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Presidential Documents

Title 3—

The President

Proclamation 10416 of June 14, 2022

World Elder Abuse Awareness Day, 2022

By the President of the United States of America

A Proclamation

It is more vital than ever that we ensure our older adults can age with the dignity, security, and appreciation that every person deserves. Honoring and respecting older Americans is a matter of basic human dignity and justice—it is part of the character of our Nation. Yet every year, many Americans aged 60 and older experience abuse and neglect. On World Elder Abuse Awareness Day, we join the international community to raise awareness and help end elder abuse here at home and across the world.

Elder abuse takes many forms, such as financial, emotional, physical, and sexual harm, including intimate partner violence in later life. It often comes in the form of neglect, abandonment, or exploitation. It is estimated that approximately 1 in 10 elderly Americans are abused annually. However, many of those who are abused suffer in silence, and many cases are never reported or brought to light. In the past few years, while the pandemic isolated all of us to different extents, it especially exacerbated the isolation felt by too many older adults. All of us have a role to play in preventing elder abuse and ensuring that our Nation's seniors are able to age with dignity. With a majority of elder abuse victims being women, my Administration is focused particularly on improving our support for all women and preventing and addressing gender-based violence that impacts older adults both domestically and abroad.

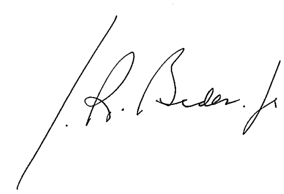
We must remain steadfast in our commitment to preventing elder abuse. My Administration allotted $178 million through the American Rescue Plan and the COVID–19 recovery bill to improve and strengthen the work of Adult Protective Services (APS). Additionally, my budget proposal for 2023 would provide ongoing support for APS and State Long-Term Care Ombudsman programs. Our comprehensive, collaborative efforts to respond to elder abuse, neglect, and exploitation include initiatives to reform guardianship, support adult decision-making, crack down on scammers and fraudsters, and empower victims of exploitation. Our commitment to supporting survivors of all ages is reflected in the reauthorization of the Violence Against Women Act, which includes dedicated Federal funds to support survivor service providers, law enforcement, and prosecutors working to respond to domestic and sexual violence experienced by older adults.

As we continue to build a better America, we must ensure that we bring everyone along. That is why my Administration is committed to safeguarding the rights of those who live in retirement and shared residential settings. I have called on the Congress to deliver significant reforms to improve the safety and quality of care in our Nation's nursing homes. Recognizing the critical work of caregivers, I have also proposed measures to create a strong and well-compensated caregiving workforce to advance the well-being of our Nation's older adults. By ensuring a high quality of life and care for older Americans, we can support every community and honor the dignity of every person.

On this World Elder Abuse Awareness Day, let us recommit to delivering all older Americans the promise of a comfortable and peaceful life with dignity. Let us reaffirm our commitment to a world free from the scourge of abuse and neglect. Let us join the world in celebrating the essential role older adults play in our lives.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., 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 June 15, 2022, as World Elder Abuse Awareness Day. I encourage all Americans to be diligent, work together to strengthen existing partnerships, and develop new opportunities to improve our Nation's prevention and response to elder abuse, neglect, and exploitation.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of June, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-sixth.



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Rules and Regulations

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0832; Project Identifier MCAI–2020–01550–T; Amendment 39–22067; AD 2022–11–17]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. This AD was prompted by reports of internal corrosion on the inboard flaps found prior to regularly scheduled maintenance checks. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate a certain aircraft maintenance manual (AMM) task. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 22, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 22, 2022.

ADDRESSES: For service information identified in this final rule, contact Bombardier Business Aircraft Customer Response Center, 400 Côte Vertu Road West, Dorval, Québec H4S 1Y9, Canada; 514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0832.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0832; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Antariksh Shetty, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2020–49R1, dated May 20, 2021 (TCCA AD CF–2020–49R1) (also referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0832.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. The NPRM published in the **Federal Register** on September 27, 2021 (86 FR 53246). The NPRM was prompted by reports of internal corrosion on the inboard flaps found prior to regularly scheduled maintenance checks. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate a certain AMM task. The FAA is issuing this AD to address internal corrosion on the inboard flaps, which could result in reduced structural integrity, detachment of the flap, and consequent reduced controllability of the airplane. See the MCAI for additional background information.

Comments

The FAA received comments from an individual who supported the NPRM without change.

The FAA received comments from Bombardier, Inc., and NetJets QC. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Change Address for Obtaining Service Information

Bombardier asked that the address for obtaining its service information be updated. Bombardier stated that its contact information has changed since issuance of the NPRM.

The FAA agrees with the commenter and have changed the address for obtaining service information throughout this final rule accordingly.

Request To Clarify Why AMM Task Number Was Used

NetJets QC asked if there is a reason why the AMM task number was used instead of the time limits maintenance checks (TLMC) task number.

The FAA acknowledges the commenter's request for clarification. TCCA AD CF–2020–49R1 references TLMC tasks for Models BD–700–1A10 and BD–700–1A11, but Part 3 of the TLMC document specifies that all tasks in that section are Maintenance Review Board Report (MRBR) tasks. The FAA cannot require MRBR tasks because those tasks do not provide precise instructions on how the tasks must be done. Therefore, the AMM task for each airplane model is referenced in this AD, and the FAA has not changed this AD in this regard.

Request To Refer to Most Recent AMM Revision Level

Bombardier asked that the AMM task revision levels identified in the NPRM be changed, as there have been recent improvements to the documents. Bombardier added that credit for the revisions currently listed should also be included in the proposed AD. Bombardier noted that the referenced AMM revision levels were revised during the public comment period of the NPRM.

The FAA disagrees with the commenter's request. This AD requires incorporating the information provided in the referenced AMM revisions specified in figure 1 to paragraph (g) of this AD. The language in paragraph (g) of this AD allows the incorporation of the specific information, regardless of the AMM revision level in use, provided the language is identical to the information provided in Task 57–51–00–290–801 specified in the applicable AMMs in specified in figure 1 to paragraph (g) of this AD. The language in a later revision of the applicable AMMs specified in figure 1 to paragraph (g) of this AD may be incorporated. Therefore, if operators incorporate later AMMs into the maintenance or inspection program, as applicable, they are in compliance with paragraph (g) of this AD. The FAA has confirmed that the revisions cited by the commenter are identical to the revisions specified in this AD.

If the language provided in a later AMM revision is not identical to the language provided in the task specified in the applicable AMMs specified in figure 1 to paragraph (g) of this AD, operators must submit a request for approval of an alternate method of compliance (AMOC) with supporting data that demonstrates an acceptable level of safety for a task that differs from Task 57–51–00–290–801.

The FAA has not changed this AD regarding this request.

Request To Change ''Unsafe Condition'' to ''Potential Unsafe Condition''

Bombardier asked that the FAA change references to the ''unsafe condition'' in the preamble of the NPRM to ''potential unsafe condition.'' Bombardier provided no justification for this request.

The FAA disagrees with the commenter's request. The definition of the unsafe condition in this final rule was determined by findings of internal corrosion on the inboard flaps. In addition, the unsafe condition was addressed in the background section of TCCA AD CF–2020–49R1. Stating that there is potential for an unsafe condition is misleading as it would imply that corrosion wasn't found previously. Therefore, the FAA has not changed this final rule regarding this request.

Request To Change Description of the Unsafe Condition in Paragraph (e) of the Proposed AD

Bombardier asked that the language describing the unsafe condition specified in paragraph (e) of the proposed AD be changed to add more detail, as follows: ''The FAA is issuing this AD to supplement operator's maintenance program by mandating a periodic inspection of the internal structures of the flaps to prevent a possible reduction in the structural integrity, detachment of the flap, and consequent reduced controllability of the airplane.'' Bombardier provided no justification for this request.

The FAA disagrees with the commenter's request. The purpose of the description of the unsafe condition in paragraph (e) of this AD is to indicate why a problem is unsafe and the possible results and ultimate consequences if the unsafe condition is not corrected. The FAA is issuing this AD to address the unsafe condition by requiring revision of the existing maintenance or inspection program by mandating inspections of the internal structures of the flaps to address the internal corrosion. The FAA is not issuing this AD to ''supplement the operator's maintenance program by mandating a periodic inspection of the internal structures to prevent a possible reduction in the structural integrity.'' The FAA has not changed this AD in this regard.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the changes described previously and minor editorial changes. The FAA has determined that these minor changes:

• Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM.

The FAA also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

Related Service Information Under 1 CFR Part 51

Bombardier issued the following service information. These documents describe amendments to the AMM to include inspections of the inboard flap internal ribs for corrosion. These documents are distinct since they apply to different airplane serial numbers.

• Task 57–51–00–290–801, ''Special Detailed Inspection of the Inboard-Flap Internal Ribs,'' of Subject 57–51–00, ''Flaps,'' in Chapter 57, ''Wings,'' of the Bombardier Global Express Aircraft Maintenance Manual—Part Two, Publication No. BD–700 AMM, Revision 90, dated May 19, 2021. (For obtaining the task for the Bombardier Global Express AMM—Part Two, Publication No. BD–700 AMM, use Document Identification No. GL 700 AMM.)

• Task 57–51–00–290–801, ''Special Detailed Inspection of the Inboard-Flap Internal Ribs,'' of Subject 57–51–00, ''Flaps,'' in Chapter 57, ''Wings,'' of the Bombardier Global Express XRS Aircraft Maintenance Manual—Part Two, Publication No. BD–700 XRS AMM, Revision 68, dated May 19, 2021. (For obtaining the task for the Bombardier Global Express XRS AMM—Part Two, Publication No. BD–700 XRS AMM, use Document Identification No. GL XRS AMM.)

• Task 57–51–00–290–801, ''Special Detailed Inspection of the Inboard-Flap Internal Ribs,'' of Subject 57–51–00, ''Flaps,'' in Chapter 57, ''Wings,'' of the Bombardier Global 5000 Aircraft Maintenance Manual—Part Two, Publication No. BD–700 AMM, Revision 71, dated May 19, 2021. (For obtaining the task for the Bombardier Global 5000 AMM—Part Two, Publication No. BD–700 AMM, use Document Identification No. GL 5000 AMM.)

• Task 57–51–00–290–801, ''Special Detailed Inspection of the Inboard-Flap Internal Ribs,'' of Subject 57–51–00, ''Flaps,'' in Chapter 57, ''Wings,'' of the Bombardier Global 5000 Featuring Global Vision Flight Deck Aircraft Maintenance Manual—Part Two, Publication No. GL 5000 GVFD AMM, Revision 38, dated May 19, 2021.

• Task 57–51–00–290–801, ''Special Detailed Inspection of the Inboard-Flap Internal Ribs,'' of Subject 57–51–00, ''Flaps,'' in Chapter 57, ''Wings,'' of the Bombardier Global 5500 Aircraft Maintenance Manual—Part Two—Publication No. GL 5500 AMM, Revision 7, dated May 19, 2021.

• Task 57–51–00–290–801, ''Special Detailed Inspection of the Inboard-Flap Internal Ribs,'' of Subject 57–51–00, ''Flaps,'' in Chapter 57, ''Wings,'' of the Bombardier Global 6000 Aircraft Maintenance Manual—Part Two, Publication No. GL 6000 AMM, Revision 39, dated May 19, 2021.

• Task 57–51–00–290–801, ''Special Detailed Inspection of the Inboard-Flap Internal Ribs,'' of Subject 57–51–00, ''Flaps,'' in Chapter 57, ''Wings,'' of the Bombardier Global 6500 Aircraft Maintenance Manual—Part Two, Publication No. GL 6500 AMM, Revision 8, dated May 19, 2021.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 141 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA has determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2022–11–17 Bombardier, Inc.: Amendment 39–22067; Docket No. FAA–2021–0832; Project Identifier MCAI–2020–01550–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 22, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes, certificated in any category, serial numbers 9001 through 9879 inclusive, 9998, and 60001 through 60033 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by reports of internal corrosion on the inboard flaps found prior to regularly scheduled maintenance checks. The FAA is issuing this AD to address internal corrosion on the inboard flaps, which could result in reduced structural integrity, detachment of the flap, and consequent reduced controllability of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Revision of the Existing Maintenance or Inspection Program

Within 30 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to include the information specified in Task 57–51–00–290–801, "Special Detailed Inspection of the Inboard-Flap Internal Ribs," of Subject 57–51–00, "Flaps," in Chapter 57, "Wings," of the applicable Bombardier Aircraft Maintenance Manual (AMM) identified in figure 1 to paragraph (g) of this AD and to include the following compliance times for Task 57–51–00–290–801: Within 60 months after the effective date of this AD (for the initial compliance time), and repeat thereafter at intervals not to exceed 60 months.

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Figure 1 to paragraph (g) – *Applicable AMMs*

Airplane Model	Bombardier AMM
BD-700-1A10	Bombardier Global Express Aircraft Maintenance Manual - Part Two, Publication No. BD-700 AMM, Revision 90, dated May 19, 2021[1]
BD-700-1A10	Bombardier Global Express XRS Aircraft Maintenance Manual - Part Two, Publication No. BD-700 XRS AMM, Revision 68, dated May 19, 2021[2]
BD-700-1A10	Bombardier Global 6000 Aircraft Maintenance Manual – Part Two, Publication No. GL 6000 AMM, Revision 39, dated May 19, 2021
BD-700-1A10	Bombardier Global 6500 Aircraft Maintenance Manual – Part Two, Publication No. GL 6500 AMM, Revision 8, dated May 19, 2021
BD-700-1A11	Bombardier Global 5000 Aircraft Maintenance Manual - Part Two, Publication No. BD-700 AMM, Revision 71, dated May 19, 2021[3]
BD-700-1A11	Bombardier Global 5000 Featuring Global Vision Flight Deck Aircraft Maintenance Manual - Part Two, Publication No. GL 5000 GVFD AMM, Revision 38, dated May 19, 2021
BD-700-1A11	Bombardier Global 5500 Aircraft Maintenance Manual - Part Two, Publication No. GL 5500 AMM, Revision 7, dated May 19, 2021

[1] For obtaining the task for the Bombardier Global Express AMM, Publication No. BD-700 AMM, use Document Identification No. GL 700 AMM.

[2] For obtaining the task for the Bombardier Global Express XRS AMM, Publication No. BD-700 XRS AMM, use Document Identification No. GL XRS AMM.

[3] For obtaining the task for the Bombardier Global 5000 AMM, Publication No. BD-700 AMM, use Document Identification No. GL 5000 AMM.

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(h) No Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals, may be used unless the actions or intervals, are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i)(1) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2020–49R1, dated May 20, 2021, for related information. This MCAI may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0832.

(2) For more information about this AD, contact Antariksh Shetty, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov*.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Task 57–51–00–290–801, ''Special Detailed Inspection of the Inboard-Flap Internal Ribs,'' of Subject 57–51–00, ''Flaps,'' in Chapter 57, ''Wings,'' of the Bombardier Global Express Aircraft Maintenance Manual—Part Two, Publication No. BD–700 AMM, Revision 90, dated May 19, 2021.

Note 1 to paragraph (k)(2)(i): For obtaining the task for the Bombardier Global Express AMM—Part Two, Publication No. BD–700 AMM, use Document Identification No. GL 700 AMM.

(ii) Task 57–51–00–290–801, ''Special Detailed Inspection of the Inboard-Flap Internal Ribs,'' of Subject 57–51–00, ''Flaps,'' in Chapter 57, ''Wings,'' of the Bombardier Global Express XRS Aircraft Maintenance Manual—Part Two, Publication No. BD–700 XRS AMM, Revision 68, dated May 19, 2021.

Note 2 to paragraph (k)(2)(ii): For obtaining the task for the Bombardier Global Express XRS AMM—Part Two, Publication No. BD–700 XRS AMM, use Document Identification No. GL XRS AMM.

(iii) Task 57–51–00–290–801, ''Special Detailed Inspection of the Inboard-Flap Internal Ribs,'' of Subject 57–51–00, ''Flaps,'' in Chapter 57, ''Wings,'' of the Bombardier Global 5000 Aircraft Maintenance Manual—Part Two, Publication No. BD–700 AMM, Revision 71, dated May 19, 2021.

Note 3 to paragraph (j)(2)(iii): For obtaining the task for the Bombardier Global 5000 AMM—Part Two, Publication No. BD–700 AMM, use Document Identification No. GL 5000 AMM.

(iv) Task 57–51–00–290–801, ''Special Detailed Inspection of the Inboard-Flap Internal Ribs,'' of Subject 57–51–00, ''Flaps,'' in Chapter 57, ''Wings,'' of the Bombardier Global 5000 Featuring Global Vision Flight Deck Aircraft Maintenance Manual—Part Two, Publication No. GL 5000 GVFD AMM, Revision 38, dated May 19, 2021.

(v) Task 57–51–00–290–801, ''Special Detailed Inspection of the Inboard-Flap Internal Ribs,'' of Subject 57–51–00, ''Flaps,'' in Chapter 57, ''Wings,'' of the Bombardier Global 5500 Aircraft Maintenance Manual—Part Two, Publication No. GL 5500 AMM, Revision 7, dated May 19, 2021.

(vi) Task 57–51–00–290–801, ''Special Detailed Inspection of the Inboard-Flap Internal Ribs,'' of Subject 57–51–00, ''Flaps,'' in Chapter 57, ''Wings,'' of the Bombardier Global 6000 Aircraft Maintenance Manual—Part Two, Publication No. GL 6000 AMM, Revision 39, dated May 19, 2021.

(vii) Task 57–51–00–290–801, ''Special Detailed Inspection of the Inboard-Flap Internal Ribs,'' of Subject 57–51–00, ''Flaps,'' in Chapter 57, ''Wings,'' of the Bombardier Global 6500 Aircraft Maintenance Manual—Part Two, Publication No. GL 6500 AMM, Revision 8, dated May 19, 2021.

(3) For service information identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte Vertu Road West, Dorval, Québec H4S 1Y9, Canada; 514–855–2999; email *ac.yul@aero.bombardier.com*; internet *https://www.bombardier.com*.

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued on May 24, 2022.

Christina Underwood,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–13096 Filed 6–16–22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0380; Project Identifier MCAI–2021–01178–T; Amendment 39–22076; AD 2022–12–04]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, and Model A330–300 series airplanes. This AD was prompted by a determination that certain service information specified in AD 2018–20–19 contained instructions that could be misleading, resulting in a necessary inspection not being accomplished on certain airplanes. This AD requires a rototest for certain modified airplanes for any crack around the right-side upper and lower bulk door support or door latch fitting holes at certain bulk cargo door frames, or repetitive inspections for any crack at certain fittings, and on-condition actions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 22, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 22, 2022.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu*. You may find this IBR material on the EASA website at *https://ad.easa.europa.eu*. You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0380.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0380; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; phone 206–231–3229; email *vladimir.ulyanov@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0233, dated October 27, 2021 (EASA AD

2021–0233) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, and Model A330–300 series airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, and Model A330–300 series airplanes. The NPRM published in the **Federal Register** on March 28, 2022 (87 FR 17198). The NPRM was prompted by a determination that tartaric sulfuric anodizing (TSA)/chromic acid anodizing (CAA) surface treatment in the door fitting attachment holes leads to a detrimental effect on fatigue behavior; and that certain service information specified in AD 2018–20–19, Amendment 39–19453 (83 FR 52126, October 16, 2018) (AD 2018–20–19) contains instructions that could be misleading, resulting in a necessary inspection not being accomplished on certain airplanes. The potentially misleading instructions are for an optional action, and apply only to model A330–200, A330–200 Freighter, and A330–300 airplanes. The NPRM proposed to require a rototest for certain modified airplanes for any crack around the right-side upper and lower bulk door support or door latch fitting holes at certain bulk cargo door frames, or repetitive inspections for any crack at certain fittings, and on-condition actions, as specified in EASA AD 2021–0233.

The FAA is issuing this AD to address possible fatigue cracks in the bulk cargo door frames, caused by TSA/CAA surface treatment in frame (FR) 67 and FR69 cargo door frame attachment holes. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from the Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0233 specifies procedures for a rototest for any crack around the holes at the upper and lower door support fittings of frame FR67 and FR69 right hand side and the holes at door latch fitting of FR69 right hand side; or repetitive detailed inspections of the frame around the fittings, or high frequency eddy current (HFEC) and ultrasonic inspections of the upper door supper fitting holes and rototests of the lower door fitting holes of the door latch fittings at FR69 for any crack; and on-condition actions. On-condition actions include installing new (never installed on an airplane) bushes to the latch fittings of FR69 and repair, and a rototest of the support fittings and the frame holes at FR67.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 109 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 15 work-hours × $85 per hour = $1,275	$0	Up to $1,275	Up to $138,975.

The FAA estimates the following costs to do any necessary on-condition action that would be required based on the results of any required or optional actions. The FAA has no way of determining the number of aircraft that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
3 work-hours × $85 per hour = $255	$1,915	$2,170

The FAA has received no definitive data on which to base the cost estimates for the repairs specified in this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2022–12–04 Airbus SAS: Amendment 39–22076; Docket No. FAA–2022–0380; Project Identifier MCAI–2021–01178–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 22, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus SAS airplanes identified in paragraphs (c)(1) through (3) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2021–0233, dated October 27, 2021 (EASA AD 2021–0233).

(1) Model A330–201, –202, –203, –223, and –243 airplanes.

(2) Model A330–223F and –243F airplanes.

(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a determination that tartaric sulfuric anodizing (TSA)/chromic acid anodizing (CAA) surface treatment in the door fitting attachment holes leads to a detrimental effect on fatigue behavior; and that certain service information specified in AD 2018–20–19 contains instructions that could be misleading, resulting in a necessary inspection not being accomplished on certain airplanes. The FAA is issuing this AD to address possible fatigue cracks in the bulk cargo door frames, caused by TSA/CAA surface treatment in frame (FR) 67 and FR69 cargo door frame attachment holes. Cracks in the bulk cargo door frames can cause the in-flight loss of a bulk cargo door, damage to the airplane, and subsequent reduced control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0233.

(h) Exceptions to EASA AD 2021–0233

(1) Where EASA AD 2021–0233 refers to its effective date, this AD requires using the effective date of this AD.

(2) The "Remarks" section of EASA AD 2021–0233 does not apply to this AD.

(3) Where paragraph (4) of EASA AD 2021–0233 specifies to "accomplish those instructions accordingly" if discrepancies are detected, for this AD a discrepancy is any cracking, and if any cracking is detected, the cracking must be repaired before further flight using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(4) Where paragraph (4) of EASA AD 2021–0233 specifies to "contact Airbus for approved repair instructions," for this AD use "accomplish corrective actions in accordance with the instructions of the SB and contact the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA DOA for approved repair instructions. If approved by the DOA, the approval must include the DOA-authorized signature"

(5) Although the service information referenced in EASA AD 2021–0233 specifies to do a check of the aircraft records for accomplishment of certain service information, and specifies that action as "RC," (required for compliance), this AD does not include that requirement.

(6) Where the Applicability section of EASA AD 2021–0233 refers to "defects," for this AD "defects" are cracks.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0233 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph(s) (h)(3) and (4), (i), and (j)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; phone 206–231–3229; email *vladimir.ulyanov@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2021–0233, dated October 27, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0233, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the

availability of this material at the FAA, call 206–231–3195.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on June 3, 2022.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–13016 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0589; Project Identifier AD–2022–00376–E; Amendment 39–22084; AD 2022–12–12]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Division Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Pratt & Whitney Division (PW) PW4062 model turbofan engines. This AD was prompted by a report of a manufacturing quality escape due to insufficient cooling of the low-pressure turbine (LPT) stage 5 air seal resulting in a reduction of the low-cycle fatigue (LCF) life limit. This AD requires removal and replacement of the LPT stage 5 air seal with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 5, 2022.

The FAA must receive comments on this AD by August 1, 2022.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

• *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.

• *Fax:* (202) 493–2251.

• *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0589; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Carol Nguyen, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7655; email: *carol.nguyen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA received a report from the manufacturer of a quality escape, resulting in a life reduction of the LPT stage 5 air seal installed on certain PW4062 model turbofan engines. Subsequent investigation by the manufacturer revealed that insufficient cooling after heat treatment resulted in non-conformance to the design specifications. This non-conformance lowers the LCF capability in a section of the LPT stage 5 air seal that already has an LCF life limit, resulting in a reduction in the LCF life limit from 15,000 cycles to 8,240 cycles. This condition, if not addressed, could result in the uncontained release of the LPT stage 5 air seal, damage to the engine, and damage to the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires removal and replacement of the LPT stage 5 air seal.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for "good cause," finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

The FAA has found the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because no domestic operators use this product. It is unlikely that the FAA will receive any adverse comments or useful information about this AD from any U.S. operator. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the foregoing reason, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2022–0589; Project Identifier AD–2022–00376–E" at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Carol Nguyen, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 0 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Remove and replace LPT stage 5 air seal.	49 work-hours × $85 per hour = $4,165	$165,270	$169,435	$0

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866, and

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2022–12–12 Pratt & Whitney Division: Amendment 39–22084; Docket No. FAA–2022–0589; Project Identifier AD–2022–00376–E.

(a) Effective Date

This airworthiness directive (AD) is effective July 5, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney Division (PW) PW4062 model turbofan engines with an installed low-pressure turbine (LPT) stage 5 air seal, part number (P/N) 50N324, having a serial number (S/N) listed in Table 1 to paragraph (c) of this AD, installed.

Table 1 to Paragraph (c) – Affected LPT Stage 5 Air Seals

Engine S/N	LPT Module S/N	LPT Stage 5 Air Seal (P/N 50N324) S/N
729382	D29382	CLDLD30255
729389	D29389	CLDLD30254
729392	D29392	CLDLD30256
729393	D29393	CLDLD30265
729395	D29395	CLDLD30253
729396	D29396	CLDLD30257
729397	D29397	CLDLD30267
729398	D29398	CLDLD30269
729399	D29399	CLDLD30266
729400	D29400	CLDLD30263
729401	D29401	CLDLD30268
729402	D29402	CLDLD30260
729404	D29404	CLDLD30262
729406	D29406	CLDLD30270

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by a report of a manufacturing quality escape due to insufficient cooling of the LPT stage 5 air seal resulting in a reduction of the life of the low-cycle fatigue (LCF) life limit. The FAA is issuing this AD to prevent failure of the LPT stage 5 air seal. The unsafe condition, if not addressed, could result in the uncontained release of the LPT stage 5 air seal, damage to the engine, and damage to the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

At the next piece-part exposure, or before the LPT stage 5 air seal accumulates 8,240 cycles since new, whichever occurs first after the effective date of this AD, remove the LPT stage 5 air seal from service and replace it with a part eligible for installation.

(h) Definitions

(1) For the purpose of this AD, ''piece-part exposure'' is when an LPT stage 5 air seal has been disassembled from the engine.

(2) For the purpose of this AD, a ''part eligible for installation'' is an LPT stage 5 air seal, P/N 50N324, with an S/N not listed in Table 1 to Paragraph (c) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD and email to: *ANE-AD-AMOC@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

For more information about this AD, contact Carol Nguyen, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7655; email: *carol.nguyen@faa.gov*.

(k) Material Incorporated by Reference

None.

Issued on June 14, 2022.

Christina Underwood,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–13088 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0317; Airspace Docket No. 21–AAL–63]

RIN 2120–AA66

Modification of Class D and E Airspace, and Removal of Class E Airspace; King Salmon Airport, AK

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This action modifies the Class D and Class E surface area airspace, and the Class E airspace extending upward from 700 feet above the surface at King Salmon Airport, King Salmon, AK. Additionally, the FAA is removing the Class E airspace designated as an extension to Class D or Class E airspace, as it is no longer required. Furthermore, this action removes a navigational aid (NAVAID) from the legal description of the Class E5 text header. Lastly, this action updates the Class D and Class E legal descriptions. These actions will ensure the safety and management of instrument flight rules (IFR) and visual flight rules (VFR) operations at the airport.

DATES: Effective 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under Title 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11F, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Nathan A. Chaffman, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–3460.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code (U.S.C.). Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart i, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would modify Class D and Class E airspace, and remove Class E airspace at King Salmon Airport, AK, to support IFR and VFR operations at the airport.

History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** for Docket No. FAA–2022–0317 (87 FR 20794; April 8, 2022) to modify the Class D and Class E surface airspace, modify Class E airspace extending upward from 700 feet above the surface, and remove Class E airspace designated as an extension to Class D or Class E surface area at King Salmon Airport, AK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D, Class E2, Class E4 and Class E5 airspace designations are published in paragraphs 5000, 6002, 6004, and 6005, respectively, of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending 14 CFR part 71 by modifying the Class D and Class E surface airspace, modifying the Class E airspace extending upward from 700 feet above the surface, and removing the Class E4 airspace designated as an extension to Class D or Class E surface area at King Salmon Airport, King Salmon, AK.

Both the Class D and Class E surface areas are increased in radius to properly contain departures until reaching 700 feet above the surface, contain IFR arrivals descending below 1,000 feet above the surface, and to contain circling maneuvers at the airport. In addition, an extension to the Class D and Class E surface areas is installed to the southeast of the airport due to rising terrain. This extension contains IFR departures until reaching 700 feet above the surface.

Similarly, the FAA is installing a shelf to the Class D and Class E surface areas. The shelf allows for floatplane operations to and from the Naknek River when weather is below VFR minimums at the airport.

In addition, the FAA is removing the King Salmon Class E airspace, designated as an extension to Class D and Class E surface areas, as it's no longer needed.

Furthermore, the FAA is modifying the Class E airspace extending upward from 700 feet above the surface at King Salmon Airport. The current radius, which contains departing aircraft until reaching 1,200 feet above ground level (AGL), is reduced, as the extra coverage is not needed. The areas to the southeast and northwest of the airport are reduced to more appropriately contain the points at which an arriving aircraft would normally descend below 1,500 AGL.

Moreover, the FAA is increasing the ceiling of the Class D airspace to 2,600 feet mean sea level (MSL) to account for the 73-foot airport elevation. Class D areas should normally extend upward from the surface up to and including 2,500 feet AGL. The altitude must be converted to MSL and rounded to the nearest 100 feet.

Additionally, this action also removes the King Salmon Very High Frequency Omnidirectional Range and Tactical Air Navigation (VORTAC) from the Class E5 text header and the airspace description. The NAVAID is not required to describe the airspace area, and the removal of the NAVAID simplifies the airspace's legal description.

Finally, the FAA is modifying several administrative portions of the King Salmon Airport's legal descriptions. The city name is removed from the second line of the Class D, Class E2, and Class E5 airspace legal descriptions. The second line should read: ''King Salmon Airport, AK.'' Additionally, the current Class D and Class E surface area legal descriptions are modified to replace the use of the phrases ''Notice to Airmen'' and ''Airport/Facility Directive.'' These phrases should read ''Notice to Air Missions'' and ''Chart Supplement,'' respectively, in both legal descriptions.

FAA Order JO 7400.11 is published annually and becomes effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial, and unlikely to result in adverse or negative comments. It therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AAL AK D King Salmon, AK [Amended]

King Salmon Airport, AK
(Lat. 58°40′35″ N, long. 156°38′55″ W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 5.3-mile radius of the King Salmon Airport, AK, and within 1.1 miles each side of the 132° bearing extending from the 5.3-mile radius to 6.2 miles southeast of the airport, excluding that airspace 600 feet MSL and below within 1.5 miles each side of the 132° bearing extending from the 4.4-mile radius to the 5.3-mile radius of the airport, and excluding that airspace 600 feet MSL and below within 1.1 miles each side of the 132° bearing extending from the 5.3-mile radius to 6.2 miles southeast of the airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AAL AK E2 King Salmon, AK [Amended]

King Salmon Airport, AK
(Lat. 58°40′35″ N, long. 156°38′55″ W)

That airspace extending upward from the surface within a 5.3-mile radius of the King Salmon Airport, AK, and within 1.1 miles each side of the 132° bearing extending from the 5.3-mile radius to 6.2 miles southeast of the airport, and excluding that airspace 600 feet MSL and below within 1.5 miles each side of the 132° bearing extending from the 4.4-mile radius to the 5.3-mile radius of the airport, and excluding that airspace 600 feet MSL and below within 1.1 miles each side of the 132° bearing extending from the 5.3-mile radius to 6.2 miles southeast of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

AAL AK E4 King Salmon, AK [Removed]

King Salmon Airport, AK
(Lat. 58°40′35″ N, long. 156°38′55″ W)

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 King Salmon, AK [Amended]

King Salmon Airport, AK
(Lat. 58°40′35″ N, long. 156°38′55″ W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of King Salmon Airport, AK, and within 3.3 miles northeast and 3.2 miles southwest of the 132° bearing extending from the 6.8-mile radius to 9.1 miles southeast of the airport, and within 3.9 miles each side of the 312° bearing extending from the 6.8-mile radius to 13.8 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the King Salmon Airport, AK, excluding that airspace extending beyond 12 miles of the shoreline.

B.G. Chew,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2022–13093 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 31435 ; Amdt. No. 566]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: Effective 0901 UTC, July 14, 2022.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg 29 Room 104, Oklahoma City, OK 73125. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on April 15, 2022.

Thomas J Nichols,

Manager, Aviation Safety, Flight Standards Service, Standards Section, Flight Procedures & Airspace Group, Flight Technologies and Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, June 03, 2010.

PART 95—IFR Altitudes

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113 and 14 CFR 11.49(b)(2)

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT

[Amendment 566 effective date, July 14, 2022]

From	To	MEA	MAA
§ 95.3000 Low Altitude RNAV Routes			
§ 95.3215 RNAV Route T215 Is Amended by Adding			
BURGG, SC WP	*GENOD, NC Fix	4000	17500
*4600—MCA	GENOD, NC Fix, N BND.		
GENOD, NC FIX	HORAL, TN WP	8500	17500
HORAL, TN WP	HILTO, VA FIX	6700	17500
RISTE, KY WP	DACEL, KY WP	3800	17500
DACEL, KY WP	HUGEN, KY WP	3300	17500
GAMKE, IN WP	MILAN, IN fix	2800	8000
MILAN, IN FIX	DEEKS, IN FIX	2900	17500
DEEKS, IN FIX	BONOY, IN WP	2700	17500
BONOY, IN WP	CLEFT, IN FIX	2600	17500
CLEFT, IN FIX	MAPPS, IN FIX	2600	17500
MAPPS, IN FIX	SMARS, IL WP	2500	10000
SMARS, IL WP	CPTON, IL WP	2400	10000
Is Amended to Delete			
HOLSTON MOUNTAIN, TN	VORTAC HILTO, VA FIX	6700	17500
RISTE, KY WP	HAZARD, KY DME	3800	17500
HAZARD, KY DME	HUGEN, KY WP	3200	17500
Is Amended to Read in Part			
HUGEN, KY WP	LEXINGTON, KY VOR/DME	3100	17500
LEXINGTON, KY VOR/DME	NERVE, KY FIX	2800	8000
NERVE, KY FIX	GAMKE, IN WP	2600	8000
§ 95.3224 RNAV Route T224 Is Amended by Adding			
MOCKS, TX WP	SHWNN, TX WP	2100	17500
SHWNN, TX WP	WASPY, LA FIX	1700	17500
WASPY, LA FIX	KNZLY, LA WP	1700	17500
KNZLY, LA WP	ARTEL, LA FIX	1700	17500
ARTEL, LA FIX	CRISP, LA FIX	1700	17500
CRISP, LA FIX	MICRO, LA FIX	1700	17500
MICRO, LA FIX	ZIROR, LA FIX	1700	17500
ZIROR, LA FIX	DAFLY, LA WP	1800	17500
DAFLY, LA WP	LULEW, LA FIX	2100	17500
LULEW, LA FIX	BUDAM, LA FIX	1700	17500
BUDAM, LA FIX	*MYRIC, LA FIX	1700	17500
*1200—MOCA.			
MYRIC, LA FIX	WOVON, LA FIX	1700	17500
WOVON, LA FIX	DONBE, LA FIX	1700	17500
DONBE, LA FIX	AWDAD, LA FIX	1700	17500
AWDAD, LA FIX	SIMBY, LA FIX	1700	17500
SIMBY, LA FIX	VOODO, LA FIX	1700	17500
VOODO, LA FIX	KJAAY, LA WP	1700	17500
KJAAY, LA WP	SNAKI, LA FIX	1700	17500
SNAKI, LA FIX	SLIDD, LA FIX	1700	17500
SLIDD, LA FIX	CLERY, MS FIX	1700	17500
CLERY, MS FIX	MUDDA, MS FIX	1800	17500

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

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From	To	MEA	MAA
MUDDA, MS FIX	WTERS, MS WP	1800	17500
WTERS, MS WP	NESFE, MS FIX	1800	17500
NESFE, MS FIX	BUGLE, MS FIX	1900	17500
BUGLE, MS FIX	SQWID, MS FIX	1800	17500
SQWID, MS FIX	LYNRD, AL WP	1900	17500
LYNRD, AL WP	AXSIS, AL FIX	2000	17500
AXSIS, AL WP	AXEJA, AL FIX	2000	17500
AXEJA, AL FIX	TENSA, AL FIX	1900	17500
TENSA, AL FIX	WIILL, AL WP	2200	17500
WIILL, AL WP	PICKS, AL FIX	2300	17500
PICKS, AL FIX	ALOON, AL FIX	2300	17500
ALOON, AL FIX	MGMRY, AL WP	2100	17500
MGMRY, AL WP	GONDR, AL WP	2100	17500
GONDR, AL WP	RSVLT, GA WP	2400	17500
RSVLT, GA WP	CANER, GA FIX	2800	17500
CANER, GA FIX	GRANT, GA FIX	2800	17500
GRANT, GA FIX	HUZER, GA FIX	2600	17500
HUZER, GA FIX	SMARR, GA FIX	2500	17500
SMARR, GA FIX	SINCA, GA FIX	2500	17500
SINCA, GA FIX	GLOSS, GA FIX	2400	17500
GLOSS, GA FIX	MADDI, GA FIX	2400	17500
MADDI, GA FIX	JOTNO, GA FIX	2500	17500
JOTNO, GA FIX	DACHA, GA FIX	2500	17500
DACHA, GA FIX	UGAAA, GA WP	2500	17500
UGAAA, GA WP	JOSPI, GA FIX	2500	17500
JOSPI, GA FIX	BOWMN, GA FIX	2500	17500
BOWMN, GA FIX	HARTI, GA FIX	2600	17500
HARTI, GA FIX	ECITY, SC WP	2500	17500
ECITY, SC WP	PEDAL, SC FIX	3700	17500
PEDAL, SC FIX	DOODD, SC FIX	3900	17500
DOODD, SC FIX	TUXDO, SC FIX	5200	17500
TUXDO, SC FIX	STYLZ, NC WP	6200	17500
STYLZ, NC WP	GENOD, NC FIX	6200	17500
GENOD, NC FIX	SWENK, NC FIX	5200	17500
SWENK, NC FIX	VAESE, NC FIX	4900	17500
VAESE, NC FIX	BONZE, NC WP	4500	17500
BONZE, NC WP	SANFI, NC FIX	4100	17500
SANFI, NC FIX	JOTTA, NC FIX	4000	17500
JOTTA, NC FIX	INGON, NC FIX	3500	17500
INGON, NC FIX	PROVE, NC FIX	3400	17500
PROVE, NC FIX	MAYOS, NC FIX	4100	17500
MAYOS, NC FIX	LEAKS, NC FIX	4100	17500
LEAKS, NC FIX	UFFIN, NC FIX	3300	17500
UFFIN, NC FIX	MCDON, VA WP	3300	17500
MCDON, VA WP	YUDUG, VA FIX	2400	17500
YUDUG, VA FIX	NUTTS, VA FIX	2300	17500
NUTTS, VA FIX	WAVES, VA WP	3400	17500
WAVES, VA WP	TAPPA, VA FIX	2100	17500
TAPPA, VA FIX	COLIN, VA FIX	1900	17500

Is Amended to Delete

From	To	MEA	MAA
MOLLR, TX WP	BEAUMONT, TX VOR/DME	2100	17500
BEAUMONT, TX VOR/DME	LAKE CHARLES, LA VORTAC	1700	17500

Is Amended to Read in Part

From	To	MEA	MAA
MOLLR, TX WP	FRYED, TX WP	1800	17500
FRYED, TX WP	MOCKS, TX WP	2100	17500

§ 95.3251 RNAV Route T251 Is Amended by Adding

From	To	MEA	MAA
FRNIA, MO WP	FARMINGTON, MO VORTAC	2900	17500

§ 95.3258 RNAV Route T258 Is Amended by Adding

From	To	MEA	MAA
ZIVMU, AL FIX	DAYVS, AL WP	2500	17500
DAYVS, AL WP	HEENA, AL FIX	2600	17500
CAMPP, AL FIX	BRAVS, GA WP	2900	17500
BRAVS, GA WP	LANGA, GA FIX	2600	17500

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

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From	To	MEA	MAA
CANER, GA FIX	GRANT, GA FIX	2900	17500
GRANT, GA FIX	HUZER, GA FIX	2600	17500
HUZER, GA FIX	SMARR, GA FIX	2500	17500
SMARR, GA FIX	SINCA, GA FIX	2500	17500
SINCA, GA FIX	GLOSS, GA FIX	2400	17500
GLOSS, GA FIX	MADDI, GA FIX	2400	17500
MADDI, GA FIX	JOTNO, GA FIX	2500	17500
JOTNO, GA FIX	DACHA, GA FIX	2500	17500
DACHA, GA FIX	UGAAA, GA WP	2500	17500
UGAAA, GA WP	HRTWL, SC WP	2500	17500
HRTWL, SC WP	WILLS, SC FIX	2400	17500
WILLS, SC FIX	TAYSO, SC FIX	2300	17500
TAYSO, SC FIX	RICHE, SC FIX	2400	17500
RICHE, SC FIX	HUNNY, NC WP	2500	17500
HUNNY, NC WP	NATCH, NC FIX	2400	17500
NATCH, NC FIX	GMINI, NC WP	2400	17500

Is Amended to Delete

From	To	MEA	MAA
CRMSN, AL WP	BROOKWOOD, AL VORTAC	2500	17500
BROOKWOOD, AL VORTAC	HEENA, AL FIX	2600	17500
CAMPP, AL FIX	LAGRANGE, GA VORTAC	2900	17500
LAGRANGE, GA VORTAC	LANGA, GA FIX	2600	17500

Is Amended to Read in Part

From	To	MEA	MAA
MINIM, AL FIX	CAYAP, AL FIX	2300	17500
CAYAP, AL FIX	CRMSN, AL WP	2200	17500
CRMSN, AL WP	ZIVMU, AL FIX	2300	17500

§ 95.3323 RNAV Route T323 Is Amended by Adding

From	To	MEA	MAA
MARQO, FL WP	LRSEY, GA WP	2300	17500
LRSEY, GA WP	CROCS, GA WP	2000	17500
BIGNN, GA WP	HELNN, NC WP	7000	17500
HELNN, NC WP	OCOEE, NC WP	6600	17500
OCOEE, NC WP	*KNITS, TN FIX	7400	17500
*6200—MCA	KNITS, TN FIX, S BND.		
KNITS, TN FIX	CRECY, TN WP	5000	17500
CRECY, TN WP	*ZADOT, TN WP	4200	17500
*5400—MCA	ZADOT, TN WP, N BND.		
WELLA, KY WP	DACEL, KY WP	3800	17500

Is Amended to Delete

From	To	MEA	MAA
BIGNN, GA WP	ZPPLN, NC WP	7000	17500
ZPPLN, NC WP	HIGGI, NC WP	7400	17500
HIGGI, NC WP	*KIDBE, TN WP	7700	17500
*5900—MCA	KIDBE, TN WP, S BND.		
KIDBE, TN WP	ZADOT, TN WP	*4100	17500
*5000—MCA	ZADOT, TN WP, N BND.		
*WELLA, KY WP	HAZARD, KY DME	*3700	17500
*3800—MCA	WELLA, KY WP, S BND.		

Is Amended to Read in Part

From	To	MEA	MAA
BOBBR, GA WP	BIGNN, GA WP	*2700	17500
*3400—MCA	BIGNN, GA WP, N BND.		
ZADOT, TN WP	WELLA, KY WP	*5900	17500
*4400—MCA	WELLA, KY WP, S BND.		

§ 95.3354 RNAV Route T354 Is Amended by Adding

From	To	MEA	MAA
BIBLE GROVE, IL VORTAC	NUWAY, IL WP	2100	17500
NUWAY, IL WP	MESSR, KY WP	2300	17500
MESSR, KY WP	AHOYE, KY FIX	2000	17500
AHOYE, KY FIX	SACDO, TN FIX	2200	17500
SACDO, TN FIX	HAUSS, TN WP	2000	17500

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—CONTINUED

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From	To	MEA	MAA
BIBLE GROVE, IL VORTAC	CUNNINGHAM, KY VOR/DME	2500	17500
§ 95.3404 RNAV Route T404 Is Added to Read			
TYGRR, AL WP	RENFO, GA FIX	2400	17500
RENFO, GA FIX	PREST, GA FIX	2400	17500
PREST, GA FIX	WILMS, GA FIX	2400	17500
WILMS, GA FIX	POTAR, GA FIX	2400	17500
POTAR, GA FIX	BYROE, GA WP	2300	17500
BYROE, GA WP	NOKIE, GA WP	2300	17500
NOKIE, GA WP	RIPPI, GA FIX	2300	17500
RIPPI, GA FIX	HADOC, GA FIX	2300	17500
HADOC, GA FIX	MISTY, GA FIX	2300	17500
MISTY, GA FIX	HARLE, GA WP	2300	17500
HARLE, GA WP	WANSA, SC WP	2300	17500
WANSA, SC WP	GRAZE, SC WP	2400	17500
GRAZE, SC WP	SAMMI, SC FIX	2400	17500
SAMMI, SC FIX	STEET, SC FIX	2300	17500
STEET, SC FIX	CAYCE, SC WP	2300	17500
§ 95.3406 RNAV Route T406 Is Added to Read			
KNZLY, LA WP	ARTEL, LA FIX	1700	17500
ARTEL, LA FIX	CRISP, LA FIX	1700	17500
CRISP, LA FIX	MICRO, LA FIX	1700	17500
MICRO, LA FIX	*ZIROR, LA FIX	1700	17500
*1600—MCA	ZIROR, LA FIX, E BND.		
ZIROR, LA FIX	DAFLY, LA WP	1800	17500
DAFLY, LA WP	ROSEY, LA FIX	1700	17500
ROSEY, LA FIX	TATER, LA FIX	2100	17500
TATER, LA FIX	RCOLA, LA WP	1800	17500
RCOLA, LA WP	DILLS, LA FIX	1900	17500
DILLS, LA FIX	WALKE, LA FIX	*1800	17500
*1700—MCA	WALKE, LA FIX, E BND.		
WALKE, LA FIX	TICKS, LA FIX	1800	17500
TICKS, LA FIX	RYTHM, LA FIX	1800	17500
RYTHM, LA FIX	FRANK, LA FIX	1900	17500
FRANK, LA FIX	PELLO, MS WP	1900	17500
PELLO, MS WP	WIGGO, MS FIX	2100	17500
WIGGO, MS FIX	GARTS, MS WP	2000	17500
GARTS, MS WP	ERNON, AL FIX	2100	17500
ERNON, AL FIX	WIILL, AL WP	2200	17500
WIILL, AL WP	CHAFF, AL FIX	2200	17500
CHAFF, AL FIX	RUTEL, AL FIX	2200	17500
RUTEL, AL FIX	BANBI, AL FIX	2300	17500
BANBI, AL FIX	CHIRP, AL FIX	2400	17500
CHIRP, AL FIX	TYGRR, AL WP	2300	17500
TYGRR, AL WP	*LUMPP, GA FIX	2300	17500
*2000—MCA	LUMPP, GA FIX, W BND.		
LUMPP, GA FIX	AMAPO, GA FIX	2300	17500
AMAPO, GA FIX	LILLY, GA FIX	2300	17500
LILLY, GA FIX	GUVNR, GA FIX	2100	17500
GUVNR, GA FIX	GAMSE, GA FIX	2100	17500
GAMSE, GA FIX	DOOLY, GA WP	2100	17500
DOOLY, GA WP	OCONE, GA FIX	2100	17500
OCONE, GA FIX	KLICK, GA FIX	2100	17500
KLICK, GA FIX	MILEN, GA FIX	2100	17500
MILEN, GA FIX	DURBE, SC WP	2000	17500
§ 95.3408 RNAV Route T408 Is Added to Read			
NOKIE, GA WP	OTGUQ, GA FIX	2300	17500
OTGUQ, GA FIX	GUMPY, GA WP	2000	17500
GUMPY, GA WP	LOTTS, GA FIX	2000	17500
LOTTS, GA FIX	BROSE, GA FIX	1900	17500
BROSE, GA FIX	TBERT, GA WP	1800	17500

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From	To	MEA	MAA
§ 95.3410 RNAV Route T410 Is Added to Read			
SINCA, GA FIX	BEYLO, GA FIX	2400	17500
BEYLO, GA FIX	ANNAN, GA FIX	3000	17500
ANNAN, GA FIX	*WANSA, SC WP	3000	17500
*1900—MCA	WANSA, SC WP, W BND.		
WANSA, SC WP	TREAD, SC FIX	2200	17500
TREAD, SC FIX	JOKER, SC FIX	2300	17500
JOKER, SC FIX	*MONET, SC FIX	2400	17500
*2000—MCA	MONET, SC FIX, NW BND.		
MONET, SC FIX	LEDAS, SC FIX	2400	17500
LEDAS, SC FIX	WIDER, SC FIX	2200	17500
§ 95.3412 RNAV Route T412 Is Added to Read			
KNZLY, LA WP	HATHA, LA FIX	1700	17500
HATHA, LA FIX	MAXON, LA FIX	1700	17500
MAXON, LA FIX	BOZAN, LA FIX	1800	17500
BOZAN, LA FIX	MOGAN, LA FIX	1800	17500
MOGAN, LA FIX	WRACK, LA FIX	2000	17500
WRACK, LA FIX	LESTE, MS FIX	2100	17500
LESTE, MS FIX	ICEKI, MS WP	2200	17500
ICEKI, MS WP	CETDA, MS FIX	2200	17500
CETDA, MS FIX	WOBAK, MS FIX	2200	17500
WOBAK, MS FIX	SSLAW, MS WP	2100	17500
SSLAW, MS WP	*LIGIC, MS FIX	2100	17500
*2200—MCA LIGIC, MS FIX, E BND.			
LIGIC, MS FIX	PICAN, MS FIX	2300	17500
PICAN, MS FIX	YARBO, AL FIX	2100	17500
YARBO, AL FIX	WIILL, AL WP	2200	17500
WIILL, AL WP	PICKS, AL FIX	2300	17500
PICKS, AL FIX	ALOON, AL FIX	2300	17500
ALOON, AL FIX	MGMRY, AL WP	2100	17500
MGMRY, AL WP	PETOC, AL FIX	2000	17500
PETOC, AL FIX	MARST, AL FIX	2400	17500
MARST, AL FIX	KENTT, AL FIX	2300	17500
KENTT, AL FIX	YARBE, AL FIX	2500	17500
YARBE, AL FIX	*TIMMY, AL FIX	2500	17500
*2300—MCA	TIMMY, AL FIX, NE BND.		
TIMMY, AL FIX	HHRVY, AL WP	2600	17500
HHRVY, AL WP	BRAVS, GA WP	2600	17500
BRAVS, GA WP	HONIE, GA FIX	2600	17500
HONIE, GA FIX	TIROE, GA FIX	2600	17500
§ 95.3414 RNAV Route T414 Is Added to Read			
LOGEN, GA FIX	*MILBY, SC WP	3700	17500
*4000—MCA	MILBY, SC WP, NE BND.		
MILBY, SC WP	*SUNET, SC WP	4800	17500
*5600—MCA	SUNET, SC WP, NE BND.		
SUNET, SC WP	STYLZ, NC WP	7100	17500
STYLZ, NC WP	BONZE, NC WP	6200	17500
BONZE, NC WP	HENBY, VA FIX	4100	17500
HENBY, VA FIX	AYARA, VA WP	3700	17500
AYARA, VA WP	BOJAR, VA WP	3600	17500
§ 95.3420 RNAV Route T420 Is Added to Read			
DALHART, TX VORTAC	WLBIR, TX WP	5800	17500
WLBIR, TX WP	BRISC, TX FIX	5000	17500
BRISC, TX FIX	BURNS FLAT, OK VORTAC	4700	17500
BURNS FLAT, OK VORTAC	WILL ROGERS, OK VORTAC	4500	17500
§ 95.3421 RNAV Route T421 Is Added to Read			
LYFEE, AL WP	EGEST, AL FIX	1900	17500
EGEST, AL FIX	SKIPO, AL FIX	2000	17500
SKIPO, AL FIX	CLIOS, AL FIX	2100	17500
CLIOS, AL FIX	BANBI, AL FIX	2100	17500
BANBI, AL FIX	ZOREL, AL WP	2600	17500
ZOREL, AL WP	GUMMP, AL WP	2400	17500

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From	To	MEA	MAA
GUMMP, AL WP	VLKNN, AL WP	3100	17500
VLKNN, AL WP	SIPSY, AL FIX	2400	17500
SIPSY, AL FIX	JOHNY, AL FIX	2400	17500
JOHNY, AL FIX	LANER, AL FIX	2600	17500
LANER, AL FIX	YOSNU, AL FIX	2300	17500
YOSNU, AL FIX	HAGIE, AL WP	2400	17500
§ 95.3422	**RNAV Route T422 Is Added to Read**		
PANHANDLE, TX VORTAC	FASOG, TX FIX	5300	17500
FASOG, TX FIX	WUDPI, TX WP	5000	17500
WUDPI, TX WP	ASAZE, OK FIX	4600	17500
ASAZE, OK FIX	BURNS FLAT, OK VORTAC	3600	17500
BURNS FLAT, OK VORTAC	HISLA, OK FIX	3600	17500
HISLA, OK FIX	ZELNU, OK FIX	3500	17500
ZELNU, OK FIX	BISKT, OK WP	*3300	17500
*3000—MOCA.			
BISKT, OK WP	LASTS, OK FIX	2900	17500
LASTS, OK FIX	GULLI, OK FIX	2900	17500
GULLI, OK FIX	SEARS, OK FIX	2800	17500
SEARS, OK FIX	TULSA, OK VORTAC	3400	17500
§ 95.3423	**RNAV Route T423 Is Added to Read**		
STYLZ, NC WP	*ROANS, TN FIX	8900	17500
*8200—MCA	ROANS, TN FIX, S BND.		
ROANS, TN FIX	HORAL, TN WP	6900	17500
HORAL, TN WP	GAUZY, VA WP	6700	17500
GAUZY, VA WP	ZOMAD, VA FIX	6500	17500
ZOMAD, VA FIX	STACY, VA FIX	5900	17500
STACY, VA FIX	SLINK, WV FIX	4700	17500
SLINK, WV FIX	MACET, WV FIX	4800	17500
MACET, WV FIX	DIPUH, WV FIX	4400	17500
DIPUH, WV FIX	CHARLESTON, WV VOR/DME	4400	17500
§ 95.3425	**RNAV Route T425 Is Added to Read**		
SIROC, GA WP	BERTT, GA FIX	1800	17500
BERTT, GA FIX	HABLE, GA FIX	1800	17500
HABLE, GA FIX	CROCS, GA WP	2300	17500
CROCS, GA WP	RIPPI, GA FIX	2300	17500
RIPPI, GA FIX	WOGOM, GA FIX	2300	17500
WOGOM, GA FIX	SINCA, GA FIX	2400	17500
SINCA, GA FIX	CANUK, GA FIX	2400	17500
CANUK, GA FIX	WEMOB, GA FIX	2400	17500
WEMOB, GA FIX	HUSKY, GA FIX	2500	17500
§ 95.3427	**RNAV Route T427 Is Added to Read**		
CAYCE, SC WP	HUFMN, SC WP	2400	17500
HUFMN, SC WP	BLANE, SC FIX	2400	17500
BLANE, SC FIX	VESTO, GA FIX	2300	17500
VESTO, GA FIX	DNICE, GA WP	2400	17500
DNICE, GA WP	UGAAA, GA WP	2500	17500
UGAAA, GA WP	*CONLY, GA WP	2700	17500
*3500—MCA	CONLY, GA WP, NW BND.		
CONLY, GA WP	*WOMAC, GA FIX	4700	17500
*4700—MCA	WOMAC, GA FIX, SE BND.		
WOMAC, GA FIX	LOGEN, GA FIX	4100	17500
§ 95.3429	**RNAV Route T429 Is Added to Read**		
HOKES, AL FIX	SNEAR, AL FIX	3800	17500
SNEAR, AL FIX	*JOSEP, AL FIX	3700	17500
*3200—MCA	JOSEP, AL FIX, SE BND.		
JOSEP, AL FIX	FEWER, AL FIX	2800	17500
FEWER, AL FIX	LEACH, AL WP	2900	17500
LEACH, AL WP	MASHA, AL WP	2500	17500
MASHA, AL WP	JUVLO, AL FIX	2500	17500
JUVLO, AL FIX	HAGIE, AL WP	2600	17500

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From	To	MEA	MAA
§ 95.4000 High Altitude RNAV Routes			
§ 95.4015 RNAV Route Q15 Is Amended by Adding			
NABOB, AZ FIX *18000—GNSS MEA. *DME/DME/IRU MEA.	CHILY, AZ FIX	*24000	45000
§ 95.4073 RNAV Route Q73 Is Amended by Adding			
LVELL, CA WP *GNSS REQUIRED.	BLKWL, CA WP	*18000	45000
BLKWL, CA WP *GNSS REQUIRED.	ZELMA, CA FIX	*18000	45000
ZELMA, CA FIX *GNSS REQUIRED.	KRLIE, CA WP *	18000	45000
KRLIE, CA WP *GNSS REQUIRED.	HAKMN, NV WP	*18000	45000

From	To	MEA
§ 95.6001 VICTOR ROUTES—U.S.		
§ 95.6018 VOR Federal Airway V11 Is Amended to Delete		
MAGNOLIA, MS VORTAC	SIDON, MS VORTAC	2000
SIDON, MS VORTAC	HOLLY SPRINGS, MS VORTAC	3000
HOLLY SPRINGS, MS VORTAC *2000—MOCA.	DYERSBURG, TN VORTAC	*2500
DYERSBURG, TN VORTAC	CUNNINGHAM, KY VOR/DME	2400
§ 95.6014 VOR Federal Airway V14 Is Amended to Read in Part		
CARFF, OK FIX	WILL ROGERS, OK VORTAC	3000
§ 95.6017 VOR Federal Airway V17 Is Amended to Read in Part		
WILL ROGERS, OK VORTAC NW BND 4900 SE BND 3300.	ODINS, OK FIX.	
§ 95.6018 VOR Federal Airway V18 Is Amended to Delete		
MERIDIAN, MS VORTAC	CRIMSON, AL VORTAC	2000
CRIMSON, AL VORTAC	VULCAN, AL VORTAC	2400
§ 95.6035 VOR Federal Airway V35 Is Amended to Delete		
PECAN, GA VOR/DME	MACON, GA VORTAC	2000
MACON, GA VORTAC	SINCA, GA FIX	2500
§ 95.6047 VOR Federal Airway V47 Is Amended to Delete		
PINE BLUFF, AR VOR/DME *1800—MOCA.	GILMORE, AR VOR/DME *	4000
GILMORE, AR VOR/DME	DYERSBURG, TN VORTAC	2500
DYERSBURG, TN VORTAC	CUNNINGHAM, KY VOR/DME	2400
§ 95.6054 VOR Federal Airway V54 Is Amended to Delete		
LITTLE ROCK, AR VORTAC	MARVELL, AR VOR/DME	1900
MARVELL, AR VOR/DME	HOLLY SPRINGS, MS VORTAC	2200
HOLLY SPRINGS, MS VORTAC	MUSCLE SHOALS, AL VORTAC	3000
MUSCLE SHOALS, AL VORTAC	TANNE, AL FIX	2400
TANNE, AL FIX	ROCKET, AL VORTAC	2900
ROCKET, AL VORTAC	CHOO CHOO, TN VORTAC	4000
CHOO CHOO, TN VORTAC	*CRAND, GA FIX	*3000
*4500—MCA	CRAND, GA FIX, E BND.	
CRAND, GA FIX	MELLS, GA FIX	6000
MELLS, GA FIX *5200—MOCA.	HARRIS, GA VORTAC	*6000

From	To	MEA
HARRIS, GA VORTAC	DILLA, GA WP	7500
DILLA, GA WP	RESTS, SC FIX	*8000
*6800—MOCA.		
RESTS, SC FIX	CLEVA, SC FIX	*7000
*5100—MOCA.		
*5100—GNSS MEA.		
CLEVA, SC FIX	*SPARTANBURG, SC VORTAC	**6000
*5200—MCA	SPARTANBURG, SC VORTAC, W BND.	
**3300—GNSS MEA.		
SPARTANBURG, SC VORTAC	CHARLOTTE, NC VOR/DME	*4000
*2600—MOCA.		
CHARLOTTE, NC VOR/DME	LOCAS, NC FIX	3100
LOCAS, NC FIX	SANDHILLS, NC VORTAC	2500

§ 95.6056 VOR Federal Airway V56 Is Amended to Delete

From	To	MEA
MONTGOMERY, AL VORTAC	TUSKEGEE, AL VOR/DME	2000
TUSKEGEE, AL VOR/DME	MARVO, AL FIX	2100
MARVO, AL FIX	COLUMBUS, GA VORTAC	*2600
*2000—MOCA.		
COLUMBUS, GA VORTAC	*PRATZ, GA FIX	2500
*3000—MRA.		
PRATZ, GA FIX	MACON, GA VORTAC	#GNSS—2500
#MACON R–265 UNUSABLE GNSS REQUIRED.		
MACON, GA VORTAC	MISTY, GA WP	*6000
*2200—MOCA.		
MISTY, GA WP	COLLIERS, SC VORTAC	2300

§ 95.6056 VOR Federal Airway V66 Is Amended to Delete

From	To	MEA
CRIMSON, AL VORTAC	BROOKWOOD, AL VORTAC	*2500
*2000—MOCA.		
LAGRANGE, AL VORTAC	CANER, GA FIX	3500
CANER, GA FIX	GRANT, GA FIX	*3000
*2400—MOCA.		
GRANT, GA FIX	*SMARR, GA FIX	**4000
*4500—MCA SMARR, GA FIX, NE BND.		
**2500—MOCA.		
**2600—GNSS MEA.		
SMARR, GA FIX	*SINCA, GA FIX	**4000
*4500—MCA SINCA, GA FIX, SW BND.		
**2500—MOCA.		
**2500—GNSS MEA.		
SINCA, GA FIX	ATHENS, GA VOR/DME	*3000
*2200—MOCA.		
ATHENS, GA VOR/DME	GREENWOOD, SC VORTAC	*2500
*2200—MOCA.		
GREENWOOD, SC VORTAC	*RICHE, SC FIX	*4000
*2100—MOCA.		
*2500—GNSS MEA.		
RICHE, SC FIX	SANDHILLS, NC VORTAC	*8000
*2300—MOCA.		
*2500—GNSS MEA.		

