (3) any bid or offer. This is the same definition as set forth in SEC Rule 613(j)(8), except the Exchange proposes to replace the phrase “member of a national securities exchange or national securities association” with the term “Industry Member.” The Exchange notes that Section 1.1 of the CAT NMS Plan defines “Order” by reference to SEC Rule 613(j)(8).

(CC) OTC Equity Security

OTC Equity Securities are one of the types of Eligible Securities for the CAT. Therefore, the Exchange proposes to define the term “OTC Equity Security” in proposed Rule 6.6810. Specifically, paragraph (cc) of proposed Rule 6.6810 defines the term “OTC Equity Security”

to mean any equity security, other than an NMS Security, subject to prompt last sale reporting rules of a registered national securities association and reported to one of such association’s equity trade reporting facilities. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(DD) Participant

Paragraph (dd) of proposed Rule 6.6810 defines the term “Participant” to mean each Person identified as such in Exhibit A of the CAT NMS Plan, as amended, in such Person’s capacity as a Participant in CAT NMS, LLC. This is the same definition in substance as set forth in Section 1.1 of the CAT NMS Plan.

(EE) Person

Paragraph (ee) of proposed Rule 6.6810 defines the term “Person” to mean any individual, partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association and any heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so permits. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(FF) Plan Processor

Paragraph (ff) of proposed Rule 6.6810 defines the term “Plan Processor” to mean the Initial Plan Processor or any other Person selected by the Operating Committee pursuant to SEC Rule 613 and Sections 4.3(b)(i) and 6.1 of the CAT NMS Plan, and with regard to the Initial Plan Processor, the National Market System Plan Governing the Process for Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail, to perform the CAT processing functions required by SEC Rule 613 and set forth in the CAT NMS Plan.

(GG) Received Industry Member Data

Paragraph (gg) of proposed Rule 6.6810 states that the term “Received Industry Member Data” has the meaning set forth in Rule 6.6830(a)(2). This definition has the same substantive meaning as the definition set forth in Section 1.1 of the CAT NMS Plan. The definition of “Received Industry Member Data” is discussed more fully in the discussion below regarding proposed Rule 6.6830(a)(2).

(HH) Recorded Industry Member Data

Paragraph (hh) of proposed Rule 6.6810 states that the term “Recorded Industry Member Data” has the meaning set forth in Rule 6.6830(a)(1). This

definition has the same substantive meaning as the definition set forth in Section 1.1 of the CAT NMS Plan. The definition of “Recorded Industry Member Data” is discussed more fully in the discussion below regarding proposed Rule 6.6830(a)(1).

(II) Reportable Event

The proposed Rule 6.6800 Series requires each Industry Member to record and electronically report to the Central Repository certain details for each Reportable Event. To clarify these requirements, the Exchange proposes to define the term “Reportable Event” in proposed Rule 6.6810. Specifically, paragraph (ii) of proposed Rule 6.6810 states that the term “Reportable Event” includes, but is not limited to, the original receipt or origination, modification, cancellation, routing, execution (in whole or in part) and allocation of an order, an receipt of a routed order. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(JJ) SRO

Paragraph (jj) of proposed Rule 6.6810 defines the term “SRO” to mean any self-regulatory organization within the meaning of Section 3(a)(26) of the Exchange Act. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(KK) SRO-Assigned Market Participant Identifier

(I) Existing Identifier Approach

The Exchange requested and received exemptive relief from SEC Rule 613 so that the CAT NMS Plan may permit the Existing Identifier Approach, which would allow an Industry Member to report an existing SRO-Assigned Market Participant Identifier in lieu of requiring the reporting of a universal CAT-Reporter-ID (that is, a code that uniquely and consistently identifies an Industry Member for purposes of providing data to the Central Repository).²⁴ The CAT NMS Plan reflects the “Existing Identifier Approach” for purposes of identifying each Industry Member associated with an order or Reportable Event. Under the Existing Identifier Approach, Industry Members are required to record and report to the Central Repository an SRO-Assigned Market Participant Identifier for orders and certain Reportable Events to be used by the Central Repository to assign a unique CAT-Reporter-ID to identify Industry Members.

²³ See Exemptive Request Letter, *supra* note 11, at 2, and Exemption Order.

²⁴ See Exemptive Request Letter, *supra* note 11, at 19, and Exemption Order.

For the Central Repository to link the SRO-Assigned Market Participant Identifier to the CAT-Reporter-ID, the Exchange will submit to the Central Repository, on a daily basis, all SRO-Assigned Market Participant Identifiers used by its Industry Members, as well as information to identify each such Industry Member, including CRD number and LEI, if the SRO has collected such LEI of the Industry Member. Additionally, each Industry Member is required to submit to the Central Repository the CRD number of the Industry Member as well as the LEI of the Industry Member (if the Industry Member has an LEI). The Plan Processor will use this information to assign a CAT-Reporter-ID to each Industry Member for internal use within the Central Repository.

(II) Definition of SRO-Assigned Market Participant Identifier

To implement the Existing Identifier Approach, the Exchange proposes to define the term “SRO-Assigned Market Participant” in proposed Rule 6.6810. Specifically, paragraph (kk) of proposed Rule 6.6810 defines the term “SRO-Assigned Market Participant Identifier” to mean an identifier assigned to an Industry Member by the Exchange or an identifier used by a Participant. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan. For example, an Industry Member would be permitted to use any existing SRO-Assigned Market Participant Identifier (e.g., FINRA MPID, NASDAQ MPID, NYSE Mnemonic, CBOE User Acronym and CHX Acronym) when reporting order information to the Central Repository.

(LL) Small Industry Member

The requirements of the proposed Rule 6.6800 Series differ to some extent for Small Industry Members versus Industry Members other than Small Industry Members. For example, the compliance dates for reporting data to the CAT are different for Small Industry Members versus other Industry Members. Accordingly, to clarify the requirements that apply to which Industry Members, the Exchange proposes to define the term “Small Industry Member” in proposed Rule 6.6810. Specifically, paragraph (ll) of proposed Rule 6.6810 defines the term “Small Industry Member” to mean an Industry Member that qualifies as a small broker-dealer as defined in Rule 0–10(c) under the Securities Exchange Act of 1934, as amended. This is the same in substance as the definition of “Small Industry Member” as set forth in Section 1.1 of the CAT NMS Plan.

Specifically, Section 1.1 of the CAT NMS Plan defines a “Small Industry Member” as “an Industry Member that qualifies as a small broker-dealer as defined in SEC Rule 613.” The definition of a small broker-dealer under SEC Rule 613, in turn, is a small broker-dealer as defined in SEC Rule 0–10(c).

(MM) Trading Day

Proposed Rule 6.6830(b) establishes the deadlines for reporting certain data to the Central Repository using the term “Trading Day.” Accordingly, the Exchange proposes to define the term “Trading Day” in proposed Rule 6.6810. Specifically, paragraph (mm) of proposed Rule 6.6810 states that the term “Trading Day” shall have the meaning as is determined by the Operating Committee. For the avoidance of doubt, the Operating Committee may establish different Trading Days for NMS Stocks (as defined in SEC Rule 600(b)(47), Listed Options, OTC Equity Securities, and any other securities that are included as Eligible Securities from time to time.

(ii) Clock Synchronization

SEC Rule 613(d)(1) under Regulation NMS requires Industry Members to synchronize their Business Clocks to the time maintained by NIST, consistent with industry standards. To comply with this provision, Section 6.8 of the Plan sets forth the clock synchronization requirements for Industry Members.²⁵ To implement these provisions with regard to Industry Members, the Exchange proposes new Rule 6.6820 (Consolidated Audit Trail—Clock Synchronization) to require Industry Members to comply with the clock synchronization requirements of the Plan.

Paragraph (a) of proposed Rule 6.6820 sets forth the manner in which Industry Members must synchronize their Business Clocks. Paragraph (a)(1) of proposed Rule 6.6820 requires each Industry Member to synchronize its Business Clocks, other than such Business Clocks used solely for Manual Order Events or used solely for the time of allocation on Allocation Reports, at a minimum to within a fifty (50) millisecond tolerance of the time maintained by the NIST atomic clock, and maintain such synchronization. This is the same requirement as set forth in Section 6.8(a)(ii)(A) of the CAT NMS Plan.

Paragraph (a)(2) of proposed Rule 6.6820 requires each Industry Member

to synchronize (1) its Business Clocks used solely for Manual Order Events and (2) its Business Clocks used solely for the time of allocation on Allocation Reports at a minimum to within a one second tolerance of the time maintained by the NIST atomic clock, and maintain such synchronization. This is the same requirement as set forth in Section 6.8(a)(iii) and (iv) of the CAT NMS Plan.

Paragraph (a)(3) of proposed Rule 6.6820 clarifies that the tolerance described in paragraphs (a)(1) and (2) of the proposed Rule 6.6820 includes all of the following: (1) The time difference between the NIST atomic clock and the Industry Member’s Business Clock; (2) the transmission delay from the source; and (3) the amount of drift of the Industry Member’s Business Clock. This description of the clock synchronization tolerance is the same as set forth in paragraph (b) of FINRA Rule 4590 (Synchronization of Member Business Clocks).

Paragraph (a)(4) of proposed Rule 6.6820 requires Industry Members to synchronize their Business Clocks every business day before market open to ensure that timestamps for Reportable Events are accurate. In addition, to maintain clock synchronization, Business Clocks must be checked against the NIST atomic clock and re-synchronized, as necessary, throughout the day. This description of the required frequency of clock synchronization is the same as set forth in paragraph (c) of FINRA Rule 4590 (Synchronization of Member Business Clocks).

Paragraph (b) of proposed Rule 6.6820 sets forth documentation requirements with regard to clock synchronization. Specifically, paragraph (b) requires Industry Members to document and maintain their synchronization procedures for their Business Clocks. The proposed Rule requires Industry Members to keep a log of the times when they synchronize their Business Clocks and the results of the synchronization process. This log is required to include notice of any time a Business Clock drifts more than the applicable tolerance specified in paragraph (a) of the proposed rule. Such logs must include results for a period of not less than five years ending on the then current date, or for the entire period for which the Industry Member has been required to comply with this Rule if less than five years. These documentation requirements are the same as those set forth in the “Sequencing Orders and Clock Synchronization” section of Appendix C of the CAT NMS Plan. Moreover, these documentation requirements regarding clock synchronization are

²⁵ In addition, Section 6.7(a)(ii) of the Plan sets forth the timeline for CAT Reporters to comply with the clock synchronization requirements.

comparable to those set forth in Supplementary Material .01 of FINRA Rule 4590 (Synchronization of Member Business Clocks).

Paragraph (c) of proposed Rule 6.6820 sets forth certification requirements with regard to clock synchronization. Specifically, paragraph (c) of proposed Rule 6.6820 requires each Industry Member to certify to the Exchange that its Business Clocks satisfy the synchronization requirements set forth in paragraph (a) of proposed Rule 6.6820 periodically in accordance with the certification schedule established by the Operating Committee pursuant to the CAT NMS Plan. This requirement is the same requirement as set forth in Section 6.8(a)(ii)(B), (iii) and (iv) of the CAT NMS Plan. The Exchange intends to announce to its Industry Members the certification schedule established by the Operating Committee via Trader Update.

Paragraph (d) of proposed Rule 6.6820 establishes reporting requirements with regard to clock synchronization. Paragraph (d) of proposed Rule 6.6820 requires Industry Members to report to the Plan Processor and the Exchange violations of paragraph (a) of this Rule pursuant to the thresholds set by the Operating Committee pursuant to the CAT NMS Plan. This requirement is the same requirement as set forth in Section 6.8(a)(ii)(C), (iii) and (iv) of the CAT NMS Plan. The Exchange intends to announce to its Industry Members the relevant thresholds established by the Operating Committee via Trader Update.

(iii) Industry Member Data Reporting

SEC Rule 613(c) under Regulation NMS requires the CAT NMS Plan to set forth certain provisions requiring Industry Members to record and report data to the CAT. To comply with this provision, Section 6.4 of the CAT NMS Plan sets forth the data reporting requirements for Industry Members. To implement these provisions with regard to its Industry Members, the Exchange proposes Rule 6.6830 (Consolidated Audit Trail—Industry Member Data Reporting) to require Industry Members to comply with the Industry Member Data reporting requirements of the Plan. Proposed Rule 6.6830 has six sections covering (1) recording and reporting Industry Member Data, (2) timing of the recording and reporting, (3) the applicable securities covered by the recording and reporting requirements, (4) format, (5) the security symbology to be used in the recording and reporting, and (6) error correction requirements, each of which is described below.

(A) Recording and Reporting Industry Member Data

Paragraph (a) of proposed Rule 6.6830 describes the recording and reporting of Industry Member Data to the Central Repository. Paragraph (a) consists of paragraphs (a)(1)–(a)(3), which cover Recorded Industry Member Data, Received Industry Member Data and Options Market Maker data, respectively. Paragraphs (a)(1)–(a)(3) of proposed Rule 6.6830 set forth the recording and reporting requirements required in Section 6.4(d)(i)–(iii) of the CAT NMS Plan, respectively.

Paragraph (a)(1) requires, subject to paragraph (a)(3) regarding Options Market Makers, each Industry Member to record and electronically report to the Central Repository the following details for each order and each Reportable Event, as applicable (“Recorded Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan:

- For original receipt or origination of an order: (1) Firm Designated ID(s) for each Customer; (2) CAT-Order-ID; (3) SRO-Assigned Market Participant Identifier of the Industry Member receiving or originating the order; (4) date of order receipt or origination; (5) time of order receipt or origination (using timestamps pursuant to proposed Rule 6.6860); and (6) Material Terms of the Order;

- for the routing of an order: (1) CAT-Order-ID; (2) date on which the order is routed; (3) time at which the order is routed (using timestamps pursuant to proposed Rule 6.6860); (4) SRO-Assigned Market Participant Identifier of the Industry Member routing the order; (5) SRO-Assigned Market Participant Identifier of the Industry Member or Participant to which the order is being routed; (6) if routed internally at the Industry Member, the identity and nature of the department or desk to which the order is routed; and (7) Material Terms of the Order;

- for the receipt of an order that has been routed, the following information: (1) CAT-Order-ID; (2) date on which the order is received; (3) time at which the order is received (using timestamps pursuant to proposed Rule 6.6860); (4) SRO-Assigned Market Participant Identifier of the Industry Member receiving the order; (5) SRO-Assigned Market Participant Identifier of the Industry Member or Participant routing the order; and (6) Material Terms of the Order;

- if the order is modified or cancelled: (1) CAT-Order-ID; (2) date the modification or cancellation is received or originated; (3) time at which the

modification or cancellation is received or originated (using timestamps pursuant to proposed Rule 6.6860); (4) price and remaining size of the order, if modified; (5) other changes in the Material Terms of the Order, if modified; and (6) whether the modification or cancellation instruction was given by the Customer or was initiated by the Industry Member;

- if the order is executed, in whole or in part: (1) CAT-Order-ID; (2) date of execution; (3) time of execution (using timestamps pursuant to proposed Rule 6.6860); (4) execution capacity (principal, agency or riskless principal); (5) execution price and size; (6) SRO-Assigned Market Participant Identifier of the Industry Member executing the order; (7) whether the execution was reported pursuant to an effective transaction reporting plan or the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information; and

- other information or additional events as may be prescribed pursuant to the CAT NMS Plan.

Paragraph (a)(2) of proposed Rule 6.6830 requires, subject to paragraph (a)(3) regarding Options Market Makers, each Industry Member to record and report to the Central Repository the following, as applicable (“Received Industry Member Data” and collectively with the information referred to in proposed Rule 6.6830(a)(1) “Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan:

- If the order is executed, in whole or in part: (1) An Allocation Report; (2) SRO-Assigned Market Participant Identifier of the clearing broker or prime broker, if applicable; and (3) CAT-Order-ID of any contra-side order(s);

- if the trade is cancelled, a cancelled trade indicator; and

- for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with proposed Rule 6.6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

Paragraph (a)(3) of proposed Rule 6.6830 states that each Industry Member that is an Options Market Maker is not required to report to the Central Repository the Industry Member Data regarding the routing, modification or cancellation of its quotes in Listed Options. Each Industry Member that is an Options Market Maker, however, is required to report to the Exchange the time at which its quote in a Listed Option is sent to the Exchange (and, if applicable, any subsequent quote modification time and/or cancellation

time when such modification or cancellation is originated by the Options Market Maker). This paragraph implements the Options Market Maker Quote Exemption, as discussed above.

