

which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove proposed rule change SR-FICC-2017-010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-12156 Filed 6-12-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80870]

Commission Statement Concerning a Request for an Interpretation as to Whether a Particular Agreement Is a Swap, Security-Based Swap, or Mixed Swap

AGENCY: Securities and Exchange Commission.

ACTION: Commission statement.

SUMMARY: The Securities and Exchange Commission (the “Commission”) is publishing this statement concerning a request for an interpretation as to whether a particular agreement is a swap, security-based swap, or mixed swap.

FOR FURTHER INFORMATION CONTACT:

Andrew Bernstein, Senior Special Counsel, Office of Derivatives Policy, Division of Trading and Markets, at (202) 551-5870, or Andrew Schoeffler, Special Counsel, Office of Capital Markets Trends, Division of Corporation Finance, at (202) 551-3860; U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

Statement

This statement pertains to a letter that Commission staff received from Breakaway Courier Corporation (“Breakaway”), through its counsel, requesting a joint interpretation from the Commission and the Commodity Futures Trading Commission (“CFTC”) pursuant to Rule 3a68-2 under the Securities Exchange Act of 1934 (“Exchange Act”) as to whether a particular agreement, contract, or transaction (or class thereof) is a swap, security-based swap, or mixed swap.¹ Breakaway’s request relates to a contract labeled as a Reinsurance Participation

Agreement (“RPA”), which it has previously executed with Applied Underwriters Captive Risk Assurance Company, Inc. (“AUCRA”).² According to Breakaway’s submission, it entered into two RPAs with AUCRA, one of which has a stated effective date of July 1, 2009, and the other of July 1, 2012.

The Commission and the CFTC jointly adopted Exchange Act Rule 3a68-2 and CEA Rule 1.8 in 2012³ pursuant to Section 712(d)(4) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”).⁴ The rules established a process for parties to request a joint interpretation as to whether a particular agreement, contract, or transaction (or class thereof) is a swap, security-based swap, or a mixed swap. Among other things, the rules set forth the information required to be included in a request and a process for withdrawing a request. Rule 3a68-2 also includes requirements governing the manner and timing by which the two agencies must act after the receipt of a complete submission under the rule, if they determine to issue such joint interpretation. In addition, paragraph (e)(5) of Rule 3a68-2 provides that “[i]f the Commission and the [CFTC] do not issue a joint interpretation within the time period described in paragraph (e)(1) or (e)(3) [of the rule], each of the Commission and the [CFTC] shall publicly provide the reasons for not issuing such a joint interpretation within the applicable timeframes.”⁵

Pursuant to paragraph (e)(5) of Rule 3a68-2, the Commission is declining to issue a joint interpretation with the CFTC in connection with Breakaway’s request.⁶ The Commission understands that the status of the RPAs is already subject to ongoing private litigation and that the petitioners’ request may bear directly on that litigation. We believe that the Rule 3a68-2 process is not an appropriate vehicle for litigants such as

² A copy of Breakaway’s submission may be found at: <https://www.sec.gov/rules/other/2017/2017-331-tm-exhibit.pdf>.

³ See Further Definition of “Swap,” “Security-Based Swap,” and “Security-Based Swap Agreement”; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, Exchange Act Release No. 67453 (Jul. 18, 2012), 77 FR 48207 (Aug. 13, 2012) (“Product Definitions Adopting Release”).

⁴ See Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376 (2010). All references to “Title VII” in this statement shall refer to Title VII of the Dodd-Frank Act, which established a comprehensive new regulatory framework for swaps and security-based swaps.

⁵ Paragraph (e)(5) of CFTC Rule 1.8 contains identical language (other than reversing the references to the two commissions).

⁶ Commission staff has consulted and coordinated with CFTC staff and understands that the CFTC will be issuing a separate statement on this matter.

Breakaway to obtain the views of the Commission in connection with issues in ongoing litigation, and we therefore decline Breakaway’s request that we state an interpretive position as to the proper characterization of the RPAs.⁷

Finally, to help ensure that requests under Rule 3a68-2 are expeditiously routed to appropriate staff, the Commission encourages market participants to provide the requests to the Office of the Secretary, with copies to the Division of Trading and Markets and the Division of Corporation Finance.

By the Commission.

Dated: June 7, 2017.

Brent J. Fields,
Secretary.