§ 95.6077 VOR Federal Airway V77 Is Amended to Read in Part

From	To	MEA
WILL ROGERS, OK VORTAC	PIONEER, OK VORTAC	*4000
*3200—MOCA.		

§ 95.6081 VOR Federal Airway V81 Is Amended to Read in Part

From	To	MEA
PANHANDLE, TX VORTAC	DALHART, TX VORTAC	6100

§ 95.6056 VOR Federal Airway V97 Is Amended to Delete

From	To	MEA
PRATZ, GA FIX	OLISY, GA FIX	*4000
*2700—MOCA.		
*3000—GNSS MEA.		
OLISY, GA FIX	ATLANTA, GA VORTAC	*3000
*2400—MOCA.		
ATLANTA, GA VORTAC	BAPPY, GA FIX	*4000
*3300—MOCA.		
BAPPY, GA FIX	*NELLO, GA FIX	*5000

From	To	MEA
*10000—MCA NELLO, GA FIX, N BND.		
§ 95.6114 VOR Federal Airway V114 Is Amended to Read in Part		
PANHANDLE, TX VORTAC *6500—MRA. **5000—MOCA.	*DOGIN, TX FIX	**5400
§ 95.6132 VOR Federal Airway V132 Is Amended to Read in Part		
CHANUTE, KS VOR/DME W BND 2800 E BND 4500	NALLY, KS FIX.	
§ 95.6140 VOR Federal Airway V140 Is Amended to Delete		
BURNS FLAT, OK VORTAC *4000—MRA.	*HISLA, OK FIX	3600
HISLA, OK FIX *3000—MOCA.	KINGFISHER, OK VORTAC	*3600
KINGFISHER, OK VORTAC	LASTS, OK FIX	3000
LASTS, OK FIX *3100—MOCA.	IBAAH, OK FIX	*4500
IBAAH, OK FIX	TULSA, OK VORTAC	3300
WALNUT RIDGE, AR VORTAC	HELMS, MO FIX	2400
HELMS, MO FIX	DYERSBURG, TN VORTAC	2000
DYERSBURG, TN VORTAC	NASHVILLE, TN VORTAC	3500
§ 95.6154 VOR Federal Airway V154 Is Amended to Delete		
ROME, GA VORTAC *3400—MOCA MAA—7000.	MACON, GA VORTAC	*4000
MACON, GA VORTAC #MACON R–099 UNUSABLE USE DUBLIN R–286.	DUBLIN, GA VORTAC	#2300
Is Amended by Adding		
ROME, GA VORTAC MAA—7000.	TIROE, GA FIX	4000
§ 95.6161 VOR Federal Airway V161 Is Amended to Delete		
TULSA, OK VORTAC	NOVEL, OK FIX	3100
NOVEL, OK FIX	OSWEGO, KS VOR/DME	2800
OSWEGO, KS VOR/DME *2400—MOCA.	NALLY, KS FIX	*3000
NALLY, KS FIX *2500—MOCA.	BUTLER, MO VORTAC	*3000
§ 95.6190 VOR Federal Airway V190 Is Amended to Delete		
BARTLESVILLE, OK VOR/DME	OSWEGO, OK VOR/DME	2700
OSWEGO, KS VOR/DME *3100—MOCA. *4000—GNSS MEA.	SPRINGFIELD, MO VORTAC	*6200
§ 95.6198 VOR Federal Airway V198 Is Amended to Read in Part		
AGAZY, TX FIX *6400—MOCA.	DOWES, TX FIX	*9000
DOWES, TX FIX	FORT STOCKTON, TX VORTAC	5100
FORT STOCKTON, TX VORTAC *5500—MOCA.	KEMPL, TX FIX	*8000
§ 95.6222 VOR Federal Airway V222 Is Amended to Delete		
LOGEN, GA FIX *3700—MOCA.	CORCE, GA FIX	*4600
CORCE, GA FIX	FOOTHILLS, SC VOR/DME	3400
FOOTHILLS, SC VOR/DME *4800—MOCA.	SUNET, SC WP	*6100
SUNET, SC WP	SUGARLOAF MOUNTAIN, NC VORTAC	7100
SUGARLOAF MOUNTAIN, NC VORTAC	BARRETTS MOUNTAIN, NC VOR/DME	6200
BARRETTS MOUNTAIN, NC VOR/DME	HENBY, VA FIX	5000

From	To	MEA
HENBY, VA FIX	LYNCHBURG, VA VOR/DME	4000

Is Amended to Read in Part

From	To	MEA
SALT FLAT, TX VORTAC *7900—MOCA.	HOBAN, TX FIX	*9000
HOBAN, TX FIX	FORT STOCKTON, TX VORTAC	5100
FORT STOCKTON, TX VORTAC *5500—MOCA.	KEMPL, TX FIX	*8000

§ 95.6245 VOR Federal Airway V245 Is Amended to Delete

From	To	MEA
BIGBEE, MS VORTAC	MINIM, AL FIX	2000
MINIM, AL FIX	CRIMSON, AL VORTAC	2400

§ 95.6272 VOR Federal Airway V272 Is Amended to Delete

From	To	MEA
DALHART, TX VORTA	BORGER, TX VORTAC	5700
BORGER, TX VORTAC	BRISC, TX FIX	5000
BRISC, TX FIX *4500—MOCA.	BURNS FLAT, OK VORTAC	*5000

§ 95.6278 VOR Federal Airway V278 Is Amended by Adding

From	To	MEA
WARLO, AR FIX *1700—MOCA.	HAMPT, AR FIX	*9000

Is Amended to Delete

From	To	MEA
WARLO, AR FIX *1700—MOCA.	LOCUS, AR FIX	*3000
LOCUS, AR FIX *1600—MOCA.	MONTICELLO, AR VOR/DME	*2500
MONTICELLO, AR VOR/DME *1500—MOCA.	GREENVILLE, MS VOR/DME	*2000

Is Amended to Read in Part

From	To	MEA
TEXARKANA, AR VORTAC	WEEBR, AR FIX	2200
WEEBR, AR	FIX WARLO, AR	FIX 4000

§ 95.6304 VOR Federal Airway V304 Is Amended to Delete

From	To	MEA
PANHANDLE, TX VORTAC	BORGER, TX VORTAC	5000
BORGER, TX VORTAC	LIBERAL, KS VORTAC	4800
LIBERAL, KS *5300—MOCA.	VORTAC LAMAR, CO VOR/DME	*6000

§ 95.6305 VOR Federal Airway V305 Is Amended to Delete

From	To	MEA
WALNUT RIDGE, AR VORTAC	MALDEN, MO VORTAC	2300
MALDEN, MO VORTAC	CUNNINGHAM, KY VOR/DME	2500

§ 95.6307 VOR Federal Airway V307 Is Amended to Delete

From	To	MEA
OSWEGO, KS VOR/DME *2500—MOCA.	CHANUTE, KS VOR/DME	*3000

§ 95.6323 VOR Federal Airway V323 Is Amended to Delete

From	To	MEA
EUFAULA, ALVORTAC *2100—MOCA.	BYROE, GA FIX	*3000
BYROE, GA FIX	MACON, GA VORTAC	2300
MACON, GA VORTAC *2500—MOCA.	NALIZ, GA FIX	*3000
NALIZ, GA FIX *2100—MOCA.	WEMOB, GA FIX	*3000
WEMOB, GA FIX *2200—MOCA.	HUSKY, GA FIX	*3000

From	To	MEA
Is Amended by Adding		
EUFAULA, AL VORTAC *2100—MOCA.	WILMS, GA FIX	*3000
§ 95.6325 VOR Federal Airway V325 Is Amended by Adding		
GADSDEN, AL VOR/DME	FEWER, AL FIX	3500
Is Amended to Delete		
ATHENS, GA VOR/DME	WOMAC, GA FIX	3700
WOMAC, GA FIX *3700—MOCA.	LOGEN, GA FIX	*4600
GADSDEN, AL VOR/DME	MUSCLE SHOALS, AL	VORTAC 3500
§ 95.6056 VOR Federal Airway V362 Is Amended to Delete		
BRUNSWICK, GA VORTAC *10000—MCA HABLE, GA FIX, NW BND. **1700—MOCA.	*HABLE, GA FIX	**3000
HABLE, GA FIX *1700—MOCA. *3000—GNSS MEA.	ALMA, GA VORTAC	*10000
ALMA, GA VORTAC *1800—MOCA. *2000—GNSS MEA. #ALMA R–309 UNUSABLE, USE VIENNA R–127.	SEYBO, GA FIX	#*5000
SEYBO, GA FIX	VIENNA, GA VORTAC	2000
VIENNA, GA VORTAC	MACON, GA VORTAC	2000
§ 95.6390 VOR Federal Airway V390 Is Amended to Delete		
TUCUMCARI, NM VORTAC	BORGER, TX VORTAC	6500
BORGER, TX VORTAC	MITBEE, OK VORTAC	4800
§ 95.6397 VOR Federal Airway V397 Is Amended to Delete		
MONROE, LA VORTAC *1600—MOCA.	RUTTS, AR FIX	*6000
RUTTS, AR FIX	GREENVILLE, MS VOR/DME	2000
GREENVILLE, MS VOR/DME	MARVELL, AR VOR/DME	1900
§ 95.6402 VOR Federal Airway V402 Is Amended to Read in Part		
PANHANDLE, TX VORTAC	*BRISC, TX FIX	**8000
*8000—MCA	BRISC, TX FIX, NE BND.	
**5000—MOCA.		
§ 95.6417 VOR Federal Airway V417 Is Amended to Delete		
MERIDIAN, MS VORTAC	CRIMSON, AL VORTAC	2000
CRIMSON, AL VORTAC	VULCAN, AL VORTAC	2400
NELLO, GA FIX *5500—MOCA.	AWSON, GA FIX	*7000
AWSON, GA FIX *4600—MOCA.	CORCE, GA FIX	*5400
CORCE, GA FIX	IRMOS, GA FIX	3800
IRMOS, GA FIX	ATHENS, GA VOR/DME	3800
Is Amended to Read in Part		
ROME, GA VORTAC NELLO, GA FIX 5600.		
§ 95.6436 VOR Federal Airway V436 Is Amended to Read in Part		
HOBART, OK VORTAC *5400—MRA.	*NEADS, OK FIX	**5400
*5400—MCA	NEADS, OK FIX, W BND	
**3600—MOCA.		
§ 95.6440 VOR Federal Airway V440 Is Amended to Read in Part		
PANHANDLE, TX VORTAC	*BRISC, TX FIX	**8000

From	To	MEA
*11000—MCA BRISC, TX FIX, E BND.		
**5000—MOCA.		
BRISC, TX FIX	BURNS FLAT, OK VORTAC	*11000
*4500—MOCA.		
*5000—GNSS MEA.		
CARFF, OK FIX	WILL ROGERS, OK VORTAC	3000

§ 95.6056 VOR Federal Airway V454 Is Amended to Delete

From	To	MEA
MONROEVILLE, AL VORTAC	CHAFF, AL FIX	2000
CHAFF, AL FIX	*RUTEL, AL FIX	**2500
*4500—MCA RUTEL, AL FIX, NE BND.		
**1800—MOCA.		
RUTEL, AL FIX	*CRENS, AL FIX	**4500
*4500—MCA CRENS, AL FIX, SW BND.		
**1800—MOCA.		
CRENS, AL FIX	BANBI, AL FIX	*2400
*2100—MOCA.		
BANBI, AL FIX	COLUMBUS, GA VORTAC	2400
COLUMBUS, GA VORTAC	GRANT, GA FIX	*3000
*2400—MOCA.		
GRANT, GA FIX	*SMARR, GA FIX	**4000
*4500—MCA SMARR, GA FIX, NE BND.		
*2500—MOCA.		
**2600—GNSS MEA.		
SMARR, GA FIX	*SINCA, GA FIX	**4500
*4500—MCA SINCA, GA FIX, SW BND.		
*2500—MOCA.		
**2500—GNSS MEA.		
SINCA, GA FIX	*MADDI, GA FIX	**3000
*4000—MCA MADDI, GA FIX, NE BND.		
**2200—MOCA.		
MADDI, GA FIX	*VESTO, GA FIX	**4000
*4000—MCA VESTO, GA FIX, SW BND.		
**2300—MOCA.		
VESTO, GA FIX	GREENWOOD, SC VORTAC	2500
GREENWOOD, SC VORTAC	LOCKS, SC FIX	2400

§ 95.6516 VOR Federal Airway V516 Is Amended to Delete

From	To	MEA
PIONEER, OK VORTAC	TYROE, KS FIX	*3100
*2600—MOCA.		
TYROE, KS FIX	OSWEGO, KS VOR/DME	2700

§ 95.6402 HAWAII VOR Federal Airway V2 Is Amended to Read in Part

From	To	MEA
LANAI, HI VORTAC	KEIKI, HI FIX	5500

§ 95.6421 HAWAII VOR Federal Airway V21 Is Amended to Read in Part

From	To	MEA
LANAI, HI VORTAC	KEIKI, HI FIX	5500

§ 95.7001 JET Routes

§ 95.7004 JET Route J4 Is Amended to Delete

From	To	MEA	MAA
MAGNOLIA, MS VORTAC	MERIDIAN, MS VORTAC	18000	45000
MERIDIAN, MS VORTAC	MONTGOMERY, AL VORTAC	18000	45000
MONTGOMERY, AL VORTAC	COLLIERS, SC VORTAC	18000	45000

§ 95.7008 JET Route J8 Is Amended to Delete

From	To	MEA	MAA
FORT UNION, NM VORTAC	BORGER, TX VORTAC	18000	45000
BORGER, TX VORTAC	KINGFISHER, OK VORTAC	18000	45000
KINGFISHER, OK VORTAC	SPRINGFIELD, MO VORTAC	18000	45000

§ 95.7045 JET Route J45 Is Amended to Delete

From	To	MEA	MAA
ATLANTA, GA VORTAC	NASHVILLE, TN VORTAC	18000	45000

§ 95.7045 JET Route J89 Is Amended to Delete

From	To	MEA	MAA
ATLANTA, GA VORTAC	LOUISVILLE, KY VORTAC	18000	45000

From	To	MEA	MAA
§ 95.7045 JET Route J142 Is Amended to Delete			
SOCORRO, NM VORTAC	ANTON CHICO, NM VORTAC	18000	45000
ANTON CHICO, NM VORTAC	BORGER, TX VORTAC	18000	45000
§ 95.7045 JET Route J239 Is Amended to Delete			
ATLANTA, GA VORTAC	MERIDIAN, MS VORTAC	24000	45000

Airway Segment		Changeover Points	
From	To	Distance	From
§ 95.8005 Jet Route Changeover Points J89 Is Amended to Delete Changeover Point			
LOUISVILLE, KY VORTAC	ATLANTA, GA VORTAC	148	LOUISVILLE
§ 95.8003 VOR Federal Airway Changeover Point			
V47 Is Amended to Delete Changeover Point			
PINE BLUFF, AR VOR/DME	GILMORE, AR VOR/DME	41	PINE BLUFF.
V54 Is Amended to Delete Changeover Point			
CHOO CHOO, TN VORTAC	HARRIS, GA VORTAC	36	CHOO CHOO.
HARRIS, GA VORTAC	SPARTANBURG, SC VORTAC	52	HARRIS.
V56 Is Amended to Delete Changeover Point			
MONTGOMERY, AL VORTAC	TUSKEGEE, AL VOR/DME	30	MONTGOMERY.
V66 Is Amended to Delete Changeover Point			
GREENWOOD, SC VORTAC	SANDHILLS, NC VORTAC	64	GREENWOOD.
V198 Is Amended to Add Changeover Point			
FORT STOCKTON, TX VORTAC #MEA GAP AT COP.	JUNCTION, TX VORTAC	#64	FORT STOCKTON.
V222 Is Amended to Add Changeover Point			
FORT STOCKTON, TX VORTAC #MEA GAP AT COP.	JUNCTION, TX VORTAC	#64	FORT STOCKTON.
V222 Is Amended to Delete Changeover Point			
BARRETTS MOUNTAIN, NC VOR/DME	LYNCHBURG, VA VOR/DME	62	BARRETTS MOUNTAIN.
V272 Is Amended to Delete Changeover Point			
BORGER, TX VORTAC	BURN FLATS, OK VORTAC	51	BORGER.
V325 Is Amended to Modify Changeover Point			
COLUMBIA, SC VORTAC	ATHENS, GA VOR/DME	90	COLUMBIA.

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Fees for Reviews of the Rule Enforcement Programs of Designated Contract Markets and Registered Futures Associations

AGENCY: Commodity Futures Trading Commission.

ACTION: Notification of 2021 schedule of fees.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') charges fees to designated contract markets and registered futures associations to recover the costs incurred by the Commission in the operation of its program of oversight of self-regulatory organization rule enforcement programs, specifically

National Futures Association (''NFA''), a registered futures association, and the designated contract markets. Fees collected from each self-regulatory organization are deposited in the Treasury of the United States as miscellaneous receipts. The calculation of the fee amounts charged for 2021 by this document is based upon an average of actual program costs incurred during fiscal year (''FY'') 2018, FY 2019, and FY 2020.

DATES: Each self-regulatory organization is required to remit electronically the applicable fee on or before August 16, 2022.

FOR FURTHER INFORMATION CONTACT: Joel Mattingley, Chief Financial Officer, Commodity Futures Trading Commission; (202) 418–5310; Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; *jmattingley@cftc.gov.* For information on electronic payments, contact Jennifer Fleming; (202) 418–5034; *jfleming@cftc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background Information

A. General

This document relates to fees for the Commission's review of the rule enforcement programs at the registered futures associations [1] and designated contract markets (''DCM''), each of which is a self-regulatory organization (''SRO'') regulated by the Commission. The Commission recalculates the fees charged each year to cover the costs of operating this Commission program.[2] The fees are set each year based on direct program costs, plus an overhead factor. The Commission calculates actual costs, then calculates an alternate fee taking volume into account, and then charges the lower of the two.[3]

B. Overhead Rate

The fees charged by the Commission to the SROs are designed to recover program costs, including direct labor costs and overhead. The overhead rate is calculated by dividing total Commission-wide overhead direct program labor costs into the total amount of the Commission-wide overhead pool. For this purpose, direct program labor costs are the salary costs of personnel working in all Commission programs. Overhead costs generally consist of the following Commission-wide costs: Indirect personnel costs (leave and benefits), rent, communications, contract services, utilities, equipment, and supplies. This formula has resulted in the following overhead rates for the most recent three years (rounded to the nearest whole percent): 182 percent for FY 2018, 174 percent for FY 2019, and 158 percent for FY 2020.

C. Conduct of SRO Rule Enforcement Reviews

Under the formula adopted by the Commission in 1993, the Commission calculates the fee to recover the costs of its rule enforcement reviews and examinations, based on the three-year average of the actual cost of performing such reviews and examinations at each SRO. The cost of operation of the Commission's SRO oversight program varies from SRO to SRO, according to the size and complexity of each SRO's program. The three-year averaging computation method is intended to smooth out year-to-year variations in cost. Timing of the Commission's reviews and examinations may affect costs—a review or examination may span two fiscal years and reviews and examinations are not conducted at each SRO each year.

As noted above, adjustments to actual costs may be made to relieve the burden on an SRO with a disproportionately large share of program costs. The Commission's formula provides for a reduction in the assessed fee if an SRO has a smaller percentage of United States industry contract volume than its percentage of overall Commission oversight program costs. This adjustment reduces the costs so that, as a percentage of total Commission SRO oversight program costs, they are in line with the pro rata percentage for that SRO of United States industry-wide contract volume.

The calculation is made as follows: The fee required to be paid to the Commission by each DCM is equal to the lesser of actual costs based on the three-year historical average of costs for that DCM or one-half of average costs incurred by the Commission for each DCM for the most recent three years, plus a pro rata share (based on average trading volume for the most recent three years) of the aggregate of average annual costs of all DCMs for the most recent three years.

The formula for calculating the second factor is: $0.5a + 0.5\ vt$ = current fee. In this formula, ''a'' equals the average annual costs, ''v'' equals the percentage of total volume across DCMs over the last three years, and ''t'' equals the average annual costs for all DCMs. NFA has no contracts traded; hence, its fee is based simply on costs for the most recent three fiscal years. This table summarizes the data used in the calculations of the resulting fee for each entity:

TABLE 1—SUMMARY OF DATA USED IN FEE CALCULATIONS

	Actual total costs			3-Year average actual costs	3-Year total volume %	Adjusted volume costs	2021 Assessed fee
	FY 2018	FY 2019	FY 2020				
Cantor Futures Exchange, L.P	$56,551		$22,702	$26,418	0.03	$13,319	$13,319
CBOE Futures Exchange, LLC	16,033	$40,517	23,325	26,625	1.24	17,482	17,482
Chicago Board of Trade	2,296	22,835	56,041	27,058	33.31	125,158	27,058
Chicago Mercantile Exchange, Inc	235,127	383,995	260,723	293,282	42.97	290,666	290,666
Eris Exchange, LLC	33,170			11,057	0.00	5,540	5,540
ICE Futures U.S., Inc	50,096	73,464	193,300	105,620	6.59	74,885	74,885
Minneapolis Grain Exchange, Inc	438	39,525		13,321	0.05	6,813	6,813
Nasdaq OMX Futures Exchange, Inc	109,413	1,741		37,051	0.27	19,444	19,444
New York Mercantile Exchange/Commodity Exchange, Inc	3,397	45,425	99,311	49,377	15.11	75,328	49,377
Nodal Exchange, LLC	33,162	2,312		11,825	0.08	6,180	6,180
North American Derivatives Exchange, Inc	6,986	135,159	2,598	48,248	0.21	24,844	24,844

[1] National Futures Association is the only registered futures association.

[2] *See* Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a, and 31 U.S.C. 9701. For a broader discussion of the history of Commission fees, see 52 FR 46070, Dec. 4, 1987.

[3] 58 FR 42643, Aug. 11, 1993, and 17 CFR part 1, app. B

TABLE 1—SUMMARY OF DATA USED IN FEE CALCULATIONS—Continued

	Actual total costs			3-Year average actual costs	3-Year total volume %	Adjusted volume costs	2021 Assessed fee
	FY 2018	FY 2019	FY 2020				
OneChicago, LLC Futures Exchange	61,276	....	....	20,425	0.13	10,648	10,648
Subtotal	607,946	744,973	658,001	670,307	100.00	670,307	546,255
National Futures Association	507,673	540,821	567,719	538,738	....	....	538,738
Total	1,115,619	1,285,794	1,225,720	1,209,044	100.00	670,307	1,084,993

Columns may not add due to rounding.

An example of how the fee is calculated for one exchange, the Chicago Board of Trade, is set forth here:

a. Actual three-year average costs = $27,058.

b. The alternative computation is: [(.5) ($27,058)] + (.5) [(.33307) ($670,307)] = $125,158.

c. The fee is the lesser of a or b; in this case $27,058.

As noted above, the alternative calculation based on contracts traded is not applicable to NFA because it is not a DCM and has no contracts traded. The Commission's average annual cost for conducting oversight review of the NFA rule enforcement program during fiscal years 2018 through 2020 was $538,738. The fee to be paid by the NFA for the current fiscal year is $538,738.

II. Schedule of Fees

Fees for the Commission's review of the rule enforcement programs at the registered futures associations and DCMs regulated by the Commission are as follows:

TABLE 2—SCHEDULE OF FEES

	3-Year average actual costs	3-Year total volume %	Adjusted volume costs	2021 Assessed fee
Cantor Futures Exchange, L.P	$26,418	0.03	$13,319	$13,319
CBOE Futures Exchange, LLC	26,625	1.24	17,482	17,482
Chicago Board of Trade	27,058	33.31	125,158	27,058
Chicago Mercantile Exchange, Inc	293,282	42.97	290,666	290,666
Eris Exchange, LLC	11,057	0.00	5,540	5,540
ICE Futures U.S., Inc	105,620	6.59	74,885	74,885
Minneapolis Grain Exchange, Inc	13,321	0.05	6,813	6,813
Nasdaq OMX Futures Exchange, Inc	37,051	0.27	19,444	19,444
New York Mercantile Exchange/Commodity Exchange, Inc	11,825	0.08	6,180	6,180
Nodal Exchange, LLC	48,248	0.21	24,844	24,844
North American Derivatives Exchange, Inc	20,425	0.13	10,648	10,648
OneChicago, LLC Futures Exchange	49,377	15.11	75,328	49,377
Subtotal	670,307	100.00%	670,307	546,255
National Futures Association	538,738	....	....	538,738
Total	1,209,044	100.00	670,307	1,084,993

Columns may not add due to rounding.

III. Payment Method

The Debt Collection Improvement Act (DCIA) requires deposits of fees owed to the government by electronic transfer of funds. *See* 31 U.S.C. 3720. All payments should be made via the government payment website *https://www.pay.gov/public/form/start/105542374/.* Credit card payments are only acceptable for amounts less than or equal to $24,999. All payments equal to or above $25,000 can be made by electronice funds transfer. Fees collected from each self-regulatory organization shall be deposited in the Treasury of the United States as miscellaneous receipts. *See* 7 U.S.C 16a.

Issued in Washington, DC, on this 14th day of June, 2022, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2022–13141 Filed 6–16–22; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 410, 414, 488, and 493

[CMS–3368–CN]

RIN 0938–AT83

Medicare Program; Accrediting Organizations—Changes of Ownership; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors that appeared in the final rule published in the **Federal Register** on April 29, 2022 entitled ''Accrediting Organizations—Changes of Ownership.''

DATES: This correction is effective June 28, 2022.

FOR FURTHER INFORMATION CONTACT: Caroline Gallaher, (410) 786–8705.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2022–09102 of April 29, 2022 (87 FR 25413), there were technical errors that are identified and corrected in this correcting document. The provisions in this correction document are effective as if they had been included in the document published April 29, 2022. Accordingly, the correction is effective June 28, 2022.

II. Summary of Errors

On page 25422 in the second column, first full paragraph, and page 25423, in the second column, under Section IV, the third bulleted paragraph, we inadvertently cited § 488.5(f)(10) instead of § 488.5(a)(10). We are deleting the regulatory citation ''§ 488.5(f)(10)'' and replacing it with ''§ 488.5(a)(10).''

On page 25423, in the second column, under Section IV, the third bulleted paragraph, we inadvertently omitted language indicating our withdrawal of the proposal to apply the terms of § 488.5(f)(10) to clinical laboratories because an already-existing regulatory provision at 42 CFR 493.575(g) addresses the same subject matter.

On page 25427, in the third column, last line, we inadvertently referred to § 488.5(f)(10) instead of § 488.5(a)(10). We are therefore deleting the reference to paragraph ''(f)(10)'' and replacing it with paragraph ''(a)(10).''

On page 25428, in the third full paragraph of the third column, we inadvertently retained ''clinical laboratories'' in 42 CFR 488.5(f)(10). Therefore, as noted above, we are deleting the reference to clinical laboratories.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived; however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

We believe that this correcting document does not constitute a rule that is subject to the notice and comment or delayed effective date requirements. This document corrects an inadvertent language retention that we intended to delete. Existing regulations at § 493.575(g) set forth steps for laboratories to follow to maintain their accreditation status if CMS approval of their Accrediting Organizations has been involuntarily terminated.

IV. Correction of Errors

■ In FR Doc. 2022–09102 of April 29, 2022 (87 FR 25413), make the following corrections:

- On page 25422 in the second column, first full paragraph, 11th line, remove ''§ 488.5(f)(10)'' and add in its place ''§ 488.5(a)(10)''.
- On page 25423, in the second column, under Section IV, third bulleted paragraph, 9th line, remove ''§ 488.5(f)(10)'' and add in its place ''§ 488.5(a)(10)''.
- On page 25423, in the second column, under Section IV, add the following fourth bulleted paragraph:

''Revised § 488.5(f)(10) to withdraw the reference to ''clinical laboratories'' because the policy for laboratories is already set out at 42 CFR 493.575(g).''.

§ 488.5 [Corrected]

■ 1. On page 25427, in third column, in § 488.5(f)(2)(iii)(D), remove ''(f)(10)'' and add in its place ''(a)(10)''.

■ 2. On page 25428, in the third column, in § 488.5(f)(10) introductory text, remove the words ''suppliers; Diabetic Self-Management Training (DSMT) entities; or clinical laboratories,'' and add in their place ''suppliers; or Diabetic Self-Management Training (DSMT) entities,''.

Wilma M. Robinson,

Deputy Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2022–13052 Filed 6–16–22; 8:45 am]

BILLING CODE 4120–01–P

Proposed Rules

Federal Register
Vol. 87, No. 117
Friday, June 17, 2022

AGENCY FOR INTERNATIONAL DEVELOPMENT

2 CFR Part 700

RIN 0412–AB01

USAID Grant Regulations; Removing the Program Income Restriction on For-Profit Entities

AGENCY: U.S. Agency for International Development.

ACTION: Proposed rule.

SUMMARY: The U.S. Agency for International Development (USAID) proposes to amend the rules for administering Federal awards to remove a prohibition on for-profit entities from adding program income to a Federal award. This change allows any USAID assistance recipient—whether nonprofit or for-profit—to use the ''addition method'' for managing program income under a Federal award. This will align USAID's approach to program income with other Federal agencies.

DATES: Comments must be received no later than August 16, 2022.

ADDRESSES: Submit comments, identified by the title of the action and Regulatory Information Number (RIN) through the Federal eRulemaking Portal at *https://www.regulations.gov* by following the instructions for submitting comments. Please include your name, company name (if any), and ''0412–AB01'' on any attachments. If your comment cannot be submitted using *https://www.regulations.gov,* please email the point of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Lyudmila Bond, USAID/M/OAA/P, 202–916–2622, *policymailbox@usaid.gov.*

SUPPLEMENTARY INFORMATION:

A. Instructions

All comments must be in writing and submitted through the method specified in the **ADDRESSES** section above. All submissions must include the title of the action and RIN for this rulemaking. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message.

All comments will be made available at *http://www.regulations.gov* for public review without change, including any personal information provided. We recommend that you do not submit information that you consider Confidential Business Information (CBI) or any information that is otherwise protected from disclosure by statute.

USAID will only address substantive comments on the rule. USAID may not consider comments that are insubstantial or outside the scope of the proposed rule.

B. Background

In 1995, USAID established its own program-specific assistance regulation prohibiting the use of the ''addition method'' by any recipient that is a for-profit entity. The interim final rule, *Administration of Assistance Awards to US Non-Governmental Organizations,* 60 FR 3744, January 19, 1995, was codified at 22 CFR part 226. Prior to 2013, Government-wide guidance on assistance awards was contained in several Office of Management and Budget (OMB) circulars. Agencies promulgated their own assistance award guidance in policy statements and regulations. In 2014, OMB consolidated and updated its guidance in the interim final rule, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (commonly referred to as the ''Uniform Guidance''), at 79 FR 75867, December 26, 2014, and codified at 2 CFR part 200. Program income is defined in 2 CFR 200.1, with 2 CFR 200.307(e) describing the three methods for recipients to account for program income under an award: deduction, addition, and cost share/matching. In 2015, USAID published its final rule at 80 FR 55721, October 19, 2015, adopting the Uniform Guidance and re-codifying its own regulations in 2 CFR part 700. At that time, OMB's instructions were that a change to agency-specific policy must be done separately from the adoption of 2 CFR part 200. Thus, the current USAID regulation, 2 CFR 700.13(a)(2) (Additional Provisions for For-Profit Entities) extended the USAID-specific restriction without any revisions.

C. Analysis

The purpose of USAID's action to delete the prohibition on for-profit recipients adding earned program income to Federal awards is to expand and extend the activities that USAID supports, when these activities are implemented by a for-profit entity. When program income is generated, the addition method means that recipients may add such income back into the award to continue supporting the activity. Section 2 CFR 200.307(e)(2) requires that the added ''program income must be used for the purposes and under the conditions of the Federal award.'' Thus, all recipients must comply with the terms of the award regardless of its entity type.

The Federal agencies that have adopted OMB's Uniform Guidance have not generally imposed a prohibition on the use of the addition method by for-profit entities, and no Federal agency appears to have imposed a complete prohibition on the addition method by for-profit entities. The Department of State, under 2 CFR parts 600 through 699, adopts the application of the Uniform Guidance to its assistance awards, including to for-profit entities, but does not impose any additional program income restrictions on them. As such, for-profit entities of assistance awards from the Department of State may apply the addition method for program income. Similarly, the Department of Energy, through its supplemental regulations under 2 CFR parts 910 through 999, adopts the application of the Uniform Guidance and expressly applies them to for-profit entities, but it does not create any additional program income regulations. Only one Federal agency is known to maintain a restriction: the Department of Health and Human Services, under 45 CFR 75.216 through 75.218, does not allow for-profit entities to use the addition method, except for grants for research in its Small Business Innovation Research and Small Business Technology Transfer Research programs.

Removing this restriction from 2 CFR 700.13 will support USAID's Private Sector Engagement (PSE) policy by leveling the playing field for all recipients. In short, the result of this change would be that any USAID recipient—whether non-profit or for-profit—would be able to use the addition method for program income, subject to all the same regulations. Section 2 CFR 700.13 would continue to state that for-profit entities cannot use the addition method for using program income as profit.

USAID is seeking public comments on the proposed change to 2 CFR 700.13. This proposed change will allow program income earned by a for-profit entity to be added to Federal awards as an option under 2 CFR 200.307(e), when such program income is used for the purposes and under the conditions of the Federal award.

D. Regulatory Considerations

1. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This proposed rule is not a major rule under 5 U.S.C. 804.

2. Regulatory Flexibility Act

The proposed rule will not have an impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Therefore, an Initial Regulatory Flexibility Analysis has not been performed.

3. Paperwork Reduction Act

The proposed rule does not establish a new collection of information that requires the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 2 CFR Part 700

Grant programs, Grants administration.

For the reasons discussed in the preamble, USAID proposes to amend 2 CFR part 700 as set forth below:

PART 700—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 1. The authority citation for 2 CFR part 700 continues to read as follows:

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

§ 700.13 [Amended]

■ 2. Amend § 700.13 by removing and reserving paragraph (a)(2).

Mark Anthony Walther,

Chief Acquisition Officer.

[FR Doc. 2022–12736 Filed 6–16–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 920 and 944

[Doc. No. AMS–SC–21–0098; SC21–920–1 PR]

California and Imported Kiwifruit; Handling Regulations

AGENCY: Agricultural Marketing Service, Department of Agriculture (USDA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Kiwifruit Administrative Committee (Committee) to modify the handling regulations prescribed under the Federal marketing order for kiwifruit grown in California. This action would revise the size and uniformity requirements for all varieties of *Actinidia chinensis* species kiwifruit, which is commonly known as golden kiwifruit, regulated under the marketing order. A corresponding change would be made to the kiwifruit import regulation as required under section 8e of the Agricultural Marketing Agreement Act of 1937.

DATES: Comments must be received by August 16, 2022.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *https://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *https://www.regulations.gov.* All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Senior Marketing Specialist, or Gary Olson, Regional Director, Western Region Field Office, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, or Email: *Barry.Broadbent@usda.gov* or *GaryD.Olson@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Order No. 920, as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California. Part 920, (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and comprises kiwifruit growers operating within the production area, and a public member.

This proposed rule is also issued under section 8e of the Act (7 U.S.C. 608e–1), which provides that whenever certain specified commodities, including kiwifruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for domestically produced commodities.

The Agricultural Marketing Service (AMS) is issuing this proposed rule in conformance with Executive Orders 12866 and 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This proposed rule has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have tribal implications. AMS has determined this proposed rule is unlikely to have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of the entry of the ruling.

There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Under the provisions of the Order, fresh market shipments of kiwifruit produced in California are required to be inspected and are subject to grade, size, quality, maturity, pack, and container requirements. This proposed rule would revise the minimum size and uniformity requirements for certain varieties of kiwifruit handled under the Order. As required by section 8e of the Act, the proposed revision to the minimum size requirement would also be applied to the import regulations for kiwifruit.

Section 920.51 of the Order provides authority for the Committee to recommend regulations to the Secretary. Section 920.52 of the Order provides authority for the establishment of handling regulations. Further, § 920.53 provides the authority to recommend the modification, suspension, or termination of such regulations when the Committee finds that industry conditions so dictate. Section 920.302 establishes the minimum grade, size, quality, maturity, pack, and container requirements for kiwifruit handled subject to the Order. Under the authority of § 920.53, the Committee has determined that the production and marketing conditions for some varieties of kiwifruit have changed and that the handling requirements should be modified accordingly.

Currently, the handling regulations require that all varieties of kiwifruit be a minimum Size 45, defined as a maximum of 55 pieces of fruit in an 8-pound sample. In addition, kiwifruit packed in containers are required to be fairly uniform in size.

At its meeting on September 29, 2021, the Committee unanimously recommended modifying the regulations to accommodate varieties of *Actinidia chinensis* species kiwifruit that are characteristically smaller in size and less uniform than the more common varieties grown in California that are *Actinidia deliciosa* species. No other species of kiwifruit are known to be grown in California.

This proposed rule would relax the minimum size requirement for all varieties of *Actinidia chinensis* species kiwifruit to Size 49, defined in the requirements as a maximum of 64 pieces of fruit in an 8-pound sample. In addition, the proposed rule would exempt all varieties of *Actinidia chinensis* species kiwifruit from the current requirement that fruit packed in a container be fairly uniform in size.

At the time that the Order's handling regulations were established in 1985, practically all the kiwifruit grown in California were varieties of the *Actinidia deliciosa* species. As such, the requirements were implemented to accommodate the characteristics of those varieties. Recently, production of varieties of *Actinidia chinensis* species kiwifruit has been increasing in California. This sector of the industry now accounts for approximately eight percent of the acreage and five percent of the production in the state. Given the natural characteristics of *Actinidia chinensis* species kiwifruit, the current minimum size and uniformity requirements preclude some high-quality kiwifruit from entering the fresh market. Relaxing the minimum requirements for those varieties would allow growers to market more of their fruit in the fresh market, increasing their total revenue. The proposed change is expected to benefit domestic kiwifruit growers, handlers, and consumers.

Section 8e of the Act provides that when certain domestically produced commodities, including kiwifruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this proposed action would modify the minimum size requirement for varieties of *Actinidia chinensis* species kiwifruit under the domestic handling regulations, a corresponding change would need to be made to the import regulations.

Minimum grade, size, quality, and maturity requirements for kiwifruit imported into the United States are currently in effect under § 944.550 (7 CFR 944.550). Paragraph (a) of that section specifies the minimum size requirement. This proposed rule would lower the minimum size requirement for varieties of *Actinidia chinensis* species kiwifruit to Size 49, defined as a maximum of 64 pieces of kiwifruit in an 8-pound sample. In accordance with the Act, under the kiwifruit import regulations, imported kiwifruit are not subject to container and pack requirements. Accordingly, the proposed change in the Order's uniformity requirement would not affect the kiwifruit import requirements.

The relaxation in the size requirements for imports of *Actinidia chinensis* varieties would allow a greater quantity of kiwifruit to be imported. The proposed change is expected to benefit kiwifruit importers and consumers of imported kiwifruit.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 133 kiwifruit growers in the production area and 20 handlers subject to regulation under the Order. In addition, there are approximately 80 importers of kiwifruit. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $1,000,000. Small agricultural service firms, which include kiwifruit handlers and importers, are defined by the SBA as those having annual receipts of less than $30,000,000.

The USDA National Agricultural Statistics Service (NASS) reported that total production of California kiwifruit for the 2020–2021 season was 39,760 tons. NASS further reported that the average producer price was $1,920 per ton over that period. Multiplying $1,920 per ton by the production quantity of 39,760 tons yields an annual crop revenue estimate of $76,339,200. The average annual fresh kiwifruit revenue for each of the 133 growers for the 2020–2021 season is therefore calculated to be $573,979 ($76,339,200 divided by 133), which is less than the SBA threshold of $1,000,000 for small producers. Therefore, on average and given a normal distribution, the majority of growers may be classified as small businesses.

In addition, based on information reported by USDA's Market News Service (Market News), the average Free On Board (F.O.B.) shipping point price for California kiwifruit over the 2020–2021 season was $23.28 per 9 kilogram container (19.8 pounds equivalent). Multiplying $23.28 by the shipment quantity of 4,016,162 containers (39,760 tons times 2,000 pounds per ton divided by 19.8 pounds) yields an annual crop revenue estimate of $93,496,251. The average annual fresh kiwifruit revenue for each of the 20 handlers is therefore calculated to be $4,674,813 ($93,496,251 divided by 20), which is below the SBA threshold of $30,000,000 for agricultural service firms. Therefore, on average and assuming a normal distribution, the majority of the handlers may be classified as small businesses.

Further, USDA's Foreign Agricultural Service reported 80,279 metric tons of kiwifruit were imported during the 2020–2021 season with a reported value of $184,488,000. Using that data, the average revenue for each of the approximately 80 kiwifruit importers would have been $2,306,100 ($184,488,000 divided by 80), which is below the $30,000,000 SBA threshold for small agricultural service firms. As such, the majority of kiwifruit importers may be classified as small businesses.

This proposed rule would relax the minimum size and uniformity requirements currently prescribed in the Order's handling regulations. The proposed rule would lower the minimum size requirement for all varieties of *Actinidia chinensis* species kiwifruit from Size 45 to 49, defined in the requirements as a maximum of 64 pieces of fruit in an 8-pound sample. In addition, the proposed rule would exempt all varieties of *Actinidia chinensis* species kiwifruit from the current container requirement that fruit be fairly uniform in size.

This proposed action would not impose any additional costs to the industry. It is expected to increase revenue to handlers and growers of *Actinidia chinensis* species varieties of kiwifruit, as smaller size fruit, and fruit that lacks uniformity, would be allowed to enter the market. The quality of fruit to consumers is not expected to be significantly affected, as relaxing the size and uniformity requirements would not impact the Order's minimum quality requirements. All kiwifruit marketed under the Order would continue to be packed to the minimum grade of KAC No.1.

The Committee considered alternatives to the recommended changes, including taking no action and continuing to regulate according to the requirements as currently established. In addition, the Committee considered lowering the size requirements for all varieties of kiwifruit. However, the Committee determined that the current minimum size requirement is effective for *Actinidia deliciosa* varieties and that it should not be changed. The Committee also considered establishing other minimum sizes for *Actinidia chinensis* varieties higher and lower than the minimum size recommended, but believed that Size 49 would allow more fruit to be marketed and still maintain the high standards of California kiwifruit. Ultimately, the Committee determined that relaxation of the handling regulation, as recommended, was in the best interests of the growers, handlers, and consumers of California kiwifruit and rejected all other alternatives.

Committee meetings were widely publicized throughout the California kiwifruit industry. All interested persons were invited to attend meetings and participate in Committee deliberations. Like all Committee meetings, the September 27, 2021, meeting was a public meeting, and all entities, both large and small, were able to express their views on this issue. Also, the embassies of countries that export kiwifruit to the United States, and known kiwifruit importers, will be notified of this proposed rule upon its publication. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189, Fruit Crops. No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large kiwifruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendations submitted by the Committee and other available information, USDA has determined that this proposed rule is consistent with and will effectuate the purposes of the Act.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this proposed rule.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects

7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges, Plums, Prunes.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR parts 920 and 944 as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Amend § 920.302 by:
■ a. Revising paragraphs (a)(2), (a)(4) heading, and (a)(4)(i); and
■ b. In paragraph (a)(4)(ii)(A):
■ i. Designating the table as table 1 to paragraph (a)(4)(ii)(A);
■ ii. Revising the three column headings;
■ iii. Removing the entry for ''45 or smaller'' and adding an entry for ''45'' in its place; and
■ iv. Adding an entry for ''49'' in numerical order and footnotes 1 and 2 at the end of the table.

The revisions and additions read as follows:

§ 920.302 Grade, size, pack, and container regulations.

(a) * * *

(2) *Size requirements.* Such kiwifruit, except for varieties of the *Actinidia chinensis* species, shall be at least a minimum Size 45, defined as a maximum of 55 pieces of fruit in an 8-pound sample. Varieties of the *Actinidia chinensis* species shall be at least a minimum Size 49, defined as a maximum of 64 pieces of fruit in an 8-pound sample.

* * * * *

(4) *Pack requirements.* (i) Kiwifruit packed in containers with cell compartments, cardboard fillers, or molded trays shall be of proper size for the cells, fillers, or molds in which they are packed. Such fruit, except for varieties of the *Actinidia chinensis* species, shall be fairly uniform in size.

(ii)(A) * * *

TABLE 1 TO PARAGRAPH (a)(4)(ii)(A)—SIZE DESIGNATION AND SIZE VARIATION CHART

Size designation	Maximum number of fruit per 8-pound sample	Size variation tolerance (diameter) [1]
* * * * *	*	*
45	55	¼-inch (6.4 mm).
49 [2]	64	Not applicable.

[1] Not applicable to *Actinidia chinensis* species varieties.
[2] Applicable only to *Actinidia chinensis* species varieties.

* * * * *

PART 944—FRUITS; IMPORT REGULATIONS

■ 3. The authority citation for 7 CFR part 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 4. Amend § 944.550 by revising paragraph (a) to read as follows:

§ 944.550 Kiwifruit import regulation.

(a) Pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended, the importation into the United States of any kiwifruit is prohibited unless such kiwifruit meets all the requirements of a U.S. No. 1 grade as defined in the United States Standards for Grades of Kiwifruit (7 CFR 51.2335 through 51.2340), except that the kiwifruit shall be ''not badly misshapen,'' and an additional tolerance of 16 percent is provided for kiwifruit that is ''badly misshapen,'' and except that such kiwifruit shall have a minimum of 6.2 percent soluble solids. Such fruit, except for varieties of the *Actinidia chinensis* species, shall be at least Size 45, which means there shall be a maximum of 55 pieces of fruit in an 8-pound sample. Varieties of the *Actinidia chinensis* species shall be at least Size 49, which means there shall be a maximum of 64 pieces of fruit in an 8-pound sample. The average weight of all samples in a specific lot must weigh at least 8 pounds (3.632 kilograms), provided that no individual sample may be less than 7 pounds 12 ounces (3.472 kilograms).

* * * * *

Erin Morris,
Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–13004 Filed 6–16–22; 8:45 am]
BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0599; Project Identifier MCAI–2021–00456–A]

RIN 2120–AA64

Airworthiness Directives; Piaggio Aero Industries S.p.A. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Piaggio Aero Industries S.p.A. (Piaggio) Model P–180 airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as corrosion in the bottom fuselage area of the cabin compartment due to inner and outer sides of fuselage skin panels of certain airplanes treated with the less effective primer. This proposed AD would require repetitively inspecting the fuselage skin panels, visually inspecting the entire fuselage inner side skin if necessary, and taking any necessary corrective actions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by August 1, 2022.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.