(B) Timing of Recording and Reporting

Paragraph (b) of proposed Rule 6.6830 describes the requirements related to the timing of recording and reporting of Industry Member Data. Paragraphs (b)(1)–(b)(3) of proposed Rule 6.6830 set forth the requirements related to the timing of the recording and reporting requirements required in Section 6.4(b)(i)–(ii) of the CAT NMS Plan.

Paragraph (b)(1) of proposed Rule 6.6830 requires each Industry Member to record Recorded Industry Member Data contemporaneously with the applicable Reportable Event. Paragraph (b)(2) of proposed Rule 6.6830 requires each Industry Member to report: (1) Recorded Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member records such Recorded Industry Member Data; and (2) Received Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member receives such Received Industry Member Data. Paragraph (b)(3) of proposed Rule 6.6830 states that Industry Members may, but are not required to, voluntarily report Industry Member Data prior to the applicable 8:00 a.m. Eastern Time deadline.

(C) Applicable Securities

Paragraph (c) of proposed Rule 6.6830 describes the securities to which the recording and reporting requirements of proposed Rule 6.6830 apply. Paragraphs (c)(1) and (c)(2) of proposed Rule 6.6830 set forth the description of applicable securities as set forth in Section 6.4(c)(i) and (ii) of the CAT NMS Plan, respectively. Paragraph (c)(1) of proposed Rule 6.6830 requires each Industry Member to record and report to the Central Repository the Industry Member Data as set forth in paragraph (a) of proposed Rule 6.6830 for each NMS Security registered or listed for trading on such exchange or admitted to unlisted trading privileges on such exchange. Paragraph (c)(2) of proposed Rule 6.6830 requires each Industry Member to record and report to the Central Repository the Industry Member Data as set forth in paragraph (a) of this proposed Rule 6.6830 for each Eligible Security for which transaction reports are required to be submitted to FINRA.

(D) Security Symbolology

Paragraph (d) of proposed Rule 6.6830 describes the security symbolology that Industry Members are required to use when reporting Industry Member Data to the Central Repository. Paragraph (d)(1) of proposed Rule 6.6830 requires, for each exchange-listed Eligible Security, each Industry Member to report Industry Member Data to the Central Repository using the symbolology format of the exchange listing the security. This requirement implements the requirement set forth in Section 2 of Appendix D of the CAT NMS Plan to use the listing exchange symbolology when reporting data to the Central Repository for exchange-listed Eligible Securities.

For each Eligible Security that is not exchange-listed, however, there is no listing exchange to provide the symbolology format. Moreover, to date, the requisite symbolology format has not been determined. Therefore, paragraph (d)(2) of proposed Rule 6.6830 requires, for each Eligible Security that is not exchange-listed, each Industry Member to report Industry Member Data to the Central Repository using such symbolology format as approved by the Operating Committee pursuant to the CAT NMS Plan. The Exchange intends to announce to its Industry Members the relevant symbolology formats established by the Operating Committee via Trader Update.

(E) Error Correction

To ensure that the CAT contains accurate data, the CAT NMS Plan requires Industry Members to correct erroneous data submitted to the Central Repository. Therefore, the Exchange proposes to adopt paragraph (e) of proposed Rule 6.6830, which addresses the correction of erroneous data reported to the Central Repository. Paragraph (e) of proposed Rule 6.6830 requires, for each Industry Member for which errors in Industry Member Data submitted to the Central Repository have been identified by the Plan Processor or otherwise, that such Industry Member submit corrected Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on T+3. This requirement implements the error correction requirement set forth in Section 6 of Appendix D of the CAT NMS Plan.

(iv) Customer Information Reporting

Section 6.4(d)(iv) of the CAT NMS Plan requires Industry Members to submit to the Central Repository certain information related to their Customers in accordance with the Customer

Information Approach discussed above. The Exchange proposes new Rule 6.6840 (Consolidated Audit Trail—Customer Information Reporting) to implement this provision of the CAT NMS Plan with regard to its Industry Members. Specifically, paragraph (a) of proposed Rule 6.6840 requires each Industry Member to submit to the Central Repository the Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in proposed Rule 6.6880. Paragraph (b) of proposed Rule 6.6840 requires each Industry Member to submit to the Central Repository any updates, additions or other changes to the Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account on a daily basis. Paragraph (c) of proposed Rule 6.6840 requires each Industry Member, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, to submit to the Central Repository a complete set of Firm Designated IDs, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account. This periodic refresh is intended to ensure that the Central Repository has the most current information identifying a Customer. The Exchange intends to announce to its Industry Members when such a periodic refresh is required by the Plan Processor and the Operating Committee via Trade Update.

Paragraph (d) of proposed Rule 6.6840 addresses the correction of erroneous Customer data reported to the Central Repository to ensure and accurate audit trail. Paragraph (d) requires, for each Industry Member for which errors in Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such CAT Reporting Member to submit corrected data to the Central Repository by 5:00 p.m. Eastern Time on T+3. This requirement implements the error correction requirement set forth in Appendix C of the CAT NMS Plan.

(v) Industry Member Information Reporting

Section 6.4(d)(vi) of the CAT NMS Plan requires Industry Members to submit to the Central Repository information sufficient to identify such

Industry Member, including CRD number and LEI, if such LEI has been obtained in accordance with the Existing Identifier Approach discussed above. The Exchange proposes Rule 6.6850 (Consolidated Audit Trail—Industry Member Information Reporting) to implement this provision of the CAT NMS Plan with regard to its Industry Members. Specifically, proposed Rule 6.6850 requires each Industry Member to submit to the Central Repository information sufficient to identify such Industry Member, including CRD number and LEI, if such LEI has been obtained prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in proposed Rule 6.6880, and keep such information up to date as necessary.

(vi) Time Stamps

SEC Rule 613(d)(3) under Regulation NMS sets forth requirements for time stamps used by CAT Reporters in recording and reporting data to the CAT.²⁶ To comply with this provision, Section 6.8(b) of the Plan sets forth time stamp requirements for Industry Members. To implement this provision with regard to its Industry Members, the Exchange proposes new Rule 6.6860 (Consolidated Audit Trail—Time Stamps) to require its Industry Members to comply with the time stamp requirements of the CAT NMS Plan.

Paragraph (a) of proposed Rule 6.6860 sets forth the time stamp increments to be used by Industry Members in their CAT reporting. Paragraph (a)(1) of proposed Rule 6.6860 requires each Industry Member to record and report Industry Member Data to the Central Repository with time stamps in milliseconds, subject to paragraphs (a)(2) and (b) of proposed Rule 6.6860. To the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, paragraph (a)(2) of proposed Rule 6.6860 requires such Industry Member to record and report Industry Member Data to the Central Repository with time stamps in such finer increment, subject to paragraph (b) of proposed Rule 6.6860 regarding Manual Order Events and Allocation Reports.

Paragraph (b) of proposed Rule 6.6860 sets forth the permissible time stamp increments for Manual Order Events and Allocation Reports. Specifically, paragraph (b)(1) of proposed Rule 6.6860 permits each Industry Member to record and report Manual Order Events

to the Central Repository in increments up to and including one second, provided that each Industry Member is required to record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member ("Electronic Capture Time") in milliseconds. In addition, paragraph (b)(2) of proposed Rule 6.6860 permits each Industry Member to record and report the time of Allocation Reports in increments up to and including one second.

(vii) Clock Synchronization Rule Violations

Proposed Rule 6.6865 (Consolidated Audit Trail—Clock Synchronization Rule Violations) describes potential violations of the clock synchronization time period requirements set forth in the proposed Rule 6.6800 Series. Proposed Rule 6.6865 states that an Industry Member that engages in a pattern or practice of reporting Reportable Events outside of the required clock synchronization time period as set forth in this Rule Series without reasonable justification or exceptional circumstances may be considered in violation of this Rule. This provision implements the requirements of Section 6.8 of the CAT NMS Plan which requires the Compliance Rule to provide that a pattern or practice of reporting events outside of the required clock synchronization time period without reasonable justification or exceptional circumstances may be considered a violation of SEC Rule 613 or the CAT NMS Plan.

(viii) Connectivity and Data Transmission

Proposed Rule 6.6870 (Consolidated Audit Trail—Connectivity and Data Transmission) addresses connectivity and data transmission requirements related to the CAT. Paragraph (a) of proposed Rule 6.6870 describes the format(s) for reporting Industry Member Data to the Central Repository, thereby implementing the formatting requirements as set forth in Section 6.4(a) of the CAT NMS Plan. Specifically, paragraph (a) of proposed Rule 6.6870 requires each Industry Member to transmit data as required under the CAT NMS Plan to the Central Repository utilizing such format(s) as may be provided by the Plan Processor and approved by the Operating Committee.

Paragraph (b) of proposed Rule 6.6870 addresses connectivity requirements related to the CAT. Paragraph (b) of proposed Rule 6.6870 requires each Industry Member to connect to the

Central Repository using a secure method(s), including, but not limited to, private line(s) and virtual private network connection(s). This provision implements the connectivity requirements set forth in Section 4 of Appendix D to the CAT NMS Plan.

Paragraph (c) of proposed Rule 6.6870 permits Industry Members to use CAT Reporting Agents to fulfill their data reporting obligations related to the CAT. Paragraph (c) is based on FINRA Rule 7450(c), which permits OATS Reporting Members to enter into agreements with Reporting Agents to fulfill the OATS obligations of the OATS Reporting Member. Specifically, Paragraph (c)(1) of proposed Rule 6.6870 states that any Industry Member may enter into an agreement with a CAT Reporting Agent pursuant to which the CAT Reporting Agent agrees to fulfill the reporting obligations of such Industry Member under the proposed Rule 6.6800 Series. Any such agreement must be evidenced in writing, which specifies the respective functions and responsibilities of each party to the agreement that are required to effect full compliance with the requirements of the proposed Rule 6.6800 Series. The Exchange notes that, currently, no standardized form agreement for CAT Reporting Agent arrangements has been adopted. Paragraph (c)(2) of proposed Rule 6.6870 requires that all written documents evidencing an agreement with a CAT Reporting Agent be maintained by each party to the agreement. Paragraph (c)(3) of proposed Rule 6.6870 states that each Industry Member remains primarily responsible for compliance with the requirements of the proposed Rule 6.6800 Series, notwithstanding the existence of an agreement described in paragraph (c) of proposed Rule 6.6870.

(ix) Development and Testing

The Exchange proposed Rule 6.6880 (Consolidated Audit Trail—Development and Testing) to address requirements for Industry Members related to CAT development and testing. Paragraph (a) of proposed Rule 6.6880 sets forth the testing requirements and deadlines for Industry Members to develop and commence reporting to the Central Repository. These requirements are set forth in Appendix C to the CAT NMS Plan.

Paragraph (a)(1) sets forth the deadlines related to connectivity and acceptance testing. Industry Members (other than Small Industry Members) are required to begin connectivity and acceptance testing with the Central Repository no later than August 15, 2018, and Small Industry Members are

²⁶ 17 CFR 242.613(d)(3).

required to begin connectivity and acceptance testing with the Central Repository no later than August 15, 2019.

Paragraph (a)(2) sets forth the deadlines related to reporting Customer and Industry Member information. Paragraph (a)(2)(i) requires Industry Members (other than Small Industry Members) to begin reporting Customer and Industry Member information, as required by Rules 6.6840(a) and 6.6850, respectively, to the Central Repository for processing no later than October 15, 2018. Paragraph (a)(2)(ii) requires Small Industry Members to begin reporting Customer and Industry Member information, as required by Rules 6.6840(a) and 6.6850, respectively, to the Central Repository for processing no later than October 15, 2019.

Paragraph (a)(3) sets forth the deadlines related to the submission of order data. Under paragraph (a)(3)(i), Industry Members (other than Small Industry Members) are permitted, but not required, to submit order data for testing purposes beginning no later than May 15, 2018. In addition, Industry Members (other than Small Industry Members) are required to participate in the coordinated and structured testing of order submission, which will begin no later than August 15, 2018. Under paragraph (a)(3)(ii), Small Industry Members are permitted, but not required, to submit order data for testing purposes beginning no later than May 15, 2019. In addition, Small Industry Members are required to participate in the coordinated and structured testing of order submission, which will begin no later than August 15, 2019.

Paragraph (a)(4) states that Industry Members are permitted, but not required to, submit Quote Sent Times on Options Market Maker quotes, beginning no later than October 15, 2018.

Paragraph (b) of proposed Rule 6.6880 implements the requirement under the CAT NMS Plan that Industry Members participate in required industry testing with the Central Repository.²⁷ Specifically, proposed Rule 6.6880 requires that each Industry Member participate in testing related to the Central Repository, including any industry-wide disaster recovery testing, pursuant to the schedule established pursuant to the CAT NMS Plan. The Exchange intends to announce to its Industry Members the schedule established pursuant to the CAT NMS Plan via Trader Update.

(x) Recordkeeping

Proposed Rule 6.6890 (Consolidated Audit Trail—Recordkeeping) sets forth the recordkeeping obligations related to the CAT for Industry Members. Proposed Rule 6.6890 requires each Industry Member to maintain and preserve records of the information required to be recorded under the proposed Rule 6.6800 Series for the period of time and accessibility specified in SEC Rule 17a-4(b). The records required to be maintained and preserved under the proposed Rule 6.6800 Series may be immediately produced or reproduced on “micrographic media” as defined in SEC Rule 17a-4(f)(1)(i) or by means of “electronic storage media” as defined in SEC Rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEC Rule 17a-4(f) and be maintained and preserved for the required time in that form. Proposed Rule 6.6890 is based on FINRA Rule 7440(a)(5), which sets forth the recordkeeping requirements related to OATS.

(xi) Timely, Accurate and Complete Data

SEC Rule 613 and the CAT NMS Plan emphasize the importance of the timeliness, accuracy, completeness and integrity of the data submitted to the CAT.²⁸ Accordingly, proposed Rule 6.6893 (Consolidated Audit Trail—Timely, Accurate and Complete Data) implements this requirement with regard to Industry Members. Paragraph (a) of proposed Rule 6.6893 requires that Industry Members record and report data to the Central Repository as required by the proposed Rule 6.6800 Series in a manner that ensures the timeliness, accuracy, integrity and completeness of such data.

In addition, without limiting the general requirement as set forth in paragraph (a), paragraph (b) of proposed Rule 6.6893 requires Industry Members to accurately provide the LEIs in their records as required by the proposed Rule 6.6800 Series and states that Industry Members may not knowingly submit inaccurate LEIs to the Central Repository. Paragraph (b) notes, however, that this requirement does not impose any additional due diligence obligations on Industry Members with regard to LEIs for CAT purposes. Accordingly, this provision does not impose any due diligence obligations beyond those that may exist today with respect to information associated with a LEI. Although Industry Members will not be required to perform additional

with regard to the LEIs for CAT purposes, Industry Members will be required to accurately provide the LEIs in their records and may not knowingly submit inaccurate LEIs to the CAT. Paragraph (b) is consistent with the SEC’s statements in the Approval Order for the CAT NMS Plan regarding an Industry Member’s obligations regarding LEIs.²⁹

Paragraph (c) of proposed Rule 6.6893 states that, if an Industry Member reports data to the Central Repository with errors such that its error percentage exceeds the maximum Error Rate established by the Operating Committee pursuant to the CAT NMS Plan, then such Industry Member would not be in compliance with the Rule 6.6800 Series. As discussed above, the initial maximum Error Rate is 5%, although the Error Rate is expected to be reduced over time. The Exchange intends to announce to its Industry Members changes to the Error Rate established pursuant to the CAT NMS Plan via Trader Update.