[FR Doc. 2017-12140 Filed 6-12-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80876; File Nos. SR-DTC-2017-005; SR-FICC-2017-009; SR-NSCC-2017-006]

Self-Regulatory Organizations; The Depository Trust Company; Fixed Income Clearing Corporation; National Securities Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proposed Rule Changes To Adopt the Clearing Agency Stress Testing Framework (Market Risk)

June 7, 2017.

On April 7, 2017, The Depository Trust Company (“DTC”), Fixed Income Clearing Corporation (“FICC”), and National Securities Clearing Corporation (“NSCC,” each a “Clearing Agency”) filed with the Securities and Exchange Commission (“Commission”), respectively proposed rule changes SR-DTC-2017-005, SR-FICC-2017-009, and SR-NSCC-2017-006 (collectively, the “Proposed Rule Changes”), pursuant to Section 19(b)(1) of the Securities

⁷ As we and the CFTC explained when we jointly adopted Rule 3a68-2 in 2012 (as well as the corresponding rule under the CEA), the purpose of the rule is to “afford market participants with the opportunity to obtain greater certainty from the Commissions regarding the regulatory status of particular Title VII instruments under the Dodd-Frank Act. This provision should decrease the possibility that market participants inadvertently might fail to meet the regulatory requirements applicable to a particular Title VII instrument.” See Product Definitions Adopting Release, 77 FR at 48295. We and the CFTC also noted our belief that “it is essential that the characterization of an instrument be established prior to any party engaging in the transactions so that the appropriate regulatory schemes apply.” See Product Definitions Adopting Release, 77 FR at 48297.

⁶ 17 CFR 200.30-3(a)(31).

¹ See 17 CFR 240.3a68-2. The letter specifically refers to the corresponding rule for the CFTC’s process, Rule 1.8 under the Commodity Exchange Act (“CEA”). 17 CFR 1.8.

Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder.² The Proposed Rule Changes were published for comment in the **Federal Register** on April 25, 2017.³ The Commission did not receive any comment letters on the Proposed Rule Changes.

Section 19(b)(2) of the Act⁴ 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 the Proposed Rule Changes is June 9, 2017.

The Commission is extending the 45-day time period for Commission action on the Proposed Rule Changes. The Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Changes so that it has sufficient time to consider and take action on the Proposed Rule Changes.

Accordingly, pursuant to Section 19(b)(2) of the Act⁵ and for the reasons stated above, the Commission designates July 24, 2017 as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove proposed rule changes SR-DTC-2017-005, SR-FICC-2017-009, and SR-NSCC-2017-006.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-12157 Filed 6-12-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 80485 (April 19, 2017), 82 FR 19131 (April 25, 2017) (SR-DTC-2017-005; SR-FICC-2017-009; SR-NSCC-2017-006).

⁴ 15 U.S.C. 78s(b)(2).

⁵ 15 U.S.C. 78s(b)(2)(A)(ii)(I).

⁶ 17 CFR 200.30-3(a)(31).

the Securities and Exchange Commission will hold a closed meeting on Thursday, June 15, 2017 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matter at the closed meeting.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Brent J. Fields from the Office of the Secretary at (202) 551-5400.

Dated: June 8, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017-12273 Filed 6-9-17; 11:15 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80869; File No. SR-MIAX-2017-27]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend MIAX Options Rule 406, Long Term Option Contracts

June 7, 2017.

Pursuant to the provisions of 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 June 6, 2017, Miami International Securities Exchange, LLC (“MIAX Options” or “Exchange”) filed with the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I and II 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 is filing a proposal to make a technical amendment to Exchange Rule 406, Long Term Option Contracts.

The text of the proposed rule change is available on the Exchange’s Web site at <http://www.miaxoptions.com/rule-filings>, at MIAX’s principal office, 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Exchange Rule 406, Long Term Option Contracts, to make clarifying changes to the Rule, as described below.

Currently, Exchange Rule 406(a) states that the Exchange may list long-term option contracts that expire from twelve (12) to thirty-nine (39) months from the time they are listed. The Exchange proposes to amend Rule 406(a) by defining expirations from twelve (12) to thirty-nine (39) months from the time the option is listed as “long-term expiration months.”

Rule 406(a) states that there may be “up to six additional expiration months.” As currently written, the Rule does not specify which expiration months the six months are in addition to, or whether that means that there may be a total of six long-term expiration months (six long-term expiration months in addition to existing non-long-