• *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Piaggio Aero Industries S.p.A, P180 Customer Support, via Pionieri e Aviatori d'Italia, snc—16154 Genoa, Italy; phone: +39 331 679 74 93; email: *technicalsupport@piaggioaerospace.it.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0599; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the MCAI, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4144; email: *mike.kiesov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2022–0599; Project Identifier MCAI–2021–00456–A'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Mike Kiesov, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0104, dated April 15, 2021 (referred to after this as ''the MCAI''), to address the unsafe condition on certain serial-numbered Piaggio Model P.180 airplanes. The MCAI states:

Occurrences were reported where, during routine inspections, diffused corrosion was detected on the fuselage inner side skin in the area of the passenger cabin. Evidence indicates that the presence of undetected (infiltrated or condensed) water, trapped in between the inner surface of fuselage skin panels and the thermo-acoustic insulation panels, could have started a galvanic corrosion phenomenon, mainly in the bottom fuselage area of the cabin compartment. Fuselage skin panels of certain aeroplanes, delivered from 2009 to 2013, were treated with the first type of ''chromate-free'' primer, chemically not as effective against corrosion when compared to those containing chrome. The phenomenon has been observed on aeroplanes subjected to prolonged inactivity and not stored in a hangar, or those operating in an environment with high humidity and/or frequent heavy precipitation, combined with a possible deterioration of window sealing due to normal aging, wear and tear.

This condition, if not corrected, could affect the structural integrity of the fuselage.

To address this potential unsafe condition, Piaggio published the [Piaggio Service Bulletin (SB) 80–0405, Revision 0, dated March 15, 2021] SB to provide inspection instructions.

For the reason described above, this [EASA] AD requires repetitive inspections of each affected area and, if necessary, an additional visual inspection of the entire fuselage inner side skin and, depending on findings, accomplishment of applicable repair. This [EASA] AD also requires reporting the inspection results to Piaggio.

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0599.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Piaggio SB No. 80–0405, Revision 0, dated March 15, 2021. This service information specifies procedures for inspecting the fuselage skin panels and inspecting the full inner fuselage skin. It also specifies repairing or replacing any parts where corrosion is found.

The FAA also reviewed Piaggio SB No. 80–0405, Revision 0, Errata Corrige No. 1, dated March 24, 2021, which addresses discrepancies identified in Piaggio SB No. 80–0405, Revision 0, dated March 15, 2021.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this NPRM after determining the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the service information already described.

Differences Between This Proposed AD and the MCAI or Service Information

The MCAI allows credit for the fuselage inner skin inspection if previously done using Piaggio Aerospace Temporary Revision No. 332 to Chapter 53–00–00 of Piaggio P.180

Avanti II Maintenance Manual, and this proposed AD would not. The FAA will consider requests for an alternative method of compliance for this under paragraph (h) of this AD.

The MCAI specifies compliance times of 8 months and 12 months depending on when the P–180 airplane maintenance manual 3,600 flight hour or 5-year inspection was accomplished. This proposed AD has a 12-month compliance time for all airplanes because the 3,600 flight hour and 5-year maintenance manual inspections are not required for U.S. operators by FAA regulation.

The service information specifies contacting Piaggio for certain repair instructions, while this proposed AD would require repair using a method approved by the FAA or EASA.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 14 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per airplane	Cost on U.S. operators
Inspections	Up to 150 work-hours × $85 per hour = $12,750	$2,360	Up to $15,110	Up to $211,540.

The FAA estimates the following costs to do any necessary actions that may be required based on the results of the proposed inspections. The FAA has no way of estimating the number of airplanes that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per airplane
Repair	Up to 80 work-hours × $85 per hour = $6,800	$1,220	Up to $8,020.
Replace skin panel	Up to 250 work-hours × $85 per hour = $21,250	Up to $12,200	Up to $33,450.
Reporting Results	1 work-hour × $85 per hour = $85	Not Applicable	$1,190.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not be a "significant regulatory action" under Executive Order 12866,

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Piaggio Aero Industries S.p.A.: Docket No. FAA–2022–0599; Project Identifier MCAI–2021–00456–A.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 1, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Piaggio Aero Industries S.p.A. (Piaggio) Model P–180 airplanes, serial numbers (S/N) 1174 through 1214 inclusive and S/N 1218 through 1230 inclusive, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 5330, Fuselage Main, Plate/Skin.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as corrosion in the bottom fuselage area of the cabin compartment due to inner and outer sides of fuselage skin panels treated with less effective primer. The FAA is issuing this AD to prevent degradation of the structural integrity of the fuselage. This condition, if not addressed, could lead to loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) Within 12 months after the effective date of this AD, do the applicable inspections and corrective actions on each fuselage wing skin panel in accordance with the Accomplishment Instructions, Part A, paragraphs (1) through (15) and (17) through (20), or Part A (Alternate Procedure), paragraphs (31) through (37), (41) through (43), (50) through (55), and (57) through (60), in Piaggio Service Bulletin 80–0405, Revision 0, dated March 15, 2021, as corrected by Piaggio Service Bulletin 80–0405, Revision 0, Errata Corrige No. 1, dated March 24, 2021 (Piaggio SB 80–0405), except for the following:

(i) You are not required to contact the manufacturer. Instead, for any repairs, use a method approved by the FAA or the European Union Aviation Safety Agency (EASA).

(ii) Where the steps in Part A or Part A (Alternate Procedure) reference Part B, you must follow the Accomplishment Instructions, Part B, paragraphs (82) through (86), (88), and (104) of Piaggio SB 80–0405.

(2) If, as part of the corrective actions required by paragraph (g)(1) of this AD, you repaired areas of the fuselage skin but did not replace the panels, do the following:

(i) Within 60 days after completing the actions required by paragraph (g)(1) of this AD, report the inspection results, including the information specified in the Confirmation Slip attached to Piaggio SB 80–0405, to Piaggio at *technicalsupport@piaggioaerospace.it;* and

(ii) Repeat the requirements of paragraph (g)(1) of this AD at intervals not to exceed 660 hours time-in-service (TIS) or 26 months, whichever occurs first.

(3) If, as part of the corrective actions required by paragraph (g)(1) of this AD, you replaced the panels, within 60 days after completing the actions required by paragraph (g)(1) of this AD, report the inspection results, including the information specified in the Confirmation Slip attached to Piaggio SB 80–0405, to Piaggio at *technicalsupport@piaggioaerospace.it.*

(4) If, during all of the inspections required by paragraph (g)(1) of this AD, there is no corrosion and no primer inconsistencies, no further action is required by this AD.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (i)(1) of this AD and email to: *9-AVS-AIR-730-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(i) Related Information

(1) For more information about this AD, contact Mike Kiesov, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4144; email: *mike.kiesov@faa.gov.*

(2) Refer to EASA AD 2021–0104, dated April 15, 2021, for more information. You may view the EASA AD at *https://www.regulations.gov* in Docket No. FAA–2022–0599.

(3) For service information identified in this AD, contact Piaggio Aero Industries S.p.A, P180 Customer Support, via Pionieri e Aviatori d'Italia, snc—16154 Genoa, Italy; phone: +39 331 679 74 93; email: *technicalsupport@piaggioaerospace.it.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

Issued on June 13, 2022.

Christina Underwood,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–13050 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0686; Project Identifier MCAI–2022–00088–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A350–941 airplanes. This proposed AD was prompted by a report indicating that the inflatable free aisle restrictor (IFAR) on certain single lane slide-rafts demonstrated inconsistent release behavior in aft wind conditions. This proposed AD would require replacing an affected part with a serviceable part, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. This proposed AD would also prohibit the installation of affected parts. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by August 1, 2022.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material that will be incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0686.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0686; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198, telephone; email *dan.rodina@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0686; Project Identifier MCAI–2022–00088–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone and fax 206–231–3225; email *dan.rodina@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2022–0013, dated January 25, 2022 (EASA AD 2022–0013) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A350–941 airplanes.

This proposed AD was prompted by a report indicating that following the introduction of the IFAR system on single lane slide-rafts, the IFAR demonstrated inconsistent release behavior due to interference or entanglement of the upper part of the IFAR with the slide-raft cover or door structure in aft wind conditions. These affected slide-rafts are installed at passenger door 3, left-hand and right-hand sides. The FAA is proposing this AD to address inconsistent release of single lane slide-rafts having the IFAR system, which if not corrected, could result in a slide-raft being unusable during an emergency and impair the safe evacuation of occupants. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0013 specifies procedures for replacing escape slide-rafts having certain part numbers (affected parts) with serviceable parts (which includes parts that have been modified and re-identified). EASA AD 2022–0013 also prohibits the installation of affected parts on any airplane.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2022–0013 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD. This proposed AD would also prohibit the installation of affected parts.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2022–0013 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0013 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0013 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2022–0013. Service information required by EASA AD 2022–0013 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0686 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD would affect 30 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 11 work-hours × $85 per hour = Up to $935	$400	Up to $1,335	Up to $40,050.

According to the manufacturer, some or all of the costs of this proposed AD maybe covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in the cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Airbus SAS: Docket No. FAA–2022–0686; Project Identifier MCAI–2022–00088–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 1, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A350–941 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by a report indicating that the inflatable free aisle restrictor (IFAR) on certain single lane slide-rafts installed at passenger door 3, left-hand and right-hand sides, demonstrated inconsistent release behavior in aft wind conditions. The FAA is issuing this AD to address inconsistent release of single lane slide-rafts having the IFAR system, which if not corrected, could result in a slide-raft being unusable during an emergency and impair the safe evacuation of occupants.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0013, dated January 25, 2022 (EASA AD 2022–0013).

(h) Exceptions to EASA AD 2022–0013

(1) Where EASA AD 2022–0013 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2022–0013 does not apply to this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

(1) For EASA AD 2022–0013, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200

South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0686.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198, telephone and fax 206–231–3225; email *dan.rodina@faa.gov.*

Issued on June 14, 2022.

Christina Underwood,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–13077 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0774; Airspace Docket No. 22–AGL–26]

RIN 2120–AA66

Proposed Amendment of Class D and Class E Airspace and Revocation of Class E Airspace; La Crosse, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class D and Class E airspace and revoke Class E airspace at La Crosse, WI. The FAA is proposing this action due to an airspace review conducted as part of the decommissioning of the La Crosse very high frequency (VHF) omnidirectional range (VOR) as part of the VOR Minimal Operational Network (MON) Program.

DATES: Comments must be received on or before August 1, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2022–0774/Airspace Docket No. 22–AGL–26 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class D airspace, Class E surface airspace, and Class E airspace extending upward from 700 feet above the surface and remove the Class E airspace designated as an extension to Class D and Class E surface airspace at La Crosse Regional Airport, La Crosse, WI, to support instrument flight rule operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–0774/Airspace Docket No. 22–AGL–26.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by:

Amending the Class D airspace at La Crosse Regional Airport, La Crosse, WI, by adding an extension 1 mile each side of the 359° bearing from the La Crosse Regional: RWY 18–LOC extending from the 4.4-mile radius of the airport to 5.3 miles north of the airport; adding an extension 1 mile each side of the 359° bearing from the airport extending from the 4.4-mile radius to 5.3 miles north of the airport; adding an extension 1 mile each side of the 036° bearing from the airport extending from the 4.4-mile radius of the airport to 6.2 miles northeast of the airport; adding an extension 1 mile each side of the 119° bearing from the airport extending from the 4.4-mile radius of the airport to 5.7 miles southeast of the airport; adding an extension 1 mile each side of the 216° bearing from the airport extending from the 4.4-mile radius of the airport to 5.6 miles southwest of the airport; and replacing the outdated term ''Notice to Airmen'' with ''Notice to Air Missions'';

Amending the Class E surface airspace at La Crosse Regional Airport by adding an extension 1 mile each side of the 359° bearing from the La Crosse Regional: RWY 18–LOC extending from the 4.4-mile radius of the airport to 5.3 miles north of the airport; adding an extension 1 mile each side of the 359° bearing from the airport extending from the 4.4-mile radius to 5.3 miles north of the airport; adding an extension 1 mile each side of the 036° bearing from the airport extending from the 4.4-mile radius of the airport to 6.2 miles northeast of the airport; adding an extension 1 mile each side of the 119° bearing from the airport extending from the 4.4-mile radius of the airport to 5.7 miles southeast of the airport; adding an extension 1 mile each side of the 216° bearing from the airport extending from the 4.4-mile radius of the airport to 5.6 miles southwest of the airport; removing the 3,200 feet MSL restriction as it is not required; and replacing the outdated term ''Notice to Airmen'' with ''Notice to Air Missions'';

Removing the Class E airspace designated as an extension to Class D and Class E surface areas at La Crosse Regional Airport as these extensions have been incorporated into the Class D airspace and Class E surface airspace and this airspace is no longer required;

And amending the Class E airspace extending upward from 700 feet above the surface at La Crosse Regional Airport by adding an extension 1 mile each side of the 359° bearing from the La Crosse Regional: RWY 18–LOC extending from the 6.9-mile radius of the airport to 7.2 miles north of the airport.

This action is due to an airspace review conducted as part of the decommissioning of the La Crosse VOR, which provided navigation information for the instrument procedures at these airports, as part of the VOR MON Program.

Class D and E airspace designations are published in paragraphs 5000, 6002, 6004, and 6005, respectively, of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AGL WI D La Crosse, WI [Amended]

La Crosse Regional Airport, WI
(Lat. 43°52′45″ N, long. 91°15′24″ W)
La Crosse Regional: RWY 18–LOC
(Lat. 43°52′01″ N, long. 91°15′31″ W)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.4-mile radius of La Crosse Regional Airport; and within 1 mile each side of the 359° bearing from the La Crosse Regional: RWY 18–LOC extending from the 4.4-mile radius of the La Crosse Regional Airport to 5.3 miles north of the airport; and within 1 mile each side of the 359° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 5.3 miles north of the airport; and within 1 mile each side of the 036° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 6.2 miles northeast of the airport; and within 1 mile each side of the 119° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 5.7 miles southeast of the airport; and within 1 mile each side of the 216° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 5.6 miles southwest of the airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area.

* * * * *

AGL WI E2 La Crosse, WI [Amended]

La Crosse Regional Airport, WI
(Lat. 43°52′45″ N, long. 91°15′24″ W)
La Crosse Regional: RWY 18–LOC
(Lat. 43°52′01″ N, long. 91°15′31″ W)

That airspace extending upward from the surface within a 4.4-mile radius of La Crosse Regional Airport; and within 1 mile each side of the 359° bearing from the La Crosse Regional: RWY 18–LOC extending from the 4.4-mile radius of the La Crosse Regional Airport to 5.3 miles north of the airport; and within 1 mile each side of the 359° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 5.3 miles north of the airport; and within 1 mile each side of the 036° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 6.2 miles northeast of the airport; and within 1 mile each side of the 119° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 5.7 miles southeast of the airport; and within 1 mile each side of the 216° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 5.6 miles southwest of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

AGL WI E4 La Crosse, WI [Remove]

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL WI E5 La Crosse, WI [Amended]

La Crosse Regional Airport, WI
(Lat. 43°52′45″ N, long. 91°15′24″ W)
La Crosse Regional: RWY 18–LOC
(Lat. 43°52′01″ N, long. 91°15′31″ W)
Mayo Clinic Health System-Franciscan Healthcare, WI, Point In Space Coordinates
(Lat. 43°47′39″ N, long. 91°14′00″ W)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of La Crosse Regional Airport; and within 1 mile each side of the 359° bearing from the La Crosse Regional: RWY 18–LOC extending from the 6.9-mile radius of the La Crosse Regional Airport to 7.2 miles north of the airport; and within 1 mile each side of the 359° bearing from the La Crosse Regional Airport extending from the 6.9-mile radius of the airport to 7.1 miles north of the airport; and within 2.9 miles each side of the 036° bearing from the La Crosse Regional Airport extending from the 6.9-mile radius of the airport to 9.6 mile northeast of the airport; and within 1 mile each side of the 119° bearing from the La Crosse Regional Airport extending from the 6.9-mile radius of the airport to 7.4 mile southeast of the airport; and within 2 miles each side of the 216° bearing from the La Crosse Regional Airport extending from the 6.9-mile radius of the airport to 11.3 miles southwest of the airport; and within a 6-mile radius of the point in space serving Mayo Clinic Health System-Franciscan Healthcare.

Issued in Fort Worth, Texas, on June 13, 2022.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2022–12966 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0788; Airspace Docket No. 22–ASO–14]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Erwin, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace extending upward from 700 feet above the surface at Harnett Regional Jetport, Erwin, NC, by updating the airport's name and geographic coordinates. This action would also eliminate the Harnett non-directional beacon from the airspace description, as an airspace evaluation found it unnecessary. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before August 1, 2022.

ADDRESSES: Send comments on this proposal to: the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2022–0788; Airspace Docket No. 22–ASO–14 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov*.

FAA Order JO 7400.11F Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would amend airspace in Erwin, NC, to support IFR operations in the area.

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2021–0788 and Airspace Docket No. 22–ASO–14) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–0788; Airspace Docket No. 22–ASO–14.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350,1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to amend Class E airspace extending upward from 700 feet above the surface at Harnett Regional Jetport, Erwin, NC, by updating the airport's name (formerly Harnett County Airport), and remove the city name from the description header. This action would also eliminate the Harnett NDB from the airspace description, as an airspace evaluation found it unnecessary. Also, this action would widen the northeast extension, and update the airport's geographic coordinates to coincide with the FAA's database. In addition, this action would remove reference of the Fayetteville, NC, class E airspace area, as the airspace is shared.

Class E airspace designations are published in Paragraph 6005, of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO NC E5 Erwin, NC [Amended]

Harnett Regional Jetport, NC
(Lat. 35°22′49″ N, long. 78°43′56″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Harnett Regional Jetport, and within 2.6-miles each side of the 42° bearing of the airport extending from the 6.3-mile radius to 8.6-miles northeast of the airport.

Issued in College Park, Georgia, on June 13, 2022.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2022–13056 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0775; Airspace Docket No. 22–ASW–15]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Multiple Texas Towns

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace at Borger, TX; Pampa, TX; and Spearman, TX. The FAA is proposing these actions due to airspace reviews conducted as part of the decommissioning of the Borger very high frequency (VHF) omnidirectional range (VOR) as part of the VOR Minimal Operational Network (MON) Program. The names and geographic coordinates of some airports would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before August 1, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2022–0775/Airspace Docket No. 22–ASW–15 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E airspace extending upward form 700 feet above the surface at Hutchinson County Airport, Borger, TX; Perry Lefors Field, Pampa, TX; and Major Samuel B. Cornelius Field, Spearman, TX, to support instrument flight rule operations at these airports.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–0775/Airspace Docket No. 22–ASW–15.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by:

Amending the Class E airspace extending upward from 700 feet above the surface at Hutchinson County Airport, Borger, TX, by removing the Borger VORTAC and associated extensions from the airspace legal description; removing the city associated with the airport to comply with changes to FAA Order JO 7400.2N, Procedures for Handling Airspace Matters; and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

Amending the Class E airspace extending upward from 700 feet above the surface to within a 6.7-mile (increased from a 6.4-mile) radius of the Perry Lefors Field, Pampa, TX; and removing the city associated with the airport to comply with changes to FAA Order JO 7400.2N;

And amending the Class E airspace extending upward from 700 feet above the surface at Major Samuel B. Cornelius Field, Spearman, TX, by updating the name (previously Spearman Municipal Airport) and geographic coordinates of the airport to coincide with the FAA's aeronautical database.

These actions are due to airspace reviews conducted as part of the decommissioning of the Borger VOR, which provided navigation information for the instrument procedures at these airports, as part of the VOR MON Program.

Class E airspace designations are published in paragraph 6005 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and

Procedures, prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW TX E5 Borger, TX [Amended]

Hutchinson County Airport, TX
(Lat. 35°42′03″ N, long. 101°23′37″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Hutchinson County Airport.

* * * * *

ASW TX E5 Pampa, TX [Amended]

Perry Lefors Field, TX
(Lat. 35°36′47″ N, long. 100°59′47″ W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Perry Lefors Field.

* * * * *

ASW TX E5 Spearman, TX [Amended]

Major Samuel B. Cornelius Field, TX
(Lat. 36°13′16″ N, long. 101°11′40″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Major Samuel B. Cornelius Field.

Issued in Fort Worth, Texas, on June 13, 2022.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2022–12965 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 175, 176, 177, and 178

[Docket No. FDA–2016–F–1253]

Natural Resources Defense Council, et al.; Denial of Food Additive Petition; Denial Without Prejudice of Food Additive Petition; Correction

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notification; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notification that appeared in the **Federal Register** of May 20, 2022. The notification inadvertently mislabeled the copyright status of certain references. This document corrects that error.

DATES: This notification is effective June 17, 2022.

FOR FURTHER INFORMATION CONTACT: Meadow Platt, Office of Regulations and Policy (HFS–024), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2378.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Friday, May 20, 2022 (87 FR 31066), in FR. Doc. 2022–10530, the following corrections are made:

On page 31078, in the third column, under ''VI. References,'' asterisks are removed from reference numbers 5, 8, and 9 because these references are subject to copyright restrictions.

Dated: June 10, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13076 Filed 6–16–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 92, 93, 200, 574, 576, 578, 880, 882, 884, 886, 888, 902, 982, 983 and 985

[Docket Nos. 6086–N–02]

RIN 2577–AD05 and 2577–AD06

Request for Comments: National Standards for the Physical Inspection of Real Estate and Associated Protocols

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Office of the Assistant Secretary for Community Planning and Development, Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Request for public comment.

SUMMARY: This Request for public comment serves as a complementary document to the Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE) proposed rule. The proposed rule provided that HUD would publish in the **Federal Register** a set of NSPIRE inspection standards to consolidate and align housing quality requirements and associated inspection standards across programs. After developing and testing draft standards, HUD now seeks public review and comment on the proposed NSPIRE physical inspection standards which would accompany HUD's final rule. Additionally, HUD is proposing changes to the list of life-threatening conditions and incorporating them into the NSPIRE inspection standards in place of codifying the list which HUD proposed in the ''Housing Opportunity Through Modernization Act (HOTMA) of 2016—Housing Choice Voucher (HCV) and Project Based Voucher Implementation: Additional Streamlining Changes'' proposed rule. HUD will consider comments received in response to this request before publishing a final notice of standards in the **Federal Register**.

DATES: *Comment Due Date:* August 1, 2022.

ADDRESSES: HUD invites interested persons to submit comments to the Office of the General Counsel, Regulations Division, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500. Communications should refer to the above docket number and title. There are two methods for submitting public comments.

1. *Electronic Submission of Comments.* Comments may be submitted electronically through the Federal eRulemaking Portal at *https://www.regulations.gov/.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the website can be viewed by other commenters and interested members of the public.

Commenters should follow instructions provided on that site to submit comments electronically.

2. *Submission of Comments by Mail.* Comments may also be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500. Due to security measures at all Federal agencies, however, submission of comments by mail often results in delayed delivery. To ensure timely receipt, HUD recommends that comments be mailed at least 2 weeks in advance of the public comment deadline.

Note: To receive consideration as public comments, comments must be submitted using one of the two methods specified above.

No Facsimile Comments. Facsimile (fax) comments are not acceptable.

Public Inspection of Comments. All comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at HUD Headquarters, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055. This is not a toll-free number. Copies of all comments submitted are available for inspection and downloading at *https://www.regulations.gov/.*

FOR FURTHER INFORMATION CONTACT:

Marcel M. Jemio, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410–4000, telephone number 202–708–1112 (this is not a toll-free number). Persons with hearing or speech impairments may contact the numbers above via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Current Standards and Programs

There are currently two inspection models used across the majority of HUD housing programs: Housing Quality Standards (HQS), developed in the 1970s and applicable to housing assisted under the Housing Choice Voucher and Project Based Voucher program, which are currently found at 24 CFR 982.401, and the Uniform Physical Condition Standards (UPCS) developed in the 1990s and applicable to the programs listed at 24 CFR 5.701, which are currently found at 24 CFR 5.703 with the dictionary of individual UPCS deficiencies contained in a **Federal Register** notice.[1] The unified NSPIRE standards would be used to evaluate compliance with HUD's expectations of housing quality across the distinct programs governed by the regulatory alignment offered in the proposed rule.

II. NSPIRE Proposed Rule

On January 13, 2021, HUD published a proposed rule ''Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate'' (86 FR 2582) to implement one of NSPIRE's core objectives—the formal alignment of expectations of housing quality and consolidation of inspection standards across HUD programs.

As outlined within the proposed rule, HUD intends to publish updates to these standards through future **Federal Register** notices at least once every three years with an opportunity for public comment. This would provide further opportunity for the public to examine proposed changes, provide pertinent comments, and suggest the inclusion of industry best practices. The three-year standards development cycle aligns with the cycle used by standards development organizations in the model building codes and life safety industries. A three-year review cycle would also allow HUD to be more responsive to the ever-changing public and assisted housing portfolio and evolving needs in the field.

III. NSPIRE Standard Development and Background

Throughout the development of NSPIRE, HUD has provided multiple avenues for industry and public input on the standards. In September 2019, HUD began publishing draft NSPIRE standards on HUD's website. The original and subsequent versions of the standards represent input from industry stakeholders and the public via workshops, webinars, and feedback received through HUD's NSPIRE website.

HUD's approach to standards development follows a defined set of core principles: people-centered design, a focus on efficiency, science-based rationales, continuous collaborative improvement, and streamlined operations. HUD's principles of standards development are designed to ensure that standards:

- Are developed according to an evidence-based methodology that ensures reliability and defensibility;
- Prioritize resident health, safety, and functionality of property features, ensuring that residents are living in habitable homes;
- Promote iterative collaboration and feedback; and
- Focus on streamlining inspections processes, ensuring that standards can be executed consistently across programs.

For each inspection standard, the definition, location, deficiency, deficiency criteria, health and safety determination, and correction timeframe have been listed. Further, HUD believes that housing standards must focus on habitability and the health and safety of residents. Each proposed standard contains ''rationales,'' or the reason the requirement is necessary. Rationales describe the potential harm that may result from a given deficiency if left uncorrected. Generally, rationales include the health, safety, and/or major functional or habitability issue, and illustrate why detection and remediation of the deficiency is critical to housing quality.

HUD will review the comments received on this request for comments, ongoing feedback received through the NSPIRE demonstration, and ongoing input from HUD partners, industry stakeholders, and the public for current and future development of the NSPIRE standards. HUD anticipates that future revisions to the standards may include such changes as:

- Revisions to deficiency health and safety determinations or the associated time of repair;
- Updated health and safety determinations, including pass/fail determinations for the Housing Choice and Project-based Voucher programs; or
- Removal or addition of deficiencies based on public input.

IV. HOTMA Voucher Proposed Rule

Under the Housing Opportunity Through Modernization Act of 2016 (HOTMA), as described in the preamble of the NSPIRE proposed rule, life-threatening deficiencies must be addressed within 24 hours and all other deficiencies within 30 days.[2] Under HOTMA, Public Housing Authorities (PHAs) can allow families participating in the HCV and PBV programs to move into their unit prior to the unit passing the HQS, but only if there are no life-threatening conditions identified in the initial inspection.

[1] Available at: *https://www.federalregister.gov/documents/2012/08/09/2012-19335/public-housing-assessment-system-phas-physical-condition-scoring-notice-and-revised-dictionary-of.*

[2] Public Law 114–201, enacted July 29, 2016.

Consistent with HOTMA, HUD published through **Federal Register** Notice ''Housing Opportunity Through Modernization Act of 2016: Implementation of Various Section 8 Voucher Provisions'' (82 FR 5458) a list of life-threatening conditions (''HOTMA LT List'').

In the proposed rule ''Housing Opportunity Through Modernization Act of 2016-Housing Choice Voucher (HCV) and Project-Based Voucher Implementation; Additional Streamlining Changes'' (85 FR 63664), HUD proposed to incorporate this list into 24 CFR 982.401. HUD received comments on this proposal and is reviewing and considering these comments.

V. Incorporation of HOTMA Life Threatening List (''HOTMA LT List'')

In this request for comments, HUD proposes incorporating the HOTMA LT List into the NSPIRE standards and not in regulation and provides this list as Table 63 of the standards. HUD believes that this consolidation would be consistent with HUD's goal of consolidating standards. All other NSPIRE standards, once final, would apply for the HCV program, except where HCV and PBV Variant inspection standards apply.[3] All comments on this request for comments, the HOTMA proposed rule, and the NSPIRE proposed rule will be considered before the HOTMA LT List is finalized either in regulation or in the NSPIRE standards. In these proposed standards, standards which are considered life-threatening for purposes of the HCV and PBV programs are noted with a 24-hour HCV Correction Timeframe. The HOTMA LT list will apply for all PHAs, and not just those choosing to implement the Non-Life-Threatening provision offered under HOTMA and PIH Notice 2017–20.

VI. Major Changes From UPCS and HQS

HUD welcomes and appreciates all comments on the standards detailed in this request for comments. HUD also seeks specific input on the following items that HUD considers to be material enhancements related to health and safety from UPCS and HQS to the NSPIRE standards.

Smoke Alarms

Consistent with HUD's proposed rule, this proposed standard would incorporate prescriptive locations for the installation of smoke alarms to conform with National Fire Protection Association (NFPA) Standard 72—National Fire Alarm and Signaling Code. Adoption of NFPA 72 would introduce new requirements for smoke alarms by requiring installation on each level and inside each sleeping area.

Carbon Monoxide Alarms

This draft standard would incorporate statutory requirements enacted by Congress[4] to conform with the 2018 International Fire Code (IFC) published by the International Code Council. The draft standard would establish deficiency criteria for installation of carbon monoxide alarms.

Fire Labeled Doors

This proposed standard would include deficiency criteria specific to these types of doors where present. The deficiencies would include function and operability criteria critical to these fire safety components where present in buildings.

Guardrails

This proposed standard would include prescriptive deficiency criteria for guardrails where missing above elevated surfaces to protect from fall hazards along balconies, stairs, ramps, decks, rooftops, hallways, retaining walls, and other walking surfaces.

Handrails

This proposed standard would include a deficiency with prescriptive dimensional criteria for handrails that are not functionally adequate and cannot reasonably be grasped by hand to provide stability or support when ascending or descending stairways.

Mold-Like Substance

This proposed standard would include deficiencies based on discrete levels of observed conditions and a ventilation or dehumidification requirement for bathrooms to reduce conditions conducive to mold growth.

Potential Lead-Based Paint Hazards

This proposed standard would include a deficiency that incorporates the HQS requirements for an enhanced visual assessment for deteriorated paint where there is a child under 6 years of age residing in the unit.

Structural System

This proposed standard would include a deficiency that captures signs of serious structural collapse and may threaten the resident's safety.

HOTMA LT List

As discussed above, these proposed standards would replace the HOTMA LT List and make changes to the List to align with NSPIRE. One condition in the HOTMA LT List not included in NSPIRE is ''any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition.'' Under NSPIRE, HUD has multiple electrical standards with deficiencies that comprehensively address fire and shock risks. Therefore, HUD believes that this general deficiency is not necessary where HUD provides more specific deficiencies which would encompass it.

HUD is requesting comments on several proposed deficiencies not currently in the NSPIRE Standards that are currently included in the HOTMA LT List including space heaters and water leaking onto electrical devices.

VII. Request for Comment on Questions Related to Specific Deficiencies

HUD seeks comment on all standards proposed in this document. Additionally, HUD seeks responses to the specific questions below regarding additional changes which HUD is considering but has not proposed in draft form in the standards associated with this request for comments.

Question for Comment #1: HUD is considering amending the proposed ''Mold-Like Substance Standard'' to include a Deficiency or Deficiency Criteria related to mold risk. This amended Deficiency would help identify sources of moisture conducive to potential mold or mold-like substances. The amended Deficiency would outline the required use of moisture meters and moisture levels and establish the threshold for such a Deficiency. The amended Deficiency would also recommend, but not require, the use of infrared cameras to detect moisture intrusion. HUD seeks input on this proposed requirement, the use of appropriate equipment, and what would be an appropriate correction timeframe.

Question for Comment #2: As discussed in the NSPIRE proposed rule, HUD is considering adding the term ''safe'' to the regulations at 24 CFR 5.703(d) addressing drinking water. This addition would cover situations where the public water supply system has identified drinking water contamination and notified customers of the hazard. This change would not require a new standard. The NSPIRE inspector would collect information from the property manager or owner on the following: (1)

[3] See the exceptions which HUD proposed at § 5.705(a)(3)(ii) of the NSPIRE proposed rule.

[4] See Section 101, ''Carbon Monoxide Alarms or Detectors in Federally Insured Housing'' of Title I of Division Q, Financial Services Provisions and Intellectual Property, of the Consolidated Appropriations Act, 2021, Public Law 116–260, 134 Stat. 2162 (2020).

any current local water alerts for the jurisdiction where the housing is located; and (2) the name of the public water supply system that serves the property. For the building information collection, the property manager or owner would advise if the property is known to be serviced by a lead service line. If this information is not known for the portion of the pipe on the property, the owner or manager would be asked to identify the water service point of entry into the building and the inspector would conduct a visual evaluation. Details on the process would be published in a subsequent notice. HUD seeks comment on the advisability of adding new requirements for the PHA submission of information performed in advance or as part of the physical inspection.

Question for Comment #3: HUD previously requested public comment in the NSPIRE proposed rule regarding a new deficiency under the heating ventilation and air conditioning (HVAC) standard for the requirement of permanently installed heating sources. HUD recognizes there may be properties across HUD assisted housing located in perennially warm climates where a permanent heating source may not be necessary or required by local codes. HUD seeks input on these unique climates to better understand where these conditions may exist in HUD assisted properties.

Question for Comment #4: HUD is considering amending the deficiency titled ''A permanently installed heating source is damaged, inoperable, missing, or not installed and the outside temperature is below 68 degrees Fahrenheit'' to have two distinct severity levels. The proposed deficiency would be amended to require properties to be maintained at a minimum unit temperature of 64 degrees Fahrenheit. A new severe non-life-threatening deficiency would be added for properties with observed unit temperatures between 64- and 67.9-degrees Fahrenheit. HUD seeks input on the advisability of creating two levels of severity for the minimum temperature deficiency.

Question for Comment #5: HUD is considering amending the deficiency titled ''A permanently installed heating source is damaged, inoperable, missing, or not installed and the outside temperature is below 68 degrees Fahrenheit'' in the HVAC standard to limit the application of this standard and deficiency to specific months of the year and specific climate zones. HUD recognizes the current deficiency may not capture unique climate differences across HUD assisted properties. HUD seeks input on the use of specific months or climate zones for the application of the minimum temperature deficiency.

Question for Comment #6: HUD is considering amending the deficiency ''A permanently installed heating source is damaged, inoperable, missing, or not installed and the outside temperature is below 68 degrees Fahrenheit'' in the HVAC standard to include measurement by an ambient temperature thermometer provided by the inspector to determine whether the heating source is properly functioning. The amended deficiency would also outline inspection protocols required for using the thermometer. HUD seeks input on this proposed equipment requirement for the minimum temperature deficiency in the HVAC standard.

Question for Comment #7: HUD previously requested public comments in the NSPIRE proposed rule regarding a new deficiency under the HVAC standard for the requirement of permanently installed heating sources. After reviewing public comments, HUD recognizes the need to define ''permanently installed heating sources.'' HUD seeks specific input on defining this term.

Question for Comment #8: HUD previously requested public comments in the NSPIRE proposed rule regarding a new deficiency under the HVAC standard for the requirement of permanently installed heating sources. HUD recognizes there may be extreme cold weather conditions when supplemental heating units may be needed to maintain a safe level of heat. HUD is considering amending the HVAC standard to create a new deficiency for the presence of unvented, fuel-burning space heaters due to the associated fire and carbon monoxide risk. HUD seeks input on this proposed deficiency for unvented, fuel-burning space heaters.

Question for Comment #9: HUD is considering amending the ''unprotected outlet is present within six feet of a water source'' proposed deficiency within the Electrical—Outlet and Switch Standard to explicitly allow using a receptable tester with a ground fault circuit interrupter (GFCI) test button or using the integral device tester during the inspection process. This amended Deficiency would specify the acceptable types of receptacle testers and could include acceptable industry standards for a receptable tester with a GFCI test button. An example of an acceptable industry tool standard would be Underwriters Lab Standard 1436-for Outlet Circuit Testers and Similar Indicating Devices. The amended deficiency would also add protocol details to the inspection process for the deficiency. HUD seeks input on this proposed tool specification requirement.

Question for Comment #10: HUD is considering amending the Electrical—Conductor standard to include a new deficiency to address leaks onto or near electrical components in the built environment. HUD seeks input on deficiency criteria for this proposed deficiency.

Question for Comment #11: HUD is considering amending the correction timeframes for standards and deficiencies categorized as ''Severe Non-Life Threatening'' where a corrective action may not be technically feasible within 24 hours. The statutory repair timeframes required under HOTMA prevent changes to correction timeframes to properties in the HCV or PBV programs. The amendment HUD is considering would continue to require that the Health or Safety risk to the resident be removed within 24 hours, but the correction timeframe would be extended. HUD recognizes that not all severe conditions can be repaired within 24 hours as they may require building permits or engaging the services of an appropriate contractor. HUD seeks specific input on whether this proposed change in correction timeframes should be addressed within the standards or through an administrative process where HUD makes an adjustment within its database to reflect an extended timeframe of repair. HUD also seeks specific input on which standards and deficiencies would benefit from this proposed approach to corrections.

Question for Comment #12: HUD is considering amending the Infestation Standard to create new deficiencies for extensive infestations for the pest deficiencies, which currently lack an extensive deficiency. The current deficiency criteria for extensive cockroach infestation have a specific threshold for the visual observation. The amended standard would include specific criteria with thresholds comparable to the existing extensive cockroach infestation deficiency. HUD seeks input on this proposed deficiency, appropriate deficiency criteria and which pests, if others, should also be covered under the Infestation Standard and elevated to ''extensive.''

Question for Comment #13: HUD is considering amending the Infestation Standard to create a longer timeframe of repair for severe infestation deficiencies. The amended deficiency would allow longer correction timeframes when properties utilize industry best practices for mitigating infestations and assessing infestation risks. The amended correction timeframes that HUD is considering would apply only to Public Housing and Multifamily properties due to the statutory constraints on the HCV and PBV programs. An example of industry best practices would be utilizing integrated pest management as a form of proactive pest control. HUD seeks input on an appropriate correction timeframe and use of industry best practices to address infestations in HUD-assisted properties.

For all the above changes, HUD also seeks comments on whether these proposed requirements, as applied to all covered housing, would substantially narrow the pool of available rental housing for families participating in HUD's programs. HUD also notes that HUD is continuing to review the comments received through the **Federal Register** on the NSPIRE proposed rule in the development of the attached standards. All standards-related comments from the NSPIRE proposed rule and comments received in response to this request for comments will be considered prior to the final standards notice.

VIII. The NSPIRE Standards

As explained in the background section, previous versions of the NSPIRE standards have been published to the HUD website. Previous versions have been archived. HUD seeks comment on the current version, 2.2, which is available for review at *https://www.hud.gov/sites/dfiles/PIH/documents/6092-N-02nspire_propose_standards.pdf.* HUD asks that all comments to version 2.2 be made through the **Federal Register**.

Adrianne Todman,

Deputy Secretary.

[FR Doc. 2022–13251 Filed 6–16–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0273]

RIN 1625–AA00

Safety Zone; Black River, South of East Erie Avenue Bridge in Front of Black River Landing, Lorain, OH

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain waters of the Black River. This action is necessary to provide for the safety of life on these navigable waters near Black River Landing, Lorain, OH, during a dragon boat festival. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Buffalo or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before July 18, 2022.

ADDRESSES: You may submit comments identified by docket number USCG–2022–0273 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LT Jared Stevens, Waterways Management Division, Marine Safety Unit Cleveland, U.S. Coast Guard; telephone 216–937–0124, email *Jared.M.Stevens@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

The Cleveland Dragon Boat Festival has occurred annually for over a decade. Past years events were held on the Cuyahoga River in conjunction with the Head of the Cuyahoga regatta, for which the Captain of the Port Buffalo initiated a rulemaking in 2015 (80 FR 51943) to protect spectators, participants, and vessels from the hazards associated with the rowing event. Due to increased participation in the Dragon Boat Festival, the dragon boat event has been relocated to the Black River Landing in Lorain, OH, to preserve the safety of spectators and vessels.

On January 31, 2022, the Cleveland Dragon Boat Association notified the Coast Guard that it will be conducting a dragon boat festival from 8 a.m. through 5 p.m. on September 18, 2022. Typically, the event occurs on or around the first through third Saturday of September between the hours of 8 a.m. and 5 p.m. The dragon boat festival is to occur south of the East Erie Avenue Bridge in front of the Black River Landing in Lorain, OH. Hazards from the event include, but are not limited to, sponsor operated vessels needing to transit the area during the festival. These vessels are expected to accompany the vessels competing in the row boat style races. The Captain of the Port Buffalo (COTP) has determined that potential hazards associated with the festival would be a safety concern for anyone within this portion of the Black River.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within this portion of the Black River before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 8 a.m. to 5 p.m. on or around the first through third Saturday of September, according to when the actual event is scheduled. In 2022, the Dragon Boat Festival will occur on September 18. The safety zone would cover all navigable waters south of the East Erie Avenue Bridge in front of the Black River Landing in Lorain, OH. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled dragon boat festival. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on size, location, and duration of the proposed rule. This Safety Zone would restrict navigation on and through this small designated portion of the Black River for nine hours on one day.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting nine hours that would prohibit entry within the area south of the East Erie Avenue Bridge in front of the Black River Landing. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2022–0273 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5, Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T09–0273 to read as follows:

§ 165.T09–0273 Safety Zone, Black River, South of East Erie Avenue Bridge in Front of Black River Landing, Lorain, OH.

(a) *Location.* The following area is a safety zone: All navigable waters within the area south of the East Erie Avenue Bridge in front of the Black River Landing in Lorain, OH.

(b) *Enforcement Period.* This section will be enforced from 8 a.m. through 5 p.m. on or around the first through third Saturday in September, according to when the actual event is scheduled.

(c) *Definitions. Official Patrol Vessel* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Buffalo, (COTP) in the enforcement of the regulations in this section. *Participant* means all persons and vessels attending the event.

(d) *Regulations.* When this safety zone is enforced, the following regulations, along with those contained in 33 CFR 165 apply:

(1) The Coast Guard may patrol the event area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign ''PATCOM.''

(2) All persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The ''official patrol vessels'' consist of any Coast Guard, state or local law enforcement and sponsor provided vessels designated or assigned by the Captain of the Port Buffalo, to patrol the event.

(3) Spectator vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer and will be operated at a no wake speed in a manner which will not endanger participants in the event or any other craft.

(4) No spectator shall anchor, block, loiter, or impede the through transit of official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel.

(5) The Patrol Commander may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(6) Any spectator vessel may anchor outside the regulated areas specified in this chapter, but may not anchor in, block, or loiter in a navigable channel.

(7) The Patrol Commander may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(8) The Patrol Commander will terminate enforcement of the special regulations at the conclusion of the event.

Dated: June 9, 2022.

M.I. Kuperman,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2022–12961 Filed 6–16–22; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 111

Caller Service—Customized Address

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to amend *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) in various sections to introduce a new service feature, Caller Service—Customized Address.

DATES: Submit comments on or before July 5, 2022.

ADDRESSES: Mail or deliver written comments to the Manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to *PCFederalRegister@usps.gov,* with a subject line of ''Caller Service—Customized Address''. Faxed comments are not accepted. You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: Drew Mitchum (202) 268–7351 or Doriane Harley at (202) 268–2537.

SUPPLEMENTARY INFORMATION: Caller Service is a premium service available for a fee to any customer meeting certain mailing standards. Currently, Caller Service customers are not allowed to omit their Post Office Box number from the address of the mailpiece.

The Postal Service is proposing to allow approved Caller Service customers with a unique 5-digit ZIP Code to add Customized Address by paying for the right to omit the P.O. Box number and replacing it with a different approved address line. For example, a Caller Service customer with a unique ZIP Code could replace ''P.O. Box 1287'' with ''One Postal Way.'' Only the P.O. Box portion of the address would be replaced; the unique ZIP Code would remain as part of the city/state line.

A current approved Caller Service customer with a unique 5-digit ZIP Code may request Customized Address by using forms available at their approved postal facility and paying a one-time onboarding fee of $2,000. After the first year, a fee of $1,000 would be charged for each authorized delivery address line per annual (12-month) period. In addition to being limited to those customers with a unique 5-digit ZIP Code, Customized Address would also be restricted to use with letters and flats. Any parcels that are delivered to the address that do not bear evidence of postage payment would be delivered postage due at the appropriate Parcel Select rate.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes if adopted.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, the Postal Service proposes the following changes to Mailing Standards of the United States Postal Service, *Domestic Mail Manual* (DMM), incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1):

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

■ 2. Revise the Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM) to read as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

500 Additional Services

* * * * *

508 Recipient Services

* * * * *

5.0 Caller Service

* * * * *

5.2 Basic Information

* * * * *

[Revise the title and text of 5.2.7 to read as follows:]

5.2.7 Exemptions

Postmasters may exempt caller service customers from the requirement in 5.2.6 that they must use their assigned Post Office Box number in their mailing address under the following circumstances:

a. The customer has been continuously receiving firm holdout service since July 3, 1994; or

b. The customer is in compliance with the requirements in 5.9.

* * * * *

[Add new section 5.9 to read as follows:]

5.9 Customized Address

For an annual fee (see 5.9.1), caller service customers assigned a unique 5-digit ZIP Code may use one or more authorized delivery address line(s) in place of their assigned PO Box number(s). The city, state, and ZIP Code must remain as provided in the customer's unique ZIP Code agreement and caller service agreement.

5.9.1 Required Use

Customized Address is restricted for use with letters and flats. Any parcels that are delivered to the address that do not bear evidence of postage payment would be delivered postage due at the appropriate Parcel Select rate.

5.9.2 Application and Fees

A current approved caller service customer must complete the Customized Address customer agreement at their approved postal facility and pay a one-time onboarding fee of $2000. After the first year, a fee of $1000 is charged for each authorized delivery address line per annual (12-month) period.

5.9.3 USPS Actions

USPS will not authorize requested delivery address lines until it verifies the applicant's primary and secondary forms of identification as acceptable under *608.10.0,* confirms availability at the requested facility, and makes scheme preparations. USPS may revoke authorization of a customized address at any time upon notice to the customer. When requested delivery address lines are approved and applicable fees received, USPS will provide written authorization to the applicant.

5.9.4 Transferability

Authorized delivery address lines may not be transferred to another facility or customer.

5.9.5 Past-Due Caller Fee

Payments for customized addresses must be received at least 45 days before the applicable semiannual period. Payment of the renewal fee is due at least 45 days before the last day of the last month of the current period. Payment may be made for the next semiannual or annual period, as appropriate. If, on notice, the customer does not pay the fee by the 30th day before the end of the current payment period, the barcode sortation scheme will be revised to remove the separation for the caller. Once that change is made, the caller must reapply to obtain the former customized address.

5.9.6 Refund

A pro-rata refund is made only for future prepaid periods if a caller discontinues customized address or USPS revokes authorization of a customized address. No refund is made for the remaining part of the current fee period.

* * * * *

Joshua J. Hofer,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2022–12846 Filed 6–16–22; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–EPA–R09–OAR–2022–0480; FRL–9873–01–R9]

Air Plan Disapproval; California; Antelope Valley Air Quality Management District and Mojave Desert Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to disapprove revisions to the Antelope Valley Air Quality Management District (AVAQMD) and the Mojave Desert Air Quality Management District (MDAQMD) portions of the California State Implementation Plan (SIP) concerning rules submitted to address section 185 of the Clean Air Act (CAA or the Act) with respect to the 1-hour ozone standard. We are proposing action on these local rules that were submitted as equivalent alternatives to a statutory section 185 program. We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before July 18, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0480 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Donnique Sherman, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4129 or by email at *sherman.donnique@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules proposed for disapproval with the dates that they were adopted by the local agencies and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local Agency	Rule No.	Rule title	Amended	Submitted
AVAQMD	315	Federal Clean Air Act Section 185 Penalty	10/18/11	12/14/11
MDAQMD	315	Federal Clean Air Act Section 185 Penalty	10/14/11	12/14/11

On June 14, 2012, the submittals for AVAQMD Rule 315 and MDAQMD Rule 315 were deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

There are no previous versions of AVAQMD Rule 315 in the SIP, although the AVAQMD adopted an earlier version of this rule on February 15, 2011, and CARB submitted it to us on April 22, 2011. We consider this earlier submittal to have been superseded by the December 14, 2011 submittal. While we can act on only the most recently submitted version, we have also reviewed materials provided with previous submittals.

There are no previous versions of MDAQMD Rule 315 in the SIP, although the MDAQMD adopted an earlier version of this rule on February 28, 2011, and CARB submitted it to us on April 22, 2011. We consider this earlier submittal to have been superseded by the December 14, 2011 submittal. While we can act on only the most recently submitted version, we have also reviewed materials provided with previous submittals.

C. What is the purpose of the submitted rules?

Under sections 182(d)(3), (e), (f) and 185 of the Act, states with ozone nonattainment areas classified as Severe or Extreme are required to submit a SIP revision that requires major stationary sources of volatile organic compounds (VOC) or oxides of nitrogen (NO_X) emissions in the area to pay a fee if the area fails to attain the standard by the attainment date. The required SIP revision must provide for annual payment of the fees, computed in accordance with CAA section 185(b).

The purpose of AVAQMD Rule 315 and MDAQMD Rule 315 is to satisfy the requirements of sections 182 and 185 of the Act by utilizing an equivalency approach consistent with the principles of section 172(e) of the Act. Under these rules, AVAQMD and MDAQMD will track, calculate, analyze, and report on expenditures designed to result in VOC or NO_X reductions within the Districts, to implement an alternative program that is not less stringent than a statutory CAA section 185 fee program. The rules include calculation of the CAA section 185 fee obligation, establishment of a CAA section 185 equivalency ''Tracking Account,'' an annual demonstration of equivalency, reporting to CARB and the EPA, and a provision requiring major sources to pay fees directly in the event the area fails to establish equivalency. The ''Tracking Account'' would include funds from qualified programs that are surplus to the 1-hour ozone SIP and designed to result in direct reductions or facilitate future reductions of VOC or NO_X emissions, as approved by the EPA.

II. EPA's Evaluation and Action

A. How is the EPA evaluating these rules?

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). The EPA is also evaluating these rules for consistency with the statutory requirements of CAA section 185. Equivalent alternative programs designed to meet the CAA section 185 obligation for the 1-hour ozone national ambient air quality standard (NAAQS) must be consistent with the principles of CAA section 172(e) and must be ''not less stringent'' than the statutory section 185 program.

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

B. Do these rules meet the evaluation criteria?

AVAQMD Rule 315 and MDAQMD Rule 315 implement a fee equivalency approach consistent with the principles of CAA section 172(e).[1] The rules are

[1] We have previously set out the legal rationale for equivalent alternative section 185 programs. See 76 FR 45212 (July 28, 2011), and 77 FR 1895

largely consistent with general CAA requirements regarding SIP submissions. However, the EPA proposes to disapprove the rules because they contain provisions that do not meet our evaluation criteria and affect rule enforceability and stringency. These deficiencies are summarized below and discussed further in the technical support document (TSD) for these rules.

C. What are the rule deficiencies?

These provisions do not satisfy the requirements of section 110 and part D of title I of the Act and prevent full approval of the SIP submittal. We propose to disapprove the SIP revision based on the following deficiencies:

1. AVAQMD Rule 315 refers to the term ''Major Facility'' as defined in ''District Rule 1301.'' The current SIP-approved Rule 1301 for AVAQMD does not contain a definition of ''Major Facility.''

2. The Districts did not provide a justification for the method chosen to calculate alternate baseline emissions for facilities with emissions that are irregular, cyclical, or otherwise vary significantly.

3. The rules establish an area-wide equivalency ''Tracking Account.'' This system requires the cooperation and coordination of three districts: AVAQMD, MDAQMD, and the South Coast Air Quality Management District (SCAQMD). Each rule requires the respective Air Pollution Control Officer (APCO) to request an accounting from other Districts, but there is no requirement for the APCO to provide their accounting to the other Districts. The rules assume accounting across the three Districts with the same system in place. SCAQMD does not have a rule that contains the same provisions. As a result, the area-wide accounting system is not enforceable.

4. The formula for calculating the penalty fee needs correcting to properly reflect the inflation adjustment based on the Consumer Price Index.

The TSD for AVAQMD Rule 315 and MDAQMD Rule 315 contains further discussion and analysis of these deficiencies.

D. EPA Recommendations To Further Improve These Rules

The TSD describes additional rule revisions that we recommend for the next time the Districts modify these rules.

E. Proposed Action and Public Comment

As authorized in section 110(k)(3) of the Act, we are proposing full disapproval of submitted AVAQMD Rule 315 and MDAQMD Rule 315. If we finalize this disapproval, the final disapproval action would trigger sanctions under CAA section 179(a)(2) and 40 CFR 52.31 unless the EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the effective date of the final action. In addition to the sanctions, CAA section 110(c)(1) provides that the EPA must promulgate a federal implementation plan (FIP) addressing any disapproved elements of the plan within two years after the effective date of the disapproval unless the State submits, and the EPA approves, the required SIP submittal. As a result of the EPA's January 5, 2010 determination that California had failed to submit the required CAA section 185 fee programs for the 1-hour ozone NAAQS for certain nonattainment areas (75 FR 232), the EPA is already subject to a statutory deadline to promulgate a FIP for this purpose.

We will accept comments from the public on the proposed disapproval for the next 30 days.

(January 12, 2012) and the accompanying docket materials.

III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA, because this proposed SIP disapproval, if finalized, will not in-and-of itself create any new information collection burdens, but will simply disapprove certain state requirements for inclusion in the SIP.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This proposed SIP disapproval, if finalized, will not in-and-of itself create any new requirements but will simply disapprove certain state requirements for inclusion in the SIP.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action proposes to disapprove pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP revision that the EPA is proposing to disapprove would not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because this proposed SIP disapproval, if finalized, will not in-and-of itself create any new regulations, but will simply disapprove certain state requirements for inclusion in the SIP.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 12, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2022–13045 Filed 6–16–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA–R07–OAR–2022–0483; FRL–9913–01–R7]

Air Plan Approval; Iowa; State Implementation Plan and State Operating Permits Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Iowa State Implementation Plan (SIP) and the Iowa Operating Permit Program. The revisions update incorporations by reference to EPA methods for measuring air pollutant emissions, performance testing (stack testing) and continuous monitoring. These revisions do not impact the stringency of the SIP or have an adverse effect on air quality. The EPA's proposed approval of this rule revision is being done in accordance with the requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before July 18, 2022.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2022–0483 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Bethany Olson, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7905; email address: *olson.bethany@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to the EPA.

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VIII. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2022–0483, at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. What is being addressed in this document?

The EPA is proposing to approve revisions to the Iowa SIP and the Operating Permits Program received on October 20, 2021. The revisions incorporate recent changes to Iowa Administrative Code. The following chapters are impacted:

- Chapter 20, ''Scope of Title—Definitions;''
- Chapter 22, ''Controlling Pollution;''
- Chapter 23, ''Emission Standards for Contaminants;'' and
- Chapter 25, ''Measurement of Emissions.''

The proposed revisions update incorporations by reference to EPA methods for measuring air pollutant emissions, performance testing (stack testing) and continuous monitoring. EPA proposes to find that these revisions meet the requirements of the Clean Air Act, do not impact the stringency of the SIP, and do not adversely impact air quality. The full text of these changes can be found in the State's submission, which is included in the docket for this action.