Furthermore, paragraph (d) of proposed Rule 6.6893 addresses Compliance Thresholds related to reporting data to the CAT. Paragraph (c) of proposed Rule 6.6893 states that each Industry Member is required to meet a separate compliance threshold which will be an Industry Member-specific rate that may be used as the basis for further review or investigation into the Industry Member’s performance with regard to the CAT (the “Compliance Thresholds”). Compliance Thresholds will compare an Industry Member’s error rate to the aggregate Error Rate over a period of time to be defined by the Operating Committee. Compliance Thresholds will be set by the Operating Committee, and will be calculated at intervals to be set by the Operating Committee.³⁰ Compliance Thresholds will include compliance with the data reporting and clock synchronization requirements. Proposed Rule 6.6893 states that an Industry Member’s performance with respect to its Compliance Threshold will not signify, as a matter of law, that such Industry Member has violated this proposed Rule 6.6800 Series.

(xii) Compliance Dates

Proposed Rule 6.6895 (Consolidated Audit Trail—Compliance Dates) sets forth the compliance dates for the various provisions of proposed Rules 6.6800 through 6.6895. Paragraphs (b) and (c) of this Rule set forth the additional details with respect to the

²⁷ See Approval Order, *supra* note 9, at 84725.

²⁸ See SEC Rule 613(e)(4)(i)(D)(ii); and Section 6.5(d) of the CAT NMS Plan.

²⁹ See Approval Order, *supra* note 9, at 84745.

³⁰ See Appendix C of the CAT NMS Plan.

compliance date of the proposed Rules 6.6800 through 6.6895. Unless otherwise noted, proposed Rules 6.6800 through 6.6895 will be fully effective upon approval by the Commission and ETP Holders must comply with their terms.

Paragraph (b) of proposed Rule 6.6895 establishes the compliance dates for the clock synchronization requirements as set forth in proposed Rule 6.6820. Paragraph (b)(1) of proposed Rule 6.6895 states that each Industry Member shall comply with Rule 6.6820 with regard to Business Clocks that capture time in milliseconds commencing on or before March 15, 2017. Paragraph (b)(2) states that each Industry Member shall comply with Rule 6.6820 with regard to Business Clocks that do not capture time in milliseconds commencing on or before February 19, 2018. The compliance date set forth in paragraph (b)(1) reflects the exemptive relief requested by the Participants with regard to the clock synchronization requirements related to Business Clocks that do not capture time in milliseconds.³¹

Paragraph (c) of proposed Rule 6.6895 establishes the compliance dates for the data recording and reporting requirements for Industry Members. Paragraph (c)(1) of proposed Rule 6.6895 requires each Industry Member (other than a Small Industry Member) to record and report the Industry Member Data to the Central Repository by November 15, 2018. Paragraph (c)(2) of proposed Rule 6.6895 requires that each Industry Member that is a Small Industry Member to record and report the Industry Member Data to the Central Repository by November 15, 2019. Such compliance dates are consistent with the compliance dates set forth in SEC Rule 613(a)(3)(v) and (vi), and Section 6.7(a)(v) and (vi) of the CAT NMS Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,³² which require, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and

Section 6(b)(8) of the Act,³³ which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies the provisions of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."³⁴ To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements provisions of the CAT NMS Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the proposed Rule Series implementing provisions of the CAT NMS Plan will apply equally to all firms that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing this proposed Rule 6.6800 Series. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

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

No written comments were solicited or received with respect to the proposed rule change.

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

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEARCA-2017-04 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NYSEARCA-2017-04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the

³¹ Concurrently with this filing, the Participants submitted a request for exemptive relief from SEC Rule 613(a)(3)(ii) of Regulation NMS under the Securities Exchange Act of 1934 and Section 6.7(a)(ii) of the CAT NMS Plan. See Letter from Participants to Brent J. Fields, Secretary, Commission, dated January 17, 2017.

³² 15 U.S.C. 78f(b)(5).

³³ 15 U.S.C. 78f(b)(8).

³⁴ See Approval Order, *supra* note 9, at 84697.

filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2017–04 and should be submitted on or before February 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁵

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017–02376 Filed 2–3–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79905; File No. SR–Phlx–2017–05]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Correct a Typographical Error

January 31, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on January 26, 2017, NASDAQ PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to correct a typographical error. The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaqphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

³⁵ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

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

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

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

1. Purpose

The purpose of this proposed rule change is to correct a typographical error. The Exchange previously submitted a rule filing to amend Rule 754, which deals with employees’ discretion as to customers’ accounts. However, the rule referred to FINRA 2510 instead of NASD 2510.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act, in general, and with Section 6(b) of the Act³ in general, and furthers the objectives of Section 6(b)(5) of the Act⁴ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange asserts that the proposed correction will serve the Act’s goals by ensuring that the Exchange’s rules use accurate terminology.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Moreover, the Exchange believes that the proposed correction does not impact competition in any respect, since it is

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

designed to correct a typographical error.

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

No written comments were either solicited or received.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁵ and subparagraph (f)(6) of Rule 19b–4 thereunder.⁶

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR–Phlx–2017–05 on the subject line.

Paper Comments

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

⁵ 15 U.S.C. 78s(b)(3)(A)(iii).

⁶ 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

All submissions should refer to File Number SR-Phlx-2017-05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-Phlx-2017-05 and should be submitted on or before February 27, 2017.

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

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-02373 Filed 2-3-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79910; File No. SR-CBOE-2016-082]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Related to Rules Regarding the Responsibility for Ensuring Compliance With Open Outcry Priority and Allocation Requirements and Trade-Through Prohibitions

January 31, 2017.

On December 1, 2016, the Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change regarding responsibilities for ensuring compliance with open outcry priority and allocation requirements and trade-through prohibitions. The proposed rule change was published for comment in the *Federal Register* on December 19, 2016.³ The Commission received one comment letter on the proposed rule change.⁴

Section 19(b)(2) of the Act⁵ provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is February 2, 2017. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed

rule change and the comment letter. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁶ designates March 19, 2017, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR-CBOE-2016-082).

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

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-02378 Filed 2-3-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79909; File No. SR-NYSEARCA-2017-03]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, To Adopt the Rule 11.6800 Series To Implement the Compliance Rule Regarding the National Market System Plan Governing the Consolidated Audit Trail

January 31, 2017.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on January 17, 2017, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On January 30, 2017, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposed rule change to adopt the Rule 11.6800 Series to implement the compliance rule ("Compliance Rule") regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 79540 (December 13, 2016), 81 FR 91967.

⁴ See Letter to Brent J. Fields, Secretary, Commission, from Joan C. Conley, Senior Vice President and Corporate Secretary, Nasdaq, dated December 22, 2016. The comment letter is available at <https://www.sec.gov/comments/sr-cboe-2016-082/cboe2016082.shtml>.

⁵ 15 U.S.C. 78s(b)(2).

⁶ *Id.*

⁷ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁷ 17 CFR 200.30-3(a)(12).

NMS Plan” or “Plan”).⁴ The proposed rule change is available on the Exchange’s Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

This Amendment No. 1 amends and replaces in its entirety the original proposal filed by the Exchange on January 17, 2017. The Exchange submits this Amendment No. 1 in order to clarify certain points and add additional details to the Compliance Rule as proposed herein.

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, Investors’ Exchange LLC, ISE Gemini, LLC, ISE Mercury, LLC, Miami International Securities Exchange LLC, MIAx PEARL, LLC, NASDAQ BX, Inc., NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. (collectively, the “Participants”) filed with the Commission, pursuant to Section 11A of the Exchange Act⁵ and Rule 608 of Regulation NMS thereunder,⁶ the CAT NMS Plan.⁷ The Participants filed the

⁴ Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein or in the CAT NMS Plan.

⁵ 15 U.S.C. 78k-1.

⁶ 17 CFR 242.608.

⁷ See Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015.

Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,⁸ and approved by the Commission, as modified, on November 15, 2016.⁹

The Plan is designed to create, implement and maintain a consolidated audit trail (“CAT”) that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Each Participant is required to enforce compliance by its Industry Member, as applicable, with the provisions of the Plan, by adopting a Compliance Rule applicable to their Industry Members.¹⁰ As is described more fully below, the proposed Rule 11.6800 Series sets forth the Compliance Rule to require Industry Members to comply with the provisions of the CAT NMS Plan. The proposed Rule 11.6800 Series includes twelve proposed rules covering the following areas: (1) Definitions; (2) clock synchronization; (3) Industry Member Data reporting; (4) Customer information reporting; (5) Industry Member information reporting; (6) time stamps; (7) clock synchronization rule violations; (8) connectivity and data transmission; (9) testing; (10) recordkeeping; (11) timely, accurate and complete data; and (12) compliance dates. Each of these proposed rules is discussed in detail below.

(i) Definitions

Proposed Rule 11.6810 (Consolidated Audit Trail—Definitions) sets forth the definitions for the terms used in the proposed Rule 11.6800 Series. Each of the defined terms in proposed Rule 11.6810 is discussed in detail in this section.

On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. See Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

⁸ See Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

⁹ See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (“Order Approving the National Market System Plan Governing the Consolidated Audit Trail” (“Approval Order”).

¹⁰ See SEC Rule 613(g)(1). The proposed Rule 11.6800 Series would be applicable to OTP Holders. Pursuant to Rule 1.1(q), an “OTP Holder” refers to a natural person, in good standing, who has been issued an OTP. An OTP Holder must be a registered broker or dealer pursuant to Section 15 of the Act. Rule 1.1(p) defines “OTP” as an Options Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange.

(A) Account Effective Date

(I) Customer Information Approach

SEC Rule 613 requires that numerous data elements be reported to the CAT to ensure there is sufficient information to create the lifecycle of an order, and provide regulators with sufficient detail about an order to perform their regulatory duties. Certain required elements are intended to ensure that the regulators can identify the Customer’s associated with orders. For example, SEC Rule 613(c)(7)(i)(A) requires an Industry Member to report the “Customer-IDs” for each Customer for the original receipt or origination of an order. “Customer-ID” is defined in SEC Rule 613(j)(5) to mean “with respect to a customer, a code that uniquely and consistently identifies such customer for purposes of providing data to the Central Repository.” SEC Rule 613(c)(8) requires Industry Members to use the same Customer-ID for each Customer. The SEC granted the Participants exemptive relief to permit the use of an alternative approach to the requirement that an Industry Member report a Customer-ID for every Customer upon original receipt or origination.¹¹ The alternative approach is called the Customer Information Approach.

Under the Customer Information Approach, the CAT NMS Plan would require each Industry Member to assign a unique Firm Designated ID to each Customer. As the Firm Designated ID, Industry Members would be permitted to use an account number or any other identifier defined by the firm, provided each identifier is unique across the firm for each business date (*i.e.*, a single firm may not have multiple separate customers with the same identifier on any given date). Prior to their commencement of reporting to the CAT, Industry Members would submit an initial set of Customer information to the Central Repository, including the Firm Designated ID, Customer Identifying Information and Customer Account Information (which may include, as applicable, the Customer’s name, address, date of birth, individual tax payer identifier number (“ITIN”)/ social security number (“SSN”), individual’s role in the account (*e.g.*, primary holder, joint holder, guardian, trustee, person with power of attorney) and LEI and/or Larger Trader ID

¹¹ See Securities Exchange Act Release No. 77265 (March 1, 2016), 81 FR 11856 (March 7, 2016) (“Exemption Order”). See also Letter from Participants to Brent J. Fields, Secretary, Commission, dated January 30, 2015 at 12 (“Exemptive Request Letter”); and CAT NMS Plan at Appendix C, Section A.1(a)(iii).

(“LTID”). This process is referred to as the customer definition process.

In accordance with the Customer Information Approach, Industry Members would be required to report only the Firm Designated ID for each new order submitted to the Central Repository, rather than the “Customer-ID” with individual order events. Within the Central Repository, each Customer would be uniquely identified by identifiers or a combination of identifiers such as ITIN/SSN, date of birth, and as applicable, LEI and LTID. The Plan Processor would be required to use these unique identifiers to map orders to specific Customers across all Industry Members and Participants. To ensure information identifying a Customer is up to date, Industry Members would be required to submit to the Central Repository daily and periodic updates for reactivated accounts, newly established accounts, and revised Firm Designated IDs or associated reportable Customer information.

(II) Definition of Account Effective Date

In connection with the Customer Information Approach, Industry Members would be required to report Customer Account Information to the Central Repository. “Customer Account Information” is defined in SEC Rule 613(j)(4) to “include, but not be limited to, account number, account type, customer type, date account opened, and large trader identifier (if applicable).” Therefore, when reporting Customer Account Information, and Industry Member is required to report the date an account was opened. The Participants requested and received an exemption to allow an “Account Effective Date” to be reported in lieu of an account open date in certain limited circumstances. The definition of “Account Effective Date” as set forth in paragraph (a) of proposed Rule 11.6810 describes those limited circumstances in which an Industry Member may report an “Account Effective Date” rather than the account open date. The proposed definition is the same as the definition of “Account Effective Date” set forth in Section 1.1 of the CAT NMS Plan, provided, however, that specific dates have replaced the descriptions of those dates set forth in Section 1.1 of the Plan.

Specifically, Paragraph (a)(1) defines “Account Effective Date” to mean, with regard to those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution: (1) When the trading relationship was established prior to November 15, 2018 for Industry

Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, either (a) the date the relationship identifier was established within the Industry Member; (b) the date when trading began (*i.e.*, the date the first order was received) using the relevant relationship identifier; or (c) if both dates are available, the earlier date will be used to the extent that the dates differ; or (2) when the trading relationship was established on or after November 15, 2018 for Industry Members other than Small Industry Members, or on or after November 15, 2019 for Small Industry Members, the date the Industry Member established the relationship identifier, which would be no later than the date the first order was received.

Paragraph (a)(2) of proposed Rule 11.6810 states that an “Account Effective Date” means, where an Industry Member changes back office providers or clearing firms prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the date an account was established at the relevant Industry Member, either directly or via transfer.

Paragraph (a)(3) states that an “Account Effective Date” means, where an Industry Member acquires another Industry Member prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the date an account was established at the relevant Industry Member, either directly or via transfer.

Paragraph (a)(4) states that “Account Effective Date” means, where there are multiple dates associated with an account established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the earliest available date.

Paragraph (a)(5) states that an “Account Effective Date” means, with regard to Industry Member proprietary accounts established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members: (1) The date established for the account in the Industry Member or in a system of the Industry Member or (2) the date when proprietary trading began in the account (*i.e.*, the date on which the first orders were submitted from the account). With regard to paragraphs (a)(2)–(5), the Account Effective Date will be no later than the date trading occurs at the

Industry Member or in the Industry Member’s system.

(B) Active Account

Under the Customer Information Approach, Industry Members are required to report Customer Identifying Information and Customer Account Information for only those accounts that are active. This will alleviate the need for Industry Members to update such information for non-active accounts, but still ensure that the Central Repository will collect audit trail data for Customer accounts that have any Reportable Events. Accordingly, paragraph (b) of proposed Rule 11.6810 defines an “Active Account” as an account that has had activity in Eligible Securities within the last six months. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(C) Allocation Report

(I) Allocation Report Approach

SEC Rule 613(c)(7)(vi)(A) requires each Industry Member to record and report to the Central Repository “the account number for any subaccounts to which the execution is allocated (in whole or in part).” The SROs requested and received from the SEC exemptive relief from SEC Rule 613 for an alternative to this approach (“Allocation Report Approach”). The Allocation Report Approach would permit Industry Members to record and report to the Central Repository an Allocation Report that includes, among other things, the Firm Designated ID for any account(s) to which executed shares are allocated when an execution is allocated in whole or part in lieu of requiring the reporting of the account number for any subaccount to which an execution is allocated, as is required by SEC Rule 613.¹² Under SEC Rule 613, regulators would be able to link the subaccount to which an allocation was made to a specific order. In contrast, under the Allocation Report Approach, regulators would only be able to link an allocation to the account to which it was made, and not to a specific order.