Sections 111 and 112 of the Clean Air Act (CAA) allow EPA to delegate authority to states for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPs). EPA has delegated authority to Iowa for approved portions of these sections of the CAA. Changes made to Iowa's Chapter 23 pertaining to new and revised NSPS and NESHAPs are not directly approved into the SIP, but rather, are adopted by reference. Thus, EPA is not proposing to approve the changes to Chapter 23 of the Iowa Administrative Code into the state's SIP.

III. What SIP revisions are being proposed by EPA?

The EPA is proposing the following revisions to the Iowa SIP:

Chapter 20, Subrule 20.2, Scope of Title—Definitions: The state revised the definition of ''EPA reference method'' to adopt the most current performance test (stack test) method as specified in 40 CFR part 51, appendix M (as amended or corrected through October 7, 2020); 40 CFR part 60, appendix A (as amended or corrected through October 7, 2020); 40 CFR part 61, appendix B (as amended or corrected through October 7, 2020); and 40 CFR part 63, appendix A (as amended or corrected through December 2, 2020). This subrule was also revised to adopt the most current minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems as specified in 40 CFR part 60, appendix B (as amended or corrected through October 7, 2020); 40 CFR part 60, appendix F (as amended or corrected through October 7, 2020); 40 CFR part 75, appendix A (as amended or corrected through August 30, 2016); 40 CFR part 75, appendix B (as amended or corrected through August 30, 2016); and 40 CFR part 75, appendix F (as amended or corrected through August 30, 2016). The proposed update will ensure that state reference methods are equivalent to Federal reference methods; thus, EPA proposes to approve this change.

Chapter 25, Subrule 25.1(9) Measurement of Emissions: As discussed above, the State similarly revised subrule 25.1(9),''Methods and Procedures,'' to adopt the performance test (stack test) and continuous monitoring systems as specified in 40 CFR part 51, appendix M (as amended or corrected through October 7, 2020); 40 CFR part 60, appendix A (as amended or corrected through October 7, 2020); 40 CFR part 61, appendix B (as amended or corrected through October 7, 2020); 40 CFR part 63, appendix A (as amended or corrected through December 2, 2020); 40 CFR part 60, appendix B (as amended or corrected through October 7, 2020); 40 CFR part 60, appendix F (as amended or corrected through October 7, 2020); 40 CFR part 75, appendix A (as amended or corrected through August 30, 2016); 40 CFR part 75, appendix B (as amended or corrected through August 30, 2016); and 40 CFR part 75, appendix F (as amended or corrected through August 30, 2016). The proposed update will ensure that state reference methods are equivalent to Federal reference methods; thus, EPA proposes to approve this change.

IV. What operating permit plan revisions are being proposed by EPA?

The EPA is proposing to approve the following revision to the Operating Permit Program:

Chapter 22, subrule 22.100(455B): Also as discussed above, the definition of ''EPA reference method'' has similarly been revised in definitions for the operating permits program to adopt performance test (stack test) and continuous monitoring systems specified by EPA in 40 CFR part 51, appendix M (as amended or corrected through October 7, 2020); 40 CFR part 60, appendix A (as amended or corrected through October 7, 2020); 40 CFR part 61, appendix B (as amended or corrected through October 7, 2020); 40 CFR part 63, appendix A (as amended or corrected through December 2, 2020), 40 CFR part 60, appendix B (as amended or corrected through October 7, 2020); 40 CFR part 60, appendix F (as amended or corrected through October 7, 2020); 40 CFR part 75, appendix A (as amended or corrected through August 30, 2016); 40 CFR part 75, appendix B (as amended or corrected through August 30, 2016); and 40 CFR part 75, appendix F (as amended or corrected through August 30, 2016). Referencing the updated method will ensure that state methods are equivalent to federal reference methods; thus, EPA proposes to approve this change.

V. Have the requirements for approval of a SIP and the operating permit plan revisions been met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from June 16, 2021, to July 19, 2021, and held a public hearing on July 19, 2021. No public comments were received. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

VI. What action is the EPA taking?

The EPA is proposing to amend the Iowa SIP and the Operating Permits Program by approving the State's request to update the definitions of ''EPA Reference Method'' in Iowa Administrative Code Chapter 20, ''Scope of Title—Definitions;'' Chapter 22, ''Controlling Pollution;'' and Chapter 25, ''Measurement of Emissions.'' We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

VII. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Iowa rules 567–20.2, 567–22.100 and 567–25.1 as described in Sections II–IV of this preamble and set forth below in the proposed amendments to 40 CFR part 52. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VIII. Statutory and Executive Order Reviews

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian

country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: June 8, 2022.

Meghan A. McCollister,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR parts 52 and 70 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q—Iowa

■ 2. In § 52.820, the table in paragraph (c) is amended by revising the entries ''567–20.2'' and ''567–25.1'' to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
Chapter 20—Scope of Title—Definitions				
*	*	*	* *	* *
567–20.2	Definitions	10/13/2021	[Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule].	The definitions for ''anaerobic lagoon,'' ''odor,'' ''odorous substance,'' ''odorous substance source'' are not SIP approved.
*	*	*	* *	* *
Chapter 25—Measurement of Emissions				
567–25.1	Testing and Sampling of New and Existing Equipment.	10/13/2021	[Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule].	
*	*	*	* *	* *

* * * * *

PART 70—STATE OPERATING PERMIT PROGRAMS

■ 3. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

■ 4. Appendix A to part 70 is amended by adding paragraph (x) under ''Iowa'' to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Iowa

* * * * *

(x) The Iowa Department of Natural Resources submitted for program approval revisions to rules 567–22.100. The state effective date for 567–22.100 is October 13, 2021. This revision is effective [date 60 days after date of publication of the final rule in the **Federal Register**].

* * * * *

[FR Doc. 2022–12716 Filed 6–16–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0396; FRL–9929–01–OCSPP]

Receipt of a Pesticide Petition Filed for Residues of a Pesticide Chemical in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Filing of petition and request for comment.

SUMMARY: This document announces EPA's receipt of an initial filing of a pesticide petition requesting the establishment or modification of regulations for residues of a pesticide chemical in or on various commodities.

DATES: Comments must be received on or before July 18, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2021–0396, through the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. For the latest information on EPA/DC docket access, services and submitting comments, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Biopesticides and Pollution Prevention Division (7511M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1400; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, EPA seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

II. What action is EPA taking?

EPA is announcing receipt of a pesticide petition filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of a pesticide chemical in or on various food commodities. EPA is taking public comment on the request before responding to the petitioner. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petition described in this document contains data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition that is the subject of this document, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available at *https://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of a pesticide chemical in or on various food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

PP 1F8901. Plant Health Care Inc., 242 South Main St., Suite 216, Holly Springs, NC 27540, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the fungicide PDHP 25279 in or on growing crops or seeds. The petitioner believes no analytical method is needed because, considering the lack of toxicity observed in toxicology studies, it is expected that, when used as proposed, PDHP 25279 would not result in residues that are of toxicological concern.

Authority: 21 U.S.C. 346a.

Dated: June 9, 2022.

Charles Smith,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2022–12809 Filed 6–16–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 21–450, 20–445; DA 22–574; FR ID 89883]

Affordable Connectivity and Emergency Broadband Benefit Program

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; request for comments.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on petition for reconsideration and clarification filed by the National Lifeline Association.

DATES: Comments are due on or before July 18, 2022 and reply comments are due on or before August 1, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed as soon as possible.

ADDRESSES: Interested parties are invited to file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S-. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD

20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

▪ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19.

People with Disabilities. 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 & Government Affairs Bureau at 202–418–0530 (voice, 202–418–0432 (tty).

Ex Parte Rules. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenters written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission's rules. In proceedings governed by section 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml., .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

FOR FURTHER INFORMATION CONTACT: Ross Fisher, Wireline Competition Bureau, 202–418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Public Notice in WC Docket Nos. 21–450, 20–445, DA 22–574, released May 23, 2022. Due to the COVID–19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following internet address: *https://docs.fcc.gov/public/attachments/DA-22-574A1.pdf.*

Synopsis

1. The Wireline Competition Bureau (Bureau) seeks comment on a petition filed by the National Lifeline Association (NaLA). NaLA seeks clarification of the Bureau and Enforcement Bureau Chiefs' authority to suspend a participating provider's Affordable Connectivity Program (ACP) enrollments and hold a participating provider's funding based on the ''adequate evidence'' standard, or in the alternative, reconsideration of the removal rule (47 CFR 54.1801(e)(2)). NaLA also seeks reconsideration or clarification of the requirement that an ACP participating provider offering connected devices provide price information for at least one of the analogous devices from a major retailer.

Federal Communications Commission.

Cheryl Callahan,

Assistant Chief, Telecommunications Access Policy Division, Wireline Competition Bureau.

[FR Doc. 2022–12456 Filed 6–16–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[OMB Docket No. 03–185; FCC 22–40; FR ID 91304]

Amendment of the Commission's Rules To Establish Rules for Digital Low Power Television and Television Translator Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: In this Fifth Notice of Proposed Rulemaking (NPRM), FCC 22–40, released June 7, 2022, the Commission seeks comment on the operation of analog FM radio services by channel 6 digital low power television stations. The Commission also seeks comment on a proposal by National Public Radio to license additional noncommercial educational FM radio stations on 82–88 MHz in areas where channel 6 low power television and full-power stations are currently not operating. Finally, the Commission seeks comment on whether to eliminate or revise the television channel 6 distance separation rules for FM radio stations operating on reserved band FM channels 201–220.

DATES:

Comment Date: July 18, 20220.

Reply Comment Date: August 1, 2022.

ADDRESSES: You may submit comments, identified by MB Docket No. 03–185, FCC 22–40, by any of the following methods:

▪ *Federal Communications Commission's Website: https://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.

▪ *Mail:* Office of the Secretary, Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

▪ *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, Media Bureau, at (202) 418–2324 or *Shaun.Maher@fcc.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail

and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

• Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

People with Disabilities: 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 & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Paperwork Reduction Act of 1995 Analysis: This document proposes new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens and pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13, invites the general public and the Office of Management and Budget (OMB) to comment on these information collection requirements. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

1. In this NPRM, the Commission seeks comment on the operation of analog FM radio services by channel 6 digital low power television stations (FM6 operations). The Commission has been considering this issue since 2014, when, in the LPTV DTV Third NPRM in this proceeding, it sought comment on whether to allow analog channel 6 low power television (LPTV) stations to provide FM6 operations after they converted to digital operations on July 13, 2021—the LPTV digital transition deadline. The Commission asked if LPTV stations operating on digital channel 6 could be allowed to continue their FM6 radio operations on an ancillary or supplementary basis.

2. The LPTV digital transition is now complete, with analog television operations terminated and channel 6 LPTV stations operating in digital. However, the Commission has granted STAs to 13 channel 6 LPTV stations to continue providing analog FM6 service. In these circumstances, the Commission seeks comment on whether allowing continued FM6 analog radio operations by existing digital channel 6 LPTV stations serves the public interest. In addition, the Commission seeks comment on whether to eliminate or revise the television channel 6 (TV6) distance separation rules for low power FM (LPFM), noncommercial educational (NCE) FM, Class D (10 watt) FM, and FM translator stations operating on reserved band FM Channels 201–220.

Public Interest Benefits of Continued FM6 Operations

3. With the LPTV digital transition complete, the Commission seeks comment on whether it is in the public interest to allow continued FM6 operations in the digital LPTV world, and whether it should be authorized to continue in any capacity. Throughout this proceeding, FM6 supporters have trumpeted the merits of FM6 operations by maintaining that they provide diverse, niche, and local programming that is not otherwise available in the stations' communities. The FM6 stations state that ''[t]he multi-dimensional use of analog channel 6 has given a voice to diverse constituencies and ethnic groups unable to find a home anywhere else on the FM dial.'' Importantly, FM6 commenters state that their LPTV television stations provide vital video content including weather, traffic, community event calendars, news and sports tickers and more.

4. Prior to the LPTV digital transition, the Commission estimates that there were close to 30 FM6 stations, based on representations made in the record in this proceeding. Today, it is believed that only 13 FM6 stations remain, in light of the impact on digital transition on channel 6 operations. The Commission seeks comment on whether this belief is correct and whether the reduction in the number of FM6 stations is the result of stations having to convert to digital last year. In addition, the Commission seeks comment on the extent to which in the post-LPTV digital transition world, consumers rely on FM6 programming. It is noted that the Commission has historically been reluctant to regulate based upon programming decisions made by broadcasters. With that policy in mind, the Commission reminds commenters that FM6 station programming can be changed—FM6 stations, like other broadcast stations, are not required to air any particular type of programming. Thus, even to the extent that some of these stations do provide useful programming to local and niche audiences, that could change at any time. The Commission also notes that many FM6 stations have longstanding programming with entrenched audiences. The Commission seeks comment on whether these programming concerns should enter into our public interest analysis of FM6 services.

5. The Commission asks commenters to weigh the current radio programming benefits of FM6 stations against the lost opportunities from expanded adjacent NCE FM service or digital LPTV service on channel 6. For example, the Channel 6 Commenters maintain that LPTV licensees should be allowed to make ''the most efficient use of spectrum'' by providing FM6 services on an ancillary or supplementary basis. PCPC argues that allowing digital television stations to offer additional services on existing channels is efficient spectrum use. On the other hand, FM6 opponents contend that FM6 operations are not an efficient use of spectrum—using a full 6 MHz television channel to provide a 200 KHz aural service is not, according to these commenters, maximizing the potential of this scarce resource. In addition, opponents argue that because there are no programming rules for LPTV stations, FM6 stations could, in the absence of such requirements, provide only minimal visual programming. While the Commission notes that providing visual programming has been a condition of the current FM6 STAs, it recognizes that some FM6 stations have a history of such minimal video service. These opponents also argue that FM6 is at odds with the underlying statutory purpose of permitting ancillary or supplementary services: to enhance the use of existing spectrum, consistent with the Commission's basic statutory responsibility to manage the radio-frequency spectrum in the public interest. The Commission seeks comment on these assertions and whether continued FM6 operation is an efficient use of Commission spectrum. Does allowing continued analog FM6 operations comport with recent Commission efforts to adopt more efficient and innovative use of digital television spectrum?

6. To the extent that FM6 programming is fulfilling a programming need, the Commission seeks comment on whether it could be provided through other means of delivery. Specifically, the Commission seeks comment on whether FM6 programming could be delivered as a

digital audio-only stream on one of the LPTV station's multicast channels, via a lease of digital subchannels on local FM or LPFM stations, through the internet, or by entities obtaining an FM or LPFM radio license. Would these alternatives be more spectrally efficient? What is unique about FM6 operations that merits continued service through its existing means of delivery?

FM6 Operations as Ancillary or Supplementary Services

7. The Commission has twice sought comment on whether FM6 operations comply with the ancillary or supplementary provisions in the Act and the Commission's rules, whether the operation of analog FM radio services in conjunction with a digital television service would cause impermissible interference to other licensees, and, if permitted to continue, how best to authorize FM6 operations. The Commission once again seeks comment on these issues and whether and how recent developments in the LPTV service should affect its analysis.

Compliance With the Communications Act and Commission Rules

8. If the Commission permits FM6 operations as an ancillary or supplementary service, it seeks comment on whether to adopt a rule to formally authorize such operations and whether such a rule should include provisions requiring FM6 operations be subject to any or all of the conditions that were included in the FM6 engineering STAs. Throughout this proceeding, the Commission has asked whether a digital LPTV station can provide an analog FM radio-type service as an ancillary or supplementary service consistent with the Act and our rules. The Commission specifically focused on the rule requirement that digital LPTV stations, when operating, must transmit an over-the-air video program signal at no direct charge to viewers. In addition, the Commission has pointed to section 336(b)(1) of the Act that mandates that the Commission permit ancillary or supplementary services only ''if the use of a designated frequency for such services is consistent with the technology or method designated by the Commission for the provision of advanced television services.'' The Commission questioned whether a digital LPTV station offering FM6 services on an ancillary or supplementary basis would be able to satisfy these requirements.

9. Would adopting a rule for FM6 operations that would codify conditions like those found in the FM6 engineering STAs help satisfy compliance with these rule and statutory provisions? As noted above, the engineering STAs that FM6 stations are currently operating under contain conditions including: (1) a requirement that FM6 operations be conducted in ATSC 3.0 digital format; (2) FM6 operations may only be conducted on 87.75 MHz; (3) no interference is permitted to any other licensed user, including but not limited to broadcast television or radio users; (4) the station's audio and video coverage must reach similar populations; (5) the station must submit written reports, 90 days from the date of grant of the STA and again 180 days later detailing any reports of interference and a demonstration that the station's audio and video coverage reach similar populations; (6) the station must provide at least one stream of synchronized video and audio programming on the ATSC 3.0 portion of the spectrum on a full time (24x7) basis; (7) the station's technical facilities may not be modified; and (8) the station may not be assigned or transferred. The Commission seeks comment on whether to require that FM6 stations operate subject to a similar set of rules, with some modifications and omissions and in the proposed rule, as a means to resolve the outstanding issues surrounding FM6 operations as an digital LPTV station's ancillary or supplementary service.

10. *ATSC 3.0, 87.75 MHz and No Interference Requirements.* The Commission proposes that FM6 stations be operating in ATSC 3.0 digital format; that FM6 operations may only be conducted on 87.75 MHz; and that no interference be permitted to any other licensed user, including but not limited to broadcast television or radio users. By adopting a rule that authorizes service pursuant to these requirements, the Commission seeks to prevent the types of interference that were a concern for FM6 stations operating in ATSC 1.0. As discussed more fully below, unlike ATSC 1.0, the ATSC 3.0 digital format appears to be more configurable and allows for the digital TV signal to be made narrower purportedly helping to overcome the harmful interference to FM radio stations that FM6 opponents suggest could emanate from FM6 operations. The Commission seeks comment on these rule provisions.

11. Separately, the Commission seeks comment on whether requiring FM6 services to be conducted only in conjunction with an ATSC 3.0 digital operation also has the benefit of satisfying the requirement of section 336(b)(1) of the Act that the ''use of a designated frequency for [ancillary or supplementary] services is consistent with the technology or method designated by the Commission for the provision of advanced television services.'' Specifically, commenters were asked to address whether and how analog use of a digital channel is ''consistent with'' the digital technology mandated by the Commission for the provision of advanced television services. FM6 opponents have maintained throughout this proceeding that a digital LPTV station providing FM6 services was not consistent with existing the ATSC digital standard, which at the time they commented was ATSC 1.0. They contended that a revision to the digital standard would have to be adopted in order for FM6 to be permitted. FM6 stations disagreed, saying digital LPTV stations providing an analog FM radio service would be in compliance with the Commission's digital broadcast television transmission standard as set forth in section 74.795(b) of the rules that provides that digital transmitters be designed to produce digital television signals that can be ''satisfactorily viewed'' on consumer receiving equipment based on the digital broadcast television transmission standard in section 73.682(d) the rules. FM6 stations argued that they would provide a ATSC 3.0 digital television signal that would meet the requirements of section 74.795(b) in addition to the separate analog FM radio signal.

12. Has the fact that FM6 services are now being offered via ATSC 3.0 digital stations changed these arguments? The Commission notes that the ATSC 3.0 standard also does not have a provision specific to FM6. And, as NPR notes, in the Commission's ATSC 3.0 R&O released in December 2020, the Commission amended the definition of the minimum standard definition digital television signal for full-power stations, removed all references to the analog standard, and confirmed that it ''continue[d] to 'expect that the fundamental use of the 6 MHz DTV license will be for the provision of free over-the-air television service.' '' Given the fact that analog television is now truly a legacy service, does operation of an analog FM radio service on an ATSC 3.0 digital channel meet the requirements of section 336(b)(1) of the Act? Furthermore, should the fact that the number of U.S. households that possess an ATSC 3.0 capable television receiver remains limited affect our determination?

13. *Similar Coverage and One Free Synchronized Stream Requirements.* The Commission proposes that FM6 stations comply with the following operational requirements: the FM6 coverage area must be contained within

and may not exceed the coverage area of the LPTV station's synchronized video/audio programming stream; and the LPTV station must provide at least one stream of synchronized video and audio programming on the ATSC 3.0 portion of the spectrum, at any time the station is operating. By requiring that the station's FM6 coverage not exceed its video coverage, and that stations provide at least one stream of synchronized video and audio programming on the digital portion of the spectrum at any time the station is operating, the Commission seeks to ensure that the spectrum is being used efficiently and in the public interest.

14. Conditions similar to these provisions were included in the FM6 engineering STAs. The requirement that the LPTV station's FM6 and video coverage reach similar populations was imposed to address the concerns of FM6 opponents that FM6 stations would configure their LPTV station's technical facilities in such a manner that would favor their FM6 operation over their digital TV operation. The Commission proposes a similar provision here that would limit the FM6 coverage area to not greater than the LPTV station's coverage area for similar reasons and it believes this limit will help to allay these concerns and ensure that digital LPTV stations providing FM6 operations continue to focus their attention on the operation of their digital LPTV station—the primary purpose of their station license. The Commission seeks comment on this proposal.

15. As for its proposed rule provision requiring that FM6 stations provide at least one stream of synchronized video and audio programming on the ATSC 3.0 portion of the spectrum, at any time the station is operating, a similar condition was included in the FM6 engineering STAs. The Commission proposes to adopt a slightly different version in our FM6 rules. The STA condition required that the one stream of synchronized video and audio programming be provided on ''a full time (24x7) basis.'' Because the Commission's rules provide that LPTV stations are ''not required to adhere to any regular schedule of operation,'' the Commission finds it more appropriate to propose a revised version of this condition that requires that FM6 stations provide at least one stream of synchronized video and audio programming on the ATSC 3.0 portion of the spectrum ''at any time the station is operating.'' The reason the synchronized video and audio programming condition was originally imposed on the FM6 engineering STAs was to ensure that digital LPTV stations providing FM6 operations continued to provide adequate television service to viewers. Prior to the LPTV digital television transition in July 2021, when FM6 operations were being conducted as part of the LPTV station's analog channel 6 operation, most FM6 stations were not offering any type of meaningful television service. Because the audio signal for their analog TV station was dedicated to providing the FM6 service, these stations would often times offer minimal television service on their stations such as community bulletin boards. FM6 stations appeared to be focusing their resources on their radio FM6 operation over their television operation. The Commission seeks comment on whether requiring the FM6 stations be subject to the separate synchronized video and audio programming requirement will address the concerns of FM6 opponents and ensure that FM6 stations continue to provide adequate television service to viewers.

16. *Limits on Technical Modifications.* The Commission proposes to adopt a rule, similar to the condition contained in FM6 engineering STAs, that would limit LPTV stations providing FM6 operations from modifying their facilities during the time that FM6 operations are being conducted. This condition was placed on FM6 engineering STAs in an effort to ''lock'' the FM6 station facilities in place while they were being operated pursuant to STA to prevent the station from making changes to their facilities that could impact the potential for interference from FM6 operations to other users. The Commission seeks comment on whether codification of such a modification limit could be a useful way to prevent FM6 stations from causing interference. By locking FM6 stations into their existing facilities, that have already been shown to not cause interference, the Commission would seek to preserve the status quo and prevent technical changes that could upset the current interference-free environment. The Commission proposes to define ''existing facilities'' as the FM6 station's licensed technical facilities on the release date of this NPRM. While the Commission is required to consider requests for waivers of its rules, it also seeks comment on whether to provide for an exception to this rule that would allow for technical modifications if certain criteria are met. The Commission seeks comment on such criteria, such as a showing of no potential interference to affected licensees and/or a demonstration that all affected licensees have consented to the modification. The Commission seeks comment on these issues.

17. *Transfers.* In the STAs, the Commission limited FM6 stations from being transferred while FM6 operations are being conducted. The Commission seeks comment as to whether inclusion of such a limit in its FM6 rules would serve the public interest. The Media Bureau imposed this condition in an effort to prevent parties from seeking to operate an FM6 station without any intention of continuing FM6 operations and for the sole purpose of immediately selling the station to another party. Given the fact that the Commission is proposing to limit FM6 to only those stations that are providing FM6 operations on the release date of this NPRM, and thereby preventing parties from ''speculating'' in FM6 stations, it seeks comment as to whether inclusion of a limitation on transfer of FM6 stations in its rules would serve the public interest.

18. *Periodic Reporting.* As a condition to their FM6 STAs, FM6 stations were required to submit reports, 90 and 180 days after the grant of their STAs, detailing any reports of interference and a demonstration that the station's FM6 and video coverage reach similar populations. The Media Bureau included this reporting requirement in the FM6 engineering STAs so that it could monitor the ongoing STA operations of FM6 stations for reports of interference and to see if FM6 stations were complying with the condition that their digital television and analog FM radio operations were serving similar populations. The Commission is now proposing to adopt rule provisions that would mandate that FM6 operations be conducted without interference to other users and that an FM6 station's FM6 and video coverage reach similar populations. Accordingly, the Commission tentatively concludes that such a reporting requirement is not necessary given the force and effect of our proposed FM6 rule. It seeks comment on this tentative conclusion.

Potential for Interference

19. Throughout this proceeding, concern about the potential for analog FM6 operations to interfere with or disrupt the LPTV station's digital TV service has been paramount. Section 336(b)(2) of the Act provides that the Commission shall ''limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services, including high definition television broadcasts, that the Commission may

require using such frequencies.'' The Commission has also sought comment on whether the analog FM6 radio transmitter could cause interference to FM radio licensees. FM6 opponents previously expressed concern about the potential for interference, citing studies conducted in 2014 by Linley Gumm and Charles Rhodes to support their claims. FM6 stations responded that there had not been a single report of interference from the numerous FM6 stations operating their LPTV stations in analog mode. FM6 opponents counter that lack of current interference is not probative given the existence of Commission rules preventing interference.

20. The Commission recognizes that previous questions and analysis about the potential for FM6 interference were based on the assumption that the digital LPTV station would be operating in ATSC 1.0. However, all existing FM6 stations are instead operating in ATSC 3.0 digital mode and there have been no reports of interference from these stations. The results of a more recent 2019 ''Perry Priestly'' study submitted by PCPC seem to show that, unlike ATSC 1.0, the ATSC 3.0 digital format is more configurable and allows for the TV signal to be made narrower to reduce that interference and/or have its settings modified to have increased error correction, helping it overcome such interference. Thus, PCPC concludes ''stations that transition directly to the ATSC 3.0 standard can provide both the most robust video signals available today and a strong analog audio signal.''

21. In light of this more recent study, the Commission seeks comment on whether the fact that FM6 stations are operating in ATSC 3.0 digital mode changes the potential for their analog FM6 operations to interfere with or disrupt the LPTV station's ATSC 3.0 digital TV service. The Commission seeks to determine if an ATSC 3.0 digital LPTV station will be able to operate an analog FM radio transmitter without interfering or derogating its co-channel digital operation. The Commission observes that the Perry Priestly study indicates that an ATSC 3.0 station would typically reduce the width of its digital TV signal and/or increase the level of error correction to make this operation possible, both of which would seem to reduce the amount of available throughput of the ATSC 3.0 signal. The Commission seeks comment on whether these changes in configuration constitute a ''derogation'' of its digital operation. Should the Commission decide to allow FM6 operations, should it be limited to those stations operating in ATSC 3.0? As before, the Commission encourages commenters to study the question of FM6 interference and to provide the results of these studies in their comments.

Application of Part 73 FM Radio Rules

22. If the Commission decides to permit digital channel 6 LPTV stations to provide analog FM6 services on an ancillary or supplementary basis, it must still resolve the outstanding question of whether such operations should be subject to the Part 73 rules applicable to FM radio stations. Section 336(b)(3) of the Communications Act mandates that the Commission ''apply to any other ancillary or supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person . . . .'' Commenters previously maintained that the Commission, as part of its decision in this proceeding, would need to amend its Part 73 and 74 rules to accommodate the FM6 service.

23. The Commission once again seeks comment on whether FM6 operations are ''analogous to other services subject to regulation by the Commission'' within the meaning of section 336(b)(3) of the Act and the Commission's implementing rules and, if so, which of the Part 73 rules should apply to FM6 operations. The Commission previously asked whether it should apply to FM6 operations the Part 73 rules requiring that an FM radio station file an application for a construction permit and license to operate, that stations be located on channels 88.1 MHz through 107.9 MHz, that primary FM channels be allotted through rulemaking, that such stations maintain a public inspection file, and that the use of such frequencies in border areas be coordinated with Canada and Mexico. The Commission seeks comment on whether these questions are still relevant, whether other Part 73 rules, including technical rules, should apply, and whether its analysis should be affected by the fact that it may limit channel 6 LPTV stations providing FM6 services to operating only in ATSC 3.0 digital mode and from modifying their technical facilities while providing FM6 operations.

Application of Five Percent Ancillary or Supplementary Fee

24. To the extent it permits digital channel 6 LPTV stations to provide FM6 services on an ancillary or supplementary basis, the Commission must resolve the question of whether FM6 services should be subject to a five percent fee. The ancillary or supplementary rule provides that digital television stations ''must annually remit a fee of five percent of the gross revenues derived from all ancillary and supplementary services . . . which are feeable . . . .'' ''Feeable'' services are defined as ''[a]ll ancillary or supplementary services for which payment of a subscription fee or charge is required in order to receive the service.'' ''Feeable'' services are also defined as ''[a]ny ancillary or supplementary service for which no payment is required from consumers in order to receive the service . . . if the DTV licensee directly or indirectly receives compensation from a third party in return for the transmission of material provided by that third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required).'' As previously observed, FM6 operations, thus far, appear to have been available to the general public without subscription. Comments were previously split on this question. Because FM6 services are provided free of charge, some commenters believed that no fee should apply. Other commenters argued that, because the FM6 operation is not available on a DTV receiver, and can be only be received on a separate FM radio receiver, we should view FM6 operations as ''point-to-point or point-to-multi point'' operation that section 73.624(c) of the rules describes as an ''ancillary or supplementary'' service. Channel 6 Commenters agreed that ''a supplementary 87.7 MHz audio signal qualifies as an ancillary service, which entitles the government to 5% of its revenue.''

25. The Commission seeks comment on whether, and under what circumstances, an LPTV station's ancillary or supplementary FM6 service provided without a subscription fee should be deemed ''feeable'' and subject to the five percent fee. To the extent an LPTV station leases its spectrum to a third party to provide the programming transmitted using FM6 and receives compensation from that third party, such FM6 operation would be feeable under section 336(e)(1)(B) of the Act because the station ''receives compensation from a third party in return for transmitting material furnished by such third party.'' In a scenario, however, where the FM6 station does not lease its spectrum and instead itself provides a free, over-the-air radio service without a subscription fee, is there any basis to deem such a service ''feeable'' and thus subject to the five percent fee? The Commission seeks comment on this issue.

Limiting FM6 to Existing Operators

26. If the Commission decides to allow FM6 operations to continue in the future, it proposes to limit the scope of FM6 operations to only those LPTV channel 6 stations with ''active'' FM6 engineering STAs on the release date of this NPRM. The Commission proposes to define ''active'' as an initial engineering STA that is granted and unexpired or a request for extension of an engineering STA that is granted or pending at the time of the release date of this NPRM. The Commission seeks comment on this proposal. The Commission assumes that stations holding an active FM6 STA or with a pending FM6 STA extension request are actually providing FM6 service to the public. It seeks comment on this assumption and whether there are other measures it should take to ensure its rules cover only those stations actually providing FM6 service to the public on the release date of this NPRM.

27. The record is filled with examples of local, niche programming being provided by FM6 stations and we seek to minimize disruption to listeners that have come to rely on these services. Limiting the number of FM6 stations to those currently in operation (and that have demonstrated that they do not cause interference to other users) and limiting the technical modifications permitted by these stations could also help to serve our goal of preventing harmful interference to other services. Would such a limitation allay the concerns of some commenters that have opposed FM6 operations?

28. Would this limitation also ensure continued service to consumers who have relied upon this service? With regard to any parity concerns of limiting FM6 authorization to existing FM6 stations, the Commission notes that all channel 6 LPTV stations had the opportunity to provide an FM analog service and chose not to do so. Moreover, the Commission's examination of whether to permit the continuation of such services has extended over decade, so it believes that all channel 6 LPTV stations have been placed on adequate notice of a potential change in Commission rules. Further, if a channel 6 LPTV station has not requested that the Commission permit it to continue to provide FM6 operations by now (since terminating analog operations in July 2021), it seems unlikely that there is consumer reliance on the programming. The Commission seeks comment on this proposal, other cut-off dates, or alternate ways to limit eligibility to ensure continued service to the established listeners of FM6 operations.

29. The Commission seeks comment on whether it should also permit FM6 operations by LPTV stations that, as of the release date of this NPRM, have pending applications for construction permits and that have a significant history of providing FM6 to the public to also be grandfathered. We recognize that there may be a limited number of stations that stopped providing FM6 service in July 2021, at the time of the LPTV digital transition, but intend to resume such service once new facilities are approved and constructed. Would permitting such stations to resume providing FM6 services, subject to the conditions discussed above, be consistent with the rationale discussed above to ensure continued service to consumers who have relied upon this service? Are the conditions discussed above adequate to address any technical concerns? Because such stations are not yet operational, does the Commission need to consider additional technical conditions to address unforeseen potential interference? The Commission seeks comment on the implications of expanding the scope of continued FM6 service in this manner.

Licensing Additional NCE FM Stations

30. The Commission also takes this opportunity to seek comment on National Public Radio's (NPR) proposal to repurpose television channel 6 (TV channel 6) spectrum (82–88 MHz) for FM services in locations where the channels are not being used to provide ''actual television programming.'' As previously described, NPR believes that the continued use of a digital TV channel 6 to provide an analog FM radio service (aka FM6) is contrary to the statute and poor public policy. Instead, NPR contends, ''TV channel 6 spectrum is a valuable resource the Commission should use to expand opportunities for existing and prospective radio broadcasters whose demand for spectrum cannot be satisfied in the crowded FM radio band.'' Specifically, NPR maintains that the spectrum occupied by a single TV channel 6 station could potentially accommodate up to 30 new FM stations, exponentially increasing the variety of programming available for a diverse audience. Repurposing this spectrum to allow new FM radio stations to be authorized, NPR maintains, would increase the diversity of voices and programming available to the public and be a ''far better use of a scarce resource'' than the analog audio operations (FM6) that exist in some locations today. NPR also argues that it would increase the opportunities for diverse providers to provide local public interest programming for unserved and underserved audiences, especially in the rural parts of the country. The Commission seeks comment on these issues.

31. If it decides to allow new FM stations to operate on 82–88 MHz, the Commission seeks comment on whether such stations should be limited to noncommercial educational (NCE) FM stations or whether commercial FM stations should be allowed to operate on these new frequencies as well, consistent with TV6 stations currently occupying this spectrum. The Commission notes that the adjacent FM channels 201–220 (87.9 MHz to 91.9 MHz) are reserved for NCE FM station use. The Commission seeks to determine whether to adopt a similar restriction were it to allow additional FM stations to operate on 82–88 MHz.

32. The Commission invites commenters to study the current use of TV channel 6 by television broadcasters and the extent to which TV channel 6 could accommodate additional FM radio stations without causing interference to existing TV channel 6 licensees. The Commission also seeks comment on the technical feasibility of NPR's proposal. First, it notes that, although there are in theory 30 available 200 kHz FM radio channels in the band that comprises TV channel 6, in practice, it would not be possible to use all 30 channels in one place given interference considerations. Practically speaking, the number of channels for use by new FM radio stations in any one area would be significantly less. The Commission seeks comment on whether this technical reality should affect its consideration of NPR's proposal. Furthermore, the Commission seeks comment on whether NPR's argument, that FM6 is not an efficient use of spectrum, would be allayed by its proposal to limit FM6 operations to only the limited number of TV channel 6 LPTV stations that are currently providing such services and to further require that such stations provide a separate video offering at all times they are providing FM6 operations.

33. In addition, the Commission seeks comment on whether radio listeners will be able to receive new FM radio stations on the frequencies that NPR suggests should be allowed for new FM radio station operations—82–88 MHz. The Commission notes that FM radio receivers currently only receive the top-most portion of the 82–88 MHz band (87.7 or 87.9 MHz) of the 6 MHz channel that comprises TV channel 6. Today's FM radio receivers cannot tune down to the rest of the spectrum—82.1–

87.5 MHz. The Commission invites comment on how this technical roadblock should influence our consideration of this issue. The Commission also seeks comment on whether changes would need to be made to the Domestic Table of Frequency Allocations (Table) to reflect this change. The Commission notes that the 76–88 MHz band is generally allocated as ''Broadcasting'' but seek comment on whether the Table contemplates radio uses at 82–88 MHz. In addition, should it adopt NPR's proposal, the Commission seeks comment on whether there are other technical issues to consider such as the establishment of separation distances for co-channel operations.

34. Finally, the Commission seeks comment on the benefits of expanding FM radio service to all of TV channel 6 to create new FM radio stations versus the costs of precluding existing TV stations from using the currently unused locations where TV channel 6 is viable and foreclosing new TV stations on channel 6. The Commission also seeks comment on how allowing additional FM radio stations on the 82–88 MHz band would affect other entities that use these frequencies including wireless microphones and white space device users. Finally, the Commission notes that one of its concerns about authorizing the continued provision of FM6 services is the interference potential they may pose. The Commission addresses this concern through its proposal of limiting any technical modifications by these FM6 stations. The Commission seeks comment on the potential for interference if it permitted new FM radio services as contemplated by NPR. Would such services pose the threat of interference with existing services in this band? If so, how should these concerns be mitigated to extent the Commission pursues such an expansion?

Elimination of TV6 Interference Protection

35. The Commission seeks comment on an issue that the Commission previously raised and that is related to its consideration of whether to permit continued FM6 operations. That is the question of whether to completely eliminate the television channel 6 (TV6) distance separation (interference protection) rules for Low Power FM radio (LPFM), NCE FM radio, Class D FM radio (10 watt), and FM translator stations operating on reserved band FM channels 201–220, or to alternatively revise and update them for a post-digital transition world. The Commission last considered this issue in the context of its efforts to improve the LPFM technical rules based on suggestions made by REC Networks in a 2018 petition for rulemaking. The Commission seeks comment on this issue now that the LPTV digital transition is complete and all TV6 stations are no longer operating in analog, and in light of our proposals related to FM6 in this proceeding.

36. To provide LPFM stations relief from TV6 protection rules, the Commission, in its LPFM NPRM, proposed to eliminate TV6 protections entirely on July 13, 2021—the date of the LPTV digital transition. The Commission noted that it had been requiring FM stations on channels 201 to 220 to protect television stations operating on TV6 since 1985. The Commission cited to REC Networks arguments that the LPFM TV6 protection rules ''significantly overprotect TV6 stations and could be reduced with little impact.'' REC Networks pointed out that this was because the rules were designed when television was operating with analog technology. The Commission also noted studies performed by NPR in conjunction with the 2009 digital television transition that showed that newer digital television technologies have better filters and synchronous detection to reject unwanted FM signals. The Commission tentatively accepted NPR's conclusion that digital television receivers are substantially less vulnerable to FM-induced TV6 interference than analog sets. The Commission sought comment on whether this conclusion was still valid ''after so many additional years of experience with digital broadcasts.'' The Commission sought comment on its expectation that the proposed elimination of LPFM/TV6 spacing requirements will not result in any interference to TV6 stations and it tentatively concluded, upon July 13, 2021, to eliminate the distance separate requirement between LPFM stations and all television stations operating on TV6.

37. A limited number of commenters weighed in on the Commission's proposal and were evenly split for and against elimination of the TV6 protections. For instance, in response to support from petitioners, Disney posited that that the record did ''not provide actual evidence demonstrating that the full-power Channel 6 Protections are unnecessary,'' and that the TV6 protection rules ''have functioned quite well to protect full-power television stations from interference, and have done so without imposing significant burdens on FM reserved band stations.'' The Commission in its 2020 Report and Order deferred consideration of this issue to a future proceeding finding that it ''will be in a better position to reach an informed decision by addressing TV6 issues in a separate proceeding with a more developed record on this issue.''

38. Since that decision, events have occurred that could affect our previous analysis as to the continued need for TV6 protection rules. The post-Incentive Auction transition was completed in July 2020 and repacked stations have settled into their new post-auction channel assignments. And, given the digital transition, analog television is now truly a legacy service. With the completion of the Incentive Auction and the LPTV digital transition, the Commission now has experience with respect to TV6 and whether interference has been occurring with respect to digital TV6 stations and FM radio stations.

39. Therefore, the Commission seeks comment on the continued need for TV6 interference protection rules. Specifically, the Commission seeks comment on whether the interference protection provisions, adopted while television stations were operating in analog mode, continue to be necessary in light of the fact that all TV6 stations have now converted to digital. The Commission invites commenters to analyze the number of current TV6 stations, their current locations and the potential for TV6–FM radio cross-service interference. The Commission notes that it has not received reports of interference to either TV or radio services from stations in their counterpart services. Does the lack of reports indicate the protections are no longer necessary, or that they are fulfilling their purpose? Alternatively, the Commission seeks comment on whether to preserve the existing protections but revise and update them for digital TV6 operations, and if so, how to update them. In that circumstance, the Commission seeks comment on whether those protections should apply to currently authorized channel 6 stations or to future channel 6 stations or to both.

40. The Commission notes that retention or revision of the TV6 interference protection rules could potentially be impacted by its decision whether to permit continued FM6 operations. Given this, the Commission seeks comment on whether the elimination of TV6 protection by LPFM and other FM radio stations would be compatible with FM6 operations if it determines to permit such operations to continue. That is, if FM6 and LPFM and NCE FM stations are allowed to come

into closer proximity if the TV6 protection rules are eliminated, would that increase concerns about interference from FM6 to LPFM/NCE FM stations—an important factor in our FM6 considerations? The Commission notes that one of the conditions it is seeking to impose on continued FM6 operations is that the LPTV station not be permitted to modify its facilities while providing FM6 operations, thus locking into place the technical facilities by which the LPTV station provides its FM6 operations. If it limits station modifications in this manner, would this impact the Commission's analysis of whether elimination of TV6 protection by LPFM and other FM radio stations would be compatible with FM6 operations?

41. The Commission's goal in this proceeding, as with any proceeding involving interference protection, is to ensure that licensees can operate in an environment in which the potential for interference is minimized. The Commission stresses that interference protections are essential to spectrum usage rights to prevent licensees from unduly affecting other licensees in terms of system operation or cost. Nonetheless, the Commission attempts to establish rules that are no more restrictive than necessary to achieve our goals in order to provide maximum flexibility to our licensees. Therefore, commenters suggesting that the existing interference provisions be retained, revised or updated should demonstrate that their proposed restrictions are necessary to achieve these goals.

Cost-Benefit and Diversity, Equity and Inclusion Analysis

42. Finally, the Commission seeks comment on the benefits and costs associated with adopting the proposals set forth in this NPRM. In addition to any benefits to the public at large, are there also benefits to industry through adoption of any of its proposals? The Commission also seeks comment on any potential costs that would be imposed on licensees and regulatees if it adopts the proposals contained in this NPRM. Comments should be accompanied by specific data and analysis supporting claimed costs and benefits.

43. As part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, the Commission invites comment on how the proposals set forth in the NPRM can advance equity in the provision of broadcast services for all people of the United States, without discrimination on the basis of race, color, religion, national origin, sex, or disability. Specifically, the Commission seeks comment on how its proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

Initial Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), The Third Notice of Proposed Rulemaking in this proceeding included an Initial Regulatory Flexibility Analysis (IRFA) pursuant to 5 U.S.C. 603, exploring the potential impact on small entities of the Commission's proposals. Because this Fifth Notice of Proposed Rulemaking (NPRM) contains new proposals, the Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified in the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

The NPRM seeks comment on whether to permit digital low power television (LPTV) stations on channel 6 to continue to operate analog FM radio-type services and, if so, how to authorize these services. Prior to the July 13, 2021 LPTV digital transition deadline, a number of analog LPTV stations licensed on channel 6 operated with very limited visual programming and an audio signal that is programmed like a radio station (FM6). FM radio listeners were able to receive the audio portion of these LPTV stations at 87.75 MHz, which is adjacent to noncommercial educational (NCE) FM channel 201 (88.1 MHz). When these LPTV stations converted to digital, however, they would be unable to continue providing such radio service because the digital audio portion of their signal could no longer be received by standard FM receivers. Currently, some digital channel 6 LPTV stations have converted to ATSC 3.0 digital format and are operating pursuant to engineering special temporary authority (STA) with a separate analog FM radio transmitter.

In an effort to bring a final resolution to the FM6 question, the Commission seeks comment on whether FM6 operations are serve the public interest and should be authorized to continue in any capacity. The NPRM also seeks comment on whether FM6 should be authorized as ''ancillary or supplementary'' services as suggested previously in this proceeding. The NPRM seeks comment on whether the Commission can and should limit future FM6 operations to only those LPTV channel 6 stations with active FM6 engineering STAs on the release date of the NPRM.

The NPRM alternatively seeks comment on whether to license additional FM radio stations on 82–88 MHz in areas where channel 6 LPTV and full-power stations are currently not operating.

Finally, regardless of whether it decides to permit continued FM6 operations or license additional FM radio stations on 82–88 MHz, the NPRM seeks comment on whether to eliminate or revise the TV6 distance separation rules for LPFM, NCE, Class D (10 watt), and FM translator stations operating on reserved band FM Channels 201–220.

Legal Basis

The proposed action is authorized under Sections 151, 154(i), 154(j), 303, 307, 316, 336, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303, 307, 316, 336, and 403.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rule revisions, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act (SBA). A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

Television Broadcasting. This industry is comprised of ''establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies businesses having $41.5 million or less in annual receipts as small. 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year. Of that number, 657 firms had revenue of less than $25,000,000. Based on this data we estimate that the majority of television broadcasters are small entities under the SBA small business size standard.

The Commission estimates that as of March 2022, there were 1,373 licensed commercial television stations. Of this total, 1,280 stations (or 93.2%) had revenues of $41.5 million or less in 2021, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on June 1, 2022, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of March 2022, there were 384 licensed noncommercial educational (NCE) television stations, 383 Class A TV stations, 1,840 LPTV stations and 3,231 TV translator stations. The Commission however does not compile, and otherwise does not have access to financial information for these television broadcast stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of these television station licensees, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

Radio Stations. This industry is comprised of ''establishments primarily engaged in broadcasting aural programs by radio to the public.'' Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies firms having $41.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 2,963 firms operated in this industry during that year. Of this number, 1,879 firms operated with revenue of less than $25 million per year. Based on this data and the SBA's small business size standard, we estimate a majority of such entities are small entities.

The Commission estimates that as of September 2021, there were 4,519 licensed commercial AM radio stations, 6,682 licensed commercial FM radio stations and 4,211 licensed noncommercial (NCE) FM radio stations. The Commission however does not compile, and otherwise does not have access to financial information for these radio stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of radio station licensees, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

The Commission notes, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. Its estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio or television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and is therefore possibly over-inclusive. An additional element of the definition of ''small business'' is that the entity must be independently owned and operated. Because it is difficult to assess these criteria in the context of media entities, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and similarly may be over-inclusive.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

As a condition to be allowed to continue their FM6 operations on an ancillary or supplementary basis, the Commission seeks comment on whether FM6 stations should be required to submit written reports, every 90 days, detailing any reports of interference and a demonstration that the station's FM6 and video coverage reach similar populations. The NPRM tentatively concludes that such a reporting requirement is not necessary. Should the Commission ultimately decide to adopt this requirement, this proposed reporting requirement would result in a new paperwork obligation. If adopted, the Commission will seek approval and the corresponding burdens to account for this reporting requirement.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

The NPRM seeks to determine if continued provision of FM6 services by digital LPTV channel 6 stations serve the public interest and should FM6 be authorized to continue in any capacity. All of the licensees of FM6 stations are licensees of LPTV stations and most if not all are considered small entities by SBA definitions. Therefore, by allowing FM6 operations to continue, the Commission is seeking to help small entities and to preserve their current programming offerings. The alternative would be to force these entities to discontinue FM6 operations that have proved to be a source of additional income for these small entities that have struggled to operate LPTV stations and that have operated with a disadvantage to their full power television brethren. Unlike full power television stations, LPTV stations operate without mandatory cable carriage rights and with secondary interference rights that can result in their operating channel being displaced and their having to find a new frequency.

The NPRM seeks comment on whether to permit FM6 operations as ''ancillary or supplementary'' services. This approach is an attempt to authorize existing FM6 operations in the easiest and least costly manner to reduce the administrative and financial burden on FM6 stations, all of which are LPTV and most if not all are small entities. Using existing rules and procedures will enable FM6 stations to easily become authorized through familiar and low cost measures.

The Commission must balance the positive financial benefits for small entities of allowing all channel 6 LPTV stations to provide FM6 operations against the possible negative effects of impermissible interference that could result between FM6 operations and other FM radio operators. Although it recognizes the positive benefits for small entities that may accrue from FM6 operations, the Commission proposes that it must limit FM6 operations to only those stations providing such services on the release date of the NPRM in order to limit the universe of FM6 stations that could potentially interfere with other users. The Commission notes that all channel 6 LPTV stations had the opportunity to provide an FM analog service and their failure to do so by now demonstrates that it was not in their interest to do so.

Similarly, the Commission must balance whether to allow channel 6 LPTV stations to continue providing FM6 operations versus entities interested in providing new FM radio service to operate on TV channel 6 in areas where television service is currently not being offered. There are small entities in both the LPTV and FM radio services especially NCE FM stations whose operation is limited to only noncommercial educational entities most if not all of which are small entities. The Commission will have to consider the benefits and costs of allowing additional FM radio operations and whether it will negatively affect future TV operations on low VHF channels such as channel 6 that have technical limitations and that are not favored by television operators.

The Commission also proposes to eliminate or modify a current protection for television stations operating on Channel 6 which are also small entities, a proposal which seeks to assist low power FM (LPFM), noncommercial educational (NCE), and FM translator stations. The Commission believes that any potential negative impact on such television stations is minimal because full power TV6 stations transitioned to digital operations in 2009; LPTV stations in 2021; and there has been a lack of interference complaints from these stations since their transitions. Further, digital television receivers are more selective than the analog the equipment that existed when the Commission adopted the TV6 protection requirement. The Commission is open to consideration of alternatives to the proposals under consideration including but not limited to alternatives that will minimize the burden on FM broadcasters, many of whom are small businesses, as well as TV6 broadcasters that are small entities. There may be unique circumstances these entities may face, and the Commission will consider appropriate action for small broadcasters when preparing a Report and Order in this matter.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

None.

Report to Congress

The Commission will send a copy of the NPRM including the IRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the NPRM including the IRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the NPRM and IRFA (or summaries thereof) will also be published in the **Federal Register**.

List of Subjects in 47 CFR Part 74

Low Power TV and TV translator stations.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 74 to read as follows:

PART 74—Experimental Radio, Auxiliary, Special Broadcast and Other Program Distributional Services

■ 1. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 307, 309, 310, 336, and 554.

■ 2. Section 74.790 is revised by adding paragraph (l) as follows:

§ 74.790 Permissible service of digital TV translator and LPTV stations.

* * * * *

(l) Provision of analog FM radio operations by digital LPTV channel 6 stations (FM6). LPTV stations operating on television channel 6 may provide analog FM radio operations (FM6 operations) on an ancillary or supplementary basis subject to the following:

(1) The LPTV station must have been providing FM6 operations pursuant to an active engineering special temporary authority on the release date of the Fifth Notice of Proposed Rulemaking in MB Docket No. 03–185;

(2) The LPTV station must be operating in ATSC 3.0 digital format;

(3) FM6 operations may only be conducted on 87.75 MHz;

(4) no interference is permitted to any other licensed user, including but not limited to broadcast television or radio users;

(5) the LPTV station's FM6 coverage area must be contained within and may not exceed the coverage area of the LPTV station's synchronized video/audio programming stream;

(6) the LPTV station must provide at least one stream of synchronized video and audio programming on the ATSC 3.0 portion of the spectrum, at any time the station is operating; and

(7) while FM6 operations are being conducted, the LPTV station's technical facilities may not be modified from those that existed on the release date of the Fifth Notice of Proposed Rulemaking in MB Docket No. 03–185.

[FR Doc. 2022–12813 Filed 6–16–22; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 87, No. 117
Friday, June 17, 2022

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

Submission for OMB Review; Comment Request; Reinstatement and Revision of a Previously Approved Information Collection

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity 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 appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology Comments regarding these information collections are best assured of having their full effect if received by July 18, 2022. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: United States Warehouse Act (USWA).

OMB Control Number: 0581–0305.

Summary of Collection: AMS is responsible, as required by the USWA, 7 U.S.C. 869 *et seq.,* to license public warehouse operators that are in the business of storing agricultural products, to examine such federally licensed warehouses and to license qualified persons to sample, inspect, weigh, and classify agricultural products. AMS licenses under the USWA cover approximately half of all commercial grain and cotton warehouse capacities in the United States. The regulations that implement the USWA govern the establishment and maintenance of systems under which documents, including documents of title on shipment, payment, and financing, may be issued, or transferred for agricultural products. Some of these systems and documents issued may be electronic. The regulations are found at 7 CFR 869 *et seq.*

Need and Use of the Information: This information collection allows AMS to effectively administer the regulations, licensing, and electronic provider agreements and related reporting and recordkeeping requirements as specified in the USWA.

Description of Respondents: Business or other for-profit. Farms.

Number of Respondents: 3,000.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Weekly.

Total Burden Hours: 38,917.

Agricultural Marketing Service

Title: FarmerFairness.gov USDA/DOJ Complaint Web Portal.

OMB Control Number: 0581–0333.

Summary of Collection: The P&S Act and the regulations issued under the P&S Act authorize the collection of information for the purpose of enforcing the P&S Act and regulations and for conducting studies requested by Congress. The laws and regulations relating to competition in the meat and poultry industries confer separate and overlapping jurisdiction to the U.S. Department of Agriculture and the U.S. Department of Justice. Farmers, ranchers, and other interested persons may not be aware of this and may not know to whom or how to file a complaint or tip if they suspect a violation of those laws or regulations. This joint complaint portal allows those farmers, ranchers and interested persons to go to one website to submit information and USDA and DOJ will determine the appropriate jurisdiction and any follow up actions.

Need and Use of the Information: This information collection is necessary for PSD and DOJ to monitor and examine complaints regarding financial, competitive, and trade practices in the livestock, meat packing and poultry industries.

Description of Respondents: State, Local, and Tribal Governments.

Number of Respondents: 110.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 165.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–13122 Filed 6–16–22; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Kootenai National Forest, Lincoln County; Montana; Montanore Mine Project—Withdrawal of Draft Supplemental Environmental Impact Statement

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice; withdrawal.

SUMMARY: The Kootenai National Forest is withdrawing its draft Supplemental Environmental Impact Statement (DSEIS) for the 2019 Montanore Mine Project. The Montanore Mine Project Notice of Intent was published in the **Federal Register** on December 28, 2017 (82 FR 61533) and the NOA was published in the **Federal Register** on June 21, 2019 (84 FR 29201).