(II) Definition of Allocation Report

To assist in implementing the Allocation Report Approach, paragraph (c) of proposed Rule 11.6810 defines an “Allocation Report.” Specifically, an “Allocation Report” means a report made to the Central Repository by an Industry Member that identifies the Firm Designated ID for any account(s), including subaccount(s), to which executed shares are allocated and

¹² See Exemptive Request Letter, *supra* note 11, at 26–27; and Exemption Order.

provides the security that has been allocated, the identifier of the firm reporting the allocation, the price per share of shares allocated, the side of shares allocated, the number of shares allocated to each account, and the time of the allocation; provided, for the avoidance of doubt, any such Allocation Report shall not be required to be linked to particular orders or executions. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(D) Business Clock

To create the required audit trail, Industry Members are required to record the date and time of various Reportable Events to the Central Repository. Industry Members will use "Business Clocks" to record such dates and times. Accordingly, paragraph (d) of proposed Rule 11.6810 defines the term "Business Clock" as a clock used to record the date and time of any Reportable Event required to be reported under this Rule 11.6800 Series. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, except the Exchange proposes to replace the phrase "under SEC Rule 613" at the end of the definition in Section 1.1 of the Plan with the phrase "under this Rule Series." This change is intended to recognize that the Industry Members' obligations with regard to the CAT are set forth in this Rule 11.6800 Series.

(E) CAT

Paragraph (e) of proposed Rule 11.6810 defines the term "CAT" to mean the consolidated audit trail contemplated by SEC Rule 613. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(F) CAT NMS Plan

Paragraph (f) of proposed Rule 11.6810 defines the term "CAT NMS Plan" to mean the National Market System Plan Governing the Consolidated Audit Trail, as amended from time to time.

(G) CAT-Order-ID

(I) Daisy Chain Approach

Under the CAT NMS Plan, the Daisy Chain Approach is used to link and reconstruct the complete lifecycle of each Reportable Event in CAT. According to this Approach, Industry Members assign their own identifiers to each order event. Within the Central Repository, the Plan Processor later replaces the identifier provided by the Industry Member for each Reportable Event with a single identifier, called the CAT Order-ID, for all order events pertaining to the same order. This CAT

Order-ID is used to link the Reportable Events related to the same order.

(II) Definition of CAT-Order-ID

To implement the Daisy Chain Approach, paragraph (g) of proposed Rule 11.6810 defines the term "CAT-Order-ID." The term "CAT-Order-ID" is defined to mean a unique order identifier or series of unique order identifiers that allows the Central Repository to efficiently and accurately link all Reportable Events for an order, and all orders that result from the aggregation or disaggregation of such order. This is the same definition as set forth in SEC Rule 613(j)(1), and Section 1.1 of the CAT NMS Plan defines "CAT-Order-ID" by reference to SEC Rule 613(j)(1).

(H) CAT Reporting Agent

The CAT NMS Plan permits an Industry Member to use a third party, such as a vendor, to report the required data to the Central Repository on behalf of the Industry Member.¹³ Such a third party, referred to in this proposed Rule 11.6800 Series as a "CAT Reporting Agent," would be one type of a Data Submitter, that is, a party that submit data to the Central Repository. Paragraph (h) of proposed Rule 11.6810 defines the term "CAT Reporting Agent" to mean a Data Submitter that is a third party that enters into an agreement with an Industry Member pursuant to which the CAT Reporting Agent agrees to fulfill such Industry Member's obligations under this Rule 11.6800 Series.

This definition is based on FINRA's definition of a "Reporting Agent" as set forth in FINRA's rule related to its Order Audit Trail System ("OATS"). Specifically, FINRA Rule 7410(n) defines a "Reporting Agent" as a third party that enters into any agreement with a member pursuant to which the Reporting Agent agrees to fulfill such member's reporting obligations under FINRA Rule 7450. The Reporting Agent for OATS fulfills a similar role to the CAT Reporting Agent.

(I) Central Repository

Paragraph (i) of proposed Rule 11.6810 defines the term "Central Repository" to mean the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT pursuant to SEC Rule 613 and the CAT NMS Plan. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, except the Exchange

proposes to use the phrase "CAT NMS Plan" in place of the phrase "this Agreement."

(J) Compliance Threshold

Paragraph (j) of proposed Rule 11.6810 defines the term "Compliance Threshold" as having the meaning set forth in proposed Rule 11.6893(d). This definition has the same substantive meaning as the definition set forth in Section 1.1 of the CAT NMS Plan. As discussed in detail below with regard to proposed Rule 11.6893(d), each Industry Member is required to meet a separate compliance threshold which will be an Industry Member-specific rate that may be used as the basis for further review or investigation into the Industry Member's performance with regard to the CAT. This Industry Member-specific rate is the "Compliance Threshold."

(K) Customer

Industry Members are required to submit to the Central Repository certain information related to their Customers, including Customer Identifying Information and Customer Account Information, as well as data related to their Customer's Reportable Events. Accordingly, paragraph (k) of proposed Rule 11.6810 proposes to define the term "Customer." Specifically, the term "Customer" would be defined to mean: (1) The account holder(s) of the account at an Industry Member originating the order; and (2) any person from whom the Industry Member is authorized to accept trading instructions for such account, if different from the account holder(s). This is the same definition as set forth in SEC Rule 613(j)(3), except the Exchange proposes to replace the references to a registered broker-dealer or broker-dealer with a reference to an Industry Member for consistency of terms used in the proposed Rule 11.6800 Series. The Exchange also notes that Section 1.1 of the CAT NMS Plan defines "Customer" by reference to SEC Rule 613(j)(3).

(L) Customer Account Information

As discussed above, under the Customer Information Approach, Industry Members are required to report Customer Account Information to the Central Repository as part of the customer definition process. Accordingly, the Exchange proposes to define the term "Customer Account Information" to clarify what customer information would need to be reported to the Central Repository.

Paragraph (l) of proposed Rule 11.6810 defines the term "Customer Account Information" to include, in part, account number, account type,

¹³ See Appendix C, Section A.1(a) of the CAT NMS Plan.

customer type, date account opened, and large trader identifier (if applicable). Proposed Rule 11.6810(l), however, provides an alternative definition of “Customer Account Information” in two limited circumstances. First, in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will (1) provide the Account Effective Date in lieu of the “date account opened”; (2) provide the relationship identifier in lieu of the “account number”; and (3) identify the “account type” as a “relationship.” Second, in those circumstances in which the relevant account was established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, and no “date account opened” is available for the account, the Industry Member will provide the Account Effective Date in the following circumstances: (1) Where an Industry Member changes back office providers or clearing firms and the date account opened is changed to the date the account was opened on the new back office/clearing firm system; (2) where an Industry Member acquires another Industry Member and the date account opened is changed to the date the account was opened on the post-merger back office/clearing firm system; (3) where there are multiple dates associated with an account in an Industry Member’s system, and the parameters of each date are determined by the individual Industry Member; and (4) where the relevant account is an Industry Member proprietary account. The proposed definition is the same as the definition of “Customer Account Information” set forth in Section 1.1 of the CAT NMS Plan, provided, however, that specific dates have replaced the descriptions of those dates set forth in Section 1.1 of the Plan.

(M) Customer Identifying Information

As discussed above, under the Customer Information Approach, Industry Members are required to report Customer Identifying Information to the Central Repository as part of the customer definition process. Accordingly, SRO proposes to define the term “Customer Account Information” to clarify what Customer information would need to be reported to the Central Repository.

Paragraph (m) of proposed Rule 11.6810 defines the term “Customer Identifying Information” to mean information of sufficient detail to

identify a Customer. With respect to individuals, “Customer Identifying Information” includes, but is not limited to, name, address, date of birth, individual tax payer identification number (“ITIN”)/social security number (“SSN”), individual’s role in the account (e.g., primary holder, joint holder, guardian, trustee, person with the power of attorney). With respect to legal entities, “Customer Identifying Information” includes, but is not limited to, name, address, Employer Identification Number (“EIN”)/Legal Entity Identifier (“LEI”) or other comparable common entity identifier, if applicable. The definition further notes that an Industry Member that has an LEI for a Customer must submit the Customer’s LEI in addition to other information of sufficient detail to identify the Customer. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(N) Data Submitter

The CAT NMS Plan uses the term “Data Submitter” to refer to any person that reports data to the Central Repository.¹⁴ Such Data Submitters may include those entities that are required to submit data to the Central Repository (e.g., national securities exchanges, national securities associations and Industry Members), third-parties that may submit data to the CAT on behalf of CAT Reporters (i.e., CAT Reporting Agents), and outside parties that are not required to submit data to the CAT but from which the CAT may receive data (e.g., securities information processors (“SIPs”)). To include this term in the proposed Rule 11.6800 Series, the Exchange proposes to define “Data Submitter” in paragraph (n) of proposed Rule 11.6810. Specifically, paragraph (n) of proposed Rule 11.6810 defines a “Data Submitter” to mean any person that reports data to the Central Repository, including national securities exchanges, national securities associations, broker-dealers, the SIPs for the CQS, CTA, UTP and Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (“OPRA”) Plans, and certain other vendors or third parties that may submit data to the Central Repository on behalf of Industry Members.

(O) Eligible Security

The reporting requirements of the proposed Rule 11.6800 Series only apply to Reportable Events in Eligible Securities. Currently, an Eligible Security includes NMS Securities and

¹⁴ See Appendix C, Section A.1(a) of the CAT NMS Plan.

OTC Equity Securities. Accordingly, paragraph (o) of proposed Rule 11.6810 defines the term “Eligible Security” to include: (1) All NMS Securities; and (2) all OTC Equity Securities. The terms “NMS Securities” and “OTC Equity Securities” are defined, in turn, below. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(P) Error Rate

(I) Maximum Error Rate

Under the CAT NMS Plan, the Operating Committee sets the maximum Error Rate that the Central Repository would tolerate from an Industry Member reporting data to the Central Repository.¹⁵ The Operating Committee reviews and resets the maximum Error Rate, at least annually.¹⁶ If an Industry Member reports CAT data to the Central Repository with errors such that their error percentage exceeds the maximum Error Rate, then such Industry Member would not be in compliance with the CAT NMS Plan or Rule 613.¹⁷ As such, the Exchange or the SEC “may take appropriate action against an Industry Member for failing to comply with its CAT reporting obligations.”¹⁸ The CAT NMS Plan sets the initial Error Rate at 5%.¹⁹ It is anticipated that the maximum Error Rate will be reviewed and lowered by the Operating Committee once Industry Members begin to report to the Central Repository.²⁰

The CAT NMS Plan requires the Plan Processor to: (1) Measure and report errors every business day; (2) provide Industry Members daily statistics and error reports as they become available, including a description of such errors; (3) provide monthly reports to Industry Members that detail an Industry Member’s performance and comparison statistics; (4) define educational and support programs for Industry Members to minimize Error Rates; and (5) identify, daily, all Industry Members exceeding the maximum allowable Error Rate. To timely correct data-submitted errors to the Central Repository, the CAT NMS Plan requires that the Central Repository receive and process error corrections at all times. Further, the CAT NMS Plan requires that Industry Members be able to submit error corrections to the Central Repository

¹⁵ See Section 6.5(d)(i) of the CAT NMS Plan.

¹⁶ See Appendix C, Section A.3(b) of the CAT NMS Plan.

¹⁷ See Appendix C, Section A.3(b) of the CAT NMS Plan; SEC Rule 613(g)–(h).

¹⁸ See Appendix C, Section A.3(b) of the CAT NMS Plan.

¹⁹ See Section 6.5(d)(i) of the CAT NMS Plan.

²⁰ See Appendix C, Section A.3(b) of the CAT NMS Plan.

through a web-interface or via bulk uploads or file submissions, and that the Plan Processor, subject to the Operating Committee's approval, support the bulk replacement of records and the reprocessing of such records. The Participants, furthermore, require that the Plan Processor identify Industry Member data submission errors based on the Plan Processor's validation processes.²¹

(II) Definition of Error Rate

To implement the requirements of the CAT NMS Plan related to the Error Rate, the Exchange proposes to define the term "Error Rate" in proposed Rule 11.6810. Paragraph (p) of proposed Rule 11.6810 defines the term "Error Rate" to mean the percentage of Reportable Events collected by the Central Repository in which the data reported does not fully and accurately reflect the order event that occurred in the market. This is the same definition as set forth in SEC Rule 613(j)(6), and Section 1.1 of the CAT NMS Plan defines "Error Rate" by reference to SEC Rule 613(j)(6).

(Q) Firm Designated ID

As discussed above, under the Customer Information Approach, the CAT NMS Plan would require each Industry Member to assign a unique Firm Designated ID to each Customer. Industry Members would be permitted to use as the Firm Designated ID an account number or any other identifier defined by the firm, provided each identifier is unique across the firm for each business date (*i.e.*, a single firm may not have multiple separate customers with the same identifier on any given date). Industry members would be required to report only the Firm Designated ID for each new order submitted to the Central Repository, rather than the "Customer-ID" with individual order events. Accordingly, the Exchange proposes to define the term "Firm Designated ID" in proposed Rule 11.6810. Specifically, paragraph (q) of proposed Rule 11.6810 defines the term "Firm Designated ID" to mean a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan. Industry Members would be permitted to use an account number or any other identifier defined by the firm, provided each identifier is unique across the firm

for each business date (*i.e.*, a single firm may not have multiple separate customers with the same identifier on any given date).

(R) Industry Member

Paragraph (r) of proposed Rule 11.6810 defines the term "Industry Member" to mean a member of a national securities exchange or a member of a national securities association." This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(S) Industry Member Data

Paragraph (s) of proposed Rule 11.6810 states that the term "Industry Member Data" has the meaning set forth in Rule 11.6830(a)(2). This definition has the same substantive meaning as the definition set forth in in Section 1.1 of the CAT NMS Plan. The definition of "Industry Member Data" is discussed more fully in the discussion below regarding proposed Rule 11.6830(a)(2).

(T) Initial Plan Processor

Paragraph (t) of proposed Rule 11.6810 defines the term "Initial Plan Processor" to mean the first Plan Processor selected by the Operating Committee in accordance with SEC Rule 613, Section 6.1 of the CAT NMS Plan and the National Market System Plan Governing the Process for Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, although the proposed definition uses the full name of the "Selection Plan."

(U) Listed Option or Option

The CAT NMS Plan and this proposed Rule 11.6800 Series applies to Eligible Securities, which includes NMS Securities, which, in turn, includes Listed Options. Certain requirements of the proposed Rule 11.6800 Series apply specifically to Listed Options. Accordingly, paragraph (u) of proposed Rule 11.6810 defines the term "Listed Option" or "Option." Specifically, paragraph (u) of proposed Rule 11.6810 states that the term "Listed Option" or "Option" has the meaning set forth in SEC Rule 600(b)(35) of Regulation NMS. SEC Rule 600(b)(35), in turn, defines a listed option as "any option traded on a registered national securities exchange or automated facility of a national securities association." The Exchange notes that the proposed definition of "Listed Option" is the same definition as the definition set forth in Section 1.1 of the CAT NMS Plan.

(V) Manual Order Event

(I) Manual Order Event Approach

The CAT NMS Plan sets forth clock synchronization and timestamp requirements for Industry Members which reflect exemptions for Manual Order Events granted by the Commission.²² Specifically, the Plan requires Industry Members to record and report the time of each Reportable Event using timestamps reflecting current industry standards (which must be at least to the millisecond) or, if an Industry Member's order handling or execution system uses timestamps in increments finer than milliseconds, such finer increments, when reporting to the Central Repository. For Manual Order Events, however, the Plan provides that such events must be recorded in increments up to and including one second, provided that Industry Members record and report the time the event is captured electronically in an order handling and execution system ("Electronic Capture Time") in milliseconds. In addition, Industry Members are required to synchronize their respective Business Clocks (other than such Business Clocks used solely for Manual Order Events) at a minimum to within 50 milliseconds of the time maintained by the National Institute of Standards and Technology ("NIST"), and maintain such a synchronization. Each Industry Member is required to synchronize their Business Clocks used solely for Manual Order Events, however, at a minimum to within one second of the time maintained by the NIST.

(II) Definition of Manual Order Event

In order to clarify what a Manual Order Event is for clock synchronization and time stamp purposes, the Exchange proposes to define the term "Manual Order Event" in proposed Rule 11.6810. Specifically, paragraph (v) of proposed Rule 11.6810 defines the term "Manual Order Event" to mean a non-electronic communication of order-related information for which Industry Members must record and report the time of the event. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(W) Material Terms of the Order

Proposed Rule 11.6830 requires Industry Members to record and report to the Central Repository Material Terms of the Order with certain Reportable Events (*e.g.*, for the original receipt or origination of an order, for the routing of an order). Accordingly, the

²¹ See Approval Order, *supra* note 9, at 84718.

²² See Exemption Order, *supra* note 11.

Exchange proposes to define the term “Material Terms of the Order” in proposed Rule 11.6810. Specifically, paragraph (w) of proposed Rule 11.6810 defines the term “Material Terms of the Order” to include: The NMS Security or OTC Equity Security symbol; security type; price (if applicable); size (displayed and non-displayed); side (buy/sell); order type; if a sell order, whether the order is long, short, short exempt; open/close indicator (except on transactions in equities); time in force (if applicable); if the order is for a Listed Option, option type (put/call), option symbol or root symbol, underlying symbol, strike price, expiration date, and open/close (except on market maker quotations); and any special handling instructions. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(X) NMS Security

NMS Securities are one of the types of Eligible Securities for the CAT. Therefore, the Exchange proposes to define the term “NMS Security” in proposed Rule 11.6810. Specifically, paragraph (x) of proposed Rule 11.6810 defines the term “NMS Security” to mean any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in Listed Options. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(Y) NMS Stock

Under the CAT NMS Plan, the Operating Committee may establish different Trading Days for NMS Stocks (as defined in SEC Rule 600(b)(47)), Listed Options, OTC Equity Securities, and any other securities that are included as Eligible Securities from time to time. Accordingly, the Exchange proposes to define the term “NMS Stock” in Paragraph (y) of Proposed Rule 11.6810 to mean any NMS Security other than an option. This is the same definition as set forth in SEC Rule 600(b)(47) of Regulation NMS.

(Z) Operating Committee

Paragraph (z) of proposed Rule 11.6810 defines the term “Operating Committee” to mean the governing body of the CAT NMS, LLC designated as such and described in Article IV of the CAT NMS Plan. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan, except the Exchange proposes to use the phrase

“CAT NMS LLC” in place of the phrase “the Company” for clarity.

(AA) Options Market Maker

(I) Options Market Maker Quote Exemption

SEC Rule 613(c)(7) provides that the CAT NMS Plan must require each Industry Member to record and electronically report to the Central Repository details for each order and each reportable event, including the routing and modification or cancellation of an order. SEC Rule 613(j)(8) defines “order” to include “any bid or offer.” Therefore, under SEC Rule 613, the details for each Options Market Maker quotation must be reported to the Central Repository by both the Options Market Maker and the options exchange to which it routes its quote.

The Exchange, however, requested and received exemptive relief from SEC Rule 613 so that the CAT NMS Plan may permit Options Market Maker quotes to be reported to the Central Repository by the relevant options exchange in lieu of requiring that such reporting be done by both the options exchange and the Options Market Maker, as is required by SEC Rule 613.²³ In accordance with the exemptive relief, Options Market Makers would be required to report to the options exchange the time at which a quote in a Listed Option is sent to the options exchange. Such time information also will be reported to the Central Repository by the options exchange in lieu of reporting by the Options Market Maker.

(II) Definition of Options Market Maker

To implement the requirements related to Options Market Maker quotes, the Exchange proposes to define the term “Options Market Maker” in proposed Rule 11.6810. Specifically, paragraph (aa) of proposed Rule 11.6810 defines the term “Options Market Maker” to mean a broker-dealer registered with an exchange for the purpose of making markets in options contracts traded on the exchange. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(BB) Order

The proposed Rule 11.6800 Series requires each Industry Member to record and electronically report to the Central Repository certain details for each order. Accordingly, the Exchange proposes to define the term “Order” in proposed Rule 11.6810. Specifically, paragraph (bb) of proposed Rule 11.6810 defines the term “Order”, with respect

to Eligible Securities, to include: (1) Any order received by an Industry Member from any person; (2) any order originated by an Industry Member; or (3) any bid or offer. This is the same definition as set forth in SEC Rule 613(j)(8), except the Exchange proposes to replace the phrase “member of a national securities exchange or national securities association” with the term “Industry Member.” The Exchange notes that Section 1.1 of the CAT NMS Plan defines “Order” by reference to SEC Rule 613(j)(8).

(CC) OTC Equity Security

OTC Equity Securities are one of the types of Eligible Securities for the CAT. Therefore, the Exchange proposes to define the term “OTC Equity Security” in proposed Rule 11.6810. Specifically, paragraph (cc) of proposed Rule 11.6810 defines the term “OTC Equity Security” to mean any equity security, other than an NMS Security, subject to prompt last sale reporting rules of a registered national securities association and reported to one of such association’s equity trade reporting facilities. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(DD) Participant

Paragraph (dd) of proposed Rule 11.6810 defines the term “Participant” to mean each Person identified as such in Exhibit A of the CAT NMS Plan, as amended, in such Person’s capacity as a Participant in CAT NMS, LLC. This is the same definition in substance as set forth in Section 1.1 of the CAT NMS Plan.

(EE) Person

Paragraph (ee) of proposed Rule 11.6810 defines the term “Person” to mean any individual, partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association and any heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so permits. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(FF) Plan Processor

Paragraph (ff) of proposed Rule 11.6810 defines the term “Plan Processor” to mean the Initial Plan Processor or any other Person selected by the Operating Committee pursuant to SEC Rule 613 and Sections 4.3(b)(i) and 6.1 of the CAT NMS Plan, and with regard to the Initial Plan Processor, the National Market System Plan Governing the Process for Selecting a Plan Processor and Developing a Plan for the

²³ See Exemptive Request Letter, *supra* note 11, at 2, and Exemption Order.

Consolidated Audit Trail, to perform the CAT processing functions required by SEC Rule 613 and set forth in the CAT NMS Plan.

(GG) Received Industry Member Data

Paragraph (gg) of proposed Rule 11.6810 states that the term “Received Industry Member Data” has the meaning set forth in Rule 11.6830(a)(2). This definition has the same substantive meaning as the definition set forth in Section 1.1 of the CAT NMS Plan. The definition of “Received Industry Member Data” is discussed more fully in the discussion below regarding proposed Rule 11.6830(a)(2).

(HH) Recorded Industry Member Data

Paragraph (hh) of proposed Rule 11.6810 states that the term “Recorded Industry Member Data” has the meaning set forth in Rule 11.6830(a)(1). This definition has the same substantive meaning as the definition set forth in Section 1.1 of the CAT NMS Plan. The definition of “Recorded Industry Member Data” is discussed more fully in the discussion below regarding proposed Rule 11.6830(a)(1).

(II) Reportable Event

The proposed Rule 11.6800 Series requires each Industry Member to record and electronically report to the Central Repository certain details for each Reportable Event. To clarify these requirements, the Exchange proposes to define the term “Reportable Event” in proposed Rule 11.6810. Specifically, paragraph (ii) of proposed Rule 11.6810 states that the term “Reportable Event” includes, but is not limited to, the original receipt or origination, modification, cancellation, routing, execution (in whole or in part) and allocation of an order, an receipt of a routed order. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(JJ) SRO

Paragraph (jj) of proposed Rule 11.6810 defines the term “SRO” to mean any self-regulatory organization within the meaning of Section 3(a)(26) of the Exchange Act. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan.

(KK) SRO-Assigned Market Participant Identifier

(I) Existing Identifier Approach

The Exchange requested and received exemptive relief from SEC Rule 613 so that the CAT NMS Plan may permit the Existing Identifier Approach, which would allow an Industry Member to report an existing SRO-Assigned Market

Participant Identifier in lieu of requiring the reporting of a universal CAT-Reporter-ID (that is, a code that uniquely and consistently identifies an Industry Member for purposes of providing data to the Central Repository).²⁴ The CAT NMS Plan reflects the “Existing Identifier Approach” for purposes of identifying each Industry Member associated with an order or Reportable Event. Under the Existing Identifier Approach, Industry Members are required to record and report to the Central Repository an SRO-Assigned Market Participant Identifier for orders and certain Reportable Events to be used by the Central Repository to assign a unique CAT-Reporter-ID to identify Industry Members.

For the Central Repository to link the SRO-Assigned Market Participant Identifier to the CAT-Reporter-ID, the Exchange will submit to the Central Repository, on a daily basis, all SRO-Assigned Market Participant Identifiers used by its Industry Members, as well as information to identify each such Industry Member, including CRD number and LEI, if the SRO has collected such LEI of the Industry Member. Additionally, each Industry Member is required to submit to the Central Repository the CRD number of the Industry Member as well as the LEI of the Industry Member (if the Industry Member has an LEI). The Plan Processor will use this information to assign a CAT-Reporter-ID to each Industry Member for internal use within the Central Repository.

(II) Definition of SRO-Assigned Market Participant Identifier

To implement the Existing Identifier Approach, the Exchange proposes to define the term “SRO-Assigned Market Participant” in proposed Rule 11.6810. Specifically, paragraph (kk) of proposed Rule 11.6810 defines the term “SRO-Assigned Market Participant Identifier” to mean an identifier assigned to an Industry Member by the Exchange or an identifier used by a Participant. This is the same definition as set forth in Section 1.1 of the CAT NMS Plan. For example, an Industry Member would be permitted to use any existing SRO-Assigned Market Participant Identifier (e.g., FINRA MPID, NASDAQ MPID, NYSE Mnemonic, CBOE User Acronym and CHX Acronym) when reporting order information to the Central Repository.

²⁴ See Exemptive Request Letter, *supra* note 11, at 19, and Exemption Order.

(LL) Small Industry Member

The requirements of the proposed Rule 11.6800 Series differ to some extent for Small Industry Members versus Industry Members other than Small Industry Members. For example, the compliance dates for reporting data to the CAT are different for Small Industry Members versus other Industry Members. Accordingly, to clarify the requirements that apply to which Industry Members, the Exchange proposes to define the term “Small Industry Member” in proposed Rule 11.6810. Specifically, paragraph (ll) of proposed Rule 11.6810 defines the term “Small Industry Member” to mean an Industry Member that qualifies as a small broker-dealer as defined in Rule 0–10(c) under the Securities Exchange Act of 1934, as amended. This is the same in substance as the definition of “Small Industry Member” as set forth in Section 1.1 of the CAT NMS Plan. Specifically, Section 1.1 of the CAT NMS Plan defines a “Small Industry Member” as “an Industry Member that qualifies as a small broker-dealer as defined in SEC Rule 613.” The definition of a small broker-dealer under SEC Rule 613, in turn, is a small broker-dealer as defined in SEC Rule 0–10(c).

(MM) Trading Day

Proposed Rule 11.6830(b) establishes the deadlines for reporting certain data to the Central Repository using the term “Trading Day.” Accordingly, the Exchange proposes to define the term “Trading Day” in proposed Rule 11.6810. Specifically, paragraph (mm) of proposed Rule 11.6810 states that the term “Trading Day” shall have the meaning as is determined by the Operating Committee. For the avoidance of doubt, the Operating Committee may establish different Trading Days for NMS Stocks (as defined in SEC Rule 600(b)(47)), Listed Options, OTC Equity Securities, and any other securities that are included as Eligible Securities from time to time.

(ii) Clock Synchronization

SEC Rule 613(d)(1) under Regulation NMS requires Industry Members to synchronize their Business Clocks to the time maintained by NIST, consistent with industry standards. To comply with this provision, Section 6.8 of the Plan sets forth the clock synchronization requirements for Industry Members.²⁵ To implement these provisions with regard to Industry Members, the Exchange proposes new

²⁵ In addition, Section 6.7(a)(ii) of the Plan sets forth the timeline for CAT Reporters to comply with the clock synchronization requirements.

Rule 11.6820 (Consolidated Audit Trail—Clock Synchronization) to require Industry Members to comply with the clock synchronization requirements of the Plan.

Paragraph (a) of proposed Rule 11.6820 sets forth the manner in which Industry Members must synchronize their Business Clocks. Paragraph (a)(1) of proposed Rule 11.6820 requires each Industry Member to synchronize its Business Clocks, other than such Business Clocks used solely for Manual Order Events or used solely for the time of allocation on Allocation Reports, at a minimum to within a fifty (50) millisecond tolerance of the time maintained by the NIST atomic clock, and maintain such synchronization. This is the same requirement as set forth in Section 6.8(a)(ii)(A) of the CAT NMS Plan.

Paragraph (a)(2) of proposed Rule 11.6820 requires each Industry Member to synchronize (1) its Business Clocks used solely for Manual Order Events and (2) its Business Clocks used solely for the time of allocation on Allocation Reports at a minimum to within a one second tolerance of the time maintained by the NIST atomic clock, and maintain such synchronization. This is the same requirement as set forth in Section 6.8(a)(iii) and (iv) of the CAT NMS Plan.

Paragraph (a)(3) of proposed Rule 11.6820 clarifies that the tolerance described in paragraphs (a)(1) and (2) of the proposed Rule 11.6820 includes all of the following: (1) The time difference between the NIST atomic clock and the Industry Member's Business Clock; (2) the transmission delay from the source; and (3) the amount of drift of the Industry Member's Business Clock. This description of the clock synchronization tolerance is the same as set forth in paragraph (b) of FINRA Rule 4590 (Synchronization of Member Business Clocks).

Paragraph (a)(4) of proposed Rule 11.6820 requires Industry Members to synchronize their Business Clocks every business day before market open to ensure that timestamps for Reportable Events are accurate. In addition, to maintain clock synchronization, Business Clocks must be checked against the NIST atomic clock and re-synchronized, as necessary, throughout the day. This description of the required frequency of clock synchronization is the same as set forth in paragraph (c) of FINRA Rule 4590 (Synchronization of Member Business Clocks).

Paragraph (b) of proposed Rule 11.6820 sets forth documentation requirements with regard to clock synchronization. Specifically, paragraph (b) requires Industry Members to

document and maintain their synchronization procedures for their Business Clocks. The proposed Rule requires Industry Members to keep a log of the times when they synchronize their Business Clocks and the results of the synchronization process. This log is required to include notice of any time a Business Clock drifts more than the applicable tolerance specified in paragraph (a) of the proposed rule. Such logs must include results for a period of not less than five years ending on the then current date, or for the entire period for which the Industry Member has been required to comply with this Rule if less than five years. These documentation requirements are the same as those set forth in the "Sequencing Orders and Clock Synchronization" section of Appendix C of the CAT NMS Plan. Moreover, these documentation requirements regarding clock synchronization are comparable to those set forth in Supplementary Material .01 of FINRA Rule 4590 (Synchronization of Member Business Clocks).

Paragraph (c) of proposed Rule 11.6820 sets forth certification requirements with regard to clock synchronization. Specifically, paragraph (c) of proposed Rule 11.6820 requires each Industry Member to certify to the Exchange that its Business Clocks satisfy the synchronization requirements set forth in paragraph (a) of proposed Rule 11.6820 periodically in accordance with the certification schedule established by the Operating Committee pursuant to the CAT NMS Plan. This requirement is the same requirement as set forth in Section 6.8(a)(ii)(B), (iii) and (iv) of the CAT NMS Plan. The Exchange intends to announce to its Industry Members the certification schedule established by the Operating Committee via Trader Update.

Paragraph (d) of proposed Rule 11.6820 establishes reporting requirements with regard to clock synchronization. Paragraph (d) of proposed Rule 11.6820 requires Industry Members to report to the Plan Processor and the Exchange violations of paragraph (a) of this Rule pursuant to the thresholds set by the Operating Committee pursuant to the CAT NMS Plan. This requirement is the same requirement as set forth in Section 6.8(a)(ii)(C), (iii) and (iv) of the CAT NMS Plan. The Exchange intends to announce to its Industry Members the relevant thresholds established by the Operating Committee via Trader Update.

(iii) Industry Member Data Reporting

SEC Rule 613(c) under Regulation NMS requires the CAT NMS Plan to set forth certain provisions requiring Industry Members to record and report data to the CAT. To comply with this provision, Section 6.4 of the CAT NMS Plan sets forth the data reporting requirements for Industry Members. To implement these provisions with regard to its Industry Members, the Exchange proposes Rule 11.6830 (Consolidated Audit Trail—Industry Member Data Reporting) to require Industry Members to comply with the Industry Member Data reporting requirements of the Plan. Proposed Rule 11.6830 has six sections covering (1) recording and reporting Industry Member Data, (2) timing of the recording and reporting, (3) the applicable securities covered by the recording and reporting requirements, (4) format, (5) the security symbology to be used in the recording and reporting, and (6) error correction requirements, each of which is described below.