FOR FURTHER INFORMATION CONTACT: Questions concerning this notice should be directed to Craig Towery at *craig.towery@usda.gov* or 406–283–7657.

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: Hecla Mining Company has withdrawn from consideration the current Plan of Operations for the Montanore Project which eliminates the need for the current draft Supplemental Environmental Impact Statement.

Dated: June 13, 2022.

Deborah Hollen,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2022–13089 Filed 6–16–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS–2022–0004]

Notice of Intent To Prepare an Environmental Impact Statement for the Central Oregon Irrigation District Pilot Butte Canal Infrastructure Modernization Project, Deschutes County, Oregon

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Natural Resources Conservation Service (NRCS) Oregon State Office announces its intent to prepare an EIS for the Central Oregon Irrigation District (COID) Pilot Butte Canal (PBC) Project in the proximity of Redmond and Bend, Oregon. The EIS process will examine three alignment alternatives for replacing the existing PBC with a piped and pressurized system. The purpose of the new system is to promote irrigation water conservation in COID-owned infrastructure, improve water delivery reliability to COID patrons, and reduce long-term operation and maintenance costs. NRCS is requesting comments to identify significant issues and potential alternatives, information, and analyses relevant to the proposed action from all interested individuals, Tribes, and Federal, State and local agencies and jurisdictions.

DATES: We will consider comments that we receive by July 18, 2022. Comments received later will be considered to the extent possible.

ADDRESSES: We invite you to submit comments in response to this notice. You may submit your comments through one of the methods below:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for docket ID NRCS–2022–0004. Follow the online instructions for submitting comments; or
- *Mail or Hand Delivery:* Craig Horrell, District Manager, Central Oregon Irrigation District, 1055 SW Lake CT, Redmond, OR 97756.

All comments received will be posted and made publicly available on *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Gary Diridoni, telephone: (503) 414–3092; email: *gary.diridoni@usda.gov.* In addition, for questions related to submitting comments: StingRay Communications—ShanRae Hawkins, telephone: (541) 390–6411; email: *shanrae@hellostingray.com;* or the PBC Project website at: *www.coidpiping.com.* Persons with disabilities who require alternative means for communication should contact the U.S. Department of Agriculture (USDA) Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Purpose and Need

The PBC Project would be implemented as agricultural water management, as authorized under Sections 3 and 4 of Public Law 83–566. The primary purpose of agricultural water management on PBC is conservation of irrigation water in COID-owned infrastructure, improvement of water delivery reliability to COID patrons, and reduction in long-term operation and maintenance costs on approximately 21 miles of the COID-owned canal. The PBC Project is needed to address water loss in COID conveyance systems and water delivery, operation, and maintenance inefficiencies. Specifically, the PBC Project will address water loss due to seepage and evaporation. It will also support local agricultural land use and increase public safety for PBC. The need for watershed planning is established and implementation of management actions are authorized under Public Law 83–566, the Watershed Protection and Flood Prevention Act of 1954, as amended, and Public Law 78–534, the Flood Control Act of 1944. Further context for the need for watershed planning in COID is provided below.

COID was largely developed over 100 years ago to provide irrigation water to patented lands in the Central Oregon Region. COID operates and maintains a combined total of over 700 miles of open and unlined main and lateral canals that serve approximately 50,000 acres of irrigated lands that stretch north from Bend, Oregon to the Crooked River, and east to Powell Butte. COID's PBC also conveys water to the Lone Pine Irrigation District located on the north side of the Crooked River east of Terrebonne, Oregon and to the North Unit Irrigation District's (NUID) main canal near Smith Rock.

The volcanic nature of the Central Oregon geology presents fractured basalt, cinder and varied substrates that result in a propensity for seepage losses in many areas of COID's canal system. Optimization of water use in the Central Oregon basin is critical to maintaining the balance of water use as societal and environmental needs continue to change over time. Within the Basin over the next 30 years the irrigation districts will be increasing streamflow in the Deschutes River system to protect threatened species, which leaves less water available to support agricultural production. The saved water that would be made available by modernizing COID's conveyance system would be critical to supporting agricultural production. Additionally, modernization will result in other benefits such as energy conservation, increased hydropower opportunities, reduced operations, and maintenance costs, increased operational efficiencies and increased public safety.

Consistent with its System Improvement Plans (2016, 2017) and Capital Plan (2018), COID developed the Smith Rock-King Way Infrastructure Modernization Project Final Watershed Plan-Environmental Assessment (Watershed Plan-EA) for which NRCS issued a Finding of No Significant Impact in 2020 (*https://oregonwatershedplans.org/central-oregon-id*). The Watershed Plan-EA included piping the north end of PBC; fully piping the G–4 Lateral; partially piping the J-Lateral; and constructing the L-Lateral crossing of the NUID Canal. With completion of the work identified in the 2020 Final Watershed Plan-EA, water would also be conveyed from COID's system to NUID. The proposed alternatives analyzed under this EIS would extend improvements to PBC that are currently being completed under the 2020 Smith Rock-King Way Watershed Plan-EA.

Preliminary Proposed Action and Alternatives Including No Action

The proposed action considered under this EIS would complement projects already being completed under an approved 2020 Final Watershed-Plan EA and FONSI. These projects are located along PBC beginning around NE 17th Street in Redmond, Oregon and continuing to PBC's diversion point in Bend, Oregon.

Three Proposed Action Alignment Alternatives will be evaluated to replace the existing PBC within the PBC Project area with a piped and pressurized system. The Proposed Action Alignment Alternatives would be within the same alignment except for the areas discussed below. Additionally, a No Action alternative will be considered.

Alternative 1—Proposed Action Alignment 1. This alternative includes placing new pipe wholly within the existing open channel of PBC, including the section adjacent to Juniper Ridge, which is listed on the National Register of Historic Places (NRHP).

Alternative 2—Proposed Action Alignment 2. This alternative would differ from Alternative 1 in that it would avoid the NRHP-listed portion of PBC by piping a section between Yeoman Road and Cooley Road largely within NE 18th Street.

Alternative 3—Proposed Action Alignment 3. This alternative would differ from Alternatives 1 and 2 in that it would avoid the NRHP-listed portion of PBC by piping a section between Yeoman Road and Cooley Road largely within Old Deschutes Market Road.

Alternatives 2 and 3 would leave the NRHP-listed segment of canal in place and permanently dewatered.

Alternative 4—No Action Alternative. Under the No Action Alternative, COID would continue to operate and maintain its existing canals and pipelines in their current condition. This alternative assumes that modernization of COID's infrastructure would not be reasonably certain to occur, as funding at the scale necessary to modernize COID's remaining infrastructure is not anticipated from other sources. The No Action Alternative would be a continuation of COID's standard operations and maintenance. The No Action Alternative would not meet the PBC Project's purpose and need.

Summary of Expected Impacts

Preliminary evaluation of the proposed action indicates that impacts may primarily be local within COID. These may include short-term impacts such as impacts to vegetation, soils, noise, and traffic. In the long-term the proposed action is expected to have impacts to visual resources (views of the open canal from adjacent properties) and is expected to have beneficial impacts by reducing water loss and increasing water delivery reliability.

Anticipated Permits and Authorizations

The following permits and other authorizations are anticipated to be required:

- *Clean Water Act (CWA) Section 404 Permit.* CWA implementation of the proposed federal action may require a CWA section 404 permit from the U.S. Army Corps of Engineers.
- *CWA Section 401 Permit.* The PBC Project may also require water quality certification under section 401 of CWA.
- *CWA Section 402.* Permitting under section 402 of CWA (National Pollutant Discharge Elimination System Permit) may be required.
- *County and City Permits.* Implementation of the proposed federal action would require local building and land use permits from Deschutes County and the Cities of Redmond and Bend.

Schedule of Decision-Making Process

A Draft EIS (DEIS) will be prepared and circulated for review and comment by agencies and the public for at least 45 days per 40 CFR 1503.1, 1502.20, 1506.11, and 1502.17, and 7 CFR 650.13. DEIS is anticipated to be published in the **Federal Register** in 2023, approximately 9 months after publication of this NOI. A Final EIS is anticipated to be published within 6 months of completion of the public comment period for the DEIS.

NRCS then will decide whether to implement one of the alternatives as evaluated in the EIS. A Record of Decision will be completed after the required 30-day waiting period and will be publicly available. The responsible federal official and decision maker for the NRCS is Ron Alvarado, Oregon State Conservationist.

Public Scoping Process

Public scoping meetings have been and will be held to present the PBC Project and further develop the scope of DEIS. A preliminary public scoping meeting was held online at 6 p.m. on Wednesday, October 20, 2021. It is anticipated that one additional scoping meeting will be held after this NOI is published. Comments received for both scoping meetings, including the names and addresses of those who comment, will be part of the public record. A recording of the first scoping meeting and the presentation materials are available on the PBC Project website: *www.coidpiping.com.* The date, time, and location for the second meeting also will be announced on the PBC Project website.

Identification of Potential Alternatives, Information, and Analyses

NRCS invites agencies and individuals who have special expertise, legal jurisdiction, or interest in the COID PBC Project to provide comments concerning the scope of the analysis and identification of potential alternatives, information, and analyses relevant to the Proposed Action.

Authorities

Estimated federal funds required for the construction of the proposed action would exceed $25 million and the proposed action will therefore require congressional approval per the 2018 Agriculture Appropriations Act amended funding threshold. In accordance with 7 CFR part 650.7(a)(2), an EIS is required for projects requiring congressional approval. This document is published pursuant to the NEPA regulations regarding publication of a notice of intent to issue an environmental impact statement (40 CFR 1501.9(d)). This EIS will be prepared to evaluate potential environmental impacts as required by section 102(2)(C) of NEPA; the Council on Environmental Quality regulations (40 CFR parts 1500–1508); and NRCS regulations that implement NEPA in 7 CFR part 650. Watershed planning is authorized under the Watershed Protection and Flood Prevention Act of 1954, as amended, (Pub. L. 83–566) and the Flood Control Act of 1944 (Pub. L. 78–534).

Federal Assistance Programs

The title and number of the Federal assistance program as found in the Assistance Listing [1] (formerly referred to as the Catalog of Federal Domestic Assistance) to which this document applies is 10.904 Watershed Protection and Flood Prevention.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. This program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its Agencies, offices, and employees, and

[1] See *https://sam.gov/content/assistance-listings.*

institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720–2600 (voice and TTY) or (844) 433–2774 (toll-free nationwide). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410 or email: *OAC@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Ronald Alvarado.

Oregon State Conservationist, Natural Resources Conservation Service.

[FR Doc. 2022–13031 Filed 6–16–22; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket No. RUS–22–TELECOM–0028]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Utilities Service, Department of Agriculture (USDA).

ACTION: Notice; comment requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Rural Utilities Service (RUS) to request Office of Management and Budget's (OMB) approval for an extension of a currently approved information collection in support of the Telecommunications Infrastructure Loan program.

DATES: Comments on this notice must be received by August 16, 2022.

FOR FURTHER INFORMATION CONTACT: Susan Woolard, Special Projects Coordinator, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, South Building, Washington, DC 20250–1522. Telephone: (202) 720–9631. Email *susan.woolard@usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an existing information collection that the Agency is submitting to OMB for extension.

Comments

Comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) The accuracy of the Agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on those who respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques, or other forms of information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to *https://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''RUS'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select RUS–22–TELECOM–0028 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Title: Part 1737, Pre-Loan Policies and Procedures Common to Insured and Guaranteed Telecommunications Loans.

OMB Control Number: 0572–0079.

Type of Request: Extension of a currently approved collection.

Abstract: USDA, Rural Utilities Service (RUS) makes mortgage loans and loan guarantees to finance telecommunications, electric, and water and waste facilities in rural areas with a loan portfolio that totals more than $58 billion. In addition to providing loans and loan guarantees, one of the objectives of RUS is to safeguard loan security until the loan is repaid. Accordingly, RUS manages loan programs in accordance with the Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq,* as amended, (RE Act), and as prescribed by Office of Management and Budget (OMB) Circular A–129, Policies for Federal Credit Programs and Non-Tax Receivables, which states that based on a review of a loan application, agencies must determine that an applicant complies with statutory, regulatory, and administrative eligibility requirements for loan assistance. Section 201 of the RE Act authorizes the RUS Administrator to make loans to qualified telephone companies for providing telephone service to the widest practicable number of rural subscribers. The reporting burden covered by this collection of information consists of forms, documents and written burden to support a request for funding for a Telecommunications Infrastructure loan.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 37.04 hours per response.

Respondents: Businesses, not-for-profit institutions and others.

Estimated Number of Respondents: 43.

Total Annual Responses: 309.

Estimated Number of Responses per Respondent: 7.19.

Estimated Total Annual Burden on Respondents: 11,445 hours.

Copies of this information collection can be obtained from Susan Woolard, Special Projects Coordinator, Innovation Center—Regulations Management Division, at (202) 720–9631. Email: *susan.woolard@usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2022–13099 Filed 6–16–22; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket No. RUS–22–TELECOM–0021]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice; comment requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the above-named agency to request Office of Management and Budget's (OMB) approval for an extension of a currently approved information collection in support of RUS Operating Reports for Telecommunications and Broadband Borrowers.

DATES: Comments on this notice must be received by August 16, 2022.

FOR FURTHER INFORMATION CONTACT: Susan Woolard, Management Analyst, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, South Building, Washington, DC 20250–1522. Telephone: (202) 720–9631. Email *susan.woolard@usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an existing information collection that the Agency is submitting to OMB for extension.

Comments

Comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) The accuracy of the Agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on those who respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques, or other forms of information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''RUS'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select [RUS–22–TELECOM–0021] to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov,* including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Title: Operating Reports for Telecommunications and Broadband Borrowers.

OMB Control Number: 0572–0031.

Type of Request: Extension of a currently approved collection.

Abstract: The Operating Report for Telecommunications Borrowers and the Operating Report for Broadband Borrowers—which includes reports submitted by borrowers under the Broadband Loan and Loan Guarantee Program as well as the Broadband Initiatives Program, are required by the loan contract and provide RUS with vital financial information necessary to ensure the maintenance of the security for the Government's loans and service data which enable RUS to ensure the provision of quality telecommunications and broadband service as mandated by the RE Act of 1936 [7 CFR 1738.154(e), 1744.209(b), and *Appendix to Subpart C of Part 1770, 106.B.*]. In addition, for telecommunications loans, the Operating Report is the basis for developing an applicant's current financial condition, upon which financial and service projections are based when determining the feasibility of a loan application [7 CFR 1737.70(g)].

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 4 hours per response.

Respondents: Businesses, not-for-profit institutions and others.

Estimated Number of Respondents: 242.

Total Annual Responses: 1,668.

Estimated Number of Responses per Respondent: 6.89.

Estimated Total Annual Burden on Respondents: 6,711 hours.

Copies of this information collection can be obtained from Susan Woolard, Management Analyst, Innovation Center—Regulations Management Division, at (202) 720–9631. Email: *susan.woolard@usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Christopher A. Mclean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2022–13102 Filed 6–16–22; 8:45 am]

BILLING CODE 3410–15–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of Commission public business meeting.

DATES: Friday, June 24, 2022, 12:00 p.m. EST.

ADDRESSES: Meeting to take place by telephone and is open to the public by telephone: 877–222–5769 ID Code #: 1911248.

FOR FURTHER INFORMATION CONTACT: Angelia Rorison: 202–376–8371; *publicaffairs@usccr.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Government in Sunshine Act (5 U.S.C. 552b), the Commission on Civil Rights is holding a meeting to discuss the Commission's business for the month. This business meeting is open to the public. Computer assisted real-time transcription (CART) will be provided. The web link to access CART (in English) on Friday, June 24, 2022, is *https://www.streamtext.net/player?event=USCCR.* Please note that CART is text-only translation that occurs in real time during the meeting and is not an exact transcript.

Meeting Agenda

I. Approval of Agenda

II. Business Meeting

- A. Presentations by State Advisory Committee Chairs on Released Reports and Memorandums
- B. Discussion and Vote on Advisory Committee Appointments
- C. Discussion and Vote on 2022 Statutory Enforcement Report on FEMA
- D. Management and Operations
  - Staff Director's Report

III. Adjourn Meeting

Dated: June 15, 2022.

Angelia Rorison,

USCCR Media and Communications Director.

[FR Doc. 2022–13201 Filed 6–15–22; 11:15 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

[Docket No. 2203290081]

Privacy Act of 1974; System of Records

AGENCY: Office of the Inspector General, Department of Commerce.

ACTION: Notice of a new system of records.

SUMMARY: This notice announces the Department of Commerce's (the Department) proposal to establish a new system of records entitled ''COMMERCE/OIG–2, OIG Data Analytics Records,'' under the Privacy Act of 1974, as amended, and the Office of Management and Budget (OMB) Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act.'' This system of records will store individually identifying information gathered or created from existing systems of records maintained by the Department, other Department records, and private sources regarding or supporting Department operations. The new system will be used, primarily through data analytics techniques, to identify suspicious or fraudulent activity, internal control weaknesses, or otherwise to assist the Office of Inspector General (OIG) in the performance of its statutory duties under the Inspector General Act of 1978, as amended. We invite public comment on the new system announced in this publication.

DATES: This new system of records will become effective upon publication, subject to a 30-day comment period in which to comment on routine uses. To be considered, written comments must be submitted on or before July 18, 2022.

ADDRESSES: Please address comments to the Office of Inspector General Office of Counsel, Room 7896, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; by email to *OIGCounsel@oig.doc.gov;* or by facsimile to (202) 501–7335.

FOR FURTHER INFORMATION CONTACT: E. Wade Green, Jr., OIG Office of Counsel, email: *OIGCounsel@oig.doc.gov;* or Phone: (202) 792–3317.

SUPPLEMENTARY INFORMATION: The Department is creating a new system of records for OIG Data Analytics, entitled ''COMMERCE/OIG–2, OIG Data Analytics Records,'' as part of its commitment to ensuring that collection, use, retention, or dissemination of information about individuals through the use of any technology, including digitized archival records, complies with the law.

The Privacy Act requires each agency that proposes to establish a new system of records to provide adequate advance notice of any such proposal to the OMB, the Committee on Oversight and Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate (5 U.S.C 552a(r)). The purpose of providing the advance notice to OMB and Congress is to permit an evaluation of the potential effect of the proposal on the privacy and other rights of individuals. The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Reform, and the Deputy Administrator of the Office of Information and Regulatory Affairs, OMB, on March 30, 2022.

SYSTEM NAME AND NUMBER:

COMMERCE/OIG–2, OIG Data Analytics Records.

SECURITY CLASSIFICATION:

Controlled Unclassified Information (CUI).

SYSTEM LOCATION:

U.S. Department of Commerce, Office of Inspector General, 1401 Constitution Avenue NW, Washington, DC 20230.

SYSTEM MANAGER(S):

Chief of Staff to the Inspector General, Room 7709, Office of Inspector General, United States Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, as amended, 5 U.S.C. App. (Inspector General Act).

PURPOSE(S) OF THE SYSTEM:

The records contained in this system are used or are available for use by the Office of Inspector General (OIG) to carry out its statutory responsibilities under the Inspector General Act to conduct and supervise audits, evaluations, inspections, and investigations, to prevent and detect fraud, waste, mismanagement, and abuse, and to promote economy, efficiency, and effectiveness in the Department of Commerce (the Department) programs and operations. The records may be used in the course of performing audits, evaluations, and inspections; investigating individuals and entities suspected of criminal, civil, or administrative misconduct and in supporting related judicial and administrative proceedings; or in conducting preliminary inquiries undertaken to determine whether to commence an audit, evaluation, inspection, or investigation.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

OIG maintains records in its records system on the following categories of individuals: current, former, and prospective Department employees; contractors; subcontractors; recipients of Federal funds and their contractors/subcontractors and employees; grantees; sub-grantees; individuals who work on Department grants (*e.g.,* principal investigators); lessees; licensees; persons engaged in official business with the Department; or other persons identified by OIG or by other agencies, constituent units of the Department, and members of the general public in connection with the authorized functions of the OIG.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains materials received, gathered, or created regarding or supporting Department operations. Categories of records may include: Commerce Business Systems information, including general ledger data, trial data, customer data, and vendor data; Department payroll, fleet card, purchase card, and travel card data; System for Award Management data; general case management documentation; correspondence; personally identifiable and business identifiable information, including financial, employment, time and attendance, human resources, and biometric data and Social Security Numbers; information protected by Title 13 of the U.S. Code; trade secrets data and similar proprietary data; import/export data, including Automated Export System data; law enforcement data; data containing information related to Department grants and contracts, and other data and evidence received, collected, or generated by OIG's Data Analytics group while conducting its official duties. Social Security Numbers are maintained in the system pursuant to authority under the Inspector General Act and are collected or received and maintained in the system as necessary by OIG to carry out its statutory responsibilities under the Inspector General Act.

RECORD SOURCE CATEGORIES:

As described below in ''Exemptions Promulgated for the System,'' the OIG claims an exemption from disclosure of record source categories under 5 U.S.C. 552a(e)(4)(I). Notwithstanding the foregoing, OIG may collect information from a wide variety of sources, including information from the Department and other Federal, State, and local agencies, and non-governmental entities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system may be disclosed to authorized individuals and/or entities, as is determined to be compatible with the purposes for which the record was collected, as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. In the event that a record, either by itself or in combination with other information, indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or contract, or rule, regulation, or order issued pursuant thereto, or the necessity to protect an interest of the Department or OIG, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency or entity, whether federal, state, local, tribal, territorial, foreign, or international, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule, regulation or order issued pursuant thereto, or protecting the interest of the Department or OIG.

2. To any source from which additional information is requested in order to obtain information relevant to: A decision by either the Department or OIG concerning the hiring, assignment, or retention of an individual or other personnel action; the issuance, renewal, retention, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance, retention, or revocation of a license, grant, award, contract, or other benefit to the extent the information is relevant and necessary to a decision by the Department or OIG on the matter.

3. To a Federal, State, local, tribal, territorial, foreign, international, or other public authority in response to its request in connection with: The hiring, assignment, or retention of an individual; the issuance, renewal, retention, or revocation of a security clearance; the reporting of an investigation of an individual; the execution of a security or suitability investigation; the letting of a contract; or the issuance, retention, or revocation of a license, grant, award, contract, or other benefit conferred by that entity to the extent that the information is relevant and necessary to the requesting entity's decision on the matter.

4. In the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to duly-authorized investigators or opposing parties in the course of discovery or settlement negotiations.

5. To a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record relating to the individual.

6. To the Office of Management and Budget (OMB) in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

7. To the Department of Justice (DOJ) or any other Federal agency that has an interest in the record in connection with determining whether disclosure thereof is required by the Freedom of Information Act (FOIA) (5 U.S.C. 552).

8. To contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for the Department or OIG, who have a need to access the information in the performance of their duties or activities. When appropriate, recipients will be required to comply with the requirements of the Privacy Act as provided in 5 U.S.C. 552a(m).

9. To the Office of Personnel Management (OPM) for personnel research purposes; as a data source for management information; for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for related manpower studies.

10. To the General Services Administration (GSA) or the National Archives and Records Administration (NARA) during an inspection of records conducted by GSA or NARA under the authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA or NARA regulations governing inspection of records for this purpose and any other relevant (*i.e.,* GSA, NARA, or Department) directive. Such disclosure shall not be used to make determinations about individuals.

11. To appropriate agencies, entities, and persons when (1) the Department or the OIG suspects or has confirmed that there has been a breach of the system of records; (2) the Department or the OIG has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's or OIG's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

12. To another Federal agency or Federal entity, when the OIG determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

13. To the Department of Justice (DOJ) and any other Federal agency, to the extent necessary to obtain their advice relevant to an OIG matter, including matters concerning the FOIA and the Privacy Act (5 U.S.C. 552a).

14. To the Office of Government Information Services (OGIS), NARA to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h) to review administrative policies, procedures, and compliance with the FOIA, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

15. To the appropriate agency or entity, whether Federal, State, local, tribal, territorial, foreign, or international, charged with the responsibility for investigating or prosecuting a violation of any law, rule, regulation, or order. Routine use for law enforcement purposes also includes disclosure to individuals or to agencies, whether Federal, State, local, tribal, territorial, foreign, or international, when necessary to further the ends of an investigation.

16. To the DOJ or any other Federal agency that is responsible for representing Department interests in connection with judicial,

administrative, or other proceedings. This includes circumstances in which:

(1) the Department or OIG, or any component thereof;

(2) any employee of the Department or OIG in his or her official capacity;

(3) any employee of the Department or OIG in his or her individual capacity, where DOJ or other agency that is responsible for representing Department interests has agreed to represent or is considering a request to represent the employee; or

(4) the United States, or any of its components,

is a party to pending or potential judicial, administrative, or other proceeding or has an interest in such proceeding; the Department or OIG is likely to be affected by the proceeding; or the Department or OIG determines that the use of such records by the DOJ or any other Federal agency that is responsible for representing Department interests is relevant and necessary to the proceeding.

17. To any source from which additional information is requested, either private or governmental, to the extent necessary to solicit information relevant to any investigation, audit, evaluation, or inspection.

18. To a foreign government or international organization pursuant to an international treaty, convention, implementing legislation, or executive agreement entered into by the United States.

19. To representatives of OPM, the Office of Special Counsel, the Merit Systems Protection Board, the Federal Labor Relations Authority, the Equal Employment Opportunity Commission, the Office of Government Ethics, and other Federal agencies in connection with their efforts to carry out their responsibilities to conduct examinations, investigations, and/or settlement efforts, in connection with administrative grievances, complaints, claims, or appeals filed by an employee, or as may be authorized by law.

20. To a grand jury agent pursuant to a Federal or State grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury.

21. To the Departments of the Treasury and Justice in circumstances in which OIG seeks to obtain, or has in fact obtained, an ex parte court order to obtain tax return information from the Internal Revenue Service.

22. To any Federal official charged with the responsibility to conduct qualitative assessment reviews of internal safeguards and management procedures for purposes of reporting to the President and Congress on the activities of OIG. This disclosure category includes other Federal Offices of Inspectors General and members of the Council of the Inspectors General on Integrity and Efficiency, and officials and administrative staff within their chain of command, as well as authorized officials of DOJ and its component, the Federal Bureau of Investigation.

23. To the public or to the media for release to the public when (1) the matter under review has become public knowledge or the Inspector General determines that such disclosure is necessary to preserve confidence in the integrity of the OIG audit, evaluation, inspection, review, or investigative process, or is necessary to demonstrate the accountability of Department employees, officers, or individuals covered by the system; and (2) the Inspector General, after receipt of a written recommendation from Counsel to the Inspector General, makes a written determination that the release of the specific information in the context of a particular case would not constitute an unwarranted invasion of personal privacy.

24. To Congress, congressional committees, or the staffs thereof, in order to fulfill the Inspector General's responsibility, as mandated by the Inspector General Act, to keep the Congress fully and currently informed concerning fraud and other serious problems, abuses, and deficiencies concerning the administration of programs and operations administered or financed by the Department.

25. To a Federal, State, local, or foreign agency, or other public authority, for use in computer matching programs or similar activities, as authorized by the Inspector General Act, to prevent and detect fraud, waste, and abuse and to support civil and criminal law enforcement activities of any agency or its components.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Any electronic media (photographs, audio recording, diskettes, CDs, etc.) are kept in limited-access areas during duty hours and in locked offices during nonduty hours. Electronic records are maintained on servers, which house OIG's electronic systems. Servers are maintained in a secured, restricted-area facility.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic searches may be performed by search criteria that include names of individuals, names of businesses, identifying particulars, organizations, and other key word search variations.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with OIG Records Retention Schedules approved by NARA.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Any electronic media are kept in limited-access areas during duty hours and in locked offices during nonduty hours and are used only by authorized screened personnel. Electronic records are stored on servers maintained in a locked facility that is secured at all times by security systems and video cameras. Data in the system are encrypted and password protected. Access to electronic records is restricted to OIG staff and contractors individually authorized to access the electronic system. Passwords are changed periodically, in accordance with OIG policy. Backup tapes are stored in a locked and controlled room in a secure off-site facility.

RECORD ACCESS PROCEDURES:

The Inspector General has exempted this system from the access procedures of the Privacy Act.

CONTESTING RECORD PROCEDURES:

The Inspector General has exempted this system from contesting record procedures of the Privacy Act.

NOTIFICATION PROCEDURES:

The Inspector General has exempted this system from the procedures of the Privacy Act relating to individuals' requests for notification of the existence of records on themselves.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Under 5 U.S.C. 552a(j)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. The Inspector General Act mandates that the Inspector General recommend policies for, and conduct, supervise, and coordinate activities in the Department and between the Department and other Federal, State, and local government agencies with respect to all matters relating to the prevention and detection of fraud in programs and operations administered or financed by the Department, and to the identification and prosecution of participants in such fraud. Under the Inspector General Act, whenever the Inspector General has reasonable grounds to believe that there has been a violation of Federal criminal law, the Inspector General must report the matter expeditiously to the Attorney General. In addition to these principal functions pertaining to the enforcement of criminal laws, the Inspector General may receive and investigate complaints on information from various sources concerning the possible existence of activities constituting violations of law, rules, or regulations, or mismanagement, gross waste of funds, abuses of authority, or substantial and specific danger to the public health and safety. The provisions of the Privacy Act from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows: 5 U.S.C. 552a(c)(3) and (4); 5 U.S.C. 552a(d); 5 U.S.C. 552a(e)(1), (2) and (3); 5 U.S.C. 552a(e)(4)(G), (H), and (I); 5 U.S.C. 552a(e)(5) and (8); 5 U.S.C. 552a(f); and 5 U.S.C. 552a(g).

To the extent that the exemption under 5 U.S.C. 552a(j)(2) is held to be invalid or inapplicable, then the exemptions under 5 U.S.C. 552a(k)(2) and (k)(5) are claimed for all material which meets the criteria of these two subsections.

The provisions of the Privacy Act from which exemptions are claimed under 5 U.S.C. 552a(k)(2) and (k)(5) are as follows: 5 U.S.C. 552a(c)(3); 5 U.S.C. 552a(d); 5 U.S.C. 552a(e)(1); 5 U.S.C. 552a(e)(4)(G), (H), and (I); and 5 U.S.C. 552a(f).

Reasons for exemptions: In general, the exemption of this information and material is necessary in order to accomplish the law enforcement function of the OIG, to prevent subjects of investigations from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel. Additional details are as follows:

Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2):

(1) 5 U.S.C. 552a(c)(3) requires that upon request, an agency must give an individual named in a record an accounting which reflects the disclosure of the record to other persons or agencies. This accounting must state the date, nature, and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation. More broadly, the application of this provision could reveal the OIG's investigative interests, which could compromise those investigative interests. Application of this provision could also disclose the confidentiality or privacy interests of others.

(2) 5 U.S.C. 552a(c)(4), (d), (e)(4)(G) and (H), (f) and (g) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; the agency procedures relating to access to records and the contest of information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in records systems. This system is exempt from the foregoing provisions for the reasons set forth in this paragraph. Notifying an individual at the individual's request of the existence of records pertaining to such individual, or granting access to those records could interfere with investigative and enforcement proceedings, deprive co-defendants of a right to a fair trial or other impartial adjudication, constitute an unwarranted invasion of personal privacy of others, disclose the identity of confidential sources, reveal confidential information supplied by these sources, and disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could require disclosure of investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to identify, detect, and apprehend violators.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed:

a. Because it is not possible to determine relevance or necessity of specific information in the early stages of an investigation, audit, evaluation, inspection, or other review pursuant to the Inspector General Act.

b. Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established.

c. The Inspector General may obtain information concerning the violations of laws other than those within the scope of his or her jurisdiction. In the interest of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of the provision would impair investigations of illegal acts, violations of the rules of conduct, merit system, and any other misconduct for the following reasons:

a. In certain instances the subject of an investigation cannot be required to supply information to investigators. In those instances, information relating to a subject's illegal acts, violations of rules of conduct, or any other misconduct, etc., must be obtained from other sources.

b. Most information collected about an individual under investigation is obtained from third parties such as witnesses and informers. It is not feasible to rely upon the subject of the investigation as a source for information regarding his or her activities.

c. The subject of an investigation will be alerted to the existence of an investigation if any attempt is made to obtain information from the subject. This could afford the individual the opportunity to conceal any criminal activities to avoid apprehension.

d. In any investigation, it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful litigation.

e. In some cases, such as where information can be collected from databases, collecting that information from individuals would impose significant administrative burdens that would interfere with the Inspector General's oversight responsibilities under the Inspector General Act.

(6) 5 U.S.C. 552a(e)(3) requires that an agency must inform an individual who is asked to supply information of:

a. The authority under which the information is sought and whether disclosure of the information is mandatory or voluntary,

b. The purposes for which the information is intended to be used,

c. The routine uses which may be made of the information, and

d. The effects on the individual, if any, of not providing the requested information.

The reasons for exempting this system of records from the foregoing provision are as follows:

(i) The disclosure to the subject of any investigation as stated in (b) above would provide the subject with substantial information relating to the nature of the investigation and could impede or compromise the investigation.

(ii) If the subject were informed of the information required by this provision, it could seriously interfere with undercover activities requiring disclosure of undercover agents' identity and impairing their safety, as well as impairing the successful conclusion of the investigation.

(iii) Individuals may be contacted during preliminary information-gathering in investigations before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would hinder or adversely affect any present or subsequent investigations.

(7) 5 U.S.C. 552a(e)(5) requires that records be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about an individual. Because the law defines "maintain" to include the collection of information, complying with this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of an investigation, it is not possible to determine this prior to collection of the information. Facts are first gathered and then placed into a logical order which supports legal conclusions and Inspector General findings. Material that may seem unrelated, irrelevant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. The restrictions in this provision could interfere with the preparation of complete OIG reports.

(8) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record of such individual is made available to any persons under compulsory legal process when such process becomes a matter of public record. The notice requirements of this provision could prematurely reveal and impede an ongoing criminal investigation.

Reasons for exemptions under 5 U.S.C. 552a(k)(5):

(1) 5 U.S.C. 552a(c)(3) requires that upon request, an agency must give an individual named in a record an accounting that reflects the disclosure of the record to other persons or agencies. This accounting must state the date, nature, and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation. More broadly, the application of this provision could reveal the OIG's investigative interests, which could compromise those investigative interests. Application of this provision could also disclose the confidentiality or privacy interests of others.

(2) 5 U.S.C. 552a(d), (e)(4)(G) and (H), and (f) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; and the agency procedures relating to access to records and the contest of information contained in such records. This system is exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could interfere with investigative and enforcement proceedings; deprive co-defendants of a right to a fair trial or other impartial adjudication; constitute an unwarranted invasion of personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by these sources; and disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to make fair and objective decisions on questions of suitability for Federal employment and related issues.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed:

a. Because it is not possible to determine relevance or necessity of specific information in the early stages of an investigation, audit, evaluation, inspection, or other review pursuant to the Inspector General Act.

b. Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after that information is evaluated that the relevance and necessity of such information can be established.

c. In any investigation the Inspector General may obtain information concerning the violations of laws other than those within the scope of his or her jurisdiction. In the interest of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

d. In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relate to matters incidental to the main purpose of the investigation, but which may relate to matters under investigative jurisdiction of another agency. Such information cannot readily be segregated.

HISTORY:

No history.

March 31, 2022 Notice of New System of Record.

Jennifer Goode,

Department of Commerce, Deputy Director and Acting Chief Privacy Officer and Director of the Office of Privacy and Open Government.

[FR Doc. 2022–12569 Filed 6–16–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–04–2022]

Foreign-Trade Zone (FTZ) 177—Evansville, Indiana; Authorization of Production Activity; AstraZeneca Pharmaceuticals, LP (Pharmaceutical Products); Mount Vernon, Indiana

On February 14, 2022, AstraZeneca Pharmaceuticals, LP submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ Subzone 177A, in Mount Vernon, Indiana.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (87 FR 10332–10333, February 24, 2022). On June 14, 2022, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: June 14, 2022.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2022–13065 Filed 6–16–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–909]

Barium Chloride From India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of barium chloride from India. The period of investigation is January 1, 2021, through December 31, 2021. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable June 17, 2022.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold or Harrison Tanchuck, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1221 or (202) 482–7421, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 8, 2022.[1] On March 15, 2022, Commerce postponed the preliminary determination of this investigation until June 13, 2022.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is barium chloride from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* We intend to issue our preliminary decision regarding the scope of the antidumping duty (AD) and countervailing duty (CVD) investigations on or before the preliminary determination of the companion AD investigation, the deadline for which is August 10, 2022. We will incorporate the scope decisions from the AD investigation into the scope of the final CVD determination for this investigation, after considering any relevant comments submitted in scope case and rebuttal briefs.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[6]

Commerce notes that, in making these findings, it relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.[7] For further information, *see* the ''Use of Facts Otherwise Available and Adverse Inferences'' section in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of barium chloride from India based on a request made by the petitioner.[8] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently

[1] *See Barium Chloride from India: Initiation of Countervailing Duty Investigation,* 87 FR 7094 (February 8, 2022) (*Initiation Notice*).

[2] *See Barium Chloride from India: Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 87 FR 14508 (March 15, 2022).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Countervailing Duty Investigation of Barium Chloride from India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[7] *See* sections 776(a) and (b) of the Act.

[8] *See* Petitioner's Letter, ''Countervailing Duty Investigation of Barium Chloride from India: Request to Align Final CVD Determination with Final AD Determination,'' dated April 6, 2022.

scheduled to be issued no later than October 25, 2022, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act. Commerce calculated an individual estimated countervailable subsidy rate for Chaitanya Chemicals (Chaitanya), the only exporter/producer selected for individual examination in this investigation. Because the only individually calculated rate is not zero, *de minimis,* or based entirely on facts otherwise available, the estimated weighted-average rate calculated for Chaitanya is the rate assigned to all other producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Chaitanya Chemicals [9]	1.64
All Others	1.64

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[10] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[11] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of barium chloride from India are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act, and 19 CFR 351.205(c).

Dated: June 13, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is barium chloride, a chemical compound having the formulas BaCl2 or BaCl2-2H2O, currently classifiable under subheading 2827.39.4500 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. Injury Test
VI. Subsidies Valuation
VII. Discount Rates
VIII. Use of Facts Otherwise Available and Adverse Inferences
IX. New Subsidy Allegation: Provision of Barytes for Less Than Adequate Remuneration Program
X. Analysis of Programs
XI. Calculation of the All-Others Rate
XII. Recommendation

[FR Doc. 2022–13138 Filed 6–16–22; 8:45 am]

BILLING CODE 3510–DS–P

[9] As discussed in the Preliminary Decision Memorandum, Commerce has found the following company to be cross-owned with Chaitanya Chemicals: Chaitanya Barium (India) Private Limited.

[10] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–967; C–570–968]

Aluminum Extrusions From the People's Republic of China: Preliminary Results of Changed Circumstances Reviews

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

SUMMARY: The Department of Commerce (Commerce) intends to revoke, in part, the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China (China) with respect certain rectangular wire. Interested

parties are invited to comment on these preliminary results.

DATES: Applicable June 17, 2022.

FOR FURTHER INFORMATION CONTACT: Mark Flessner or Erin Kearney, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6312 or (202) 482–0167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 26, 2011, Commerce published the AD and CVD orders on aluminum extrusions from China.[1]

On January 6, 2014, Commerce issued the final results of changed circumstances reviews (CCRs), in which it revoked the *Orders,* in part, based on a request from 3M Company (3M) with regard to a similar product, and added the following language to the scope of the *Orders:*

> Also excluded from the scope of the order is certain rectangular wire produced from continuously cast rolled aluminum wire rod, which is subsequently extruded to dimension to form rectangular wire. The product is made from aluminum alloy grade 1070 or 1370, with no recycled metal content allowed. The dimensions of the wire are 5 mm (+/− 0.05 mm) in width and 1.0 mm (+/ − 0.02 mm) in thickness. Imports of rectangular wire are provided for under HTSUS category 7605.19.000.[2]

On March 23, 2022, 3M requested that Commerce initiate CCRs to revoke, in part, the *Orders* with respect to certain rectangular wire, pursuant to section 751(b)(l) of the Tariff Act of 1930, as amended (the Act).[3] 3M requested that Commerce exercise its discretion to extend the effective date back by one additional day, setting an effective date of the revocation of the *Orders* to entries entered on or after April 30, 2021. Additionally, 3M requested that Commerce expedite the reviews by combining the notice of initiation of the CCRs and the preliminary results of the reviews pursuant to 19 CFR 351.221(c)(3)(ii). 3M stated that it is a U.S. importer of certain rectangular wire and, as such, is an interested party pursuant to Section 771(9)(A) of the Act.

On April 13, 2022, the Aluminum Extrusions Fair Trade Committee (the petitioner) submitted comments in support of partially revoking the *Orders* with regard to the certain rectangular wire defined in the CCR Request.[4] The petitioner submitted data demonstrating that it represents ''substantially all'' of the production of the domestic like product.[5] The petitioner also supported 3M's request that the partial revocation of the *Orders* with respect to the certain rectangular wire defined in the CCR Request include unliquidated entries of the certain rectangular wire that was entered on or after April 30, 2021.[6] Additionally, the petitioner supported 3M's request that Commerce expedite these reviews by combining the notice of initiation of the CCRs and the preliminary results of the reviews.[7]

On May 12, 2022, we published the initiation of the requested CCRs.[8] We determined that it was not appropriate to combine the notice of initiation with notice of preliminary results because of the need to provide interested parties an opportunity to address the language of the proposed partial revocation of the *Orders.*[9] Therefore, in the *Initiation Notice,* we invited interested parties to provide comments and/or factual information regarding these CCRs, including comments on the synthesis of the language of the of the *2014 Revocation in Part* with the certain rectangular wire defined in the current CCR Request, and the setting of an effective date of the partial revocation of the *Orders* to entries entered on or after April 30, 2021.

On May 19, 2022, 3M submitted comments[10] on the *Initiation Notice* in which 3M provided revised language to harmonize the language of the products that are the subject of these CCRs with the language that Commerce adopted in the *2014 Revocation in Part* to yield a single exclusion on rectangular wire, as follows:

> Also excluded from the scope of the orders is certain rectangular wire, imported in bulk rolls or precut strips and produced from continuously cast rolled aluminum wire rod, which is subsequently extruded to dimension to form rectangular wire with or without rounded edges. The product is made from aluminum alloy grade 1070 or 1370, with no recycled metal content allowed. The dimensions of the wire are 2.95 mm to 6.05 mm in width, and 0.65 mm to 1.25 mm in thickness. Imports of rectangular wire are provided for under HTSUS categories 7605.19.000, 7604.29.1090, or 7616.99.5190.

3M continued to request that Commerce set an effective date of the partial revocation of the AD *Order* to entries entered on or after April 30, 2021 (which had already been supported by the petitioner[11]). On May 20, 2022, the petitioner submitted comments[12] in which it agreed with the integration of the language from the *2014 Revocation in Part* with the language proposed by 3M in the CCR Request to create a single, revised exclusion regarding certain rectangular wire using the language cited above in the 3M Comments. No other party commented on the *Initiation Notice.*

Scope of the Orders

The merchandise covered by these *Orders* is aluminum extrusions from China. For a complete description of the scope of the *Orders* (as they are presently composed), *see* the appendix to this notice.

Preliminary Results of Changed Circumstances Reviews and Intent To Revoke the Orders, in Part

Pursuant to section 751(d)(1) of the Act, and 19 CFR 351.222(g), Commerce may revoke an order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.,* a CCR). Section 782(h)(2) of the Act gives Commerce the authority to revoke an order if producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order. Section 351.222(g) of Commerce's regulations provides that Commerce will conduct a CCR under 19 CFR 351.216, and may revoke an order if it concludes that: (i) producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part; or (ii) other

[1] *See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order,* 76 FR 30650 (May 26, 2011); and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order,* 76 FR 30653 (May 26, 2011) (collectively, *Orders*).

[2] *See Aluminum Extrusions from the People's Republic of China: Final Results of Changed Circumstances Reviews; Partial Revocation of Antidumping and Countervailing Duty Orders,* 79 FR 634 (January 6, 2014) (*2014 Revocation in Part*).

[3] *See* 3M's Letter, ''Aluminum Extrusions from the People's Republic of China: Changed Circumstances Review Request,'' dated March 23, 2022 (CCR Request).

[4] *See* Petitioner's Letter, ''Aluminum Extrusions from the People's Republic of China: Letter in Support of 3M Changed Circumstances Review Request,'' dated April 13, 2022 (Petitioner's Support Letter).

[5] *Id.* at 2–3.

[6] *Id.* at 3.

[7] *Id.*

[8] *See Aluminum Extrusions from the People's Republic of China: Initiation of Changed Circumstances Reviews,* 87 FR 29110 (May 12, 2022) (*Initiation Notice*).

[9] *Id.,* 87 FR at 29111.

[10] *See* 3M's Letter, ''Aluminum Extrusions from the People's Republic of China: Comments of 3M Regarding Changed Circumstances Review on Certain Rectangular Wire,'' dated May 19, 2022 (3M Comments).

[11] *See* Petitioner's Support Letter at 3.

[12] *See* Petitioner's Letter, ''Aluminum Extrusions from the People's Republic of China: Letter in Support of 3M Changed Circumstances Review,'' dated May 20, 2022.

changed circumstances sufficient to warrant revocation exist. Thus, both the Act and Commerce's regulations require that ''substantially all'' domestic producers express a lack of interest in the order for Commerce to revoke the order, in whole or in part.[13] Commerce has interpreted ''substantially all'' to mean producers accounting for at least 85 percent of the total U.S. production of the domestic like product covered by the order.[14] The petitioner submitted data indicating that it represented ''substantially all'' of the total U.S. production of the domestic like product covered by the *Orders.*[15] In the *Initiation Notice,* Commerce invited interested parties to provide comments and/or factual information regarding these CCRs. No party submitted comments on industry support. In light of the petitioner's stated lack of interest in maintaining the *Orders* with respect to certain rectangular wire as described above, and in the absence of any interested party comments concerning industry support, we preliminarily conclude that producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief provided by the *Orders* with respect to certain rectangular wire as described above. Thus, we preliminarily determine that changed circumstances warrant revocation of the *Orders,* in part, with respect to certain rectangular wire as described above.

Accordingly, we are notifying the public of our intent to revoke the *Orders,* in part, with respect to certain rectangular wire as described above:

> Also excluded from the scope of the orders is certain rectangular wire, imported in bulk rolls or precut strips and produced from continuously cast rolled aluminum wire rod, which is subsequently extruded to dimension to form rectangular wire with or without rounded edges. The product is made from aluminum alloy grade 1070 or 1370, with no recycled metal content allowed. The dimensions of the wire are 2.95 mm to 6.05 mm in width, and 0.65 mm to 1.25 mm in thickness. Imports of rectangular wire are provided for under HTSUS categories 7605.19.000, 7604.29.1090, or 7616.99.5190.

Lastly, we preliminarily determine that the effective date of the revocation of the AD *Order* will apply to entries entered on or after April 30, 2021. Setting the proposed effective date as the last day of the most-recently-completed POR aids materially in the orderly administration of the *Orders* in that it permits: (a) liquidation of entries for the 2020–2021 POR exactly concurrent with that POR; and (b) the refund of cash deposits for entries in the 2021–2022 POR exactly concurrent with this POR.

We shall consider comments from interested parties on these preliminary results before issuing the final results of these CCRs.[16]

Public Comment

Interested parties are invited to comment on these preliminary results of CCRs in accordance with 19 CFR 351.309(c)(1)(ii). Comments may be submitted to Commerce no later than seven days after the date of publication of this notice. Rebuttal comments may be filed with Commerce no later than seven days after the comments are filed.[17] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.[18] All submissions must be filed electronically using the Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the due date set forth in this notice.

Final Results of the Changed Circumstances Reviews

Commerce will issue the final results of these CCRs, which will include its analysis of any written comments, no later than 270 days after the date on which these reviews were initiated.[19] If, in the final results of these reviews, Commerce continues to determine that changed circumstances warrant the revocation of the *Orders,* in part, we will instruct U.S. Customs and Border Protection (CBP) to liquidate without regard to antidumping or countervailing duties, and to refund any estimated antidumping and countervailing duties deposited on, all unliquidated entries of the merchandise covered by the revocation that are not covered by the final results of an administrative review or an automatic liquidation instruction to CBP. The effective date of the revocation of the AD *Order* will be applied to entries entered into the United States on or after April 30, 2021. The current requirement for cash deposits of estimated antidumping and countervailing duties on all entries of subject merchandise will continue unless they are modified pursuant to the final results of these CCRs.

Notification to Interested Parties

These preliminary results of CCRs and this notice are published in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.216, 19 CFR 351.221(c)(3), and 19 CFR 351.222.

Dated: June 13, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Orders

The merchandise covered by the *Orders* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by the Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing

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[13] *See* section 782(h) of the Act and 19 CFR 351.222(g).

[14] *See, e.g., Honey from Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders,* 77 FR 67790, 67791 (November 14, 2012), unchanged in *Honey from Argentina; Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews; Revocation of Antidumping and Countervailing Duty Orders,* 77 FR 77029 (December 31, 2012); and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent To Revoke the Antidumping and Countervailing Duty Orders, in Part,* 86 FR 33982 (June 28, 2021), unchanged in *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Changed Circumstances Reviews, and Revocation of the Antidumping and Countervailing Duty Orders, in Part,* 86 FR 71615 (December 17, 2021).

[15] *See* Petitioner's Support Letter at 2–3 and Exhibit 1.

[16] *See, e.g., Aluminum Extrusions from the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping and Countervailing Duty Orders in Part,* 78 FR 66895 (November 7, 2013), unchanged in 2014 Revocation in Part; and 19 CFR 351.222(g)(3)(v).

[17] Submissions of rebuttal factual information must comply with 19 CFR 351.301(b)(2). *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[18] *See Temporary Rule.*

[19] *See* 19 CFR 351.216(e).

with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.,* without any coating or further finishing), brushed, buffed, polished, anodized (including brightdip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.,* prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached *(e.g.,* by welding or fasteners) to form subassemblies, *i.e.,* partially assembled merchandise unless imported as part of the finished goods 'kit' defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation.

The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a ''finished goods kit.'' A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled ''as is'' into a finished product. An imported product will not be considered a ''finished goods kit'' and therefore excluded from the scope of the *Orders* merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 millimeters (''mm'') or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of these *Orders* are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Also excluded from the scope of the *Orders* is certain rectangular wire produced from continuously cast rolled aluminum wire rod, which is subsequently extruded to dimension to form rectangular wire. The product is made from aluminum alloy grade 1070 or 1370, with no recycled metal content allowed. The dimensions of the wire are 5 mm (+/− 0.05 mm) in width and 1.0 mm (+/− 0.02 mm) in thickness. Imports of rectangular wire are provided for under HTSUS category 7605.19.000.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 6603.90.81.00, 7604.21.00.00, 7604.21.00.10, 7604.21.00.90, 7604.29.10.00, 7604.29.10.10, 7604.29.10.90, 7604.29.30.10, 7604.29.30.50, 7604.29.30.60, 7604.29.30.90, 7604.29.50.30, 7604.29.50.60, 7604.29.50.50, 7604.29.50.90, 7606.12.30.91, 7606.12.30.96, 7608.20.00.30, 7608.20.00.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.20.15, 7615.10.20.25, 7615.10.30, 7615.10.30.15, 7615.10.30.25, 7615.10.50.20, 7615.10.50.40, 7615.10.71, 7615.10.71.25, 7615.10.71.30, 7615.10.71.55, 7615.10.71.80, 7615.10.91, 7615.10.91.00, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7615.20.00.00, 7616.10.90.90, 7616.99.10, 7616.99.50, 7616.99.51, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8424.90.90.80, 8473.30.20.00, 8473.30.51.00, 8479.89.94, 8479.89.98, 8479.90.85.00, 8479.90.94, 8481.90.90.60, 8481.90.90.85, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8513.90.20, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8541.90.00.00, 8543.90.88.80, 8543.90.88.85, 8708.10.30.50, 8708.29.50.60, 8708.29.51.60, 8708.80.65.90, 8708.99.68.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9031.90.90.95, 9031.90.91.95, 9401.90.50.81, 9401.99.90.81, 9403.10.00, 9403.20.00, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9403.99.10.40, 9403.99.90.10, 9403.99.90.15, 9403.99.90.20, 9403.99.90.41, 9405.99.40.20, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.30.80.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99, as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.

[FR Doc. 2022–13139 Filed 6–16–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC072]

Marine Mammals; File No. 26314

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the St. George Traditional Council, P.O. Box 940, St. George Island, AK 99591 (Responsible Party: Mark Merculief) has applied in due form for a permit to conduct research on northern fur seals (*Callorhinus ursinus*), Steller sea lions (*Eumetopias jubatus*), and harbor seals (*Phoca vitulina*).

DATES: Written, telefaxed, or email comments must be received on or before July 18, 2022.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 26314 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 26314 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Sara Young or Shasta McClenahan, Ph.D., (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216); the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226); and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to conduct research on pinnipeds to fulfill the co-management agreement between the St. George Traditional Council and NMFS for northern fur seals and Steller sea lions on St. George Island, Alaska. Take activities involve ground survey, aerial survey by an unmanned aircraft system, vessel survey, observation, and photography. Animals may also be harassed during disentanglement of northern fur seals covered under the applicant's Marine Mammal Stranding Agreement. In addition, samples may be collected, imported, or exported from subsistence harvests or beach-cast pinnipeds, or opportunistically encountered unidentified cetacean and pinniped carcasses. Take numbers include up to 2,600 northern fur seals, 350 Steller sea lions, 260 harbor seals, and up to 100 each unidentified cetacean and pinniped carcasses. The permit would be valid for five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 14, 2022.