(A) Recording and Reporting Industry Member Data

Paragraph (a) of proposed Rule 11.6830 describes the recording and reporting of Industry Member Data to the Central Repository. Paragraph (a) consists of paragraphs (a)(1)–(a)(3), which cover Recorded Industry Member Data, Received Industry Member Data and Options Market Maker data, respectively. Paragraphs (a)(1)–(a)(3) of proposed Rule 11.6830 set forth the recording and reporting requirements required in Section 6.4(d)(i)–(iii) of the CAT NMS Plan, respectively.

Paragraph (a)(1) requires, subject to paragraph (a)(3) regarding Options Market Makers, each Industry Member to record and electronically report to the Central Repository the following details for each order and each Reportable Event, as applicable ("Recorded Industry Member Data") in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan:

- For original receipt or origination of an order: (1) Firm Designated ID(s) for each Customer; (2) CAT-Order-ID; (3) SRO-Assigned Market Participant Identifier of the Industry Member receiving or originating the order; (4) date of order receipt or origination; (5) time of order receipt or origination (using timestamps pursuant to proposed Rule 11.6860); and (6) Material Terms of the Order;

- for the routing of an order: (1) CAT-Order-ID; (2) date on which the order is routed; (3) time at which the order is routed (using timestamps pursuant to proposed Rule 11.6860); (4) SRO-

Assigned Market Participant Identifier of the Industry Member routing the order; (5) SRO-Assigned Market Participant Identifier of the Industry Member or Participant to which the order is being routed; (6) if routed internally at the Industry Member, the identity and nature of the department or desk to which the order is routed; and (7) Material Terms of the Order;

- for the receipt of an order that has been routed, the following information: (1) CAT-Order-ID; (2) date on which the order is received; (3) time at which the order is received (using timestamps pursuant to proposed Rule 11.6860); (4) SRO-Assigned Market Participant Identifier of the Industry Member receiving the order; (5) SRO-Assigned Market Participant Identifier of the Industry Member or Participant routing the order; and (6) Material Terms of the Order;

- if the order is modified or cancelled: (1) CAT-Order-ID; (2) date the modification or cancellation is received or originated; (3) time at which the modification or cancellation is received or originated (using timestamps pursuant to proposed Rule 11.6860); (4) price and remaining size of the order, if modified; (5) other changes in the Material Terms of the Order, if modified; and (6) whether the modification or cancellation instruction was given by the Customer or was initiated by the Industry Member;

- if the order is executed, in whole or in part: (1) CAT-Order-ID; (2) date of execution; (3) time of execution (using timestamps pursuant to proposed Rule 11.6860); (4) execution capacity (principal, agency or riskless principal); (5) execution price and size; (6) SRO-Assigned Market Participant Identifier of the Industry Member executing the order; (7) whether the execution was reported pursuant to an effective transaction reporting plan or the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information; and

- other information or additional events as may be prescribed pursuant to the CAT NMS Plan.

Paragraph (a)(2) of proposed Rule 11.6830 requires, subject to paragraph (a)(3) regarding Options Market Makers, each Industry Member to record and report to the Central Repository the following, as applicable (“Received Industry Member Data” and collectively with the information referred to in proposed Rule 11.6830(a)(1) “Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan:

- If the order is executed, in whole or in part: (1) An Allocation Report; (2)

SRO-Assigned Market Participant Identifier of the clearing broker or prime broker, if applicable; and (3) CAT-Order-ID of any contra-side order(s);

- if the trade is cancelled, a cancelled trade indicator; and

- for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with proposed Rule 11.6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

Paragraph (a)(3) of proposed Rule 11.6830 states that each Industry Member that is an Options Market Maker is not required to report to the Central Repository the Industry Member Data regarding the routing, modification or cancellation of its quotes in Listed Options. Each Industry Member that is an Options Market Maker, however, is required to report to the Exchange the time at which its quote in a Listed Option is sent to the Exchange (and, if applicable, any subsequent quote modification time and/or cancellation time when such modification or cancellation is originated by the Options Market Maker). This paragraph implements the Options Market Maker Quote Exemption, as discussed above.

(B) Timing of Recording and Reporting

Paragraph (b) of proposed Rule 11.6830 describes the requirements related to the timing of recording and reporting of Industry Member Data. Paragraphs (b)(1)–(b)(3) of proposed Rule 11.6830 set forth the requirements related to the timing of the recording and reporting requirements required in Section 6.4(b)(i)–(ii) of the CAT NMS Plan.

Paragraph (b)(1) of proposed Rule 11.6830 requires each Industry Member to record Recorded Industry Member Data contemporaneously with the applicable Reportable Event. Paragraph (b)(2) of proposed Rule 11.6830 requires each Industry Member to report: (1) Recorded Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member records such Recorded Industry Member Data; and (2) Received Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member receives such Received Industry Member Data. Paragraph (b)(3) of proposed Rule 11.6830 states that Industry Members may, but are not required to, voluntarily report Industry Member Data prior to the applicable 8:00 a.m. Eastern Time deadline.

(C) Applicable Securities

Paragraph (c) of proposed Rule 11.6830 describes the securities to which the recording and reporting requirements of proposed Rule 11.6830 apply. Paragraphs (c)(1) and (c)(2) of proposed Rule 11.6830 set forth the description of applicable securities as set forth in Section 6.4(c)(i) and (ii) of the CAT NMS Plan, respectively. Paragraph (c)(1) of proposed Rule 11.6830 requires each Industry Member to record and report to the Central Repository the Industry Member Data as set forth in paragraph (a) of proposed Rule 11.6830 for each NMS Security registered or listed for trading on such exchange or admitted to unlisted trading privileges on such exchange. Paragraph (c)(2) of proposed Rule 11.6830 requires each Industry Member to record and report to the Central Repository the Industry Member Data as set forth in paragraph (a) of this proposed Rule 11.6830 for each Eligible Security for which transaction reports are required to be submitted to FINRA.

(D) Security Symbolology

Paragraph (d) of proposed Rule 11.6830 describes the security symbolology that Industry Members are required to use when reporting Industry Member Data to the Central Repository. Paragraph (d)(1) of proposed Rule 11.6830 requires, for each exchange-listed Eligible Security, each Industry Member to report Industry Member Data to the Central Repository using the symbolology format of the exchange listing the security. This requirement implements the requirement set forth in Section 2 of Appendix D of the CAT NMS Plan to use the listing exchange symbolology when reporting data to the Central Repository for exchange-listed Eligible Securities.

For each Eligible Security that is not exchange-listed, however, there is no listing exchange to provide the symbolology format. Moreover, to date, the requisite symbolology format has not been determined. Therefore, paragraph (d)(2) of proposed Rule 11.6830 requires, for each Eligible Security that is not exchange-listed, each Industry Member to report Industry Member Data to the Central Repository using such symbolology format as approved by the Operating Committee pursuant to the CAT NMS Plan. The Exchange intends to announce to its Industry Members the relevant symbolology formats established by the Operating Committee via Trader Update.

(E) Error Correction

To ensure that the CAT contains accurate data, the CAT NMS Plan requires Industry Members to correct erroneous data submitted to the Central Repository. Therefore, the Exchange proposes to adopt paragraph (e) of proposed Rule 11.6830, which addresses the correction of erroneous data reported to the Central Repository. Paragraph (e) of proposed Rule 11.6830 requires, for each Industry Member for which errors in Industry Member Data submitted to the Central Repository have been identified by the Plan Processor or otherwise, that such Industry Member submit corrected Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on T+3. This requirement implements the error correction requirement set forth in Section 6 of Appendix D of the CAT NMS Plan.

(iv) Customer Information Reporting

Section 6.4(d)(iv) of the CAT NMS Plan requires Industry Members to submit to the Central Repository certain information related to their Customers in accordance with the Customer Information Approach discussed above. The Exchange proposes new Rule 11.6840 (Consolidated Audit Trail—Customer Information Reporting) to implement this provision of the CAT NMS Plan with regard to its Industry Members. Specifically, paragraph (a) of proposed Rule 11.6840 requires each Industry Member to submit to the Central Repository the Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in proposed Rule 11.6880. Paragraph (b) of proposed Rule 11.6840 requires each Industry Member to submit to the Central Repository any updates, additions or other changes to the Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account on a daily basis. Paragraph (c) of proposed Rule 11.6840 requires each Industry Member, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, to submit to the Central Repository a complete set of Firm Designated IDs, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account. This periodic refresh is intended to ensure that the Central Repository has the most current

information identifying a Customer. The Exchange intends to announce to its Industry Members when such a periodic refresh is required by the Plan Processor and the Operating Committee via Trade Update.

Paragraph (d) of proposed Rule 11.6840 addresses the correction of erroneous Customer data reported to the Central Repository to ensure and accurate audit trail. Paragraph (d) requires, for each Industry Member for which errors in Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such CAT Reporting Member to submit corrected data to the Central Repository by 5:00 p.m. Eastern Time on T+3. This requirements implements the error correction requirement set forth in Appendix C of the CAT NMS Plan.

(v) Industry Member Information Reporting

Section 6.4(d)(vi) of the CAT NMS Plan requires Industry Members to submit to the Central Repository information sufficient to identify such Industry Member, including CRD number and LEI, if such LEI has been obtained in accordance with the Existing Identifier Approach discussed above. The Exchange proposes Rule 11.6850 (Consolidated Audit Trail—Industry Member Information Reporting) to implement this provision of the CAT NMS Plan with regard to its Industry Members. Specifically, proposed Rule 11.6850 requires each Industry Member to submit to the Central Repository information sufficient to identify such Industry Member, including CRD number and LEI, if such LEI has been obtained prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in proposed Rule 11.6880, and keep such information up to date as necessary.

(vi) Time Stamps

SEC Rule 613(d)(3) under Regulation NMS sets forth requirements for time stamps used by CAT Reporters in recording and reporting data to the CAT.²⁶ To comply with this provision, Section 6.8(b) of the Plan sets forth time stamp requirements for Industry Members. To implement this provision with regard to its Industry Members, the Exchange proposes new Rule 11.6860 (Consolidated Audit Trail—Time

Stamps) to require its Industry Members to comply with the time stamp requirements of the CAT NMS Plan.

Paragraph (a) of proposed Rule 11.6860 sets forth the time stamp increments to be used by Industry Members in their CAT reporting. Paragraph (a)(1) of proposed Rule 11.6860 requires each Industry Member to record and report Industry Member Data to the Central Repository with time stamps in milliseconds, subject to paragraphs (a)(2) and (b) of proposed Rule 11.6860. To the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, paragraph (a)(2) of proposed Rule 11.6860 requires such Industry Member to record and report Industry Member Data to the Central Repository with time stamps in such finer increment, subject to paragraph (b) of proposed Rule 11.6860 regarding Manual Order Events and Allocation Reports.

Paragraph (b) of proposed Rule 11.6860 sets forth the permissible time stamp increments for Manual Order Events and Allocation Reports. Specifically, paragraph (b)(1) of proposed Rule 11.6860 permits each Industry Member to record and report Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Member is required to record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member ("Electronic Capture Time") in milliseconds. In addition, paragraph (b)(2) of proposed Rule 11.6860 permits each Industry Member to record and report the time of Allocation Reports in increments up to and including one second.

(vii) Clock Synchronization Rule Violations

Proposed Rule 11.6865 (Consolidated Audit Trail—Clock Synchronization Rule Violations) describes potential violations of the clock synchronization time period requirements set forth in the proposed Rule 11.6800 Series. Proposed Rule 11.6865 states that an Industry Member that engages in a pattern or practice of reporting Reportable Events outside of the required clock synchronization time period as set forth in this Rule Series without reasonable justification or exceptional circumstances may be considered in violation of this Rule. This provision implements the requirements of Section 6.8 of the CAT NMS Plan which requires the Compliance Rule to provide that a pattern or practice of reporting

²⁶ 17 CFR 242.613(d)(3).

events outside of the required clock synchronization time period without reasonable justification or exceptional circumstances may be considered a violation of SEC Rule 613 or the CAT NMS Plan.

(viii) Connectivity and Data Transmission

Proposed Rule 11.6870 (Consolidated Audit Trail—Connectivity and Data Transmission) addresses connectivity and data transmission requirements related to the CAT. Paragraph (a) of proposed Rule 11.6870 describes the format(s) for reporting Industry Member Data to the Central Repository, thereby implementing the formatting requirements as set forth in Section 6.4(a) of the CAT NMS Plan. Specifically, paragraph (a) of proposed Rule 11.6870 requires each Industry Member to transmit data as required under the CAT NMS Plan to the Central Repository utilizing such format(s) as may be provided by the Plan Processor and approved by the Operating Committee.

Paragraph (b) of proposed Rule 11.6870 addresses connectivity requirements related to the CAT. Paragraph (b) of proposed Rule 11.6870 requires each Industry Member to connect to the Central Repository using a secure method(s), including, but not limited to, private line(s) and virtual private network connection(s). This provision implements the connectivity requirements set forth in Section 4 of Appendix D to the CAT NMS Plan.

Paragraph (c) of proposed Rule 11.6870 permits Industry Members to use CAT Reporting Agents to fulfill their data reporting obligations related to the CAT. Paragraph (c) is based on FINRA Rule 7450(c), which permits OATS Reporting Members to enter into agreements with Reporting Agents to fulfill the OATS obligations of the OATS Reporting Member. Specifically, Paragraph (c)(1) of proposed Rule 11.6870 states that any Industry Member may enter into an agreement with a CAT Reporting Agent pursuant to which the CAT Reporting Agent agrees to fulfill the reporting obligations of such Industry Member under the proposed Rule 11.6800 Series. Any such agreement must be evidenced in writing, which specifies the respective functions and responsibilities of each party to the agreement that are required to effect full compliance with the requirements of the proposed Rule 11.6800 Series. The Exchange notes that, currently, no standardized form agreement for CAT Reporting Agent arrangements has been adopted. Paragraph (c)(2) of proposed Rule

11.6870 requires that all written documents evidencing an agreement with a CAT Reporting Agent be maintained by each party to the agreement. Paragraph (c)(3) of proposed Rule 11.6870 states that each Industry Member remains primarily responsible for compliance with the requirements of the proposed Rule 11.6800 Series, notwithstanding the existence of an agreement described in paragraph (c) of proposed Rule 11.6870.

(ix) Development and Testing

The Exchange proposed Rule 11.6880 (Consolidated Audit Trail—Development and Testing) to address requirements for Industry Members related to CAT development and testing. Paragraph (a) of proposed Rule 11.6880 sets forth the testing requirements and deadlines for Industry Members to develop and commence reporting to the Central Repository. These requirements are set forth in Appendix C to the CAT NMS Plan.

Paragraph (a)(1) sets forth the deadlines related to connectivity and acceptance testing. Industry Members (other than Small Industry Members) are required to begin connectivity and acceptance testing with the Central Repository no later than August 15, 2018, and Small Industry Members are required to begin connectivity and acceptance testing with the Central Repository no later than August 15, 2019.

Paragraph (a)(2) sets forth the deadlines related to reporting Customer and Industry Member information. Paragraph (a)(2)(i) requires Industry Members (other than Small Industry Members) to begin reporting Customer and Industry Member information, as required by Rules 11.6840(a) and 11.6850, respectively, to the Central Repository for processing no later than October 15, 2018. Paragraph (a)(2)(ii) requires Small Industry Members to begin reporting Customer and Industry Member information, as required by Rules 11.6840(a) and 11.6850, respectively, to the Central Repository for processing no later than October 15, 2019.

Paragraph (a)(3) sets forth the deadlines related to the submission of order data. Under paragraph (a)(3)(i), Industry Members (other than Small Industry Members) are permitted, but not required, to submit order data for testing purposes beginning no later than May 15, 2018. In addition, Industry Members (other than Small Industry Members) are required to participate in the coordinated and structured testing of order submission, which will begin no later than August 15, 2018. Under

paragraph (a)(3)(ii), Small Industry Members are permitted, but not required, to submit order data for testing purposes beginning no later than May 15, 2019. In addition, Small Industry Members are required to participate in the coordinated and structured testing of order submission, which will begin no later than August 15, 2019.

Paragraph (a)(4) states that Industry Members are permitted, but not required to, submit Quote Sent Times on Options Market Maker quotes, beginning no later than October 15, 2018.

Paragraph (b) of proposed Rule 11.6880 implements the requirement under the CAT NMS Plan that Industry Members participate in required industry testing with the Central Repository.²⁷ Specifically, proposed Rule 11.6880 requires that each Industry Member participate in testing related to the Central Repository, including any industry-wide disaster recovery testing, pursuant to the schedule established pursuant to the CAT NMS Plan. The Exchange intends to announce to its Industry Members the schedule established pursuant to the CAT NMS Plan via Trader Update.

(x) Recordkeeping

Proposed Rule 11.6890 (Consolidated Audit Trail—Recordkeeping) sets forth the recordkeeping obligations related to the CAT for Industry Members. Proposed Rule 11.6890 requires each Industry Member to maintain and preserve records of the information required to be recorded under the proposed Rule 11.6800 Series for the period of time and accessibility specified in SEC Rule 17a-4(b). The records required to be maintained and preserved under the proposed Rule 11.6800 Series may be immediately produced or reproduced on “micrographic media” as defined in SEC Rule 17a-4(f)(1)(i) or by means of “electronic storage media” as defined in SEC Rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEC Rule 17a-4(f) and be maintained and preserved for the required time in that form. Proposed Rule 11.6890 is based on FINRA Rule 7440(a)(5), which sets forth the recordkeeping requirements related to OATS.

(xi) Timely, Accurate and Complete Data

SEC Rule 613 and the CAT NMS Plan emphasize the importance of the timeliness, accuracy, completeness and integrity of the data submitted to the

²⁷ See Approval Order, *supra* note 9, at 84725.

CAT.²⁸ Accordingly, proposed Rule 11.6893 (Consolidated Audit Trail—Timely, Accurate and Complete Data) implements this requirement with regard to Industry Members. Paragraph (a) of proposed Rule 11.6893 requires that Industry Members record and report data to the Central Repository as required by the proposed Rule 11.6800 Series in a manner that ensures the timeliness, accuracy, integrity and completeness of such data.

In addition, without limiting the general requirement as set forth in paragraph (a), paragraph (b) of proposed Rule 11.6893 requires Industry Members to accurately provide the LEIs in their records as required by the proposed Rule 11.6800 Series and states that Industry Members may not knowingly submit inaccurate LEIs to the Central Repository. Paragraph (b) notes, however, that this requirement does not impose any additional due diligence obligations on Industry Members with regard to LEIs for CAT purposes. Accordingly, this provision does not impose any due diligence obligations beyond those that may exist today with respect to information associated with an LEI. Although Industry Members will not be required to perform additional with regard to the LEIs for CAT purposes, Industry Members will be required to accurately provide the LEIs in their records and may not knowingly submit inaccurate LEIs to the CAT. Paragraph (b) is consistent with the SEC's statements in the Approval Order for the CAT NMS Plan regarding an Industry Member's obligations regarding LEIs.²⁹

Paragraph (c) of proposed Rule 11.6893 states that, if an Industry Member reports data to the Central Repository with errors such that its error percentage exceeds the maximum Error Rate established by the Operating Committee pursuant to the CAT NMS Plan, then such Industry Member would not be in compliance with the Rule 11.6800 Series. As discussed above, the initial maximum Error Rate is 5%, although the Error Rate is expected to be reduced over time. The Exchange intends to announce to its Industry Members changes to the Error Rate established pursuant to the CAT NMS Plan via Trader Update.

Furthermore, paragraph (d) of proposed Rule 11.6893 addresses Compliance Thresholds related to reporting data to the CAT. Paragraph (c) of proposed Rule 11.6893 states that each Industry Member is required to

meet a separate compliance threshold which will be an Industry Member-specific rate that may be used as the basis for further review or investigation into the Industry Member's performance with regard to the CAT (the "Compliance Thresholds"). Compliance Thresholds will compare an Industry Member's error rate to the aggregate Error Rate over a period of time to be defined by the Operating Committee. Compliance Thresholds will be set by the Operating Committee, and will be calculated at intervals to be set by the Operating Committee.³⁰ Compliance Thresholds will include compliance with the data reporting and clock synchronization requirements. Proposed Rule 11.6893 states that an Industry Member's performance with respect to its Compliance Threshold will not signify, as a matter of law, that such Industry Member has violated this proposed Rule 11.6800 Series.

(xii) Compliance Dates

Proposed Rule 11.6895 (Consolidated Audit Trail—Compliance Dates) sets forth the compliance dates for the various provisions of proposed Rules 11.6800 through 11.6895. Paragraphs (b) and (c) of this Rule set forth the additional details with respect to the compliance date of the proposed Rules 11.6800 through 11.6895. Unless otherwise noted, proposed Rules 11.6800 through 11.6895 will be fully effective upon approval by the Commission and OTP Holders must comply with their terms.

Paragraph (b) of proposed Rule 11.6895 establishes the compliance dates for the clock synchronization requirements as set forth in proposed Rule 11.6820. Paragraph (b)(1) of proposed Rule 11.6895 states that each Industry Member shall comply with Rule 11.6820 with regard to Business Clocks that capture time in milliseconds commencing on or before March 15, 2017. Paragraph (b)(2) states that each Industry Member shall comply with Rule 11.6820 with regard to Business Clocks that do not capture time in milliseconds commencing on or before February 19, 2018. The compliance date set forth in paragraph (b)(1) reflects the exemptive relief requested by the Participants with regard to the clock synchronization requirements related to Business Clocks that do not capture time in milliseconds.³¹

³⁰ See Appendix C of the CAT NMS Plan.

³¹ Concurrently with this filing, the Participants submitted a request for exemptive relief from SEC Rule 613(a)(3)(ii) of Regulation NMS under the Securities Exchange Act of 1934 and Section 6.7(a)(ii) of the CAT NMS Plan. See Letter from

Paragraph (c) of proposed Rule 11.6895 establishes the compliance dates for the data recording and reporting requirements for Industry Members. Paragraph (c)(1) of proposed Rule 11.6895 requires each Industry Member (other than a Small Industry Members) to record and report the Industry Member Data to the Central Repository by November 15, 2018. Paragraph (c)(2) of proposed Rule 11.6895 requires that each Industry Member that is a Small Industry Member to record and report the Industry Member Data to the Central Repository by November 15, 2019. Such compliance dates are consistent with the compliance dates set forth in SEC Rule 613(a)(3)(v) and (vi), and Section 6.7(a)(v) and (vi) of the CAT NMS Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,³² which require, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 6(b)(8) of the Act,³³ which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies the provisions of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."³⁴ To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

Participants to Brent J. Fields, Secretary, Commission, dated January 17, 2017.

³² 15 U.S.C. 78f(b)(5).

³³ 15 U.S.C. 78f(b)(8).

³⁴ See Approval Order, *supra* note 9, at 84697.

²⁸ See SEC Rule 613(e)(4)(i)(D)(ii); and Section 6.5(d) of the CAT NMS Plan.

²⁹ See Approval Order, *supra* note 9, at 84745.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements provisions of the CAT NMS Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the proposed Rule Series implementing provisions of the CAT NMS Plan will apply equally to all firms that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing this proposed Rule 11.6800 Series. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

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

No written comments were solicited or received with respect to the proposed rule change.

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

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEARCA-2017-03 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NYSEARCA-2017-03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEARCA-2017-03 and should be submitted on or before February 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁵

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-02377 Filed 2-3-17; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15033 and #15034]

Georgia Disaster #GA-00090

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major

disaster for the State of Georgia (FEMA-4297-DR), dated 01/26/2017.

Incident: Severe Storms, Tornadoes, and Straight-line Winds.

Incident Period: 01/21/2017 through 01/22/2017.

Effective Date: 01/26/2017.

Physical Loan Application Deadline Date: 03/27/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 10/26/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 01/26/2017, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Berrien, Cook, Crisp, Dougherty, Turner, Wilcox.

Contiguous Counties (Economic Injury Loans Only):

Georgia: Atkinson, Baker, Ben Hill, Brooks, Calhoun, Coffee, Colquitt, Dodge, Dooly, Irwin, Lanier, Lee, Lowndes, Mitchell, Pulaski, Sumter, Telfair, Terrell, Tift, Worth.

The Interest Rates Are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere	3.000
Homeowners Without Credit Available Elsewhere	1.500
Businesses With Credit Available Elsewhere	6.250
Businesses Without Credit Available Elsewhere	3.125
Non-Profit Organizations With Credit Available Elsewhere ...	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	3.125
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15033C and for economic injury is 150340.

³⁵ 17 CFR 200.30-3(a)(12).

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017-02240 Filed 2-3-17; 8:45 am]

BILLING CODE 8025-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. NOR 38302S; Docket No. NOR 38376S]

United States Department of Energy and United States Department of Defense v. Baltimore & Ohio Railroad Company, et al.; United States Department of Energy and United States Department of Defense v. Aberdeen & Rockfish Railroad Company, et al.

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed settlement agreement, issuance of procedural schedule.

SUMMARY: On October 20, 2016, the United States Department of Energy and the United States Department of Defense (the Government) and Norfolk Southern Railway Company (NSR) (collectively, Movants) filed a motion requesting approval of an agreement (NSR Settlement Agreement) that would settle these rate reasonableness disputes as between them only. The Board is adopting a procedural schedule for filing comments and replies addressing their proposed settlement agreement.

DATES: Comments are due by March 20, 2017. Reply comments are due by April 19, 2017.

ADDRESSES: Comments and replies may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's Web site, at <http://www.stb.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. 38302S, et al., 395 E Street SW., Washington, DC 20423-0001. Copies of written comments and replies will be available for viewing and self-copying at the Board's Public Docket Room, Room 131, and will be posted to the Board's Web site. In addition, send one copy of comments to each of the following: (1) Stephen C. Skubel, Room 6H-087, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585; (2) Terrance A. Spann, U.S. Department of Defense, 9275 Gunston

Road, Suite 1300, Fort Belvoir, VA 22060; and (3) Garret D. Urban, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510.

FOR FURTHER INFORMATION CONTACT: Nathaniel Bawcombe, (202) 245-0376. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: 1-800-877-8339.

SUPPLEMENTARY INFORMATION: In March 1981, the Government filed these complaints against 21 major railroads (the Railroad Defendants) under section 229 of the Staggers Rail Act of 1980, Public Law 96-448, 94 Stat. 1895. The Government sought reparations and a rate prescription relating to the nationwide movement of spent nuclear fuel, other high-level radioactive wastes, and the empty containers (casks) and buffer and escort cars used for their movement (together, radioactive materials). In 1986, the Board's predecessor, the Interstate Commerce Commission (ICC), found that the Railroad Defendants were engaging in an unreasonable practice by imposing substantial and unwarranted cost additives—above and beyond the regular train service rates—in an effort to avoid transporting these radioactive materials. The ICC directed the Railroad Defendants to cancel the existing rates and cost additives, prescribed new rates, and awarded reparations. *See Commonwealth Edison Co. v. Aberdeen & Rockfish R.R.*, 2 I.C.C.2d 642 (1986). The United States Court of Appeals for the District of Columbia Circuit set aside and remanded the decision. *See Union Pac. R.R. v. ICC*, 867 F.2d 646 (D.C. Cir. 1989). On remand, the ICC ruled that the movement of these radioactive materials for reprocessing was subject to the rate cap on recyclables set out in former 49 U.S.C. 10731(e) and directed the parties to file revenue-to-variable cost (R/VC) evidence to resolve the remaining reparations and rate prescription issues. *See U.S. Dep't of Energy v. Balt. & Ohio R.R.*, 10 I.C.C.2d 112 (1994). While judicial review was pending, Congress enacted the ICC Termination Act of 1995, Public Law 104-88, 109 Stat. 803, which repealed § 10731 in its entirety and directed that all proceedings pending under the repealed statutory provision be terminated.

The Railroad Defendants petitioned the Board to dismiss the complaints in 1996, and, in 1997, they invited the Government to explore the possibility of settling the complaints. Discussions commenced on a nationwide settlement covering all the Railroad Defendants that might carry radioactive materials.

The Government subsequently chose to negotiate only with Union Pacific Railroad Company (UP), the destination carrier for most of the movements of radioactive materials that were to be covered by the nationwide settlement, after the parties concluded that there were potential antitrust problems in negotiating with the Railroad Defendants as a group. *See id.*

In 2004, the Government and UP moved for approval under 49 U.S.C. 10704 of a settlement agreement they had negotiated to resolve these complaints as between them only. The Board approved that settlement agreement in 2005 and directed the Government to file quarterly status reports on the progress of settlement negotiations with other railroads. *See U.S. Dep't of Energy v. Aberdeen & Rockfish R.R.*, NOR 38302S, et al. (STB served Aug. 2, 2005). In 2012, BNSF Railway Company (BNSF) and the Government similarly moved for approval of a settlement agreement, and the Board approved that agreement in a decision served the next year. *See U.S. Dep't of Energy v. Aberdeen & Rockfish R.R.*, NOR 38302S, et al. (STB served Aug. 26, 2013) (*BNSF Settlement Decision*). The settlement agreements with UP and BNSF successfully resolved all rate-setting, shipping, and service determinations between those carriers and the Government.

Movants now jointly request that the Board approve the proposed NSR Settlement Agreement and prescribe the rate methodology set forth in it. They assert that the agreement achieves a long-term, system-wide settlement, as between NSR and the Government, of all rate and service issues related to spent fuel and related traffic now moving or likely to move in the future. Movants note that the UP and BNSF settlements have served as a model for the NSR Settlement Agreement.

In particular, the NSR Settlement Agreement:

(1) Has an unlimited term. This differs from the BNSF settlement but follows the UP settlement;

(2) applies broadly to the nationwide movement on NSR's rail lines of irradiated spent fuel, parts, and constituents; spent fuel moving from foreign countries to the United States for disposal; empty casks; radioactive wastes; and buffer and escort cars. With respect to those movements governed by the rate basis prescribed in *Trainload Rates on Radioactive Materials, E. Railroads*, 362 I.C.C. 756 (1980) and 364 I.C.C. 981 (1981) (*Eastern Case*),¹ this

¹ In that proceeding, maximum R/VC ratios were prescribed on a commodity-by-commodity basis at

agreement (unlike the prior ones) incorporates a method of determining rates for dedicated trains which grants NSR an increment over the Eastern rate basis to equalize the cost of shipments nationwide;

(3) establishes that the movement of these radioactive materials constitutes common carrier service; addresses the elements of service required of NSR; adopts guidelines for safe handling and security; and obligates NSR to provide, as needed, “extra services” as described in the agreement, at the rates agreed upon;

(4) adopts a rate methodology to:

(a) Apply to all future movements of these radioactive materials in common carrier service. The methodology adopts maximum R/VC markups (not in excess of 1.80, 2.50, or 3.51 times the shipment cost, depending on commodity type, equipment being utilized, and services being performed) of NSR’s most current system-average variable unit costs computed under the Board’s Uniform Railroad Costing System. The Government agrees to limit the application of the Eastern rate basis established in the *Eastern Case* to the former lines of those railroads specifically listed in the *Eastern Case*; and

(b) compensate NSR for “extra services” and dedicated train service, when requested by the Government, and procedures to calculate “Equitable compensation” for emergency-related costs that NSR may incur;

(5) adopts a procedure to update compensation for rates and “extra services” annually to reflect changes in NSR’s system-average unit costs;

(6) extinguishes NSR’s liability (and that of its predecessors and subsidiaries) for reparations in all matters arising out of these proceedings; and

(7) adopts alternative dispute resolution procedures with final recourse to the Board and mechanisms to renegotiate portions of the agreement in a limited number of circumstances or if changed circumstances make further adherence to the terms of the agreement “grossly inequitable” to either party.

Movants request that the Board: (1) Prescribe the rate methodology and maximum R/VC ratios that have been agreed to for the radioactive materials and rail services that are the subject of the agreement; (2) dismiss NSR as a

various minimum weights as local and proportional rate factors. The prescription was applicable within the East, but primarily was to be used for through movements destined beyond the lines of the rail carriers covered by the prescription. The ICC’s 1980 decision was affirmed in *Consolidated Rail Corp. v. ICC*, 646 F.2d 642 (D.C. Cir. 1981), cert. denied, 454 U.S. 1047 (1981).

defendant in these proceedings, extinguish NSR’s liability for reparations in all matters arising out of these proceedings, and relieve NSR from any further requirement to participate in these proceedings (except in response to a properly issued subpoena under the Board’s rules); (3) retain jurisdiction over these proceedings and continue to hold them in abeyance pending further settlement negotiations; and (4) publish notice of their motion and the proposed NSR Settlement Agreement in the **Federal Register** and adopt a procedural schedule for the filing of comments and replies.