Amy Sloan,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–13121 Filed 6–16–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Developing, Testing, and Evaluating Methods for Transitioning the Brief Vulnerability Overview Tool (BVOT) to NWS Weather Forecasting Office Operations

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before August 16, 2022.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *Adrienne.thomas@noaa.gov.* Please reference OMB Control Number 0648–XXXX in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Nicole Kurkowski, R2O Team Lead, DOC/NOAA/NWS/OSTI, 1325 East-West Highway, Silver Spring, MD 20910, 301–427–9104, *nicole.kurkowski@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for a new collection of information. The data collection is sponsored by DOC/NOAA/National Weather Service (NWS)/Office of Science and Technology Integration (OSTI). Currently, NOAA lacks data and data collection instruments that can capture local, knowledge-based, weather-hazard vulnerability information from NWS Weather Forecasting Office (WFO) meteorologists and their County Warning Area (CWA)-based core partners (especially, their county-based emergency managers (EMs). The CWA boundaries are the counties/zones for which each WFO is responsible for issuing forecasts and warnings. Without this vulnerability information, WFO-level meteorologists' situational awareness of the greatest concerns of and risks to local communities often suffer. In addition, during situations where a WFO must rely on a back-up office due to a WFO being affected by severe weather conditions (*e.g.,* having to shelter, losing power due to the impacts of a hurricane, tornado outbreak, etc.), back-up WFOs rarely have the situational awareness of the critical areas of concern to local core partners and, thus, are less able to communicate mission critical messaging to those core partners. Without this type of local vulnerability information, NOAA, and the NWS specifically, is limited in its ability to meet its mission of saving lives and property as outlined in the Weather Research and Forecasting Innovation Act of 2017 (especially Pub. L. 115–25 Sec. 405.d.1.A, 405.d.1.B, Sec 406.c.2.B). This effort aims to advance the Tornado Warning Improvement and Extension Program (TWIEP)'s goal to ''reduce the loss of life and economic losses from tornadoes through the development and extension of accurate, effective, and timely tornado forecasts, predictions, and warnings, including the prediction of tornadoes beyond one hour in advance (Pub. L. 115–25)''. This work addresses NOAA's 5-year Research and Development Vision Areas (2020–2026) Section 1.4 (FACETs). This effort also advances the NWS Strategic Plan (2019–2022) ''Transformative Impact-Based Decision Support Services (IDSS) and Research to Operations and Operations to Research (R2O/O2R). The Brief Vulnerability Overview Tool (BVOT) would contribute to the NWS Weather Ready Nation (WRN) Roadmap (2013) Sections 1.1.1, 1.1.2, 1.1.3, 1.1.8, and 3.1.4. In addition, because the BVOT is ''hazard agnostic''—it is used to collect vulnerabilities based on different weather hazards and can be organized to display those vulnerabilities only related to those specific hazards that are relevant to an NWS WFO at any given moment—it can be seen to help advance a number of hazard-specific congressional laws including (but, not limited to) those related to tsunamis (Pub. L. 109–424 Sec. 5.b.4, 5.c.2, 5.c.3, Sec. 6; Pub. L. 115–25 Sec. 505.c.5.B and Sec. 505.d.1) and the recently introduced TORNADO Act (S.3817 Sec. 3.b.6.C).

This study will assess the feasibility of NWS WFOs working with their local core partners to collect local known vulnerability points associated with specific types of weather hazards in order to populate a simple (but agile) GIS shapefile that can be used to provide WFO-level meteorologists with situational awareness of the vulnerabilities of greatest concern in their CWAs. This vulnerability awareness tool—the Brief Vulnerability Overview Tool (BVOT)—has been designed by researchers at the University of Oklahoma's Center for Applied Social Research (CASR) and Center for the Analysis and Prediction of Storms (CAPS), and it would permit NWS WFOs to work closely with their core partners to collect initial vulnerability points and to update those points in a efficient manner that would require little training and little effort through the use of widely available, simple online data collection methods.

Research participants will include adult (age 18+) NWS WFO meteorologists and their core partners (primarily the county emergency managers (EMs)) from four WFOs around the country. Participants will be asked to participate in a number of background interviews. In addition, they will be asked to complete an online (Qualtrics) survey assessing the attachment, trust, and knowledge of WFO meteorologists and their core partners. This survey will be conducted pre-/post-study in order to identify changes over time. Participants will also be asked to contribute to and learn how to maintain and use a Brief Vulnerability Overview Tool (BVOT)—a GIS shapefile-based way of collecting and displaying local, *known* vulnerability points within the existing operational environment of NWS WFOs.

The creation of a BVOT provides a number of benefits over and above current efforts within the NWS. These include (1) improved situational awareness for NWS WFO meteorologists; (2) improved spatial awareness of vulnerabilities of greatest concerns to core partners can prompt and fine-tune messaging and Decision Support Services (DSS) provided to these core partners; (3) improved spatial situational awareness for backup offices if an NWS WFO loses its capacity to operate; (4) improved training and orientation for meteorologists who are new to an NWS WFO; (5) providing a structured requirement for maintaining an evolving, ''living'' database of vulnerabilities that can be shared and equally accessed across the WFO and the NWS; and (6) providing opportunities to improve the trust, communication, and rapport between an NWS WFO and its core partners through the collaborative construction and periodic updating of the BVOT.

II. Method of Collection

Recruitment & Training: Having worked extensively with NWS WFOs and their partner Emergency Managers and core partners in both the Central and Southern regions, the Principle Investors are familiar with what will be necessary to receive permission to conduct the research efficiently and in a manner that respects and minimizes the necessary effort that will be requested from EMs and core partners (*i.e.,* the non-federal/federally-contracted participants in this study). After recruitment of NWS WFO meteorologists into the study, we will contact their partner EMs and core partners (generally, this is limited to county EMs, but could include a few municipal or, if relevant, tribal EM partners) to (1) describe the project to them, (2) seek informed consent from them to participate in the study, (3) request that all consented study participants complete the online, pre-/post-NWS-Core Partner Trust survey and background interviews, (4) provide training/orientation modules to all study participants on how to select and map vulnerability data for the BVOT, and (5) develop a timeline for completing the gathering of vulnerability data.

Data Gathering Methods

Background interviews will be conducted virtually using a video conferencing platform (either Zoom or Google Meet). These will be audio-recorded only and will focus on professional background and perceptions of critical decision-making practices related to hazardous weather information and understandings of local vulnerabilities. We expect to only conduct background interviews with a sample of the EMs who are participating in the study.

Trust and Relationship surveys will be administered through an online, Qualtrics survey platform and will be administered at the start of the study and at the end of the study to assess the impact of NWS meteorologists and EMs working together on vulnerability mapping.

An *Online Focus Group* will be conducted after the BVOT has been built to get feedback about how both NWS meteorologists and EMs perceive the process of building the BVOT, how it could and should be used in the future, and what has been helpful about the BVOT.

Vulnerability Mapping itself will involve using Google Earth Pro or ArcGIS Online to map local, known, discrete, weather hazard-related vulnerabilities in one's area of responsibility (for the EMs, this is usually at the county level). EM participants are encouraged to limit their time doing this mapping to no more than about 60 minutes in order to ensure that they only focus on those vulnerabilities of greatest concern.

III. Data

OMB Control Number: 0648–XXXX.

Form Number(s): None.

Type of Review: Regular (New information collection).

Affected Public: State, Local, or Tribal Government (Emergency Managers).

Estimated Number of Respondents: ~140.

Estimated Time per Response: Online Focus Group and Vulnerability Mapping: 1 hour each; Background Interview: 1.5 hours; Trust Surveys: 15 minutes each.

Estimated Total Annual Burden Hours: 425.

Estimated Total Annual Cost to Public: None.

Respondent's Obligation: Voluntary.

Legal Authority: 15 U.S.C. Ch. 111, Weather Research and Forecasting Information.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–13112 Filed 6–16–22; 8:45 am]

BILLING CODE 3510–KE–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Quarterly Public Meeting

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Notice of public meeting.

SUMMARY: The Committee is announcing a virtual public meeting to be held July 21, 2022.

DATES: *Register no later than:* July 19, 2022.

ADDRESSES: 1401 S Clark Street, Suite 715, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Angela Phifer, telephone: (703) 798–5873 or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to register to attend a public meeting.

Summary: This notice provides information to access and participate in the July 21, 2022, regular quarterly public meeting of the Committee for Purchase From People Who Are Blind or Severely Disabled, operating as the U.S. AbilityOne Commission (Commission), via Zoom webinar. The Commission oversees the AbilityOne Program, which provides employment opportunities through Federal contracts for people who are blind or have significant disabilities in the manufacture and delivery of products and services to the Federal Government. The Javits-Wagner-O'Day Act (41 U.S.C. Chapter 85) authorizes the contracts and established 15 Presidential appointees, including private citizens conversant with the employment interests and concerns of people who are blind or significantly disabled. Presidential appointees also include representatives of Federal agencies. The public meetings include updates from the Commission and staff.

Date and Time: July 21, 2022, from 1:00 p.m. to 4:00 p.m., ET.

Place: This meeting will occur via Zoom webinar.

Commission Statement: The Commission invites public comments or suggestions regarding the types of technical assistance that may be provided to AbilityOne-participating nonprofit agencies during future compliance inspections or regulatory assistance visits. The technical assistance is intended to enhance overall compliance and oversight, and/or to support contract performance quality, and/or to enhance the quality of employment in the AbilityOne Program.

Registration: Attendees not requesting speaking time must register not later than 11:59 p.m. EDT on Tuesday, July 19, 2022. Attendees requesting speaking time should register not later than 11:59 p.m. EDT on July 8, 2022, and use the comment fields in the registration form to specify the intended speaking topic/s. The registration link will be posted on the Commission's home page, *www.abilityone.gov,* not later than Tuesday, June 21, 2022. During registration, you may choose to submit comments, or you may request speaking time at the meeting. The Commission may invite some attendees who submit advance comments to speak to their comments during the meeting. Comments submitted via the registration link will be reviewed with the Commission members prior to the meeting. Comments posted in the chat box during the meeting will be shared with the Commission members after the meeting.

Personal Information: Do not include any information that you do not want publicly disclosed.

For Further Information Contact: Angela Phifer, (703) 798–5873.

The Commission is not subject to the requirements of 5 U.S.C. 552(b); however, the Commission published this notice to encourage the broadest possible participation in its July 21, 2022, public meeting.

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2022–13085 Filed 6–16–22; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add product(s) and service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities and deletes service(s) previously furnished by such agencies.

DATES: *Comments must be received on or before:* July 17, 2022.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41

U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the product(s) and service(s) listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following product(s) and service(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Product(s)

NSN(s)—Product Name(s):
7025–00–NIB–0015—Universal Docking Station, Thunderbolt 3 and USB–C, Dual 4K, Windows and Mac, with Mounting Bracket
7025–00–NIB–0014—Universal Docking Station, USB–C and USB 3.0, Dual 2K, Windows and Mac, with Mounting Bracket
Designated Source of Supply: Chicago Lighthouse Industries, Chicago, IL
Contracting Activity: FEDERAL ACQUISITION SERVICE, GSA/FAS FURNITURE SYSTEMS MGT DIV
Distribution: A–List
Mandatory for: Total Government Requirement

Service(s)

Service Type: Kennel Caretaker Service
Mandatory for: U.S. Customs and Border Protection, U.S. Border Patrol-Ramey Sector, Aguadilla, PR
Designated Source of Supply: The Corporate Source, Inc., Garden City, NY
Contracting Activity: U.S. CUSTOMS AND BORDER PROTECTION, BORDER ENFORCEMENT CTR DIV

Service Type: Groundskeeping Service
Mandatory for: FAA, Houston (I90) TRACON, Houston, TX
Designated Source of Supply: PRIDE Industries, Roseville, CA
Contracting Activity: FEDERAL AVIATION ADMINISTRATION, 697DCK REGIONAL ACQUISITIONS SVCS

Service Type: Plant Maintenance Services
Mandatory for: GSA PBS Region 5, Paul Findley Federal Building, Springfield, IL
Designated Source of Supply: Challenge Unlimited, Inc., Alton, IL
Contracting Activity: PUBLIC BUILDINGS SERVICE, PBS R5

Service Type: Facility Support Services
Mandatory for: DHS, Transportation Security Administration Headquarters, Springfield, VA
Designated Source of Supply: Didlake, Inc., Manassas, VA
Contracting Activity: TRANSPORTATION SECURITY ADMINISTRATION, WEO

Deletions

The following service(s) are proposed for deletion from the Procurement List:

Service(s)

Service Type: Food Service Attendant
Mandatory for: U.S. Air Force, Indiana ANG, 181st Intelligence Wing Dining Facility, Terre Haute, IN, 888 East Vanatti Circle, Terre Haute, IN
Designated Source of Supply: Child-Adult Resource Services, Inc., Rockville, IN
Contracting Activity: DEPT OF THE ARMY, W7M7 USPFO ACTIVITY IN ARNG

Service Type: Custodial and Grounds Maintenance
Mandatory for: U.S. Department of Energy, Information Operations & Research Center, IF–608, Idaho Falls, ID, 1155 Foote Drive, Idaho Falls, ID
Designated Source of Supply: Development Workshop, Inc., Idaho Falls, ID
Contracting Activity: ENERGY, DEPARTMENT OF, SE–IDAHO OPERATIONS OFFICE

Service Type: Custodial service
Mandatory for: National Weather Service, Ohio River Forecast Center, Wilmington, OH, 1901 S State Route 134, Wilmington, OH
Designated Source of Supply: Goodwill Easter Seals Miami Valley, Dayton, OH
Contracting Activity: NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, EASTERN ACQUISITION DIVISION—NORFOLK

Michael R. Jurkowski,
Acting Director, Business Operations.

[FR Doc. 2022–13087 Filed 6–16–22; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds product(s) and service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes product(s) from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* July 17, 2022.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On 2/4/2022 and 2/25/2022, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product(s) and service(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the product(s) and service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product(s) and service(s) to the Government.

2. The action will result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product(s) and service(s) are added to the Procurement List:

Product(s)

NSN(s)—Product Name(s): 8530–00–NIB–2490—Kit, Personal Sanitizing
Designated Source of Supply: Blind Industries & Services of Maryland, Baltimore, MD
Distribution: A-List
Mandatory For: Total Government Requirement
Contracting Activity: FEDERAL ACQUISITION SERVICE, GSA/FSS GREATER SOUTHWEST ACQUISITI

Service(s)

Service Type: Custodial and Refuse Removal Services
Mandatory for: Bureau of Land Management,

Las Cruces District Office, Upham and I–25 Parking Sites, Las Cruces, NM
Designated Source of Supply: Tresco, Inc., Las Cruces, NM
Contracting Activity: BUREAU OF LAND MANAGEMENT, BLM ALBUQUERQUE DISTRICT OFFICE

The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). The Federal customer contacted and has worked diligently with the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid the possibility that the Bureau of Land Management will refer its business elsewhere, this addition must be effective on July 1, 2022, ensuring timely execution for a July 1, 2022, start date while still allowing 14 days for comment. The Committee published a notice of proposed Procurement List addition in the **Federal Register** on February 25, 2022, and did not receive any comments from any interested persons, including from the incumbent contractor. This addition will not create a public hardship and has limited effect on the public at large, but, rather, will create new jobs for other affected parties—people with significant disabilities in the AbilityOne program who otherwise face challenges locating employment. Moreover, this addition will enable Federal customer operations to continue without interruption.

Deletions

On 11/19/2022 and 12/23/2022, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s): 8465–00–656–0816—Bag, Laundry, Self-Closing, Ropeless
Designated Source of Supply: Ability Building Center, Inc., Rochester, MN
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

NSN(s)—Product Name(s): MR 1023—Holder, Pot, Deluxe, Green
Designated Source of Supply: Alphapointe, Kansas City, MO
Contracting Activity: Military Resale-Defense Commissary Agency

NSN(s)—Product Name(s): MR 1124—Basket, Suction, Sink, Steel
MR 13035—Dispenser, Sugar, Plastic
MR 13074—Set, Bowls, Glass, Prep, 4 Piece
Designated Source of Supply: CINCINNATI ASSOCIATION FOR THE BLIND AND VISUALLY IMPAIRED, Cincinnati, OH
Contracting Activity: Military Resale-Defense Commissary Agency

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2022–13084 Filed 6–16–22; 8:45 am]

BILLING CODE 6353–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2022–0038]

Request for Information Regarding Employer-Driven Debt

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Request for information.

SUMMARY: The Consumer Financial Protection Bureau (CFPB or Bureau) is charged with monitoring markets for consumer financial products and services to ensure that they are fair, transparent, and competitive. As part of this mandate, the CFPB is seeking input from the public on debt obligations incurred by consumers in the context of an employment or independent contractor arrangement. Areas of inquiry include prevalence, pricing and other terms of the obligations, disclosures, dispute resolution, and the servicing and collection of these debts.

DATES: Comments must be received by Wednesday, September 7, 2022.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB–2022–0038 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: employer-drivendebt@cfpb.gov.* Include Docket No. CFPB–2022–0038 in the subject line of the message.
- *Mail/Hand Delivery/Courier:* Comment Intake—Employer-Driven Debt RFI, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID–19 pandemic, the Bureau discourages the submission of comments by hand delivery, mail, or courier.

Instructions: The Bureau encourages the early submission of comments. All submissions must include the document title and docket number. Because paper mail in the Washington, DC, area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, once the Bureau's headquarters reopens, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern time. At that time, you can make an appointment to inspect the documents by telephoning 202–435–7275.

All submissions in response to this Request for Information (RFI), including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Emma Oppenheim, Director's Front Office, at (202) 297–7515. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Employer-Driven Debt

The CFPB has identified a potentially growing market of debt obligations incurred by consumers through employment arrangements. These debts (referred to here as employer-driven debts) appear to involve deferred payment to the employer or an associated entity for employer-mandated training, equipment, and other expenses. In this marketplace, the users of these financial products and services are workers or job seekers and the firms offering or providing these financial products or services are employers or associated entities.[1]

Though they may take other forms, employer-driven debt products appear to include:

- Training Repayment Agreements that require workers to pay their employers or third-party entities for previously undertaken training provided by an employer or an associated entity if they separate voluntarily or involuntarily within a set time period. These trainings may have been required in order to obtain a job or a promotion and may be of dubious value outside of the company-specific setting. These agreements generally require payment when workers leave their employment arrangements.
- Debt owed to an employer or third-party entity for the up-front purchase of equipment and supplies essential to their work or required by the employer, but not paid for by the employer. These products might be common in employment relationships in which workers are outsourced or classified as independent contractors. Workers may also owe deferred payments related to maintenance of equipment and supplies.

Risks to Consumers

Employer-driven debt, like other debt, could pose risks to consumers, including overextension of household finances, errors in servicing and collection, default, and inaccurate credit reporting. As with other debt, errors and misinformation can create heightened risks of consumer harm at each stage of the debt life cycle, from origination through servicing and default or payoff. The CFPB understands that, in addition to these general risks, employer-driven debt may also pose additional risks to consumers: consumers may not understand whether these arrangements involve an extension of credit, whether they have the ability to comparison shop for credit offered by others, or whether entering into the debt agreement is a condition of employment. Additional risks specific to the employment context may include whether default on the debt threatens continued or future employment, or whether the status of the debt is impacted by a decision to seek alternative employment. These risks might limit competition and transparency in this market for consumer financial products and services.

II. Request for Comment

This request seeks information from the public on how employer-driven debt has impacted consumers. The CFPB is particularly interested in hearing from consumers, worker organizations and labor unions, employers (including employers trying to compete with other employers using employer-driven debt), social services organizations, consumer rights and advocacy organizations, legal aid attorneys, academics and researchers, small businesses, financial institutions, and state and local government officials.

The CFPB welcomes the submission of descriptive information about experiences faced by people participating in the market, as well as quantitative data about employer-driven debt. The CFPB is interested in receiving comments relating to debt incurred to an employer or an associated entity, taken on in pursuit or in the course of employment. Commenters need not answer all or any of the specific questions posed. The CFPB anticipates analyzing this information in the service of better understanding the relationship between labor practices and the market for consumer financial products or services and identifying priority areas for future action.

Market-Level Inquiries

For commenters with information about employer-driven debt at a market level, please share research or findings relevant to any part of the origination-to-collections lifecycle, including:

1. What is the total debt burden attributable to employer-driven debt? What data and evidence exist about the scope of employer-driven debt, including how many workers are subject to related practices?
2. What effect does employer-driven debt and related practices have on workers and their families? How does it affect household decision-making and balance sheets?
3. What firms or sectors are associated with employer-driven debt?
4. Is there any relationship between market concentration in particular industries and the use of employer-driven debt?
5. What are the effects of employer-driven debt on employers who impose it, or facilitate it being imposed, on their employees?
6. What are the effects of employer-driven debt on employers who do not impose it, but compete for labor with employers who do?
7. To what extent do these debts increase employee retention or limit worker mobility?
8. To what extent do employers or related third parties obtain state licenses for any financial products provided to employees?
9. How might the CFPB use its supervision, enforcement, research, rulemaking, and consumer complaint functions with respect to employer-driven debt?

Pre-Origination

1. Prior to creating the debt obligation, do employers or their agents evaluate likelihood of repayment on the part of the employee?
2. If yes, what information is used to evaluate likelihood of repayment?
3. What information, if any, do employers or their agents use to inform whether or not they impose the debt obligation and its terms? For what purposes are employer-driven debts incurred?

Origination

1. Are these debts incurred before or after an employee accepts employment?
2. For what purposes are employer-driven debts incurred?
3. How are the extensions of credit structured?
4. What are the typical terms of the extension of credit?

a. How is the amount of the debt determined?

b. Does the amount include interest and fees?

5. Do employers contract with third parties to offer credit to workers?
6. How do employers or their associated entities market to workers, and what statements are made as to the value of the employer-driven debt to the workers' earnings?
7. How are the terms and conditions of the extensions of credit communicated to workers?
8. Are the terms of the extensions of credit offered on a take-or-leave basis, or are workers able to negotiate the terms?
9. Are workers provided any information about other financing alternatives?
10. What triggers the worker's obligation to pay?

[1] Through this Request for Information (RFI), the CFPB seeks information about employer-driven debt regardless of the legal status of the worker's relationship to the employer. Throughout this document, the term ''employer driven debt'' will refer to the relevant kind of debt obligation, and the term ''employee'' will refer to the worker subject to the debt obligation, regardless of whether a worker is considered an employee under the Fair Labor Standards Act, an independent contractor, or whether they may have been misclassified.

11. What are the circumstances, if any, under which a worker need not pay?

12. What is the duration of the credit agreement? If there are circumstances under which a worker need not pay, how long does the credit agreement last? If a worker's obligation to pay is triggered, how long is the repayment period?

13. What types of contracts or promissory notes do employees sign to enter into these agreements?

14. Are the extensions of credit ever assigned, sold, transferred, or otherwise conveyed to a party other than the originator? If so, at what point and to whom? For what purposes are employer-driven debts incurred?

Servicing and Collections

1. How are payments collected?

2. What collection practices are used by employers collecting employer-driven debt?

3. Are employers collecting employer-driven debt engaging in collection activities in-house or through third-party debt collection companies or finance companies?

4. If employers engage third-party debt collection companies, what type of oversight are they conducting?

5. Do employers or their agents threaten or engage in debt collection lawsuits to collect these debts?

6. Do employers or their agents cease collection efforts when a worker files for bankruptcy? Do employers or their agents cease collection efforts when a worker obtains bankruptcy discharge? How are payments collected?

Disputes

1. Do employers who impose employer-driven debt have processes, policies, and procedures for taking and handling disputes about the debt?

2. Following disputes, do employers modify the terms of debt instruments, cease collections, or cease or modify any consumer reporting?

Credit Reporting

1. To what extent do employers or related third parties furnish information to credit reporting companies regarding these debts?

2. What information do employers or related third parties furnish to credit reporting companies regarding the debt?

3. Do employers or related third parties furnish information to other consumer reporting companies, such as employment screening companies?

4. Are employers engaging in furnishing activities in-house or through third parties?

5. Do employers who impose employer-driven debt have processes, policies, and procedures for taking and handling disputes about reporting of the debt?

Transaction-Level Inquiries

For commenters with experiences pertaining to employer-driven debt, please share your experiences relevant to any part of the origination-to-collections lifecycle, including:

Pre-Origination

1. Did your employer or an agent evaluate your likelihood of repaying before originating the debt?

2. If yes, how did they evaluate your likelihood of repaying?

3. Did your employer collect any financial information from you before originating the debt?

4. Did your employer obtain a credit report or consumer report on you before originating the debt?

Origination

1. What is the name of the employer and/or third party associated entity originating the debt?

2. Was the debt incurred:

a. To a prospective employer or third party in order to get a job with that employer;

b. To a current employer or associated entity in order to maintain employment or become eligible for better wages, more complex duties, more hours, or a formal promotion;

c. Or both?

3. What was the debt for?

4. What was the amount of the debt?

5. Were you charged any fees, penalties, or interest charges? If so, how were they disclosed?

6. Were there any other terms or conditions? If so, how were they disclosed?

7. Was the training, equipment, or other item, or the financing of that item, marketed to you? If so, how?

8. Was the training required for a professional license or credential, such as from a state licensing agency or professional body? Did you already have educational or other professional qualifications related to the employment?

9. Do you believe the cost you incurred for the training, equipment, or other item fairly reflects its value?

10. If you were required to obtain training, equipment, or some other item in order to obtain or advance your employment, were you given choices in how to finance it, and where or from what firm to obtain the training, equipment, or other item?

11. What is the name of the company or entity from which you received the training, equipment, or any other item in order to obtain or advance your employment?

12. What is the name of the company or entity that financed the debt?

13. If you feel comfortable doing so, please share any documents or communications, including any marketing, advertisements, contracts, or disclosures, associated with the employer-driven debt.

Servicing and Collections

1. If you took out employer-driven debt, have you had to pay your employer back?

2. If you have not had to pay your employer back, why not?

3. Did any specific conditions trigger a requirement that you pay back your employer (for example: leaving your job)?

4. How have you made your payments (*e.g.,* via payroll withholding, ACH, sending checks, etc.)?

5. Did you have a choice in how to make your payments?

6. What collection tactics were used if you fell behind in your payments or defaulted?

7. Did your employer or their agent initiate a lawsuit against you in order to collect the debt?

8. If you feel comfortable doing so, please share any documents associated with the servicing or collection of the employer-driven debt, including billing notices, collection notices, etc.

9. If you have declared bankruptcy, did your employer or their affiliate stop trying to collect the debt?

Disputes

1. Have you disputed any aspect of the debt with your employer, the finance company, or any other third party associated with the debt?

2. What was the nature of your dispute?

3. To whom did you make your dispute?

4. How did the recipient of the dispute respond?

5. Was any element of your debt, including whether you would have to make any payments, altered following your dispute?

Credit Reporting

1. Has your employer, the finance company, or any other third party associated with the debt told you that they may furnish negative credit reporting information about you?

2. Has your employer, the finance company, or any other third party associated with the debt furnished negative credit reporting information about you?

3. The name of the employer, finance company, or other third party that said

they would furnish or did furnish negative credit reporting information about you?

4. Have you filed a dispute regarding furnished information about your debt to the furnisher or a consumer reporting agency? How was the dispute handled?

5. Do you believe information about your debt has affected your ability to get subsequent employment, obtain credit, rental housing, or other problems?

Financial Health

1. What the effects of employer-driven debt were on your finances, employment experience, professional mobility, workplace health and safety, and compensation?

2. What the effects of employer-driven debt were on your family's well-being?

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2022–13030 Filed 6–16–22; 8:45 am]

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, June 22, 2022; 2:00 p.m.

PLACE: The meeting will be held remotely.

STATUS: Commission Meeting—Open to the Public.

MATTER TO BE CONSIDERED: *Decisional Matter:* Notice of Proposed Rulemaking: Safety Standard for Recreational Off-Highway Vehicle and Utility Task/Terrain Vehicle Debris Penetration Hazards.

All attendees should pre-register for the Commission meeting using the following link: *https://cpsc.webex.com/cpsc/onstage/g.php?MTID=e4deb22642fc939114f31638cbcb5057e*.

After registering you will receive a confirmation email containing information about joining the meeting.

TIME AND DATE: Wednesday, June 22, 2022; 2:00 p.m. (immediately following the conclusion of the Public Commission Meeting).

PLACE: The meeting will be held remotely.

STATUS: Commission Meeting—Closed to the Public.

MATTER TO BE CONSIDERED: *Briefing Matter:* Commission staff will brief the Commission on a compliance matter.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: June 15, 2022.

Alberta E. Mills,

Commission Secretary.

[FR Doc. 2022–13254 Filed 6–15–22; 4:15 pm]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2022–0012]

Department of Defense Contract Finance Study

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Request for information.

SUMMARY: The DoD Contract Finance Study is the first comprehensive contract finance study since publication of the Defense Financial and Investment Review in June 1985. DoD is committed to transparency and is interested in obtaining the perspective of companies of all sizes as well as individuals on a number of relevant topics to contribute to this important study.

DATES: Interested parties should submit written comments to the address shown in **ADDRESSES** on or before July 18, 2022 to be considered in the Contract Finance Study.

ADDRESSES: Submit comments to the questions provided below, using any of the following methods:

○ *Federal eRulemaking Portal: https://www.regulations.gov.* Search for ''Docket Number DARS–2022–0012.'' Select ''Comment'' and follow the instructions to submit a comment. Please include your name, company name (if any), and ''Docket Number DARS–2022–0012'' on any attached document(s).

○ *Email: osd.pentagon.ousd-a-s.mbx.dpc-pcf@mail.mil.* Include ''DoD Contract Finance Study'' in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Ms. Sara Higgins, telephone 703–614–1255.

SUPPLEMENTARY INFORMATION:

A. Background

The Government Accountability Office (GAO) Final Report, GAO–19–406, ''CONTRACT FINANCING: DoD Should Comprehensively Assess How Its Policies Affect the Defense Industries,'' dated June 27, 2019, recommended a comprehensive assessment of the effect that DoD's contract financing and profit policies have on the defense industry. DoD concurred with this recommendation.

The Defense Contract Finance Study is being headed by the Defense Pricing and Contracting's Director of Price, Cost and Finance. The study is comprised of two phases with multiple parts and participants. The first phase includes data collection, research, and analysis focused on areas of study that include the financial health of the Defense Industrial Base, commercial financing trends, the effectiveness of current methods of DoD contract financing, and other aspects of contract financing. The second phase will commence upon completion of the analysis of inputs from the first phase and may include policy recommendations. Through initiatives such as the Defense Contract Finance study, DoD remains committed to enabling the delivery and sustainment of capability to our Warfighters and maintaining a resilient Defense Industrial Base.

This notice requests comments and information from the public, specifically companies currently in the Defense Industrial Base, to assist DoD with this complex and significant study.

B. Topics

DoD is particularly interested in comments and information with regard to contract finance policies as they affect all levels of the defense sector. Note that for the purpose of understanding financial health over time, the DoD Contract Finance Study is not covering impacts of the coronavirus disease 2019 (COVID–19) pandemic. Therefore, unless specifically asked, responses should exclude the period after the presidential declaration of a national emergency concerning the COVID 19 pandemic (March 13, 2020). DoD is seeking input from all business sizes, as identified below, on the following topics:

1. Financial Health

a. What is your view of the financial health of the Defense Industrial Base? Has it improved over the last decade or two? Please provide your reasons and a description of any financial metrics that you think are relevant to answering these questions.

b. How does the Defense Sector compare to relevant commercial sectors when it comes to financial health? Please explain.

c. How important is cash flow and why? In the context of publicly traded companies, how do cash flow-related metrics influence executive compensation?

2. Financing

a. For companies who perform work on DoD contracts as either a prime contractor or subcontractor, what, if any, obstacles have you encountered in obtaining financing? Please explain and also identify whether you are a large or small business.

b. For companies who perform work both for DoD and in the commercial sector, what is your view on how financing compares between DoD and your commercial customers? Please explain. What about delivery terms? For example, DoD's terms to prime contractors are 30 days. How does this compare to commercial terms?

3. Prime Contractors (Regardless of Size Status) on Defense Contracts

a. What is your size status (see Federal Acquisition Regulation (FAR) part 19) in the context of your defense work?

b. What percentage of your suppliers receive contract financing (payments prior to delivery) from your firm?

c. Is the answer different for large business suppliers than for small business suppliers? Does one group receive financing more often than the other?

d. What are your criteria for determining which suppliers receive financing?

e. How do your lower-tier suppliers know they are performing under a Government prime contract?

f. If you have been or are receiving a higher progress payment rate due to the COVID–19 pandemic, have you accelerated payments to your suppliers since the COVID–19 pandemic? If so, by how much time have you accelerated payments to your suppliers? Please be specific. Did you provide financing (predelivery payments) to suppliers that were not receiving financing prior to the COVID–19 pandemic?

g. If you did not receive a higher progress payment rate due to the COVID–19 pandemic, *e.g.,* you do not receive progress payments on your defense contract, did you accelerate payments to your suppliers since the COVID–19 pandemic? If so, by how much time have you accelerated payments to your suppliers? Please be specific and address the extent to which you have accelerated payments. Did you provide financing (predelivery payments) to suppliers that were not receiving financing prior to the COVID–19 pandemic?

4. Subcontractors or Suppliers (Regardless of Size Status) Under a Defense Contract

a. When you are performing as a subcontractor or supplier under a defense prime contract, how do you know that the ultimate customer is the Federal Government?

b. Do you know the prime contract number (between the prime and the Government)? If so, how? Do you know who the Federal Government contracting officer is, or how to contact them? Would you be willing to contact the contracting officer if you were experiencing issues getting paid?

c. Have financing payments or payments upon delivery from your customer (contractor) been accelerated during the COVID–19 pandemic? What are your normal terms and how much time have payments been accelerated? Did you receive financing (predelivery payments) from your prime or higher-tier contractor that you did not receive prior to the COVID–19 pandemic?

d. Are there any conditions (*e.g.,* changes in terms) associated with receiving payments from your prime or higher-tier contractor in a more expedited manner?

5. Small Businesses Performing on Defense Contracts

a. If you are a small business performing as a prime contractor, what is your experience regarding receipt of timely payments from DoD?

b. If you are a small business performing as a supplier or subcontractor, are you aware of whether the clause at Defense Federal Acquisition Regulation Supplement (DFARS) 252.232–7017, Accelerating Payments to Small Business Subcontractors—Prohibition on Fees and Consideration, is in the prime's contract? Is the substance of this clause in your subcontract?

c. What are your normal payment terms (*e.g.,* amount of time) for financing and for delivery?

d. Are you receiving accelerated payments from your prime contractor? By how many days are payments being accelerated?

Authority: DoD Instruction 5000.35, Defense Acquisition Regulations (DAR) System.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2022–13047 Filed 6–16–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2022–0007; OMB Control Number 0704–0250]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); DFARS Part 242, Contract Administration and Related Clause in DFARS 252

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB, for clearance, the following proposed revision and extension of a collection of information under the provisions of the Paperwork Reduction Act.

DATES: DoD will consider all comments received by July 18, 2022.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 242; Contract Administration and Related Clause in DFARS 252; OMB Control Number 0704–0250.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Revision of a currently approved collection.

Frequency: On occasion.

Number of Respondents: 292.

Responses per Respondent: 1.

Annual Responses: 292.

Average Burden per Response: 475 hours.

Annual Burden Hours: 138,700.

Reporting Frequency: On Occasion.

Needs and Uses: The Government requires this information in order to perform its contract administration functions. The information required by DFARS contract clause 252.242–7004, Material Management and Accounting System, is used by contracting officers to determine if contractor material management and accounting systems conform to established DoD standards. DFARS clause 252.242–7004 requires a contractor to establish and maintain a material management and accounting system for applicable contracts, disclose significant changes in its system, provide results of system reviews, and respond to any determinations by the Government of significant deficiencies.

Comments and recommendations on the proposed information collection should be sent to Ms. Susan Minson, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments, identified by docket number and title, by the following method: *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

DoD Clearance Officer: Ms. Angela Duncan. Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2022–13127 Filed 6–16–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0086]

Agency Information Collection Activities; Comment Request; Migrant Student Information Exchange (MSIX) Minimum Data Elements (MDEs)

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before August 16, 2022.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0086. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Benjamin Starr, (202) 245–8116.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Migrant Student Information Exchange (MSIX) Minimum Data Elements (MDEs).

OMB Control Number: 1810–0683.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 46.

Total Estimated Number of Annual Burden Hours: 399,774.

Abstract: The Migrant Information Exchange (MSIX) is a nationwide electronic records exchange mechanism mandated under Title I, Part C of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA). The Migrant Education Program (MEP) is authorized under sections 1301–1309 in Title I, Part C of the ESEA. MSIX and the minimum data elements (MDEs) are authorized under section 1308(b) of the ESEA, as amended. As a condition of receiving a grant of funds under the MEP, each State Educational Agency (SEA) is required to collect, maintain, and submit minimum health and education-related data to MSIX within established time-frames. Regulations CFR 34 § 200.85 for the MSIX issued by the U.S. Department of Education (the Department) have been in effect as of June 9, 2016. MSIX is designed to facilitate timely school enrollment, grade and course placement, accrual of secondary course credits and participation in the MEP for migratory children. The regulations help the Department determine accurate migratory child counts and meet other MEP reporting requirements.

The Department is requesting approval to for a revision of the 1810–0683 information collection that supports statutory requirements for data collection under Title I, Part C MEP.

The Office of Migrant Education (OME) would like specific feedback on the following additions to the MSIX MDEs:

(1) the addition of family contact MDEs, including phone numbers and email addresses;

(2) the addition of new acceptable values beyond ''Male'' and ''Female'' for MDE #9 (Sex).

Please see the ''MSIX Minimum Data Elements'' attachment for details on the MDE additions and changes. There have been edits made to MDE #s—1, 2, 5, 6, 7, 9, 11, 20, 26, 27, 29, 31, 32, 33, 42, 44, 45, 47, 48, 52, 64, 72, and 74. New MDEs are #'s 77, 78, 79, 80, and 81.

OME has received feedback to include the ''Qualifying Activity'' MDE. At this time, OME has decided not to include the ''Qualifying Activity'' MDE because the MDE by itself does not provide additional information regarding the child's qualifying arrival date since it is connected to the worker, not the child, on the National Certificate of Eligibility (COE). OME is seeking specific feedback on the usefulness of this MDE for the States and why it should be included.

Dated: June 13, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–13046 Filed 6–16–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0032]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Student Assistance General Provisions—Financial Assistance for Students With Intellectual Disabilities

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before July 18, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Assistance General Provisions—Financial Assistance for Students with Intellectual Disabilities.

OMB Control Number: 1845–0099.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 712.

Total Estimated Number of Annual Burden Hours: 562.

Abstract: As provided by the Higher Education Act of 1965, as amended, (HEA) these regulations allow students with intellectual disabilities, who enroll in an eligible comprehensive transition program to receive Title IV, HEA program assistance under the Federal Pell Grant, the Federal Supplemental Educational Opportunity Grant (FSEOG), and the Federal Work Study (FWS) programs. This request is for a extension of the current recordkeeping requirements contained in the regulations at 34 CFR 668.232 and 668.233, related to the administrative requirement of the financial assistance for students with intellectual disabilities program. The information collection requirements are necessary to determine the eligibility to receive program benefits and to prevent fraud and abuse of the program funds.

Dated: June 13, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–13051 Filed 6–16–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Open Meeting; National Advisory Committee on Institutional Quality and Integrity

AGENCY: National Advisory Committee on Institutional Quality and Integrity (NACIQI), Office of Postsecondary Education, U.S. Department of Education.

ACTION: Announcement of meeting.

SUMMARY: This notice sets forth the agenda, time, and instructions to access or participate in the July 19–22, 2022, virtual meeting of NACIQI. This notice provides information about the meeting to members of the public who may be interested in attending the meeting and/or providing written or oral comments. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act (FACA) and section 114(d)(1)(B) of the Higher Education Act (HEA) of 1965, as amended.

DATES: The virtual NACIQI meeting will be held on July 19–22, 2022, from 10:00 a.m. to 4:30 p.m. Eastern Standard Time each day.

ADDRESSES: The meeting will be virtual.

FOR FURTHER INFORMATION CONTACT: George Alan Smith, Executive Director/Designated Federal Official, NACIQI, U.S. Department of Education, 400 Maryland Avenue SW, Room 2C–159, Washington, DC 20202, telephone: (202) 453–7757, or email: *George.Alan.Smith@ed.gov.*

SUPPLEMENTARY INFORMATION:

Statutory Authority and Function

NACIQI is established under section 114 of the HEA (20 U.S.C. 1011c). NACIQI advises the Secretary of Education with respect to:

- The establishment and enforcement of the standards of accrediting agencies or associations under subpart 2, part H, Title IV of the HEA, as amended;
- The recognition of specific accrediting agencies or associations;
- The preparation and publication of the list of nationally recognized accrediting agencies and associations;
- The eligibility and certification process for institutions of higher education under Title IV of the HEA and part C, subchapter I, chapter 34, Title 42, together with recommendations for improvement in such process;
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions; and
- Any other advisory function relating to accreditation and

institutional eligibility that the Secretary of Education may prescribe by regulation.

Meeting Agenda

Agenda items for the July 19–22, 2022, meeting is listed below.

Applications for Renewal of Recognition

1. Association for Biblical Higher Education, Commission on Accreditation. Scope of recognition: The accreditation and pre-accreditation (''Candidate Status'') of institutions of biblical higher education in the United States offering undergraduate certificates, associate degrees, baccalaureate degrees, graduate certificates, and master's degrees, including the accreditation of educational programs offered via distance education.

2. American Occupational Therapy Association, Accreditation Council for Occupational Therapy Education. Scope of recognition: The accreditation of occupational therapy educational programs offering the professional master's degree, combined baccalaureate/master's degree, and occupational therapy doctorate (OTD) degree; the accreditation of occupational therapy assistant programs offering the associate degree or a certificate; and the accreditation of these programs offered via distance education. Requested scope of recognition: The pre-accreditation and accreditation throughout the United States of occupational therapy education programs offering the professional master's degree, combined baccalaureate/master's degree, and occupational therapy doctorate (OTD) degree; and occupational therapy assistant programs offering the baccalaureate degree, associate degree, or a certificate; including those programs offered via distance education.

3. Accreditation Council for Pharmacy Education. Scope of recognition: The accreditation and pre-accreditation within the United States of professional degree programs in pharmacy leading to the degree of Doctor of Pharmacy, including those programs offered via distance education.

4. Association for Clinical Pastoral Education, Inc., Accreditation Commission. Scope of recognition: The pre-accreditation (provisional) and accreditation of both clinical pastoral education (CPE) centers and Certified Educator CPE programs within the United States, including those programs offered via distance education.

5. American Dental Association, Commission on Dental Accreditation. Scope of recognition: The accreditation of predoctoral dental education programs (leading to the D.D.S. or D.M.D. degree), advanced dental education programs, and allied dental education programs that are fully operational or have attained ''Initial Accreditation'' status, including programs offered via distance education.

6. Distance Education Accrediting Commission. Scope of recognition: The accreditation of postsecondary institutions in the United States that offer degree and/or non-degree programs primarily by the distance or correspondence education method up to and including the professional doctoral degree, including those institutions that are specifically certified by the agency as accredited for Title IV purposes.

7. Middle States Commission on Secondary Schools. Scope of recognition: The accreditation of postsecondary, non-degree granting institutions that offer all or part of their educational programs via distance education modalities in the United States.

8. Southern Association of Colleges and Schools, Commission on Colleges (''SACSCOC''). Scope of recognition: The accreditation and pre-accreditation (''Candidate for Accreditation'') of degree-granting institutions of higher education in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia, including the accreditation of programs offered via distance and correspondence education within these institutions. This recognition extends to the SACSCOC Board of Trustees and the Appeals Committee of the College Delegate Assembly on cases of initial candidacy or initial accreditation and for continued accreditation or candidacy.

Compliance Report

1. New York State Board of Regents, State Education Department, Office of the Professions (Public Postsecondary Vocational Education, Practical Nursing). Scope of Recognition: State agency for the approval of public postsecondary vocational education in the field of practical nursing offered by a Board of Cooperative Educational Services, an Educational Opportunity Center, City School Districts, and County Boards of Supervisors to prepare persons for licensed practical nursing careers in the State of New York. The compliance report includes findings of noncompliance with criteria in 34 CFR 603, as referenced in the senior Department official decision letter dated May 27, 2020, available under NACIQI meeting date 02/27/2020 at *https://surveys.ope.ed.gov/erecognition/PublicDocuments.*

Administration Policy Update

A representative from the Biden-Harris Administration will provide an update on the Administration's higher education policy priorities.

Accreditation Dashboard Subcommittee

The NACIQI Accreditation Dashboard Subcommittee will provide a progress report.

NACIQI Policy Discussion

In addition to its review of accrediting agencies and State approval agencies for Secretarial recognition, there will be time for Committee discussions regarding any of the categories within NACIQI's statutory authority in its capacity as an advisory committee.

Instructions for Accessing the Meeting

Registration

You may register for the meeting on your computer using the link below. After you register, you will receive a confirmation email containing personalized participation links for each day of the two-day meeting. Dial-in numbers may be requested for each day of the meeting between 8:45 a.m.–9:45 a.m. Eastern Standard Time by emailing *Monica.Freeman@ed.gov.*

Registration Link

https://naciqisummer2022.eventbrite.com/.

Public Comment

Submission of requests to make an oral comment regarding a specific accrediting agency under review, or to make an oral comment or written statement regarding other issues within the scope of NACIQI's authority:

Submissions of written statements regarding a specific accrediting agency under review were solicited by a previous **Federal Register** notice published on July 12, 2021 (86 FR 36532; Document Number 2021–14741). The period for submission of such statements is now closed. Additional written comments regarding a specific agency or state approval agency under review will not be accepted at this time. However, members of the public may submit written statements regarding other issues within the scope of NACIQI's authority.

Members of the public may request to make an oral comment about a specific agency or state approval agency under review and/or about other issues within the scope of NACIQI's authority. Oral comments may not exceed three minutes. Oral comments about an agency's recognition when a compliance report has been required by the senior

Department official or the Secretary must relate to the criteria for recognition cited in the senior Department official's letter that requested the report, or in the Secretary's appeal decision, if any. Oral comments about an agency seeking expansion of scope must be directed to the agency's ability to serve as a recognized accrediting agency with respect to the kinds of institutions or programs requested to be added. Oral comments about the renewal of an agency's recognition must relate to its compliance with the Criteria for the Recognition of Accrediting Agencies, which are available at *http://www.ed.gov/admins/finaid/accred/index.html.*

Written statements and oral comments concerning NACIQI's work outside of a specific accrediting agency under review must be limited to the scope of NACIQI's authority, as outlined under section 114 of the HEA (20 U.S.C. 1011c).

Instructions on Requesting To Make Oral Public Comment or To Submit a Written Statement to NACIQI Concerning Its Work Outside a Specific Accrediting Agency Under Review

To request to make an oral comment of three minutes or less during the July 19–22, 2022 meeting, please follow either Method One or Method Two below. To submit a written statement to NACIQI concerning its work outside a specific accrediting agency under review, please follow Method One.

Method One: Submit a request by email to the *ThirdPartyComments@ed.gov* mailbox. Please do not send material directly to NACIQI members. Written statements to NACIQI concerning its work outside a specific accrediting agency under review and requests to make oral comment must be received by July 12, 2022, and include the subject line ''Oral Comment Request: (agency name),'' ''Oral Comment Request: (subject)'' or ''Written Statement: (subject).'' The email must include the name(s), title, organization/affiliation, mailing address, email address, and telephone number, of the person(s) submitting a written statement or requesting to speak. All individuals submitting an advance request in accordance with this notice will be afforded an opportunity to speak.

Method Two (Only available to those seeking to make oral comments): Register on July 19, 2022, from 8:45 a.m.–9:45 a.m. Eastern Standard Time, by sending an email to the *ThirdPartyComments@ed.gov* mailbox with the subject line ''Oral Comment Request: (agency name)'' or ''Oral Comment Request: (subject).'' The email must include the subject on which the requestor wishes to comment, in addition to his or her name, title, organization/affiliation, mailing address, email address, and telephone number. A total of up to fifteen minutes for each agenda item will be allotted for oral commenters who register on July 19, 2022, by 9:45 a.m. Eastern Standard Time. Individuals will be selected on a first-come, first-served basis. If selected, each commenter may not exceed three minutes.

Access to Records of the Meeting: The Department will post the official report of the meeting on the NACIQI website *https://sites.ed.gov/naciqi/* within 90 days after the meeting. In addition, pursuant to FACA, the public may request to inspect records of the meeting at 400 Maryland Avenue SW, Washington, DC 20202, by emailing *aslrecordsmanager@ed.gov* or by calling (202) 453–7415 to schedule an appointment. The senior Department official's (as defined in 34 CFR 602.3) decisions, pursuant to 34 CFR 602.36, associated with all NACIQI meetings can be found at the following website: *https://surveys.ope.ed.gov/erecognition/PublicDocuments.*

Reasonable Accommodations: The meeting dial-in information and weblink are accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to This Document: The official version of this document is published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You also may access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Section 114 of the HEA of 1965, as amended (20 U.S.C. 1011c).

Annmarie Weisman,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 2022–13033 Filed 6–16–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket ID ED–OFO–0004–2022]

Privacy Act Of 1974; System of Records

AGENCY: Office of Finance and Operations, U.S. Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the U.S. Department of Education (Department) is publishing this notice of a new system of records titled ''Reasonable Accommodation Program Files'' (RAPF) (18–17–01). This system contains records concerning reasonable accommodation requests on the basis of disability and religion under the Rehabilitation Act of 1973, as amended (Rehabilitation Act), Americans with Disabilities Act of 1990, as amended (ADA), and Title VII of the Civil Rights Act of 1964, as amended (Title VII), as applicable, that are submitted to the Department by covered individuals.

DATES: Submit your comments on this new system of records notice on or before July 18, 2022.

This new system of records will become effective upon publication in the **Federal Register** on June 17, 2022 unless the new system of records notice needs to be changed as a result of public comment. The routine uses listed in the paragraph titled ''ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES'' will become effective on July 18, 2022, unless the new system of records notice needs to be changed as a result of public comment. The Department will publish any significant changes to the system of records or routine uses resulting from public comment.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the ''Help'' tab.
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about this new system of records notice, address them to: Michael Chew, Director, Office of Equal Employment Opportunity Services, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will supply an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Michael Chew, Director, Office of Equal Employment Opportunity Services, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you may call the Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: This system of records contains records concerning reasonable accommodation requests on the basis of disability and religion under the Rehabilitation Act, ADA, and Title VII, as applicable, submitted to the Department by covered individuals. Individuals covered by this system of records are: current and former Department employees; applicants for employment at the Department; authorized representatives of the foregoing covered employees and applicants (*e.g.,* a family member or an attorney who is representing them); and the foregoing covered employees' and applicants' medical providers.

The system will be used to, among other things, process, track the processing of, provide, and make decisions about these reasonable accommodation requests to the extent necessary to ensure Department-wide compliance with applicable laws and regulations while preserving and maintaining the confidentiality of all information (*e.g.,* medical and religious information) submitted in support of such requests, to the extent required by law.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Denise Carter,

Acting Assistant Secretary, Office of Finance and Operations.

For the reasons discussed in the preamble, the U.S. Department of Education (Department) publishes a notice of a new system of records to read as follows:

SYSTEM NAME AND NUMBER:

Reasonable Accommodation Program Files (RAPF) (18–17–01).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Equal Employment Opportunity Services (OEEOS), U.S. Department of Education (Department), 400 Maryland Avenue SW, Washington, DC 20202.

Federal Student Aid (FSA), U.S. Department of Education, 830 1st Street NE, Washington, DC 20002.

Office of Inspector General (OIG), U.S. Department of Education, 550 12th Street SW, Potomac Center Plaza, Washington, DC 20202.

Clinical Health Services, Federal Occupational Health Program Support Center (FOH), U.S. Department of Health and Human Services (HHS), 7700 Wisconsin Avenue, Suite 7201, Bethesda, MD 20814 (contractor).

SYSTEM MANAGER(S):

Reasonable Accommodation Program Manager (RAPM), OEEOS, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202.

RAPM, FSA, U.S. Department of Education, 830 1st Street NE, Washington, DC 20002.

RAPM, OIG, U.S. Department of Education, 550 12th Street SW, Potomac Center Plaza, Washington, DC 20202

Occupational Medicine Consultant, Clinical Health Services, FOH, HHS, 7700 Wisconsin Avenue, Suite 7201, Bethesda, MD 20814 (contractor).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Rehabilitation Act of 1973, as amended (29 U.S.C. 791 *et seq.*) (Rehabilitation Act); Americans with Disabilities Act of 1990, as amended (ADA) (42 U.S.C. 12101 *et seq.*); 29 CFR parts 1614, 1630, and 1640; Executive Order 13164 of July 26, 2000; Equal Employment Opportunity Commission's Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, Directives Transmittal Number 915.003, issued October 20, 2000; Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e *et seq.*) (Title VII); Equal Employment Opportunity Commission's Compliance Manual on Religious Discrimination, Directives Transmittal Number 915.063, issued January 15, 2021; and, Executive Order 14043 of September 9, 2021 (requiring, with certain exceptions, COVID–19 vaccinations for all Federal employees).

PURPOSE(S) OF THE SYSTEM:

This system of records is maintained for the purposes of: (1) processing, tracking the processing of, providing, and making decisions about reasonable accommodation requests on the basis of disability and religion under the Rehabilitation Act, ADA, and Title VII, as applicable, submitted to the Department by covered individuals, to the extent that maintaining such records is necessary to ensure Department-wide compliance with applicable laws and regulations while preserving and maintaining the confidentiality of information (*e.g.,* medical and religious information) submitted in support of such requests, to the extent required by law; and (2) the Department's RAPMs and OEEOS staff developing cumulative records, without individual identifiers, to track the Department's performance concerning the provision of reasonable accommodations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on the following categories of individuals who request a reasonable accommodation from the Department on the basis of a disability or religion under the Rehabilitation Act, ADA, or Title VII, as applicable, including individuals who obtain leave under the Family Medical Leave Act of 1993 (FMLA) as a reasonable accommodation:

(1) Current and former Department employees;

(2) Applicants for employment at the Department;

(3) Persons authorized to represent the foregoing covered employees and applicants (*e.g.,* a family member or an attorney who is representing them); and

(4) The medical providers of the foregoing covered employees and applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains the following records pertaining to reasonable accommodation requests on the basis of disability and religion under the Rehabilitation Act, ADA, and Title VII, as applicable, made to the Department:

(1) Requestor's full name and contact information;

(2) Requestor's status vis-à-vis the Department (*e.g.,* employee, employment applicant);

(3) Date of the request;

(4) If applicable, the date, time, location, and/or description or title of the event, meeting, program, or activity conducted by the Department for which the request is made;

(5) If applicable, the job or jobs (*i.e.,* occupational series, grade level, program office, and/or position description) for which the request is made;

(6) Information concerning the nature of the disability or religious belief and the need for a reasonable accommodation;

(7) Amount of time taken to process the request;

(8) Whether the request was granted, denied, or partially granted and denied, the identity of the deciding official, and the reason(s) for any denial or partial denial;

(9) Information about whether providing the requested accommodation would present an undue hardship for the Department; and

(10) Sources of technical assistance consulted in identifying a reasonable accommodation, including interim or alternative accommodations.

Information concerning the nature of the disability or religious belief and the need for the requested reasonable accommodation includes:

(1) Documentation submitted to the Department by the requestor or the requestor's representative in support of their reasonable accommodation request;

(2) Type(s) and description(s) of the accommodation(s) requested;

(3) Cost(s) and expense(s) associated with the requested accommodation; and

(4) How the requested reasonable accommodation would assist in a requesting employee's or applicant's performance of their essential job duties; otherwise eliminate a barrier to equal employment opportunity caused by the disability or religious belief; and/or enable participation in a meeting, event, program, or activity conducted by the Department.