The Board will grant Movants’ request in part at this time. Notice of the motion and proposed NSR Settlement Agreement will be published in the **Federal Register**. A procedural schedule will be adopted for the filing of comments on the proposed settlement agreement as well as to permit replies responsive to Movants’ remaining requests. Comments are due by March 20, 2017. Reply comments are due by April 19, 2017. Comments should also address whether it is appropriate to close these dockets.²

It is ordered:

1. Movants’ request that notice of their motion and proposed agreement be published in the **Federal Register** is granted.

2. Movants and interested persons must comply with the procedural schedule and requirements outlined above.

3. This decision is effective on its date of service.

Decided: January 31, 2017.

By the Board, Rachel D. Campbell,
Director, Office of Proceedings.

Marline Simeon,

Clearance Clerk.

[FR Doc. 2017–02425 Filed 2–3–17; 8:45 am]

BILLING CODE 4915–01–P

² In *BNSF Settlement Decision*, slip op. at 11–12, the Board (at CSX Transportation, Inc.’s request) held that “future settlement agreements in these proceedings need not be submitted to the Board for formal approval to the extent the signatories do not request, and their agreements are not contingent on, rate prescriptions.” Since then, the quarterly status reports filed by the Department of Energy refer only to negotiations with NSR. As such, it is not clear whether there are other remaining railroads with whom the Government is engaged in negotiations.

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1251X]

Southwestern Railroad, Inc.— Discontinuance of Service Exemption—in Curry, Roosevelt, Chaves, and Eddy Counties, N.M.

On January 17, 2017, Southwestern Railroad, Inc. (SWRR), filed with the Board a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to discontinue common carrier rail service over approximately 227.6 miles of rail lines consisting of the following segments (the Lines): (1) The Carlsbad Subdivision between milepost 0.5 at Clovis, N.M., and milepost 183.0 at Carlsbad, N.M.; (2) the Carlsbad Yard;¹ (3) the Carlsbad Industrial Spur between milepost 0.0 at Carlsbad, N.M., and milepost 20.0 near Carlsbad, N.M.; and (4) the Loving Industrial Spur between milepost 0.0 at Carlsbad, N.M., and milepost 20.0 at Loving, N.M. The Lines are owned by BNSF Railway Company (BNSF).

SWRR states it acquired authority to lease and operate the BNSF-owned Lines in 2004.² According to SWRR, BNSF notified SWRR in 2016 that it wished to resume operations over the Carlsbad Division prior to the termination of the current lease. SWRR states that, after negotiations, SWRR and BNSF filed an amendment to the lease agreement that allowed BNSF to resume operations over the Lines on January 17, 2017.³ SWRR explains that as of January 17, 2017, both SWRR and BNSF have a common carrier obligation to provide service over the Lines until such time that SWRR’s discontinuance authority is granted. Additionally, SWRR states that, because shippers currently served by SWRR will also be served by BNSF during this discontinuance proceeding and will be served by BNSF after any SWRR discontinuance authority is granted, there will be no interruption of service and no shippers served by the Lines will be disadvantaged when and if SWRR ceases operations.

SWRR states that BNSF is the owner of the Lines, but based on information in SWRR’s possession, the Lines do not contain federally granted rights-of-way.

¹ SWRR states that there are no mileposts associated with the approximately 5.1 miles of rail lines located in the Carlsbad Yard.

² See *Sw. R.R.—Lease & Operation Exemption—Burlington N. & Santa Fe Ry.*, FD 34533 (STB served Oct. 22, 2004). SWRR states that SWRR and BNSF have amended the lease agreement five times since its inception.

³ See *Sw. R.R.—Lease & Operation Exemption—Burlington N. & Santa Fe Ry.*, FD 34533 (Sub-No. 1) (STB served Aug. 12, 2016).

Any documentation in SWRR's possession will be made available promptly to those requesting it.

SWRR asserts that, because it is terminating operations over its entire system,⁴ the employee protective conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979), should not be imposed.⁵

Because this is a discontinuance proceeding and not an abandonment proceeding, trail use/rail banking and public use conditions are not appropriate. Because there will be environmental review during abandonment, this discontinuance does not require an environmental review.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by May 5, 2017.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) to subsidize continued rail service will be due no later than May 15, 2017, or 10 days after service of a decision granting the petition for exemption, whichever occurs first. Each OFA must be accompanied by a \$1,700 filing fee. *See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2016 Update*, EP 542 (Sub-No. 24) (STB served August 2, 2016).

All filings in response to this notice must refer to Docket No. AB 1251X and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001; and (2) William A. Mullins and Crystal M. Zorbaugh, Baker and Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037. Replies to the petition are due on or before February 6, 2017.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment or

discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Board decisions and notices are available on our Web site at WWW.STB.GOV.

Decided: February 1, 2017.

By the Board, Rachel D. Campbell,
Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. 2017-02427 Filed 2-3-17; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Fair Credit Reporting: Affiliate Marketing

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the renewal of an information collection as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the renewal of an information collection titled, "Affiliate Marketing." The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be submitted on or before March 8, 2017.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557-0230, 400 7th Street SW., suite 3E-218, mail stop 9W-11, Washington, DC 20219. In addition, comments may

be sent by fax to (571) 465-4326 or by electronic mail to prainfo@occ.treas.gov. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649-5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557-0230, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503 or by email to: oir_submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT:

Shaquita Merritt, OCC Clearance Officer, (202) 649-5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649-5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from OMB for each collection of information that they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC requests that OMB extend its approval of the following collection.

Title: Fair Credit Reporting: Affiliate Marketing.

OMB Control No.: 1557-0230.

Type of Review: Regular.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 97,773.

Total Annual Burden: 10,281 hours.

Description: Section 214 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act),¹ which added section 624 to the Fair Credit Reporting Act

¹ Public Law 108-159, 117 Stat. 1952 (December 4, 2003).

⁴ SWRR currently operates two divisions, the Carlsbad Division and the Whitewater Division. SWRR explains that it is discontinuing its operations pursuant to a lease over the Carlsbad Division in this proceeding and selling its Whitewater Division in an unrelated proceeding. *See N.M. Cent. R.R.—Acquis. & Operation Exemption—Sw. R.R. Whitewater Div.*, FD 36085 (Filed Dec. 17, 2016). SWRR states that upon consummation of the Carlsbad and Whitewater Divisions transactions, SWRR will cease to be a common carrier entity.

⁵ *See Wellsville, Addison & Galetton R.R.—Aban. of Entire Line in Potter & Tioga Cts., Pa.*, 354 I.C.C. 744 (1978); and *Northampton & Bath R.R.—Aban. near Northampton & Bath Junction in Northampton Cty., Pa.*, 354 I.C.C. 784 (1978).

(FCRA),² generally prohibits a person from using certain information received from an affiliate to make a solicitation for marketing purposes to the consumer, unless the consumer is given notice and an opportunity and simple method to opt out of such solicitations.

Twelve CFR 1022.20–1022.27 requires financial institutions to issue notices informing consumers about their rights under section 214 of the FACT Act. Consumers use the notices to decide if they want to receive solicitations for marketing purposes or opt out. Financial institutions use the consumers' opt-out responses to determine the permissibility of making a solicitation for marketing purposes.

If a person receives certain consumer eligibility information from an affiliate, the person may not use that information to make solicitations to the consumer about its products or services, unless the consumer is given notice and a simple method to opt out of such use of the information, and the consumer does not opt out. Exceptions include, a person using eligibility information: (1) To make solicitations to a consumer with whom the person has a pre-existing business relationship; (2) to perform services for another affiliate subject to certain conditions; (3) in response to a communication initiated by the consumer; or (4) to make a solicitation that has been authorized or requested by the consumer. A consumer's affiliate marketing opt-out election must be effective for a period of at least five years. Upon expiration of the opt-out period, the consumer must be given a renewal notice and an opportunity to renew the opt-out before information received from an affiliate may be used to make solicitations to the consumer.

Comments: On October 25, 2016, the OCC issued a 60-day notice soliciting comment on the information collection, 81 FR 73473. No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 26, 2017.

Karen Solomon,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2017-02357 Filed 2-3-17; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Retail Foreign Exchange Transactions

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment on the renewal of its information collection titled "Retail Foreign Exchange Transactions." The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be submitted on or before March 8, 2017.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557-0250, 400 7th Street SW., suite 3E-218, mail stop 9W-11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465-4326 or by electronic mail to prainfo@occ.treas.gov. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700 or, for persons

who are deaf or hard of hearing, TTY, (202) 649-5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to a security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557-0250, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503 or by email to: oir_submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT:

Shaquita Merritt, OCC Clearance Officer, (202) 649-5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649-5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from OMB for each collection of information that they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.

Title: Retail Foreign Exchange Transactions.

OMB Control No.: 1557-0250.

Type of Review: Regular.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 15.

Total Annual Burden: 22,418 hours.

Description

Background

The OCC's retail forex rule (12 CFR part 48) allows national banks and Federal savings associations to offer retail foreign exchange transactions to its customers. In order to engage in these transactions, institutions must comply with various reporting, disclosure, and recordkeeping requirements included in that rule.

Reporting Requirements

The reporting requirements in § 48.4 state that, prior to initiating a retail forex business, a national bank or

² 15 U.S.C. 1681 *et seq.*

Federal savings association must provide the OCC with prior notice and obtain a written supervisory no-objection letter. In order to obtain a supervisory no-objection letter, a national bank or Federal savings association must have written policies, procedures, and risk measurement and management systems and controls in place to ensure that retail forex transactions are conducted in a safe and sound manner. The national bank or Federal savings association also must provide other information required by the OCC, such as documentation of customer due diligence, new product approvals, and haircuts applied to noncash margins.

Disclosure Requirements

Under § 48.5, a national bank or Federal savings association must promptly provide the customer with a statement reflecting the financial result of the transactions and the name of the introducing broker to the account. The customer must provide specific written instructions on how the offsetting transaction should be applied.

Section 48.6 requires that a national bank or Federal savings association furnish a retail forex customer with a written disclosure before opening an account through which the customer will engage in retail forex transactions. It further requires a national bank or Federal savings association to secure an acknowledgment from the customer that the disclosure was received and understood. Finally, § 48.6 requires the disclosure by a national bank or Federal savings association of its fees and other charges and its profitable accounts ratio.

Section 48.10 requires a national bank or Federal savings association to issue monthly statements to each retail forex customer and to send confirmation statements following transactions.

Section 48.13(c) prohibits a national bank or Federal savings association engaging in retail forex transactions from knowingly handling the account of any related person of another retail forex counterparty unless it receives proper written authorization, promptly prepares a written record of the order, and transmits to the counterparty copies all statements and written records. Section 48.13(d) prohibits a related person of a national bank or Federal savings association engaging in forex transactions from having an account with another retail forex counterparty unless it receives proper written authorization and copies of all statements and written records for such accounts are transmitted to the counterparty.

Section 48.15 requires a national bank or Federal savings association to provide a retail forex customer with 30 days prior notice of any assignment of any position or transfer of any account of the retail forex customer. It also requires a national bank or Federal savings association to which retail forex accounts or positions are assigned or transferred to provide the affected customers with risk disclosure statements and forms of acknowledgment and obtain the signed acknowledgments within 60 days.

The customer dispute resolution provisions in § 48.16 require certain endorsements, acknowledgments, and signatures. The section also requires that a national bank or Federal savings association, within 10 days after receipt of notice from the retail forex customer that the customer intends to submit a claim to arbitration, provide the customer with a list of persons qualified in the dispute resolution.

Policies and Procedures; Recordkeeping

Sections 48.7 and 48.13 require that a national bank or Federal savings association engaging in retail forex transactions keep full, complete, and systematic records and to establish and implement internal rules, procedures, and controls. Section 48.7 also requires that a national bank or Federal savings association keep account, financial ledger, transaction, and daily records, as well as memorandum orders, post-execution allocation of bunched orders, records regarding its ratio of profitable accounts, possible violations of law, records for noncash margin, and monthly statements and confirmations. Section 48.9 requires policies and procedures for haircuts for noncash margin collected under the rule's margin requirements and annual evaluations and modifications of the haircuts.

The OCC issued a notice for 60 days of comment regarding this collection on October 20, 2016, 81 FR 72672. No comments were received. Comments continue to be invited on:

- (a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;
- (b) The accuracy of the OCC's estimate of the burden of the information collection;
- (c) Ways to enhance the quality, utility, and clarity of the information to be collected;
- (d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection

techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 26, 2017.

Karen Solomon,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2017-02358 Filed 2-3-17; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form W-11

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form W-11, Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit.

DATES: Written comments should be received on or before April 7, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Sara Covington, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at Sara.L.Covington@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit.

OMB Number: 1545-2173.

Notice Number: Form W-11.

Abstract: This form was created in response to the Hiring Incentives to Restore Employment (HIRE) Act, which was signed on March 18, 2010. The form was developed as a template for the convenience of employers who must

collect affidavits from qualifying employees. The form is not filed, rather an employer must retain the affidavit in order to justify claiming certain HIRE Act benefits.

Current Actions: Extension of currently approved collection. There are no changes being made to the notice at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Businesses or other for-profit institutions.

Estimated Number of Respondents: 100,000.

Estimated Average Time per

Respondent: 2 hrs., 16 mins.

Estimated Total Annual Burden

Hours: 227,000 hrs.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the

agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 25, 2017.

Maria Cheeks,

IRS Supervisory Tax Law Specialist.

[FR Doc. 2017-02363 Filed 2-3-17; 8:45 am]

BILLING CODE 4830-01-P



FEDERAL REGISTER

Vol. 82

Monday,

No. 23

February 6, 2017

Part II

The President

Proclamation 9572—National African American History Month, 2017

Presidential Documents

Title 3—

Proclamation 9572 of February 1, 2017

The President

National African American History Month, 2017

By the President of the United States of America**A Proclamation**

As we celebrate National African American History Month, we recognize the heritage and achievements of African Americans. The contributions African Americans have made and continue to make are an integral part of our society, and the history of African Americans exemplifies the resilience and innovative spirit that continue to make our Nation great.

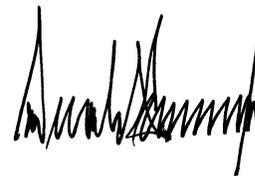
For generations, African Americans have embodied the shared progress of our Nation. Through toil and struggle and with courageous actions that have broken barriers, they have made America a better place to live and work for everybody. Women like Katherine Johnson, a pioneer in space history whose work helped America win the Space Race, and Madam C.J. Walker, who became one of the most successful female entrepreneurs of her time, paved the way for both women and African Americans in their respective fields. Robert Smalls, a man born into slavery, founded our Nation's first free and compulsory public school system. Later in life, he served as a lawmaker in South Carolina's State legislature and the U.S. House of Representatives. The strength and determination of men and women like these remind us that our Nation brims with people whose contributions continue to make it stronger and better.

This year, African American History Month calls upon us to reflect on the crucial role of education in the history of African Americans. It reminds us of the importance of teaching and reflecting upon the many roles African Americans have played in building this Nation and driving it forward. This year's theme also calls upon us to rededicate ourselves to the work of ensuring that all children in this Nation have access to quality educational opportunities that give them the skills, experiences, relationships, and credentials that can empower them to follow in the footsteps of people like Katherine Johnson, Madam C.J. Walker, and Robert Smalls.

As we journey toward a stronger, more united Nation, let us use this commemoration of African American History Month to serve as a reminder of the need for meaningful dialogue and shared commitment to collective action that uplifts and empowers, as well as of the strength, ingenuity, and perseverance required of us in the years to come.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim February 2017 as National African American History Month. I call upon public officials, educators, librarians, and all the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of February, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-first.

A handwritten signature in black ink, appearing to be the name of Donald Trump, written in a cursive style.

Reader Aids

Federal Register

Vol. 82, No. 23

Monday, February 6, 2017

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