RECORD SOURCE CATEGORIES:

Information in this system is provided by covered individuals, including current and former Department employees; applicants for employment at the Department; covered employees' and applicants' authorized representatives (*e.g.,* a family member or an attorney who is representing them); and the covered employees' and applicants' medical providers. Information in this system also may be obtained from other persons or entities from which data is obtained under routine uses set forth below.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Under the Privacy Act of 1974, as amended (Privacy Act), the Department may disclose individually identifiable information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purpose(s) for which the record was collected. Under the Privacy Act, the Department may make these disclosures on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement. However, any disclosure made by the Department of information from these records must also comply with any confidentiality provision that is contained in any other applicable Federal law, which may include Section 501 of the Rehabilitation Act (Section 501), the ADA, or title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), 42 U.S.C. 2000ff *et seq.,* and 29 CFR 1635.9. Section 501 prohibits the Department from discriminating against qualified applicants or employees on the basis of disability and further restricts how the Department must collect and maintain information about the medical condition or history of applicants and employees. Section 501 requires the Department to maintain such information on separate forms and in separate medical files, to treat it as a confidential medical record, and to disclose it only in very limited circumstances that do not include all of the routine uses listed below. 29 CFR 1630.14(b)(1), (c)(1), and (d)(1). *See also* 29 U.S.C. 791(f) (in part applying the standards under title I of the Americans with Disabilities Act of 1990 to Section 501). GINA prohibits the Department from discriminating on the basis of genetic information in its employment decisions, requires that genetic information about applicants, current employees, and former employees be maintained on separate forms and in separate medical files, treated as confidential medical records, and disclosed only in very limited circumstances that do not include all of the routine uses listed below. The disclosure by the Department of any information that is protected by the confidentiality provision of another Federal law, such as Section 501 or the GINA, may only be made where the disclosure would be permissible under both the Privacy Act and the confidentiality provision of such other Federal law.

(1) *Congressional Member Disclosure.* The Department may disclose information to a member of Congress and to their staff from the records of an individual in response to an inquiry from the member made at the written request of and on behalf of that individual. The member's right to the information is no greater than the right of the individual who requested the inquiry.

(2) *Litigation and Alternative Dispute Resolution (ADR) Disclosure.*

(a) *Introduction.* In the event that one of the parties listed in sub-paragraphs (i) through (v) is involved in judicial or administrative litigation or ADR, or has an interest in judicial or administrative litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department or any of its components;

(ii) Any Department employee in their official capacity;

(iii) Any Department employee in their individual capacity if the U.S. Department of Justice (DOJ) agrees to or has been requested to provide or arrange for representation for the employee;

(iv) Any Department employee in their individual capacity where the Department has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Adjudicative Disclosure.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, or to a person or entity designated by the Department or otherwise empowered to resolve or mediate disputes, is relevant and necessary to judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, person, or entity.

(d) *Disclosure to Parties, Counsel, Representatives, or Witnesses.* If the Department determines that disclosure of certain records is relevant and necessary to judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to a party, counsel, representative, or witness to the judicial or administrative litigation or ADR.

(3) *Enforcement Disclosure.* If information in this system of records, alone or in connection with other information, indicates a violation or potential violation of any statutory, regulatory, or legally binding requirement, the Department may disclose records to an entity charged with investigating or prosecuting such violation or potential violation.

(4) *Employee Grievance, Complaint, or Conduct Disclosure.* If a record is relevant and necessary to an employee grievance, complaint, or disciplinary action involving a present or former employee of the Department, the Department may disclose a record in this system of records in the course of investigation, fact-finding, or adjudication, to any party to the grievance, complaint, or action; to the party's counsel or representative; to a witness; or to a designated fact-finder, mediator, or other person or entity designated to resolve issues or decide the matter.

(5) *Labor Organization Disclosure.* The Department may disclose records from this system of records to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

(6) *Freedom of Information Act (FOIA) or Privacy Act Advice Disclosure.* The Department may disclose records to the DOJ or the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under FOIA or the Privacy Act.

(7) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to the employees of the contractor, the Department may disclose the records to those employees. As part of such a contract, the Department shall require the contractor to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

(8) *Disclosure in the Course of Responding to a Breach of Data.* The Department may disclose records from this system to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that there has been a breach of the system of records; (b) the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(9) *Disclosure in Assisting Another Agency in Responding to a Breach of Data.* The Department may disclose records from this system to another Federal agency or Federal entity when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(10) *Investigative Disclosure.* The Department may make disclosures to officials of the Merit Systems Protection Board (MSPB), the Office of the Special Counsel (OSC), and the Equal Employment Opportunity Commission (EEOC) in connection with investigations of alleged or possible discriminatory practices in the Federal Sector, examination of Federal affirmative employment programs, or compliance by Federal agencies with functions vested in the MSPB, OSC, or EEOC.

(11) *National Archives and Records Administration Disclosure.* The Department may disclose records to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are in hard copy (*i.e.,* paper) and digital or other electronic form. Digital and other electronic images are stored on a storage area network on an encrypted server within a secured and controlled environment. Records, whether paper or electronic, may be stored in a separate, secure location at the Department's headquarters or at the program office level.

If a Department employee requests a reasonable accommodation for a disability, then medical documentation supporting their reasonable accommodation request is kept in a confidential file, separate and apart from the requesting employee's Official Personnel Folder and the employee performance file.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by the reasonable accommodation requestor's name, reasonable accommodation request date, description or type of reasonable accommodation requested, the Department program office's name, and/or date or title of the meeting, event, program, or activity conducted by the Department for which a reasonable accommodation was requested.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with General Records Schedule (GRS) 2.3, Item 010 (DAA–GRS–2018–0002–0001) and Item 020 (DAA–GRS–2018–0002–0002). GRS 2.3, Item 010, requires destruction of records when three (3) years old, with longer retention authorized if records are required for business use. GRS 2.3, Item 020, requires destruction of records three (3) years after a Department employee separates from the Department or all appeals of a reasonable accommodation decision have been concluded, whichever occurs later, with longer retention authorized if records are required for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All physical access to the Department's sites, and the site of the Department's contractor, where this system of records is also maintained, is controlled and monitored by security personnel who check each individual entering the building for the individual's employee or visitor badge. The computer systems employed by the Department offer a high degree of resistance to tampering and circumvention. These security systems limit data access to Department and contract staff on a ''need to know'' basis and control individual users' ability to access and alter records within the system. Direct access to this system of records is limited to Reasonable Accommodation Program staff or Department employees who have a need to know the data for the performance of their official duties, and who have appropriate clearances and permissions.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in this system of records, contact the system manager at the address listed above. You must provide the system manager with the necessary particulars such as your full, legal name, date of birth, work address, and any other identifying information requested by the Department while processing the request in order to distinguish between individuals with the same name. Requesters must also specify, among other things, the records sought. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in this system of records, contact the system manager at the address listed above. You must provide your full, legal name, and any other identifying information requested by the Department while processing the request to distinguish between individuals with the same name. You must also specify, among other things, the particular records being contested. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

NOTIFICATION PROCEDURES:

If you wish to determine whether a record exists regarding you in this system of records, contact the system manager at the address listed above. You must provide the system manager with the necessary particulars such as your full, legal name, date of birth, work address, and any other identifying information requested by the Department while processing the request to distinguish between individuals with the same name. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2022–13057 Filed 6–16–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1858–023]

Beaver City Corporation; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

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

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* P–1858–023.

c. *Date Filed:* July 30, 2021.

d. *Applicant:* Beaver City Corporation (Beaver City).

e. *Name of Project:* Beaver City Canyon Plant No. 2 Hydroelectric Project (Beaver City Project).

f. *Location:* The existing hydroelectric project is located on the Beaver River, in Beaver County, Utah, about 5 miles east of the city of Beaver. The project currently occupies 10.2 acres of federal land administered by the U.S. Forest Service, and 2.4 acres of federal land managed by the U.S. Bureau of Land Management. As proposed, the project would occupy 10.5 acres of federal land administered by the U.S. Forest Service and 2.4 acres of federal land administered by the U.S. Bureau of Land Management.

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

h. *Applicant Contact:* Jason Brown, Beaver City Manager, 30 West 300 North, Beaver, UT 84713; (435) 438–2451.

i. *FERC Contact:* Evan Williams, (202) 502–8462, *evan.williams@ferc.gov.*

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at *https://ferconline.ferc.gov/FERC.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/Quick.aspx.* 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, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Beaver City Canyon Plant No. 2 Hydroelectric Project (P–1858–023).

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor 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.

k. This application has been accepted and is ready for environmental analysis at this time.

l. The existing Beaver City Project consists of: (1) a small reservoir with a normal pool elevation of 6,769 feet, a surface area of about 0.15 acres, and a storage capacity of approximately 1-acre-foot; (2) a 15.5-foot-high by 65-foot-wide diversion dam; (3) a 30-inch-diameter, 11,632-foot-long steel penstock; (4) a 34-foot-long by 41-foot-wide stone powerhouse containing an impulse turbine and one generating unit with an installed capacity of 625 kilowatts; (5) a 4-foot-wide by 150-foot-long tailrace channel; (6) a 12.5-kilovolt, approximately 21,000-foot-long transmission line; and (7) appurtenant facilities. The estimated average annual generation (2012 to 2017) is 4,446 megawatt-hours.

Beaver City Corporation proposes to abandon the existing: (1) powerhouse; (2) portion of penstock between the existing powerhouse and proposed new powerhouse; (3) buried line from the turbine generator to the transformer on the west side of the existing powerhouse; (4) old transformer; (5) overhead line from the old transformer to the start of the transmission line on the west bank of the Beaver River; and (6) tailrace. As such, Beaver City proposes to remove approximately 50 feet of the existing penstock, increase the existing project boundary, and construct: (1) a new 40-foot-long by 27-foot-wide metal-walled powerhouse, with a reinforced concrete foundation, to contain one new turbine-generator with an installed capacity of 720 kilowatts; (2) a new approximately 35-foot-long buried line from the new turbine-generator to the new transformer; (3) a new approximately 33-foot-long buried line from the new transformer to a 40-foot-tall intermediate pole of wood and metal construction; (4) a new 120-foot-long overhead line from the intermediate pole to the start of the existing transmission line; and (5) a new 43-foot-long tailrace that tailrace varies from 7.5 feet wide adjacent to powerhouse to 19 feet wide at point of discharge. The section of tailrace adjacent to the powerhouse would be a 9-foot-long by 7.5-foot-wide concrete structure and would terminate prior to the ordinary high-water mark of the Beaver River. The remainder of the tailrace would be of earthen construction, rock-lined, and shaped to return flow to the river with minimal turbulence. The new powerhouse, power distribution facilities, and tailrace would be constructed approximately 50 feet upstream (south) of the existing powerhouse and enclosed by approximately 240 feet of 8-foot-tall chain-link perimeter fence. Beaver City proposes to preserve the existing powerhouse and operate it as a museum.

m. A copy of the application can be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (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 submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. The applicant must file no later than 60 days following the date of issuance of this notice either: (1) evidence of the date on which the certifying agency received the certification request; (2) a copy of the water quality certification; or (3) evidence of waiver of water quality certification.

o. *Procedural schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Deadline for Filing Comments, Recommendations, and Agency Terms and Conditions/Prescriptions—August 12, 2022

Licensee's Reply to REA Comments—September 26, 2022

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

Dated: June 13, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13120 Filed 6–16–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2091–000]

Calhoun Solar Energy LLC ; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Calhoun Solar Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 5, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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 the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: June 13, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13114 Filed 6–16–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1971–079]

Idaho Power Company; Notice of Intent To Prepare a Supplemental Environmental Impact Statement

On July 21, 2003, Idaho Power Company (Idaho Power) filed an application for a new license for the Hells Canyon Project,[1] FERC No. 1971. The project is located on the Snake River in Washington and Adams Counties, Idaho, and Wallowa and Baker Counties, Oregon. The Hells Canyon Project consists of three developments (dams, reservoirs, and powerhouses) on the segment of the Snake River forming the border between Idaho and Oregon.[2] The three developments are Brownlee, Oxbow, and Hells Canyon, which combined provide 1,167 megawatts of power generating capacity and 6,562,244 megawatt hours of electricity annually. The project occupies approximately 5,640 acres of federal land, including land managed by the U.S. Bureau of Land Management and the U.S. Forest Service.

On August 31, 2007, the Commission issued a final Environmental Impact Statement (EIS) for the Hells Canyon Project. On December 30, 2019, Idaho Power filed an Offer of Settlement (settlement) with the Commission for the Hells Canyon Project.[3] The settlement, which was executed on April 22, 2019, includes, among other items, spring Chinook salmon and summer steelhead fish passage measures. In addition, the Oregon and Idaho Departments of Environmental Quality each issued a water quality certification under section 401 of the Clean Water Act for the Hells Canyon Project on May 24, 2019.

On July 1, 2020, Idaho Power supplemented the final license application for the project with additional information on its proposal, including an analysis of the new and revised fish-related protection, mitigation, and enhancement measures proposed under the settlement, and updated information on project resources. Additionally, Idaho Power filed on October 14, 2020, draft biological assessments for species managed by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, which included an analysis of the effects of the new and revised measures on fish and wildlife listed under the Endangered Species Act.

In order to assess the new and revised fish-related protection, mitigation, and enhancement measures proposed under the settlement, the Oregon and Idaho water quality certificates, and the draft biological assessments, Commission staff intends to prepare a draft and final supplemental EIS in accordance with the National Environmental Policy Act. The supplemental EIS will describe and evaluate the effects of the proposed action and alternatives. The focus of the supplemental EIS will be on the new and revised measures proposed by the settlement, the conditions contained in the Oregon and Idaho water quality certificates, and the information provided in the draft biological assessments. For the resource areas not affected by the new and revised proposed measures or new environmental information, the supplemental EIS will either include or incorporate by reference analyses from the Commission's final EIS.

With this notice, we are reinitiating informal consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402.

The draft supplemental EIS will be sent to all persons and entities on the Commission's service and mailing lists for the Hells Canyon Project. Recipients will then have 60 days to review the draft supplemental EIS and file written comments with the Commission. All comments filed with the Commission on the final supplemental EIS will be considered in the Order taking final action on the license application. The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Draft supplemental EIS Issued.	June 2023.
Comments Due on draft supplemental EIS.	August 2023.
Final supplemental EIS Issued.	December 2023.

This notice informs all interested individuals, organizations, and agencies with environmental expertise and concerns, that: (1) the Commission staff has decided to prepare a supplemental EIS addressing the settlement; and (2) the comments, recommendations, and terms and conditions already on file with the Commission on the application will be taken into account in the supplemental EIS.

Any questions regarding this notice may be directed to Nicholas Ettema at 312–596–4447, or by email at *nicholas.ettema@ferc.gov.*

Dated: June 13, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13119 Filed 6–16–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL22–57–000]

Puget Sound Energy, Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On June 13, 2022, the Commission issued an order in Docket No. EL22–57–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation into whether Puget Sound Energy, Inc.'s market-based rate authority in the Puget Sound balancing authority area is unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful and to establish a

[1] Referred to in Idaho Power's license application as the Hells Canyon Complex.

[2] The current license expired on July 31, 2005, and the project is operating under an annual license.

[3] On January 7, 2020, the Commission issued notice of the offer of settlement's filing.

refund effective date.[1] *Puget Sound Energy, Inc.,* 179 FERC ¶ 61,182 (2022).

The refund effective date in Docket No. EL22–57–000, 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. EL22–57–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2021), within 21 days of the date of issuance of the order.

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 the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Dated: June 13, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13115 Filed 6–16–22; 8:45 am]

BILLING CODE 6717–01–P

[1] The section 206 investigation will extend to any affiliate of Applicant with market-based rate authorization.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EG22–143–000.
Applicants: Blue Harvest Solar Park LLC.
Description: Blue Harvest Solar Park LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 6/13/22.
Accession Number: 20220613–5121.
Comment Date: 5 p.m. ET 7/5/22.

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

Docket Numbers: ER21–42–000.
Applicants: Tenaska Power Services Co.
Description: Refund Report: Refund Report to be effective N/A.
Filed Date: 6/10/22.
Accession Number: 20220610–5087.
Comment Date: 5 p.m. ET 7/1/22.

Docket Numbers: ER22–1608–001.
Applicants: Hallador Power Company, LLC.
Description: Tariff Amendment: Amendment to 1 to be effective 12/31/9998.
Filed Date: 6/13/22.
Accession Number: 20220613–5115.
Comment Date: 5 p.m. ET 7/5/22.

Docket Numbers: ER22–2091–000.
Applicants: Calhoun Solar Energy LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 8/13/2022.
Filed Date: 6/13/22.
Accession Number: 20220613–5029.
Comment Date: 5 p.m. ET 7/5/22.

Docket Numbers: ER22–2092–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 13 to be effective 8/12/2022.
Filed Date: 6/13/22.
Accession Number: 20220613–5058.
Comment Date: 5 p.m. ET 7/5/22.

Docket Numbers: ER22–2093–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2022–06–13_SA 3028 Ameren IL-Prairie Power 1st Rev Project#18 Disco to be effective 6/14/2022.
Filed Date: 6/13/22.
Accession Number: 20220613–5080.
Comment Date: 5 p.m. ET 7/5/22.

Docket Numbers: ER22–2094–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) Rate Filing: Service Agreement No. 398, Red Rock Solar Surplus to be effective 5/17/2022.
Filed Date: 6/13/22.
Accession Number: 20220613–5082.
Comment Date: 5 p.m. ET 7/5/22.

Docket Numbers: ER22–2096–000.
Applicants: ITC Midwest LLC.
Description: § 205(d) Rate Filing: Filing of DTIA with Tipton to be effective 6/13/2022.
Filed Date: 6/13/22.
Accession Number: 20220613–5091.
Comment Date: 5 p.m. ET 7/5/22.

Docket Numbers: ER22–2096–001.
Applicants: ITC Midwest LLC.
Description: Tariff Amendment: Amendment to Filing of DTIA with Tipton to be effective 8/13/2022.
Filed Date: 6/13/22.
Accession Number: 20220613–5114.
Comment Date: 5 p.m. ET 7/5/22.

Docket Numbers: ER22–2097–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: SCE Corrected Filing to Catalina Solar Second Amended LGIA to be effective 3/5/2022.
Filed Date: 6/13/22.
Accession Number: 20220613–5094.
Comment Date: 5 p.m. ET 7/5/22.

Docket Numbers: ER22–2098–000.
Applicants: Wisconsin Public Service Corporation.
Description: § 205(d) Rate Filing: Ministerial MBR Tariff Revision to be effective 8/12/2022.
Filed Date: 6/13/22.
Accession Number: 20220613–5098.
Comment Date: 5 p.m. ET 7/5/22.

Docket Numbers: ER22–2099–000.
Applicants: Wisconsin River Power Company.
Description: § 205(d) Rate Filing: Ministerial MBR Tariff Revision to be effective 8/12/2022.
Filed Date: 6/13/22.
Accession Number: 20220613–5104.
Comment Date: 5 p.m. ET 7/5/22.

Docket Numbers: ER22–2100–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: BPA NITSA—(SE Idaho Area) Rev 8 to be effective 6/1/2022.
Filed Date: 6/13/22.
Accession Number: 20220613–5111.
Comment Date: 5 p.m. ET 7/5/22.

Docket Numbers: ER22–2101–000.
Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 6505; Queue No. AE1–240 to be effective 5/13/2022.
Filed Date: 6/13/22.
Accession Number: 20220613–5120.
Comment Date: 5 p.m. ET 7/5/22.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by 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: June 13, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13118 Filed 6–16–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings in Existing Proceedings

Docket Numbers: RP21–778–006.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: Compliance filing: Rate Case (RP21–778) Settlement Filing to be effective 11/1/2021.
Filed Date: 6/10/22.
Accession Number: 20220610–5156.
Comment Date: 5 p.m. ET 6/22/22.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

Filings Instituting Proceedings

Docket Numbers: RP22–977–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Filing to Incorporate Approved Changes from RP22–738–000 to be effective 6/1/2022.
Filed Date: 6/10/22.
Accession Number: 20220610–5088.
Comment Date: 5 p.m. ET 6/22/22.

Docket Numbers: RP22–978–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Pioneer July–Sept 2022) to be effective 7/1/2022.
Filed Date: 6/10/22.
Accession Number: 20220610–5173.
Comment Date: 5 p.m. ET 6/22/22.

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.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

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: June 13, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13117 Filed 6–16–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–16–000]

Georgia-Pacific Consumer Operations LLC; Notice of Availability of the Environmental Assessment for the Proposed GPC Pipeline Abandonment Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the GPC Pipeline Abandonment Project, proposed by Georgia-Pacific Consumer Operations LLC (GPC) in the above-referenced docket. GPC requests authorization to abandon in-place approximately 19.5 miles of eight-inch-diameter natural gas transmission pipeline and auxiliary facilities located in Union Parish, Louisiana and Ashley County, Arkansas, and abandon by removal all aboveground facilities associated with the pipeline. The pipeline and auxiliary facilities have been idled since August 2019.

The EA assesses the potential environmental effects of the GPC Pipeline Abandonment Project (Project) in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The Commission mailed a copy of the *Notice of Availability* for the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the natural gas environmental documents page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://elibrary.ferc.gov/eLibrary/search*), select ''General Search'' and enter the docket number in the ''Docket Number'' field (*i.e.,* CP22–16). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The EA is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Any person wishing to comment on the EA may do so. Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before 5:00 p.m. Eastern Time on July 13, 2022.

For your convenience, there are three methods you can use to file your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP22–16–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. At this point in this proceeding, the timeframe for filing timely intervention requests has expired. Any person seeking to become a party to the proceeding must file a motion to intervene out-of-time pursuant to Rule 214(b)(3) and (d) of the Commission's Rules of Practice and Procedures (18 CFR 385.214(b)(3) and (d)) and show good cause why the time limitation should be waived. Motions to intervene are more fully described at *https://www.ferc.gov/ferc-online/ferc-online/how-guides.*

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Dated: June 13, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13116 Filed 6–16–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2018–0390, FRL–9904–01–OLEM]

Agency Information Collection Activities; Proposed Collection; Comment Request; Hazardous Waste Generator Standards (Renewal), EPA ICR No. 0820.15, EPA ICR No. 2050–0035

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit the information collection request (ICR), Hazardous Waste Generator Standards (Renewal) (EPA ICR No. 0820.15, OMB Control No. 2050–0035) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described in **SUPPLEMENTARY INFORMATION**. This is a proposed extension of the ICR, which is currently approved through January 31, 2023. 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 OMB control number.

DATES: Comments must be submitted on or before August 16, 2022.

ADDRESSES: Submit your comments, referencing by Docket ID No. EPA–HQ–OLEM–2018–0390, at *https://www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov//dockets.*

FOR FURTHER INFORMATION CONTACT: Brian Knieser, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–566–0516; email address: *knieser.brian@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov.* Materials can also be viewed at the Reading Room located at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays). The telephone number for the Docket Center is 202–566–1744.

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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;

(iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Under the Resource Conservation and Recovery Act (RCRA), as amended, Congress directed EPA to implement a comprehensive program for the safe management of hazardous waste. The core of the national waste management program is the regulation of hazardous waste from generation to transport to treatment and eventual disposal, or from ''cradle to grave.'' Section 3001(d) of RCRA requires EPA to develop standards for small quantity generators. Section 3002 of RCRA states, among other things, that EPA shall establish requirements for hazardous waste generators regarding recordkeeping practices. Section 3002 also requires EPA to establish standards on appropriate use of containers by generators. Finally, Section 3017 of RCRA specifies requirements for individuals exporting hazardous waste from the United States, including a notification of the intent to export, and an annual report summarizing the types, quantities, frequency, and ultimate destination of all exported hazardous waste.

Form Numbers: None.

Respondents/affected entities: Private business or other for-profit.

Respondent's obligation to respond: Mandatory (40 CFR parts 262 and 265).

Estimated number of respondents: 644,345.

Frequency of response: On occasion.

Total estimated burden: 526,989 hours per year. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $31,367,417 per year, which includes $63,345 in annualized capital or operation & maintenance costs.

Changes in Estimates: The burden hours are likely to stay substantially the same.

Dated: June 3, 2022.

Carolyn Hoskinson,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2022–13073 Filed 6–16–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

UNITED STATES INTERNATIONAL BOUNDARY AND WATER COMMISSION

[FRL–9919–01–R9]

United States-Mexico-Canada Agreement Mitigation of Contaminated Transboundary Flows Project

AGENCY: Environmental Protection Agency (EPA); United States International Boundary and Water Commission.

ACTION: Notice of availability of draft programmatic environmental impact statement; notice of virtual public comment meetings; request for comments.

SUMMARY: In accordance with regulations implementing the National Environmental Policy Act (NEPA), as amended, the Environmental Protection Agency (EPA) and U.S. International Boundary and Water Commission (USIBWC), as joint lead agencies, have prepared a Draft Programmatic Environmental Impact Statement (Draft PEIS) for the proposed United States-Mexico-Canada Agreement (USMCA) Mitigation of Contaminated Transboundary Flows Project (the Proposed Action). The Proposed Action involves the planning, design, and construction of infrastructure to reduce transboundary flows of untreated wastewater (sewage), trash, and sediment that routinely enter the U.S. from Mexico via the Tijuana River, its tributaries, and across the maritime boundary along the San Diego County coast. These transboundary flows impact public health and the environment and have been linked to beach closures along the San Diego County coast. EPA and USIBWC have evaluated the Proposed Action, including alternatives, located in the Tijuana River area in southern San Diego County, California in the U.S. and in the Tijuana region in Mexico. This Notice initiates the comment process by inviting comments from Federal, State, and local agencies; Native American tribes; interested stakeholders; and the public on the Proposed Action, including alternatives, and environmental consequences examined in the Draft PEIS. EPA and USIBWC are also providing notice of virtual public comment meetings that are open to all interested parties.

DATES: Public comment meetings will be held virtually on July 19, 2022, 6:30 p.m. to 8:30 p.m. Pacific Daylight Time (PDT) and July 20, 2022, 2 p.m. to 4 p.m. (PDT). A formal presentation on the proposed project will be provided at the meetings, followed by an opportunity for public comment. Written public comments are due to EPA and USIBWC by 5:00 p.m. (PDT) within the 45 days from the date of the publication of the EPA Notification of Availability of Programmatic Environmental Impact Statements in the **Federal Register**. Please go to: *https://www.epa.gov/sustainable-water-infrastructure/usmca-tijuana-river-watershed* for more information regarding the public comment meetings.

ADDRESSES: Written comments shall be submitted to the following email address: *Tijuana-Transboundary-EIS@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Borowiec, 415–972–3419, *borowiec.elizabeth@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: EPA and USIBWC, as joint lead agencies, in accordance with the requirements of NEPA (42 U.S.C. 4321–4347), Council on Environmental Quality NEPA Implementing Regulations (40 Code of Federal Regulations [CFR] 1500–1508 [2022]), EPA Procedures for Implementing NEPA (40 CFR part 6), and USIBWC NEPA Implementing Procedures (48 FR 44083), have prepared a Draft PEIS for the Proposed Action. EPA and USIBWC invite public comment on the scope of the Draft PEIS, the Proposed Action (including alternatives considered), specific environmental issues evaluated, relevant information and analyses, the identified impacts of the alternatives, and applicable mitigation measures.

The San Diego-Tijuana region has faced persistent transboundary flows of contaminated wastewater originating in Mexico for many years. The three primary entryways of these transboundary flows into the U.S. are in coastal waters of the Pacific Ocean, the Tijuana River, and tributaries flowing north through canyons to the Tijuana River. Seasonal marine currents cause coastal discharges of largely untreated wastewater (sewage) from the Tijuana area to migrate north along the Pacific Ocean coast into the U.S. These discharges impact southern San Diego County beaches, especially during the summer. Additionally, transboundary flows in the Tijuana River and its canyon tributaries routinely reach the U.S., bringing untreated wastewater (sewage), trash, and sediment into the U.S. These contaminated flows can reach the Pacific Ocean through the Tijuana River Valley and Estuary and migrate north along the coast, compounding the impacts of coastal discharges from the Tijuana area. Collectively, these polluted transboundary flows impact the environment and public health in communities along the border and the coast, public access to beaches and recreational opportunities in southern California, and the personnel and activities of U.S. Customs and Border Protection (CBP) and the U.S. Navy.

For several years, EPA and USIBWC have engaged with agencies, elected officials, and stakeholder groups in the San Diego-Tijuana region in both the U.S. and Mexico to address transboundary pollution issues. The USMCA Implementation Act, signed into law in January 2020, appropriated funds to EPA for implementation of wastewater infrastructure projects at the U.S.-Mexico border and authorized EPA, in coordination with eligible public entities, to plan, design, and construct wastewater (including stormwater) treatment projects in the Tijuana River area. In accordance with the USMCA legislation, EPA established the Eligible Public Entities Coordinating Group, consisting of Federal, State, and local stakeholders, and solicited their input on a set of project options to be considered for evaluation.

On April 5, 2021, EPA published a Notice of Intent (NOI) to prepare an EIS (86 FR 17595) for the Proposed Action. Since the NOI was issued, EPA identified specific alternatives to be evaluated and prepared a Draft Programmatic EIS (Draft PEIS) for the Proposed Action, which sets forth a framework for tiered decision making in accordance with 40 CFR 1501.11.

Purpose and Need for the Proposed Action: In accordance with the Clean Water Act and the USMCA Implementation Act, the purpose and need of this action is to reduce transboundary flows from Tijuana that convey pollutants, sewage, and/or trash into the U.S. and cause adverse public health and environmental impacts in the Tijuana River watershed and neighboring coastal areas in the U.S. as described in the preceding section.

Purpose of the Programmatic EIS: The Draft PEIS is a programmatic NEPA document that evaluates environmental impacts of broad agency actions such as a wide range of individual projects, implementation over a long timeframe, or implementation across a large geographic area. The Draft PEIS establishes a tiering process for subsequent agency decisions that is supported, in part, by the analysis detailed in the Draft PEIS. The initial programmatic decision to be made in this Draft PEIS is whether EPA and the USIBWC should consider funding and implementing water infrastructure projects that reduce transboundary flows in the Tijuana River watershed and adjacent coastal areas. The Draft PEIS evaluates: (1) the No-Action Alternative (no disbursement of funding and continuation of current wastewater management practices; (2) Alternative 1 (a limited approach); or (3) Alternative 2 (a more comprehensive solution). The Core projects found in Alternative 1 are sufficiently developed to be ready for decision making and, after completing the NEPA process, would be considered analyzed in sufficient detail for immediate action. In contrast, Alternative 2 includes a larger range of projects known as the Supplemental Projects, several of which are not yet ready for decision making. These Supplemental Projects require additional consideration in subsequent tiered NEPA documents before a decision can be made and action can be taken (for additional information on tiering, refer to 40 CFR 1501.11). By establishing this Draft PEIS, EPA and USIBWC aim to accomplish the following:

• Make a broad programmatic decision about which funding approach to take,

• Provide a comprehensive baseline analysis from which subsequent site-specific proposals (Supplemental Projects) can be tiered,

• Efficiently analyze and make decisions on funds for Core Projects that are more evolved in planning and design than Supplemental Projects and thus ready for decision making,

• Avoid repetition by using the Draft PEIS as a foundation for the environmental review in subsequent tiered NEPA documents, and

• Streamline the later environmental review processes of Supplemental Projects so that they may move forward as soon as they are sufficiently developed for decision making and action.

Proposed Action and Alternatives: The EPA and IBWC's Proposed Action is the implementation of projects to address impacts from transboundary flows in the Tijuana River watershed and adjacent coastal areas. Because of the programmatic nature of the decisions to be made, only the Core projects could be implemented at the completion of this NEPA process. The Supplemental projects would require additional tiered review before being implemented. The Proposed Action addresses the purpose and need stated above by:

• Reducing the generation and/or discharge of contaminated flows from point and nonpoint sources of pollution in the Tijuana region,

• Improving the collection and/or treatment of contaminated flows in the Tijuana region before they reach the U.S.-Mexico border, and

• Improving the collection and/or treatment of contaminated transboundary flows in the U.S.

The Draft PEIS evaluates a No-Action Alternative and two alternatives for implementing the Proposed Action:

• *No-Action Alternative.* This alternative would not implement the Proposed Action. NEPA requires that a No-Action Alternative be analyzed to determine the environmental consequences of not undertaking the Proposed Action, and thereby providing a baseline against which the potential beneficial and adverse environmental impacts of action alternatives can be evaluated and compared.

• *Alternative 1: Core Projects.* Under this alternative, EPA would fund some components of the Comprehensive Infrastructure Solution that are the responsibility of the U.S., pursuant to the terms of the final cost sharing agreement between the U.S. and Mexico. This approach would fund and implement only those projects that are sufficiently developed and ready for decision making and *is not expected* to require substantial additional U.S. funding beyond the USMCA Implementation Act appropriation and funds from existing programs such as EPA's Border Water Infrastructure Program (BWIP). Alternative 1 includes four Core Projects: Projects A (Expanded South Bay International Wastewater Treatment Plant [ITP]), B (Tijuana Canyon Flows to ITP), C (Tijuana Sewer Repairs), and D (Advanced Primary Treatment Plant [APTP] Phase 1).

• *Alternative 2: Core and Supplemental Projects.* Under this alternative, EPA would use U.S. appropriations to fund *all components* of the Comprehensive Infrastructure Solution that are the responsibility of the U.S., pursuant to the terms of the final cost sharing agreement between the U.S. and Mexico. This more comprehensive approach *is expected* to require additional funding beyond the USMCA Implementation Act appropriations and funds from existing programs such as EPA's BWIP. EPA is in the process of identifying additional opportunities for Federal funding and/

or State appropriations that could be used to fully implement the Comprehensive Infrastructure Solution. Alternative 2 includes the four Core Projects (from Alternative 1) and six Supplemental Projects (10 projects in total) and would provide a more comprehensive solution for reducing contaminated transboundary flows. The six Supplemental Projects are Projects E (APTP Phase 2), F (U.S.-side River Diversion to APTP), G (New San Antonio de los Buenos Wastewater Treatment Plant [SABTP]), H (Tijuana Wastewater Treatment Plant Treated Effluent Reuse), I (ITP Treated Effluent Reuse), and J (Trash Boom[s]).

A preferred alternative has not been identified at this time. Descriptions of the alternatives, including descriptions of Core and Supplemental Projects, can be found in the Draft PEIS and on the project website at *https://www.epa.gov/sustainable-water-infrastructure/usmca-tijuana-river-watershed*.

Summary of Expected Impacts: The Proposed Action is expected to have beneficial impacts to public safety and water quality in the Tijuana River watershed and adjacent coastal areas. The Proposed Action covers a large geographic area and would impact a broad range of resource areas, including water resources, geologic resources, the coastal zone, air quality, climate, biological resources, cultural resources, land use, visual resources, solid and hazardous waste, energy, public services and utilities, public health and safety, transportation, noise, socioeconomics, and environmental justice. The impacts to these resources are analyzed in the Draft PEIS.

Anticipated Permits and Authorization: Implementation of the Proposed Action may require Federal authorizations, permits, or consultants pursuant to the Endangered Species Act, Clean Water Act, National Historic Preservation Act, and Coastal Zone Management Act. EPA has initiated engagement with Federal agencies such as the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and U.S. Army Corps of Engineers and is working closely with other binational, State, and local agencies and stakeholders.

Public Comment: EPA and USIBWC have established a 45-day public comment period for the Draft PEIS. The 45-day public comment period will start upon publication of the EPA Notice of Availability (NOA) of Programmatic Environmental Impact Statements in the **Federal Register**. Comments on the Draft PEIS must be received by 5 p.m. Pacific Daylight Time within 45 days after publication of the NOA. EPA and USIBWC are requesting written comments from Federal, State, and local governments, industry, non-governmental organizations, and the general public on:

- The range of alternatives considered,
- The environmental issues evaluated,
- The submitted alternatives, information, and analyses and the summary thereof, and/or
- Measures to mitigate the environmental consequences of the Proposed Action.

Public comment meetings will be held virtually on July 19, 2022. and July 20, 2022. Consult the ''Dates'' section above for further information on the public comment meetings. All interested parties are encouraged to attend. Pursuant to 40 CFR 1503.3, comments on the Draft PEIS shall be as specific as possible, may address the adequacy of the Draft PEIS and/or the merits of the alternatives, and shall provide sufficient detail to meaningfully participate and fully inform EPA and USIBWC of the commenter's position. Commenters should explain the importance of their comments to the consideration of potential impacts and alternatives to the Proposed Action, as well as economic and employment impacts, and other impacts affecting the quality of the human environment. Comments on the submitted alternatives, information, and analyses and summary should be as specific as possible. Comments and objections of any kind shall be raised within the comment period on the Draft PEIS. Commentors should reference the corresponding section or page number of the Draft PEIS; propose specific changes where possible; and include data sources and methodologies supporting any proposed changes.

Estimated Date of Final PEIS Release: Once the public review and comment process is complete, EPA and USIBWC will prepare a Final PEIS and will publish a **Federal Register** notice announcing its public availability. EPA and USIBWC will provide the public with an opportunity to review and comment on the Final PEIS. After EPA and USIBWC consider those comments, EPA and USIBWC will prepare the final ROD and similarly announce its availability. Comments received during the Draft PEIS review period will be made available in the Final PEIS. The Final PEIS is expected to be released by November 2022.

Martha Guzman Aceves,

Regional Administrator, Environmental Protection Agency Region IX.

Mariaelena Giner,

Commissioner (U.S. Section), International Boundary and Water Commission, United States and Mexico United States Section.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 9899–01–OW]

Notice of Funding Availability for Credit Assistance Under WIFIA Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of funding availability.

SUMMARY: In the Further Consolidated Appropriations Act, 2022, signed by the President on March 15, 2022, Congress provided $58.5 million in budget authority for the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) program to cover the subsidy required to provide a much larger amount of credit assistance. The U.S. Environmental Protection Agency (EPA) estimates that this budget authority may provide approximately $5.5 billion in credit assistance and may finance approximately $11 billion in water infrastructure investment. The purpose of this notice of funding availability (NOFA) is to solicit letters of interest (LOIs) from prospective borrowers seeking credit assistance from EPA under the WIFIA program.

ADDRESSES: Prospective borrowers should submit all LOIs electronically via EPA's SharePoint site. To be granted access to the SharePoint site, prospective borrowers should contact *wifia@epa.gov* and request a link to the SharePoint site, where they can securely upload their LOIs and then email *wifia@epa.gov* once the complete LOI package has been uploaded to the SharePoint site.

EPA will notify prospective borrowers that their LOI has been received via a confirmation email.

Prospective borrowers can access additional information, including the WIFIA program handbook and application materials, on the WIFIA website: *https://www.epa.gov/wifia/.*

SUPPLEMENTARY INFORMATION:

A. Submission and Review of Letters of Interest on a Rolling Basis

EPA is changing the way it accepts LOIs to respond to both market conditions, including cost inflation and supply chain shortages and unparalleled Federal investment through the Infrastructure Investment and Jobs Act and the American Rescue Plan Act. The WIFIA program will be responsive to these conditions by moving to a rolling selection process, whereby LOIs may be submitted by prospective borrowers and received by EPA at any time throughout the year. A rolling selection process allows EPA to provide year-round access to WIFIA funding and quicker selection decisions to prospective borrowers. In addition, under this iterative, rolling selection process, the WIFIA program can provide technical assistance to prospective borrowers that need feedback in order to complete their LOI package. Since LOIs will be evaluated on a first-come, first served basis, EPA encourages LOI submissions at the beginning of the availability period.

B. Funding Availability Period

LOIs may be submitted by prospective borrowers and will be received by EPA on a rolling basis. The LOI submittal period will begin on September 6, 2022 and end on the earlier of (i) the date on which all budget authority made available under this NOFA is committed (notice of such to be provided on the WIFIA website: *https://www.epa.gov/wifia*), and (ii) publication of a subsequent notice ending this LOI submittal period or replacing this NOFA with an updated NOFA.

In addition, EPA reserves the right to make additional awards using FY2022 appropriated funding or funding authority carried over from previous fiscal years, consistent with agency policy and guidance, if additional funding is available after the original selections are made. Any funding authority not obligated in the fiscal year for which it is authorized remains available for obligation in subsequent years.

C. Summary of NOFA and Submission Instructions

EPA will evaluate and select proposed projects described in the LOIs using the selection criteria established in the statute and regulation, and further described in this NOFA as well as the WIFIA program handbook. This NOFA establishes relative weights that will be used in the current LOI submittal period for the selection criteria, explains budgetary scoring factors to determine budgetary scoring compliance, and outlines the process that prospective borrowers should follow to be considered for WIFIA credit assistance.

For a project to be considered during the availability period, EPA must receive an LOI, via SharePoint, before the end of the availability period. EPA anticipates any future NOFA will include sufficient notice of the end of the period for borrowers to complete LOIs in progress.

When writing an LOI, prospective borrowers should complete the WIFIA LOI form and follow the guidelines contained on the WIFIA program website: *https://www.epa.gov/wifia/wifia-application-materials.* Prospective borrowers should provide the LOI and any attachments as Microsoft Word documents or searchable PDF files, whenever possible, to facilitate EPA's review. Additionally, prospective borrowers should ensure that financial information, including the pro forma financial statement, is in a formula-based Microsoft Excel document. Section VI of this NOFA provides additional details on the LOI's content.

EPA will invite each prospective borrower whose project proposal is selected for continuation in the process to submit a final application. Final applications should be received by EPA within 365 days of the invitation to apply, but EPA may extend the deadline on a case-by-case basis if the LOI schedule signals additional time may be needed.

D. Opportunities To Learn More About the WIFIA Program

EPA will host a series of webinars to provide further information about submitting an LOI. The webinar schedule and registration instructions can be found on the WIFIA program website: *www.epa.gov/wifia.*

Prospective borrowers with questions about the program or interest in meeting with the WIFIA program staff may send a request to *wifia@epa.gov.* EPA will meet with all prospective borrowers interested in discussing the program prior to submission of an LOI.

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I. Background

Congress enacted WIFIA as part of the Water Resources Reform and Development Act of 2014 (WRRDA). Codified at 33 U.S.C. 3901–3914, WIFIA authorizes a Federal credit program for water infrastructure projects to be administered by EPA. WIFIA authorizes EPA to provide Federal credit assistance in the form of secured (direct) loans or loan guarantees for eligible water infrastructure projects.

The WIFIA program's mission is to accelerate investment in our nation's water, wastewater, and stormwater infrastructure by providing long-term, low-cost, supplemental credit assistance under customized terms to creditworthy water infrastructure projects of national and regional significance. Additionally, the WIFIA program is implementing four key Administration priorities in this 2022 NOFA:

A. Increasing Investment in Economically-Stressed Communities

EPA encourages the submission of projects that address the ever increasing needs of economically-stressed and disadvantaged communities to ensure they benefit from investments in water infrastructure, and therefore improve the public health and livability of these communities.

B. Making Rapid Progress on Lead Service Line Replacement

Many drinking water systems still have lead service lines. EPA encourages the submission of drinking water infrastructure projects that will help make rapid progress on replacing lead service lines so we can reduce exposure to lead and improve public health.

C. Addressing PFAS and Emerging Contaminants

EPA encourages the submission of projects that focus on reducing people's exposure to perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other emerging contaminants through drinking water and/or projects that help address discharges of emerging contaminants from wastewater and/or stormwater systems.

D. Supporting One Water Innovation and Resilience

One of the defining features of WIFIA is the broad range of eligible projects that EPA can fund to flexibly support priority needs. EPA encourages borrowers to submit applications for water infrastructure projects that are new and innovative in regards to energy efficiency, addressing drought, or reducing water pollution and contaminants. In addition, EPA encourages the submission of water infrastructure projects that are more resilient to all threats—whether it is natural disasters (*e.g.,* flooding, hurricanes), climate change, or threats such as bioterrorism and cyber-attacks.

II. Program Funding

Congress appropriated $58.5 million in funding to cover the subsidy cost of providing WIFIA credit assistance. The subsidy cost covers the Federal government's risk that the loan may not be paid back. EPA anticipates that the average subsidy cost for WIFIA-funded projects will be relatively low; therefore, this funding can be leveraged into a much larger amount of credit assistance. EPA estimates that this appropriation will allow the agency to provide approximately $5.5 billion [1] in long-term, low-cost financing to water infrastructure projects and accelerate approximately $11 billion in infrastructure investment around the country.

III. Eligibility Requirements

The WIFIA statute and implementing rules set forth eligibility requirements for prospective borrowers, projects, and project costs. The requirements outlined below are described in greater detail in the WIFIA program handbook.

A. Eligible Applicants

Prospective borrowers must be one of the following to be eligible for WIFIA credit assistance:

(i) A corporation;
(ii) A partnership;
(iii) A joint venture;
(iv) A trust;
(v) A Federal, state, or local governmental entity, agency, or instrumentality;
(vi) A tribal government or a consortium of tribal governments; or
(vii) A state infrastructure financing authority.

B. Eligible Projects

The WIFIA statute authorizes EPA to provide credit assistance for a wide variety of projects. Projects must be one of the following to be eligible for WIFIA credit assistance:

(i) One or more activities that are eligible for assistance under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)), notwithstanding the public ownership requirement under paragraph (1) of that subsection;

(ii) One or more activities described in section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(2));

(iii) A project for enhanced energy efficiency in the operation of a public water system or a publicly owned treatment works;

(iv) A project for repair, rehabilitation, or replacement of a treatment works, community water system, or aging water distribution or waste collection facility (including a facility that serves a population or community of an Indian reservation);

(v) A brackish or sea water desalination project, including chloride control, a managed aquifer recharge project, a water recycling project, or a project to provide alternative water supplies to reduce aquifer depletion;

(vi) A project to prevent, reduce, or mitigate the effects of drought, including projects that enhance the resilience of drought-stricken watersheds;

(vii) Acquisition of real property or an interest in real property—

(a) If the acquisition is integral to a project described in paragraphs (i) through (v); or

(b) Pursuant to an existing plan that, in the judgment of the Administrator, would mitigate the environmental impacts of water resources infrastructure projects otherwise eligible for assistance under this section;

(viii) A combination of projects, each of which is eligible under paragraph (i) or (ii), for which a state infrastructure financing authority submits to the Administrator a single application; or

(ix) A combination of projects secured by a common security pledge, each of which is eligible under paragraphs (i), (ii), (iii), (iv), (v), (vi), or (vii), for which an eligible entity, or a combination of eligible entities, submits a single application.

C. Eligible Costs

As defined under 33 U.S.C. 3906 and described in the WIFIA program handbook, eligible project costs are costs associated with the following activities:

(i) Development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(ii) Construction, reconstruction, rehabilitation, and replacement activities;

(iii) The acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation (including acquisitions pursuant to 33 U.S.C. 3905(8)), construction contingencies, and acquisition of equipment; and

(iv) Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction. Capitalized interest on WIFIA credit assistance may not be included as an eligible project cost.

D. Threshold Requirements

For a project to be eligible for WIFIA credit assistance, a project must meet the following criteria:

(i) The project and obligor shall be creditworthy;

(ii) A project shall have eligible project costs that are reasonably anticipated to equal or exceed $20 million, or for a project eligible under paragraph (2) or (3) of 33 U.S.C. 3905 serving a community of not more than 25,000 individuals, project costs that are reasonably anticipated to equal or exceed $5 million;

(iii) Project financing shall be repayable, in whole or in part, from state or local taxes, user fees, or other dedicated revenue sources that also secure the senior project obligations of the project; shall include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and may have a lien on revenues subject to any lien securing project obligations;

(iv) In the case of a project that is undertaken by an entity that is not a state or local government or an agency or instrumentality of a State or local government, or a tribal government or consortium of tribal governments, the project that the entity is undertaking shall be publicly sponsored; and

(v) The applicant shall have developed an operations and maintenance plan that identifies adequate revenues to operate, maintain, and repair the project during its useful life.

IV. Budgetary Scoring Determination for Non-Federal Projects

To comply with Public Law 116–260, a project selected for WIFIA financing using funding appropriated in FY2022 will be assessed using two initial screening questions and sixteen scoring factors. These questions will help the Office of Management and Budget

[1] This estimated loan volume is provided for reference only. Consistent with the Federal Credit Reform Act of 1990 and the requirements of the Office of Management and Budget, the actual subsidy cost of providing credit assistance is based on individual project characteristics and calculated on a project-by-project basis. Thus, actual lending capacity may vary.

(OMB) determine compliance with budgetary scoring rules, a process that will be conducted in parallel to EPA's LOI evaluation process outlined in this NOFA. The questions may be found in **Federal Register** publication: Water Infrastructure Finance and Innovation Act Program (WIFIA) Criteria Pursuant to Public Law 116–94 (85 FR 39189, June 30, 2020). These questions are also published in the WIFIA program handbook and further information about the scoring process may be referenced therein. EPA encourages project applicants to review the scoring criteria and provide sufficient information in the LOI or as an attachment to the LOI to facilitate EPA and OMB review of the prospective project considering the scoring criteria.

V. Types of Credit Assistance

Under WIFIA, EPA is permitted to provide credit assistance in the form of secured (direct) loans or loan guarantees. Each prospective borrower should list the estimated total capital costs of the project, broken down by activity type and differentiating between eligible project costs and ineligible project costs in the LOI and application.

A. Maximum Amount of WIFIA Credit Assistance

The maximum amount of WIFIA credit assistance to a project is 49 percent of eligible project costs in almost all instances.

B. Exception for Small Communities

Recognizing the need that exists in both small and large communities to invest in infrastructure, Congress stipulated in statute that EPA set aside 15 percent of the budget authority appropriated each year for small communities, defined as systems that serve a population of 25,000 or less. Pursuant to the WIFIA statute, of the funds set aside, any amount not obligated by June 1 of the fiscal year for which budget authority is set aside may be used for any size community. Regardless of whether EPA obligates these funds by June 1 of the fiscal year for which budget authority is set aside, EPA will endeavor to use 15 percent of its budget authority for small communities.

EPA knows that small communities can face extraordinary challenges paying for needed water infrastructure projects. Therefore, EPA is offering small community prospective borrowers the opportunity to request credit assistance up to 80 percent of the eligible project costs. Small community needs represent a disproportionate amount of the overall water infrastructure needs nationwide. By offering credit assistance up to 80 percent, EPA is making a project's financing simpler and more accessible and reducing transaction costs for small communities, enabling them to finance and implement needed upgrades and improvements to their infrastructure.

VI. Letters of Interest and Applications

Each prospective borrower will be required to submit an LOI and, if invited, an application to EPA to be considered for approval. This section describes the LOI submission and application submission.

A. Letter of Interest (LOI)

Prospective borrowers seeking a WIFIA loan must submit an LOI describing the project fundamentals and addressing the WIFIA selection criteria.

The primary purpose of the LOI is to provide adequate information to EPA to: (i) validate the eligibility of the prospective borrower and the prospective project, (ii) perform a preliminary creditworthiness assessment, (iii) perform a preliminary engineering feasibility assessment, and (iv) evaluate the project against the selection criteria. Based on its review of the information provided in the LOI, EPA will invite prospective borrowers to submit applications for their projects. Prospective borrowers are encouraged to review the WIFIA program handbook to help create the best justification possible for the project and a cohesive and comprehensive LOI submittal.

Prospective borrowers should utilize the LOI form on the WIFIA website and ensure that sufficient detail about the project is provided for EPA's review. EPA will notify a prospective borrower if its project is deemed ineligible as described in Section III of this NOFA or if additional information is needed to assess the LOI package.

Below is guidance on what EPA recommends be included in the LOI.

1. *Key Loan Information.* In this section, the prospective borrower provides a general description of the project, purpose, loan amount, total eligible project costs, application submission date, loan close date, and population information. The prospective borrower also includes information such as its legal name, address, website, Unique Entity ID from *SAM.gov*, and employer/taxpayer identification number.

In the case of a project that is undertaken by an entity that is not a state or local government or an agency or instrumentality of a state or local government, or a tribal government or consortium of tribal governments, the project that the entity is undertaking must be publicly sponsored. Public sponsorship means that the prospective borrower can demonstrate, to the satisfaction of EPA, that it has consulted with the affected state, local, or tribal government in which the project is located, or is otherwise affected by the project, and that such government supports the proposed project. A prospective borrower can show support by including a certified letter signed by the approving state, tribal, or municipal department or similar agency; governor, mayor or other similar designated authority; statute or local ordinance; or any other means by which government approval can be evidenced.

2. *Engineering and Credit.* In this section, the prospective borrower provides any technical reports or written information relevant to evaluating the project and a high-level schedule of dates for the project or projects included in the LOI. To evaluate creditworthiness, the prospective borrower provides a credit rating letter that is less than a year old or is actively maintained. If the prospective borrower does not have a current rating letter, the borrower describes how the senior obligations of the project will achieve an investment-grade rating and includes a pro-forma and three years of audited financial statements.

3. *Selection Criteria.* In this section, the prospective borrower describes the potential policy benefits achieved using WIFIA assistance with respect to each of the WIFIA program selection criteria. These criteria and their weights, as applicable, are enumerated in Section VIII of this NOFA and further explained in the WIFIA program handbook.

4. *Contact Information.* In this section, the prospective borrower identifies the point of contact with whom the WIFIA program should communicate regarding the LOI. To complete EPA's evaluation, the WIFIA program staff may contact a prospective borrower regarding specific information in the LOI.

5. *Certifications.* In this section, the prospective borrower certifies that it will abide by all applicable laws and regulations, if selected to receive funding.

6. *SRF Notification.* In this section, the prospective borrower acknowledges that EPA will notify the state infrastructure financing authority in the state in which the project is located that it submitted an LOI and provide the submitted LOI and source documents to that authority. The prospective borrower may opt out of having its LOI and source documents shared.

B. Application

After EPA concludes its evaluation of a complete LOI package, a selection committee will invite the prospective borrower to apply based on review and scoring, as applicable, of the selection criteria and satisfaction of the eligibility requirements, while taking into consideration geographic and project diversity. The selection committee may choose to combine multiple LOIs or separate projects from a prospective borrower based on the creditworthiness review and may offer an alternative amount of WIFIA assistance than requested in the LOI.

An invitation to apply for WIFIA credit assistance does not guarantee EPA's approval, which remains subject to a project's continued eligibility, including creditworthiness, the successful negotiation of terms acceptable to EPA, and the availability of funds at the time at which all necessary recommendations and evaluations have been completed. However, the purpose of EPA's LOI review is to pre-screen prospective borrowers to the extent practicable. It is expected that EPA will only invite prospective borrowers to apply if it anticipates that those prospective borrowers are able to obtain WIFIA credit assistance. Detailed information needs for the application are listed in the application form and described in the WIFIA program handbook.

VII. Fees

There is no fee to submit an LOI. For information about application and post-closing costs, please refer to the WIFIA fee rule, Fees for Water Infrastructure Project Applications under WIFIA, 40 CFR 35.10080.

VIII. Selection Criteria

This section specifies the criteria and process that EPA will use to evaluate LOIs and award applications for WIFIA assistance.

The selection criteria described below incorporate statutory eligibility requirements, supplemented by the WIFIA regulations at 40 CFR 35.10055, and by the Administration priorities identified in Section I of this document. EPA's priorities reflect water sector challenges that require innovative tools to assist local governments in managing and adapting to our most pressing public health and environmental challenges. These priorities are reflected in the scoring methodology of the selection criteria below, described in greater detail in the WIFIA program handbook.

The WIFIA selection criteria are divided into three categories: Project Readiness, Borrower Creditworthiness and Project Impact. Each LOI will be evaluated for the extent to which the project satisfies the criteria listed below for each category. To satisfy the overall category review, it is not necessary to satisfy all of the criteria for each category. For the Project Impact category, WIFIA staff will score LOIs based on the points indicated below. All projects that satisfy category level review for all three categories will be selected for funding, assuming sufficient funds are still available. The criteria are as follows:

Project Readiness:

(i) The readiness of the project to proceed toward development, including a demonstration by the obligor that there is a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which a Federal credit instrument is obligated for the project under [WIFIA]. 33 U.S.C. 3907(b)(2)(J); and 40 CFR 35.10055(a)(9).

(ii) Preliminary engineering feasibility analysis. 33 U.S.C. 3907(a)(2); 33 U.S.C. 3907(a)(6); 40 CFR 35.10015(c); and 40 CFR 35.10045(a).

Borrower Creditworthiness:

(i) The likelihood that assistance under [WIFIA] would enable the project to proceed at an earlier date than the project would otherwise be able to proceed. 33 U.S.C. 3907(b)(2)(C); and 40 CFR 35.10055(a)(2).

(ii) The extent to which the project financing plan includes public or private financing in addition to assistance under [WIFIA]. 33 U.S.C. 3907(b)(2)(B); and 40 CFR 35.10055(a)(10).

(iii) The extent to which assistance under [WIFIA] reduces the contribution of Federal assistance to the project. 33 U.S.C. 3907(b)(2)(K); and 40 CFR 35.10055(a)(11).

(iv) The amount of budget authority required to fund the Federal credit instrument made available under [WIFIA]. 33 U.S.C. 3907(b)(2)(E).

(v) Preliminary creditworthiness assessment analysis. 33 U.S.C. 3907(a)(1); 40 CFR 35.10015(c); 40 CFR 35.10045(a)(1); 40 CFR 35.10045(a)(4); and 40 CFR 35.10045(b).

Project Impact:

(i) *5 points:* The extent to which the project is nationally or regionally significant, with respect to the generation of economic and public benefits, such as (1) the reduction of flood risk; (2) the improvement of water quality and quantity, including aquifer recharge; (3) the protection of drinking water, including source water protection; and (4) the support of international commerce. 33 U.S.C. 3907(b)(2)(A); and 40 CFR 35.10055(a)(1).

(ii) *25 points:* The extent to which the project (1) protects against extreme weather events, such as floods or hurricanes; or (2) helps maintain or protect the environment, including Priority 3: 33 U.S.C. 3907(b)(2)(F); 40 CFR 35.10055(a)(4); and 40 CFR 35.10055(a)(5).

(iii) *5 points:* The extent to which the project serves regions with significant energy exploration, development, or production areas: 33 U.S.C. 3907(b)(2)(G); and 40 CFR 35.10055(a)(6).

(iv) *5 points:* The extent to which a project serves regions with significant water resource challenges, including the need to address: (1) water quality concerns in areas of regional, national, or international significance; (2) water quantity concerns related to groundwater, surface water, or other water sources; (3) significant flood risk; (4) water resource challenges identified in existing regional, state, or multistate agreements; or (5) water resources with exceptional recreational value or ecological importance. 33 U.S.C. 3907(b)(2)(H); 40 CFR 35.10055(a)(7).

(v) *5 points:* The extent to which the project addresses identified municipal, state, or regional priorities. 33 U.S.C. 3907(b)(2)(I); 40 CFR 35.10055(a)(8).

(vi) *5 points:* The extent to which the project addresses needs for repair, rehabilitation or replacement of a treatment works, community water system, or aging water distribution or wastewater collection system. 40 CFR 35.10055(a)(12).

(vii) *25 points:* The extent to which the project serves economically stressed communities, or pockets of economically stressed rate payers within otherwise non-economically stressed communities, including Priority 1. 40 CFR 35.10055(a)(13).

(viii) *25 points:* The extent to which the project reduces exposure to lead in the nation's drinking water systems or addresses emergent contaminants, including Priority 2. 40 CFR 35.10055(b).

(ix) *25 points:* The extent to which the project uses new or innovative approaches, including Priority 4. 33 U.S.C. 3907(b)(2)(D); 40 CFR 35.10055(a)(3).

In addition to the selection criteria, EPA is required by 33 U.S.C. 3902(a) to "ensure a diversity of project types and geographical locations."

The scoring scales and guidance used to evaluate each project against the selection criteria are available in the WIFIA program handbook. Prospective borrowers considering WIFIA should review the WIFIA program handbook and discuss how the project addresses each of the selection criteria in the LOI submission.

IX. Federal Requirements

All projects receiving WIFIA assistance must comply with the applicable Federal requirements including (but not limited to) those listed below. Compliance with Federal requirements is not required for submitting a letter of interest, being invited to apply for a WIFIA loan, or submitting an application. The WIFIA program will review selected projects for compliance with Federal requirements once they have submitted an application. Additional information about Federal compliance requirements, including WIFIA's BABAA waiver and the *WIFIA Borrower Guide to Federal Requirements,* is available at *https://www.epa.gov/wifia/wifia-federal-compliance-requirements.*

(i) Build America, Buy America Act, Public Law 117–58, § 70911–70917;

(ii) American Iron and Steel Requirement, 33 U.S.C. 3914, *https://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement*;

(iii) Labor Standards, 33 U.S.C. 1372, *https://www.dol.gov/whd/govcontracts/dbra.htm*;

(iv) National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq., https://www.epa.gov/nepa*;

(v) Floodplain Management, Executive Order 11988, 42 FR 26951, May 24, 1977, *https://www.archives.gov/federal-register/codification/executive-order/11988.html*;

(vi) Archeological and Historic Preservation Act, 16 U.S.C. 469–469c, *https://www.nps.gov/archeology/tools/laws/ahpa.htm*;

(vii) Clean Air Act, 42 U.S.C. 7401 *et seq., https://www.epa.gov/clean-air-act-overview*;

(viii) Clean Water Act, 33 U.S.C. 1251 *et seq., https://www.epa.gov/aboutepa/about-office-water*;

(ix) Coastal Barrier Resources Act, 16 U.S.C. 3501 *et seq., https://www.fws.gov/program/coastal-barrier-resources-act*;

(x) Coastal Zone Management Act, 16 U.S.C. 1451 *et seq., https://coast.noaa.gov/czm/about/*;

(xi) Endangered Species Act, 16 U.S.C. 1531 *et seq., https://www.fws.gov/endangered/*;

(xii) Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 12898, 59 FR 7629, February 16, 1994, *https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf*;

(xiii) Protection of Wetlands, Executive Order 11990, 42 FR 26961, May 25, 1977, as amended by Executive Order 12608, 52 FR 34617, September 14, 1987, *https://www.epa.gov/cwa-404*;

(xiv) Farmland Protection Policy Act, 7 U.S.C. 4201 *et seq., https://www.nrcs.usda.gov/wps/portal/nrcs/detail/?cid=nrcs143_008275*;

(xv) Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c, as amended, *https://www.fws.gov/*;

(xvi) Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq., https://www.fisheries.noaa.gov/resource/document/magnuson-stevens-fishery-conservation-and-management-act*;

(xvii) National Historic Preservation Act, 16 U.S.C. 470 *et seq., https://www.nps.gov/archeology/tools/laws/NHPA.htm*;

(xviii) Safe Drinking Water Act, 42 U.S.C. 300f *et seq., https://www.epa.gov/ground-water-and-drinking-water*;

(xix) Wild and Scenic Rivers Act, 16 U.S.C. 1271 *et seq., https://rivers.gov/*;

(xx) Debarment and Suspension, Executive Order 12549, 51 FR 6370, February 18, 1986, *https://www.archives.gov/federal-register/codification/executive-order/12549.html*;

(xxi) Demonstration Cities and Metropolitan Development Act, 42 U.S.C. 3301 *et seq.,* as amended, and Executive Order 12372, 47 FR 30959, July 14, 1982, *http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning*;

(xxii) New Restrictions on Lobbying, 31 U.S.C. 1352, *https://www.epa.gov/grants/lobbying-and-litigation-information-federal-grants-cooperative-agreements-contracts-and-loans*;

(xxiii) Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to Federal contracts, grants, or loans under 42 U.S.C. 7606 and 33 U.S.C. 1368, and Executive Order 11738, 38 FR 25161, September 12, 1973, *https://www.archives.gov/federal-register/codification/executive-order/11738.html*;

(xxiv) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq., https://www.gpo.gov/fdsys/pkg/FR-2005-01-04/pdf/05-6.pdf*;

(xxv) Age Discrimination Act, 42 U.S.C. 6101 *et seq., https://www.eeoc.gov/laws/statutes/adea.cfm*;

(xxvi) Equal Employment Opportunity, Executive Order 11246, 30 FR 12319, September 28, 1965, *https://www.dol.gov/ofccp/regs/compliance/ca_11246.htm*;

(xxvii) Section 13 of the Clean Water Act, Public Law 92–500, codified in 42 U.S.C. 1251, *https://www.epa.gov/ocr/external-civil-rights-compliance-office-title-vi*;

(xxviii) Section 504 of the Rehabilitation Act, 29 U.S.C. 794, supplemented by Executive Orders 11914, 41 FR 17871, April 29, 1976 and 11250, 30 FR 13003, October 13, 1965, *https://www.epa.gov/ocr/section-504-rehabilitation-act-1973#:~:text=No%20otherwise%20qualified%20individual%20with,activity%20receiving%20Federal%20financial%20assistance*;

(xxix) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq., https://www.epa.gov/environmentaljustice/title-vi-and-environmental-justice*; and

(xxx) Participation by Disadvantaged Business Enterprises in Procurement under the Environmental Protection Agency Financial Assistance Agreements, 73 FR 15904, March 26, 2008, *https://www.epa.gov/resources-small-businesses.*

Detailed information about some of these requirements is outlined in the WIFIA program handbook and *WIFIA Borrower Guide to Federal Requirements.* Further information can be found at the links above.

Authority: 33 U.S.C. 3901–3914; 40 CFR part 35.

Michael S. Regan,

Administrator.

[FR Doc. 2022–12987 Filed 6–16–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–020]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed June 6, 2022 10 a.m. EST Through June 13, 2022 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https:/cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20220078, Final, FRA, CA, Coachella Valley-San Gorgonio Pass

Rail Corridor Service Program Combined Final Tier 1 Program EIS/EIR and Record of Decision, Review Period, Contact: Amanda Ciampolillo 617–866–9398.

Under 23 U.S.C. 139(n)(2), FRA has issued a single document that consists of a final environmental impact statement and record of decision. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

EIS No. 20220079, Draft, EPA, IBWC, CA, United States-Mexico-Canada Agreement Mitigation of Contaminated Transboundary Flows Project, Comment Period Ends: 08/01/2022, Contact: Elizabeth A. Borowiec 415–972–3419.

EIS No. 20220080, Draft, FERC, IL, Three Rivers Interconnection Project, Comment Period Ends: 08/01/2022, Contact: Office of External Affairs 866–208–3372.

EIS No. 20220081, Final, FHWA, MD, I–495 & I–270 Managed Lanes Study Final Environmental Impact Statement and Final Section 4(f) Evaluation, Review Period Ends: 07/18/2022, Contact: Jeanette Mar 410–779–7152.

EIS No. 20220082, Draft, USDA, OR, Powder River Mining, Comment Period Ends: 08/01/2022, Contact: Kendall Cikanek 541–523–1301.

EIS No. 20220083, Third Revised Draft, USACE, FL, Lake Okeechobee Watershed Restoration Project Third Revised Draft Integrated Project Implementation Report and Supplemental Environmental Impact Statement, Comment Period Ends: 08/01/2022, Contact: Melissa Nasuti 904–232–1368.

Dated: June 14, 2022.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2022–13100 Filed 6–16–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 9901–01–OW]

Notice of Funding Availability for Credit Assistance Under SWIFIA Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of funding availability.

SUMMARY: In the Further Consolidated Appropriations Act, 2022, signed by the President on March 15, 2022, Congress provided $5 million in budget authority solely for the cost of direct loans or guaranteed loans to state infrastructure financing authority borrowers for projects described in Section 5026(9) of the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA). The state infrastructure financing authority WIFIA (SWIFIA) program will use this amount to cover the subsidy required to provide a much larger amount of credit assistance. The U.S. Environmental Protection Agency (EPA) estimates that this budget authority may provide approximately $1 billion in credit assistance and may finance approximately $2 billion in water infrastructure investment. The purpose of this notice of funding availability (NOFA) is to solicit letters of interest (LOIs) from prospective state infrastructure financing authority borrowers seeking credit assistance from EPA under the SWIFIA program.

ADDRESSES: Prospective borrowers should submit all LOIs electronically via EPA's SharePoint site. To be granted access to the SharePoint site, prospective borrowers should contact *wifia@epa.gov* and request a link to the SharePoint site, where they can securely upload their LOIs and then email *wifia@epa.gov* once the complete LOI package has been uploaded to the SharePoint site.

EPA will notify prospective borrowers that their LOI has been received via a confirmation email.

Prospective borrowers can access additional information, including the WIFIA program handbook and application materials, on the WIFIA website: *https://www.epa.gov/wifia.*

SUPPLEMENTARY INFORMATION:

A. Submission and Review of Letters of Interest on a Rolling Basis

EPA is changing the way it accepts LOIs to respond to both market conditions, including cost inflation and supply chain shortages and unparalleled Federal investment through the Infrastructure Investment and Jobs Act and the American Rescue Plan Act. The WIFIA program will be responsive to these conditions by moving to a rolling selection process, whereby LOIs may be submitted by prospective borrowers and received by EPA at any time throughout the year. A rolling selection process allows EPA to provide year-round access to WIFIA funding and quicker selection decisions to prospective borrowers.

B. Funding Availability Period

LOIs may be submitted by prospective borrowers and will be received by EPA on a rolling basis. The LOI submittal period will begin on September 6, 2022 and end on the earlier of (i) the date on which all budget authority made available under this NOFA is committed (notice of such to be provided on the WIFIA website: *https://www.epa.gov/wifia*), and (ii) publication of a subsequent notice ending this LOI submittal period or replacing this NOFA with an updated NOFA.

In addition, EPA reserves the right to make additional awards using FY2022 appropriated funding or funding authority carried over from previous fiscal years, consistent with agency policy and guidance, if additional funding is available after the original selections are made. Any funding authority not obligated in the fiscal year for which it is authorized remains available for obligation in subsequent years.

C. Summary of NOFA and Submission Instructions

EPA will evaluate and select proposed projects described in the LOIs using the selection criteria established in the statute and regulation, and further described in this NOFA as well as the WIFIA program handbook. This NOFA explains budgetary scoring factors to determine budgetary scoring compliance and outlines the process that prospective borrowers should follow to be considered for SWIFIA credit assistance.

For a project to be considered during the availability period, EPA must receive an LOI, via SharePoint, before the end of the availability period. EPA anticipates any future NOFA will include sufficient notice of the end of the period for borrowers to complete LOIs in progress.

When writing an LOI, prospective borrowers should complete the SWIFIA LOI form and follow the guidelines contained on the WIFIA program website: *https://www.epa.gov/wifia/wifia-application-materials.* Prospective borrowers should provide the LOI and any attachments as Microsoft Word documents or searchable PDF files, whenever possible, to facilitate EPA's review. Additionally, state infrastructure financing authority prospective borrowers should ensure that financial information, including the pro forma financial statement, is in a formula-based Microsoft Excel document. Section VI of this NOFA provides additional details on the LOI's content.

EPA will invite each prospective borrower whose project proposal is selected for continuation in the process to submit a final application. Final applications should be received by EPA within 365 days of the invitation to apply, but EPA may extend the deadline on a case-by-case basis if the LOI schedule signals additional time may be needed.

D. Opportunities To Learn More About the SWIFIA Program

EPA will host a webinar to provide state infrastructure financing authority prospective borrowers further information about the SWIFIA loans and submitting an LOI. The webinar date and registration instructions can be found on the WIFIA program website: *https://www.epa.gov/wifia/wifia-webinars.*

Prospective borrowers with questions about the program or interest in meeting with the WIFIA program staff may send a request to *wifia@epa.gov*. EPA will meet with all prospective borrowers interested in discussing the program prior to submission of an LOI.

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I. Background

Congress enacted WIFIA as part of the Water Resources Reform and Development Act of 2014 (WRRDA). Codified at 33 U.S.C. 3901–3914, WIFIA authorizes a Federal credit program for water infrastructure projects to be administered by EPA. WIFIA authorizes EPA to provide Federal credit assistance in the form of secured (direct) loans or loan guarantees for eligible water infrastructure projects.

Congress amended WIFIA in America's Water Infrastructure Act of 2018 (AWIA) to authorize Federal credit assistance exclusively for state infrastructure financing authority borrowers.

The WIFIA program's mission is to accelerate investment in our nation's water, wastewater, and stormwater infrastructure by providing long-term, low-cost, supplemental credit assistance under customized terms to creditworthy water infrastructure projects of national and regional significance.

II. Program Funding

Congress appropriated $5 million in funding to cover the subsidy cost of providing SWIFIA credit assistance. The subsidy cost covers the Federal government's risk that the loan may not be paid back. EPA anticipates that the average subsidy cost for SWIFIA-funded projects will be relatively low; therefore, this funding can be leveraged into a much larger amount of credit assistance. EPA estimates that this appropriation will allow the agency to provide approximately $1 billion [1] in long-term, low-cost financing to water infrastructure projects and accelerate approximately $2 billion in infrastructure investment around the country.

III. Program Priorities

This year, EPA identified the following priorities to address the water sector's most pressing public health and environmental challenges:

A. Increasing Investment in Economically-Stressed Communities

EPA encourages the submission of projects that address the ever increasing needs of economically-stressed and disadvantaged communities to ensure they benefit from investments in water infrastructure, and therefore improve the public health and livability of these communities.

B. Making Rapid Progress on Lead Service Line Replacement

Many drinking water systems still have lead service lines. EPA encourages the submission of drinking water infrastructure projects that will help make rapid progress on replacing lead service lines so we can reduce exposure to lead and improve public health.

C. Addressing PFAS and Emerging Contaminants

EPA encourages the submission of projects that focus on reducing people's exposure to perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other emerging contaminants through drinking water and/or projects that help address discharges of emerging contaminants from wastewater and/or stormwater systems.

D. Supporting One Water Innovation and Resilience

One of the defining features of WIFIA is the broad range of eligible projects that EPA can fund to flexibly support priority needs. EPA encourages borrowers to submit applications for water infrastructure projects that are new and innovative in regards to energy efficiency, addressing drought, or reducing water pollution and contaminants. In addition, EPA encourages the submission of water infrastructure projects that are more resilient to all threats—whether it is natural disasters (*e.g.,* flooding, hurricanes), climate change, or threats such as bioterrorism and cyber-attacks.

IV. Eligibility Requirements

The WIFIA statute and implementing rules set forth eligibility requirements for prospective borrowers, projects, and project costs. The requirements outlined below are described in greater detail in the WIFIA program handbook.

A. Eligible Applicants

Prospective borrowers must be a state infrastructure financing authority to be eligible for SWIFIA credit assistance. EPA defines state infrastructure financing authority as the state entity established or designated by the Governor of a state to receive a capitalization grant provided by, or otherwise carry out the requirements of, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 *et. seq.*) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12).

B. Eligible Projects

To be eligible for SWIFIA credit assistance, the SWIFIA project must be a combination of projects, each of which is eligible for assistance under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) or section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(2)), for which a state infrastructure financing authority submits to the Administrator a single application.

C. Eligible Costs

As defined under 33 U.S.C. 3906 and described in the WIFIA program handbook, eligible project costs are costs for the SWIFIA project associated with the following activities:

(i) Development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(ii) Construction, reconstruction, rehabilitation, and replacement activities;

(iii) The acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land),

[1] This estimated loan volume is provided for reference only. Consistent with the Federal Credit Reform Act of 1990 and the requirements of the Office of Management and Budget, the actual subsidy cost of providing credit assistance is based on individual project characteristics and calculated on a project-by-project basis. Thus, actual lending capacity may vary.

environmental mitigation (including acquisitions pursuant to 33 U.S.C. 3905(8)), construction contingencies, and acquisition of equipment; and

(iv) Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction. Capitalized interest on WIFIA credit assistance may not be included as an eligible project cost.

D. Threshold Requirements

For a project to be eligible for SWIFIA credit assistance, a SWIFIA project must meet the following criteria:

(i) The SWIFIA project and obligor shall be creditworthy;

(ii) A SWIFIA project shall have eligible project costs that are reasonably anticipated to equal or exceed $20 million;

(iii) SWIFIA project financing shall be repayable, in whole or in part, from state or local taxes, user fees, or other dedicated revenue sources that also secure the senior SWIFIA project obligations of the SWIFIA project; shall include a rate covenant, coverage requirement, or similar security feature supporting the SWIFIA project obligations; and may have a lien on revenues subject to any lien securing SWIFIA project obligations; and

(iv) The project shall have an operations and maintenance plan that identifies adequate revenues to operate, maintain, and repair the project during its useful life.

V. Budgetary Scoring Determination for Non-Federal Projects

To comply with Public Law 116–260, a project selected for WIFIA financing using funding appropriated in FY2022 will be assessed using two initial screening questions and sixteen scoring factors. These questions will help the Office of Management and Budget (OMB) determine compliance with budgetary scoring rules, a process that will be conducted in parallel to EPA's LOI evaluation process outlined in this NOFA. The questions may be found in **Federal Register** publication: Water Infrastructure Finance and Innovation Act Program (WIFIA) Criteria Pursuant to Public Law 116–94 (85 FR 39189, June 30, 2020). These questions are also published in the WIFIA program handbook and further information about the scoring process may be referenced therein. EPA encourages project applicants to review the scoring criteria and provide sufficient information in the LOI or as an attachment to the LOI to facilitate EPA and OMB review of the prospective project considering the scoring criteria.

VI. Types of Credit Assistance

Under SWIFIA, EPA is offering senior loans, on parity with a state infrastructure financing authority's other senior capital market debt of the same credit quality, to help the state infrastructure financing authority lend to multiple projects throughout the state. The maximum amount of SWIFIA credit assistance to a state infrastructure financing authority is 49 percent of estimated eligible total costs of the eligible projects that are included in the SWIFIA project. Prospective SWIFIA borrowers may request one the following loan structures:

(i) EPA accepts the state infrastructure financing authority's existing capital market debt indenture (to the extent the terms are permissible under Federal law and regulation and WIFIA program policies); or

(ii) The state infrastructure financing authority accepts EPA's standard terms. More information on EPA's standard terms is available at *www.epa.gov/wifia.*

VII. Letters of Interest and Applications

Each prospective borrower will be required to submit an LOI and, if invited, an application to EPA to be considered for approval. This section describes the LOI submission and application submission.

A. Letter of Interest (LOI)

Prospective borrowers seeking a SWIFIA loan must submit an LOI describing the SWIFIA project fundamentals and addressing the SWIFIA selection criteria.

The primary purpose of the LOI is to provide adequate information to EPA to validate the eligibility and creditworthiness of the prospective borrower and the prospective SWIFIA project and determine the extent to which the SWIFIA project meets the statutory selection criteria. Based on its review of the information provided in the LOI, EPA will invite prospective borrowers to submit applications for their projects. Prospective borrowers are encouraged to review the WIFIA program handbook to help create the best justification possible for the project and a cohesive and comprehensive LOI submittal.

Prospective borrowers should utilize the LOI form on the WIFIA website and ensure that sufficient detail about the project is provided for EPA's review. EPA will notify a prospective borrower if its SWIFIA project is deemed ineligible as described in Section IV of this NOFA.

Below is guidance on what EPA recommends be included in the LOI.

1. *Loan Information:* The prospective borrower provides information about its legal name, business address, program website, employer/taxpayer identification number, Unique Entity ID from *SAM.gov,* requested SWIFIA loan amount and SWIFIA project cost amount, type of SRF loans (clean water, drinking water, or both), and requested loan structure.

2. *Supporting Documents:* The prospective borrower provides the most recent version of the following documents: Intended Use Plan (IUP), SRF Operating Agreements with EPA Regional Office, documentation of the priority setting system, and bond indenture (if applicable).

3. *Contact Information:* The prospective borrower identifies the points of contact with whom the WIFIA program should communicate regarding the LOI. To complete EPA's evaluation, the WIFIA program staff may contact a prospective borrower regarding specific information in the LOI.

4. *Certifications.* The prospective borrower certifies that it will abide by all applicable laws and regulations, if selected to receive funding.

B. Application

After EPA concludes its evaluation of a complete LOI package, a selection committee will invite the prospective borrower to apply based on satisfaction of the eligibility requirements. So long as budget authority remains available, EPA expects that all eligible state infrastructure financing authority prospective borrowers will be invited to apply for a SWIFIA loan.

An invitation to apply for WIFIA credit assistance does not guarantee EPA's approval, which remains subject to a project's continued eligibility, including creditworthiness, the successful negotiation of terms acceptable to EPA, and the availability of funds at the time at which all necessary recommendations and evaluations have been completed. However, the purpose of EPA's LOI review is to pre-screen prospective borrowers to the extent practicable. It is expected that EPA will only invite prospective borrowers to apply if it anticipates that those prospective borrowers are able to obtain WIFIA credit assistance. Detailed information needs for the application are listed in the application form and described in the WIFIA program handbook.

VIII. Fees

There is no fee to submit an LOI. For information about application and post-closing costs, please refer to the WIFIA fee rule, Fees for Water Infrastructure

Project Applications under WIFIA, 40 CFR 35.10080.

IX. Selection Criteria

This section specifies the criteria and process that EPA will use to evaluate LOIs and award applications for SWIFIA assistance.

The selection criteria described are the statutory selection criteria for state infrastructure financing authority borrowers. Following its eligibility determination, EPA will determine the extent to which the SWIFIA project meets the statutory selection criteria. They are as follows:

(i) The extent to which the project financing plan includes public or private financing in addition to assistance under [WIFIA]. 33 U.S.C. 3907(b)(2)(B); 40 CFR 35.10055(a)(10).

(ii) The likelihood that assistance under [WIFIA] would enable the project to proceed at an earlier date than the project would otherwise be able to proceed. 33 U.S.C. 3907(b)(2)(C); 40 CFR 35.10055(a)(2).

(iii) The extent to which the project uses new or innovative approaches. 33 U.S.C. 3907(b)(2)(D); 40 CFR 35.10055(a)(3).

(iv) The amount of budget authority required to fund the Federal credit instrument made available under [WIFIA]. 33 U.S.C. 3907(b)(2)(E).

(v) The extent to which the project (1) protects against extreme weather events, such as floods or hurricanes; or (2) helps maintain or protect the environment. 33 U.S.C. 3907(b)(2)(F); 40 CFR 35.10055(a)(4); 40 CFR 35.10055(a)(5).

(vi) The extent to which the project serves regions with significant energy exploration, development, or production areas. 33 U.S.C. 3907(b)(2)(G); 40 CFR 35.10055(a)(6).

(vii) The extent to which a project serves regions with significant water resource challenges, including the need to address: (1) water quality concerns in areas of regional, national, or international significance; (2) water quantity concerns related to groundwater, surface water, or other water sources; (3) significant flood risk; (4) water resource challenges identified in existing regional, state, or multistate agreements; or (5) water resources with exceptional recreational value or ecological importance. 33 U.S.C. 3907(b)(2)(H); 40 CFR 35.10055(a)(7).

(viii) The extent to which the project addresses identified municipal, state, or regional priorities. 33 U.S.C. 3907(b)(2)(I); 40 CFR 35.10055(a)(8).

(ix) The readiness of the project to proceed toward development, including a demonstration by the obligor that there is a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which a Federal credit instrument is obligated for the project under [WIFIA]. 33 U.S.C. 3907(b)(2)(J); 40 CFR 35.10055(a)(9).

(x) The extent to which assistance under [WIFIA] reduces the contribution of Federal assistance to the project. 33 U.S.C. 3907(b)(2)(K); 40 CFR 35.10055(a)(11).

X. Federal Requirements

All state infrastructure financing authorities receiving SWIFIA assistance must comply with the applicable Federal requirements including (but not limited to) those listed below. Compliance with Federal requirements is not required for submitting a letter of interest, being invited to apply for a SWIFIA loan, or submitting an application. The WIFIA program will review selected projects for compliance with Federal requirements once they have submitted an application. Additional information about Federal compliance requirements, including WIFIA's BABAA waiver and the *WIFIA Borrower Guide to Federal Requirements,* is available at *https://www.epa.gov/wifia/wifia-federal-compliance-requirements.*

(i) Build America, Buy America Act, Public Law 117–58, § 70911–70917;

(ii) American Iron and Steel Requirement, 33 U.S.C. 3914, *https://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement*;

(iii) Labor Standards, 33 U.S.C. 1372, *https://www.dol.gov/whd/govcontracts/dbra.htm*;

(iv) National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq., https://www.epa.gov/nepa*;

(v) Floodplain Management, Executive Order 11988, 42 FR 26951, May 24, 1977, *https://www.archives.gov/federal-register/codification/executive-order/11988.html*;

(vi) Archeological and Historic Preservation Act, 16 U.S.C. 469–469c, *https://www.nps.gov/archeology/tools/laws/ahpa.htm*;

(vii) Clean Air Act, 42 U.S.C. 7401 *et seq., https://www.epa.gov/clean-air-act-overview*;

(viii) Clean Water Act, 33 U.S.C. 1251 *et seq., https://www.epa.gov/aboutepa/about-office-water*;

(ix) Coastal Barrier Resources Act, 16 U.S.C. 3501 *et seq.*;

(x) Coastal Zone Management Act, 16 U.S.C. 1451 *et seq., https://coast.noaa.gov/czm/about/*;

(xi) Endangered Species Act, 16 U.S.C. 1531 *et seq., https://www.fws.gov/endangered/*;

(xii) Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 12898, 59 FR 7629, February 16, 1994, *https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf*;

(xiii) Protection of Wetlands, Executive Order 11990, 42 FR 26961, May 25, 1977, as amended by Executive Order 12608, 52 FR 34617, September 14, 1987, *https://www.epa.gov/cwa-404*;

(xiv) Farmland Protection Policy Act, 7 U.S.C. 4201 *et seq., https://www.nrcs.usda.gov/wps/portal/nrcs/detail/?cid=nrcs143_008275*;

(xv) Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c, as amended, *https://www.fws.gov/*;

(xvi) Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq., https://www.fisheries.noaa.gov/resource/document/magnuson-stevens-fishery-conservation-and-management-act*;

(xvii) National Historic Preservation Act, 16 U.S.C. 470 *et seq., https://www.nps.gov/archeology/tools/laws/NHPA.htm*;

(xviii) Safe Drinking Water Act, 42 U.S.C. 300f *et seq., https://www.epa.gov/ground-water-and-drinking-water*;

(xix) Wild and Scenic Rivers Act, 16 U.S.C. 1271 *et seq., https://rivers.gov/*;

(xx) Debarment and Suspension, Executive Order 12549, 51 FR 6370, February 18, 1986, *https://www.archives.gov/federal-register/codification/executive-order/12549.html*;

(xxi) Demonstration Cities and Metropolitan Development Act, 42 U.S.C. 3301 *et seq.,* as amended, and Executive Order 12372, 47 FR 30959, July 14, 1982, *http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning*;

(xxii) New Restrictions on Lobbying, 31 U.S.C. 1352, *https://www.epa.gov/grants/lobbying-and-litigation-information-federal-grants-cooperative-agreements-contracts-and-loans*;

(xxiii) Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to Federal contracts, grants, or loans under 42 U.S.C. 7606 and 33 U.S.C. 1368, and Executive Order 11738, 38 FR 25161, September 12, 1973, *https://www.archives.gov/federal-register/codification/executive-order/11738.html*;

(xxiv) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42

U.S.C. 4601 *et seq., https://www.gpo.gov/fdsys/pkg/FR-2005-01-04/pdf/05-6.pdf*;

(xxv) Age Discrimination Act, 42 U.S.C. 6101 *et seq., https://www.eeoc.gov/laws/statutes/adea.cfm*;

(xxvi) Equal Employment Opportunity, Executive Order 11246, 30 FR 12319, September 28, 1965, *https://www.dol.gov/ofccp/regs/compliance/ca_11246.htm*;

(xxvii) Section 13 of the Clean Water Act, Public Law 92–500, codified in 42 U.S.C. 1251, *https://www.epa.gov/ocr/external-civil-rights-compliance-office-title-vi*;

(xxviii) Section 504 of the Rehabilitation Act, 29 U.S.C. 794, supplemented by Executive Orders 11914, 41 FR 17871, April 29, 1976 and 11250, 30 FR 13003, October 13, 1965, *https://www.epa.gov/ocr/section-504-rehabilitation-act-1973#:~:text=No%20otherwise%20qualified%20individual%20with,activity%20receiving%20Federal%20financial%20assistance*;

(xxix) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq., https://www.epa.gov/environmentaljustice/title-vi-and-environmental-justice*; and

(xxx) Participation by Disadvantaged Business Enterprises in Procurement under the Environmental Protection Agency Financial Assistance Agreements, 73 FR 15904, March 26, 2008, *https://www.epa.gov/resources-small-businesses.*

Detailed information about some of these requirements is outlined in the WIFIA program handbook and *WIFIA Borrower Guide to Federal Requirements.* Further information can be found at the links above.

Authority: 33 U.S.C. 3901–3914; 40 CFR part 35.

Michael S. Regan,

Administrator.

[FR Doc. 2022–12986 Filed 6–16–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0262; FR ID 91808]

Information Collection Being Reviewed by the Federal Communications Commission

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 of 1995 (PRA), 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 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 FCC 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 PRA comments should be submitted on or before August 16, 2022. 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 to *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:

OMB Control No.: 3060–0262.

Title: Section 90.179, Shared Use of Radio Stations.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, non-for-profit institutions, and state, local and tribal government.

Number of Respondents and Responses: 43,000 respondents, 43,000 responses.

Estimated Time per Response: .25 up to .75 hours.

Frequency of Response: Recordkeeping requirement and On occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154(i), 161, 303(g), 303(r) and 332(c)(7).

Total Annual Burden: 43,000 hours.

Annual Cost Burden: No cost.

Needs and Uses: The Commission was directed by the United States Congress, in the Balanced Budget Act of 1997, to dedicate 2.4 MHz of electromagnetic spectrum in the 746–806 MHz band for public safety services. Section 90.179 requires that Part 90 licensees that share use of their private land mobile radio facility on non-profit, cost-sharing basis to prepare and keep a written sharing agreement as part of the station records. Regardless of the method of sharing, an up-to-date list of persons who are sharing the station and the basis of their eligibility under Part 90 must be maintained. The requirement is necessary to identify users of the system should interference problems develop. This information is used by the Commission to investigate interference complaints and resolve interference and operational complaints that may arise among the users.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–13063 Filed 6–16–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 17–208; FRS 17381]

Meeting of the Communications Equity and Diversity Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces the July 22, 2022, meeting of the Federal Communications Commission's (Commission) Communications Equity and Diversity Council (CEDC or Council).

DATES: Friday, July 22, 2022, from 10 a.m. ET to 4 p.m. ET.

ADDRESSES: The CEDC meeting will be held virtually and be available to the public for viewing via the internet at *http://www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: Jamila Bess Johnson, Designated Federal Officer (DFO) of the CEDC, (202) 418–2608, *Jamila-Bess.Johnson@fcc.gov;* Rashann Duvall, Co-Deputy DFO of the CEDC, (202) 418–1438, *Rashann.Duvall@fcc.gov;* or, Keyla Hernandez-Ulloa, Co-Deputy DFO of the

CEDC, (202) 418–0965, *Keyla.Hernandez-Ulloa@fcc.gov.*

SUPPLEMENTARY INFORMATION: *Proposed Agenda:* The agenda for the meeting will include a report of each of the CEDC working groups. The Digital Empowerment and Inclusion Working Group will present a report including recommendations for addressing digital discrimination and other barriers that impact equitable access to broadband and other emerging technology in under-served and under-connected communities. The Innovation and Access Working Group will report on its activities to recommend solutions to reduce entry barriers and encourage ownership and management of media, digital, communications services and next-generation technology properties and start-ups to encourage viewpoint diversity by a broad range of voices. The Diversity and Equity Working Group will report on its progress in examining how the FCC can affirmatively advance equity, civil rights, racial justice, and equal opportunity in the telecommunications industry to address inequalities in workplace employment policies and programs. This agenda may be modified at the discretion of the CEDC Chair and the DFO.

The CEDC meeting will be accessible to the public on the internet via live feed from the Commission's web page at *www.fcc.gov/live.* Members of the public may submit questions during the meeting to *livequestions@fcc.gov.* Oral statements at the meeting by parties or entities not represented on the CEDC will be permitted to the extent time permits and at the discretion of the CEDC Chair and the DFO.

Members of the public may submit comments to the CEDC using the FCC's Electronic Comment Filing System, ECFS, at *www.fcc.gov/ecfs.* Comments to the CEDC should be filed in GN Docket No. 17–208.

Open captioning will be provided for this event. Other reasonable accommodations for persons with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice). Such requests should include a detailed description of the accommodation needed. In addition, please include a way for the Commission to contact the requester if more information is needed to fulfill the request. Please allow at least five days' notice; last minute requests will be accepted but may not be possible to accommodate.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

[FR Doc. 2022–13129 Filed 6–16–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m. on Tuesday, June 21, 2022.

PLACE: The meeting is open to the public. Out of an abundance of caution related to current and potential coronavirus developments, the public's means to observe this Board meeting will be via a Webcast live on the internet and subsequently made available on-demand approximately one week after the event. Visit *https://youtu.be/JJvLk_B7HzQ* to view the meeting. If you need any technical assistance, please visit our Video Help page at: *https://www.fdic.gov/video.html.*

Observers requiring auxiliary aids (*e.g.,* sign language interpretation) for this meeting should call 703–562–2404 (Voice) or 703–649–4354 (Video Phone) to make necessary arrangements.

STATUS: Open.

MATTER TO BE CONSIDERED: Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of Minutes of a Board of Directors' Meeting Previously Distributed.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Discussion Agenda

Briefing re: Restoration Plan Semiannual Update and Amended Restoration Plan.

Memorandum and resolution re: Notice of Proposed Rulemaking on Assessments, Revised Deposit Insurance Assessment Rates.

CONTACT PERSON FOR MORE INFORMATION: Requests for further information concerning the meeting may be directed to Debra A. Decker, Executive Secretary of the Corporation, at 202–898–8748.

Dated at Washington, DC, on June 14, 2022.

Federal Deposit Insurance Corporation.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2022–13160 Filed 6–15–22; 11:15 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

[Notice 2022–15]

Filing Dates for the New York Special Election in the 23rd Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: New York has scheduled a special election on August 23, 2022, to fill the U.S. House of Representatives seat in the 23rd Congressional District vacated by Representative Tom Reed.

Committees required to file reports in connection with the Special General Election on August 23, 2022, shall file a 12-day Pre-General and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the New York Special General Election shall file a 12-day Pre-General Report on August 11, 2022, and a 30-day Post-General Report on September 22, 2022. (See chart below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See chart below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the New York Special General Election by the close of books for the applicable report(s). (See chart below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the New York Special General Election will continue to file according to the monthly reporting schedule.

Additional disclosure information for the New York special election may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special election must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $20,200 during the special election reporting periods. (See chart below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

CALENDAR OF REPORTING DATES FOR NEW YORK SPECIAL ELECTION

Report	Close of books [1]	Reg./cert. and overnight mailing deadline	Filing deadline
Political Committees Involved in the Special General (08/23/2022) Must File			
Pre-General	08/03/2022	08/08/2022	08/11/2022
Post-General	09/12/2022	09/22/2022	09/22/2022
October Quarterly	09/30/2022	10/15/2022	[2] 10/15/2022

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a weekend or federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than registered, certified or overnight mail, or electronically, must be received before the Commission's close of business on the last business day before the deadline.

Dated: June 13, 2022.

On behalf of the Commission.

Allen Dickerson,

Chairman, Federal Election Commission.

[FR Doc. 2022–13083 Filed 6–16–22; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

[Notice 2022–14]

Filing Dates for the New York Special Election in the 19th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: New York has scheduled a special election on August 23, 2022, to fill the U.S. House of Representatives seat in the 19th Congressional District vacated by Representative Antonio Delgado.

Committees required to file reports in connection with the Special General Election on August 23, 2022, shall file a 12-day Pre-General and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the New York Special General Election shall file a 12-day Pre-General Report on August 11, 2022, and a 30-day Post-General Report on September 22, 2022. (See chart below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See chart below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the New York Special General Election by the close of books for the applicable report(s). (See chart below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the New York Special General Election will continue to file according to the monthly reporting schedule.

Additional disclosure information for the New York special election may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special election must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $20,200 during the special election reporting periods. (See chart below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

CALENDAR OF REPORTING DATES FOR NEW YORK SPECIAL ELECTION

Report	Close of books [1]	Reg./cert. and overnight mailing deadline	Filing deadline
Political Committees Involved in the Special General (08/23/2022) Must File			
Pre-General	08/03/2022	08/08/2022	08/11/2022
Post-General	09/12/2022	09/22/2022	09/22/2022

CALENDAR OF REPORTING DATES FOR NEW YORK SPECIAL ELECTION—Continued

Report	Close of books [1]	Reg./cert. and overnight mailing deadline	Filing deadline
October Quarterly	09/30/2022	10/15/2022	[2] 10/15/2022

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a weekend or federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than registered, certified or overnight mail, or electronically, must be received before the Commission's close of business on the last business day before the deadline.

Dated: June 13, 2022.

On behalf of the Commission.

Allen Dickerson,

Chairman, Federal Election Commission.

[FR Doc. 2022–13075 Filed 6–16–22; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, June 23, 2022 at 10:00 a.m.

PLACE: Hybrid meeting: 1050 First Street NE, Washington, DC (12TH floor) and virtual.

Note: For those attending the meeting in person, current COVID–19 safety protocols for visitors, which are based on the CDC COVID–19 community level in Washington, DC, will be updated on the commission's contact page by the Monday before the meeting. See the contact page at *https://www.fec.gov/contact/.* If you would like to virtually access the meeting, see the instructions below.

STATUS: This meeting will be open to the public, subject to the above-referenced guidance regarding the COVID–19 community level and corresponding health and safety procedures. To access the meeting virtually, go to the commission's website *www.fec.gov* and click on the banner to be taken to the meeting page.

MATTERS TO BE CONSIDERED:

Draft Advisory Opinion 2022–05: DSCC

Draft Advisory Opinion 2022–03: Democracy Engine, LLC

Draft Advisory Opinion 2022–06: Hispanic Leadership Trust

Proposed Final Audit Report on UtePAC (A19–07)

Management and Administrative Matters

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

Authority: Government in the Sunshine Act, 5 U.S.C. 552b.

Individuals who plan to attend in person and who require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Laura E. Sinram, Acting Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

Laura E. Sinram,

Acting Secretary and Clerk of the Commission.

[FR Doc. 2022–13176 Filed 6–15–22; 11:15 am]

BILLING CODE 6715–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[30Day–22–0059]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Agency for Toxic Substances and Disease Registry and the National Center for Environmental Health (ATSDR/NCEH) have submitted the information collection request titled ''Per- or Polyfluoroalkyl Substances Exposure Assessments (PFAS EAs)'' to the Office of Management and Budget (OMB) for review and approval. ATSDR/NCEH previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on November 16, 2021, to obtain comments from the public and affected agencies. ATSDR/NCEH received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

ATSDR/NCEH will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies 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;

(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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Per- or Polyfluoroalkyl Substances Exposure Assessments (PFAS EAs) (OMB Control No. 0923–0059, Exp. 06/30/2022)—Revision—Agency for Toxic Substances and Disease Registry (ATSDR) and the National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Per- and polyfluoroalkyl substances (PFAS) are a large group of man-made chemicals that have been used in industry and consumer products worldwide since the 1950s. Although some PFAS are no longer produced in the United States, many remain in the environment and may impact people's health. Thus, PFAS are contaminants that have gained national prominence over the last decade.

Under Section 8006 of the Consolidated Appropriations Act, 2018, the Agency for Toxic Substances and Disease Registry and CDC's National Center for Environmental Health (ATSDR/NCEH) obtained initial approval for a three-year Paperwork Reduction Act clearance for a new information collection request (ICR). During the initial approval period, ATSDR/NCEH conducted eight exposure assessments (EAs) at current or former domestic military installations known to have PFAS in drinking water, groundwater, or any other sources of water. The information collection allowed for ATSDR/NCEH to conduct the eight EAs, with the option for the completion of seven additional EAs at either Department of Defense (DoD) or non-DoD locations for a total of 15 EAs.

Under this Revision ICR titled ''Per- or Polyfluoroalkyl Substances Exposure Assessments (PFAS EAs)'' (OMB Control No. 0923–0059, Exp. 06/30/2022), ATSDR/NCEH now anticipates conducting up to three PFAS EAs each year for the next three years. This Revision will use lessons learned from the eight completed EAs to modify the methods used to conduct a maximum of nine additional EAs at either DoD or non-DoD locations. Briefly, protocol revisions include modifications to the protocol recruitment strategies (such as increasing in the number of letters of invitation per EA due to low response rates observed), allowing options to conduct door-to-door recruitment and telephone questionnaires when warranted, and modifying water intake questions to evaluate exposure that may have occurred when PFAS was present in the water.

Community Event Evaluation Survey: ATSDR/NCEH will hold a public meeting prior to the start of the EA at each EA location. The EA team will use the community event evaluation survey to receive feedback from prospective EA participants about ATSDR/NCEH's PFAS public health messaging, the enrollment process, and local feelings toward the PFAS EA project. It is assumed that approximately 250 community members will attend the public meeting to inform the community about the EA effort. Using a response rate of 65 percent, ATSDR/NCEH assume that 163 community members will fill out the community event evaluation survey at each EA location and the survey will take approximately five minutes (489 members for three EAs). The resultant time burden is 41 hours annually for three EAs.

Biological Testing Tracking: All participants, adults (864) and children (273), will be provided a biological testing tracking form when they sign in for the testing event. The form will ensure that all appropriate forms are completed and all biological samples are collected. The time associated with filling out the form as the participant moves between the various stations and the time needed to collect the biological samples is approximately 20 minutes, resulting in a burden of 379 hours annually for three EAs.

Household Eligibility Screener: ATSDR/NCEH will recruit a desired sample size of 379 respondents per EA (1,137 total per year for three EAs) using statistical household sampling methods. Eligibility criteria for individuals include specific age intervals (*i.e.,* children older than three years given the lack of NHANES comparison data for younger children), lack of bleeding disorders that would prevent a blood draw, and time of residency (*i.e.,* at least one year in the home prior to removal of PFAS from the drinking water).

Applying an average U.S. household size of 2.5 members, per EA, ATSDR/NCEH will enroll respondents from 152 eligible households. ATSDR/NCEH will use a response rate of 10% (65% was assumed in the original protocol) based on the response rate in the eight completed EAs. This will require administering a five-minute household eligibility phone script to 1,520 heads-of-households per EA, or to 4,560 heads-of-households per year. The annual time burden requested for eligibility screening is 380 hours for three EAs.

Consents: All eligible respondents will be consented before being included in each EA. The consent forms will include adult consent, and parental permission and child assent forms, as appropriate. Each consented respondent will provide a serum and a urine sample. In addition, heads of households from 10% of households using tap water for their drinking water will consent to provide tap water and indoor dust samples. The consent forms will include permission to store some biospecimens and environmental samples for future analysis and will include permission to recontact respondents for potential investigations or studies in the future. ATSDR/NCEH will also collect contact information to provide respondents with their individual sampling results. The time associated with administering the consent forms is approximately 10 minutes for 864 adults; 10 minutes for 273 parents providing permission for their children aged 3–17 years old; and 10 minutes for 115 children aged 12–17 years old who assent for themselves.

Exposure Assessment Questionnaires for Biological and Environmental Testing for Adults, Parents, or Children: ATSDR/NCEH will administer an exposure questionnaire to all consented respondents that includes questions associated with potential exposure to PFAS both inside and outside the home (*e.g.,* work or school). The adult questionnaire also includes several questions associated with water use and flooring type while the child questionnaire includes questions regarding playing in soil; these questions are intended to evaluate potential exposure and to support the environmental testing. The time associated with administering the questionnaire and completing the biological sampling is approximately 30 minutes for 864 adults; 15 minutes for 158 parents responding for their children, 3–11 years old; and 15 minutes for 115 children, 12–17 years old, who respond for themselves.

Household Recruitment Script for Environmental Sampling: The households providing environmental samples (tap water and indoor dust) will be a random 10% subset of households that report using tap water for drinking water. Assuming a 65% response rate, ATSDR/NCEH will administer a 5-minute recruitment script to 23 heads-of households who are eligible to take part in each EA. This will result in annual recruitment of 70 heads-of-households and six hours for three EAs.

Consent for Environmental Testing: ATSDR/NCEH will consent a 10% subset of households deemed eligible for the EA for testing of tap water and indoor dust samples; therefore, the desired number of households is 15 per EA, or 45 per year. The time associated with consenting to the environmental sampling is 10 minutes, resulting in a burden of eight hours annually for three EAs.

Environmental Sample Collection Form: ATSDR/NCEH will collect samples from approximately 15 households per EA or 45 households annually. The average time burden is estimated as 15 minutes per response as documented in the sample collection form.

ATSDR/NCEH estimates the total annualized time burden is 1,535 hours. This represents a decrease of 596 hours relative to the previously approved 2,131 hours. Participation is voluntary, and there are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
EA Community Members	Community Event Evaluation Survey	489	1	5/60
EA Participants (all ages)	Biological Testing Tracking	1,137	1	20/60
EA Adults	Household Eligibility Screener	4,560	1	5/60
	Consent	864	1	10/60
	Exposure Questionnaire (Adult) for Biological and Environmental Testing.	864	1	30/60
EA Parents	Parental Permission	273	1	10/60
	Exposure Questionnaire (Child) for Biological Testing (Parent Proxy).	158	1	15/60
EA Children	Assent	115	1	10/60
	Exposure Questionnaire (Child) for Biological Testing (Child completed).	115	1	15/60
EA Heads-of-Households	Household Recruitment Script for Environmental Sampling.	70	1	5/60
	Environmental Sampling Consent Form	45	1	10/60
	Environmental Sample Collection Form	45	1	15/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–13092 Filed 6–16–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–22GG; Docket No. CDC–2022–0077]

Pilot Plan for Data Collection Tools for the Interim Local Health Department Strategy for Response, Control, and Prevention of Healthcare Associated Infections (HAI) and Antibiotic Resistance (AR)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services, as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Pilot Plan for the Interim Local Health Department Strategy for Response, Control, and Prevention of Healthcare Associated Infections (HAI) and Antibiotic Resistance (AR). The proposed collection is designed to strengthen local and regional capacity to respond to, control, and prevent HAI/AR across all healthcare settings and in the community by supporting enhanced coordination between state and local partners and by promoting local public health, healthcare, and community partner networks.

DATES: CDC must receive written comments on or before August 16, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0077, by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (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. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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;

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 submissions of responses; and

5. Assess information collection costs.

Proposed Project

Pilot Plan for the Interim Local Health Department Strategy for Response, Control, and Prevention of Healthcare Associated Infections (HAI) and Antibiotic Resistance (AR)—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) Division of Healthcare Quality Promotion (DHQP) recently developed an Interim Local Health Department Strategy for Response, Control, and Prevention of Healthcare Associated Infections (HAI) and Antibiotic Resistance (AR). CDC's vision is to strengthen local and regional capacity to respond to, control, and prevent HAI/AR across all healthcare settings and in the community by supporting enhanced coordination between state and local partners and by promoting local public health, healthcare, and community partner networks. This vision can be achieved with collaboration between local, state, and federal public health entities, and partners. This strategy aims to strengthen local health departments (LHD) by focusing on three main goals: (1) growing strong partner networks; (2) building internal operational capacity; and (3) expanding the scope of programmatic activities to effectively address HAI/AR in their jurisdictions.

CDC's next steps include piloting the strategy with local health departments in part through a cooperative agreement with the National Association for County and City Health Officials (NACCHO) and is proposing this data collection to gather information from LHDs during that pilot phase. The strategy was developed to highlight and support the important role LHDs play in preventing, responding to, and controlling HAI and AR related events. The HAI/AR activities that are conducted by LHDs vary widely and depend on many factors such as staff capacity and expertise, governance structures and public health authorities, prevalence of emerging HAI/AR diseases, types, and organization of healthcare facilities in the jurisdiction, population demographics, local relationships, and nature of collaborations with the state HAI/AR program. While the specific activities and responsibilities of LHDs will vary, the unique roles and assets of LHDs make them critical players in the prevention and control of HAI/AR infections. LHDs can build relationships in their local communities and may be well-positioned to understand and respond to the health needs of their communities. There is much to be learned and many best practices to be shared from LHD working in HAI/AR. Engaging with LHDs is essential for DHQP to connect to other priority areas such as focusing on rural areas, healthcare preparedness, and health equity considerations. Additionally, a local engagement strategy will help DHQP expand their activities to focus on connecting with LHDs that directly work between healthcare and public health groups, especially to continue work and partnerships begun by COVID–19 task forces.

The data collection and subsequent data analysis will identify themes and commonalities that will be used to make updates to the strategy and identify areas of support for LHDs seeking to grow their capacity for HAI/AR activities. CDC requests OMB approval for an estimated 390 annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours (in hours)
Voluntary LHD Participants	LHD HAI/AR Strategy Pilot Feedback Form.	30	1	4	120
Voluntary LHD Participants	LHD HAI/AR Strategy Pilot Interview Guide Survey.	30	1	1	30
Voluntary LHD Participants	LHD HAI/AR Strategy Pilot Survey for Review and Implement.	30	1	2	60
NACCHO CoAg LHD Participants	LHD HAI/AR Strategy Pilot Survey	30	1	2	60
NACCHO CoAg LHD Participants	LHD HAI/AR Strategy Pilot Feedback Form.	30	1	4	120
Total					390

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–13095 Filed 6–16–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–22–21EX]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Baseline of Injury and Psychosocial Stress for Applied Behavior Analysis Workers'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on May 7, 2021 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies 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;

(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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Baseline of Injury and Psychosocial Stress for Applied Behavior Analysis Workers—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

As mandated in the Occupational Safety and Health Act of 1970 (Pub. L. 91–596), the mission of NIOSH is to conduct research and investigations on occupational safety and health. This project will focus on obtaining a better understanding of the injuries sustained and psychosocial stressors experienced by applied behavior analysis workers. Applied behavior analysis (ABA) is a principle intervention for increasing appropriate behaviors and decreasing inappropriate behaviors exhibited by children, adolescents, and adults with developmental disorders. As of August 2020, there were more than 120,000 ABA workers credentialed by the Behavior Analysis Certification Board. ABA workers, which include Board Certified Behavior Analysts and Registered Behavior Technicians, are responsible for planning and implementing behavior-focused treatments in schools, clinics, homes, and hospitals.

There is no current Standard Occupational Classification category for ABA workers. The absence of an occupational category means that estimates of injury among this group are based on statistics from existing occupational groups and anecdotal evidence from practitioners. ABA workers are in a variety of occupational categories, but they often have job duties that make many of their experiences in the workplace distinct from other types of workers in those occupational categories. Whereas other healthcare workers usually take steps to mitigate violence in their work, ABA workers are tasked with soliciting and then treating (*i.e.,* confronting) disruptive behavior as part of behavioral treatments. In addition, ABA workers often spend more time with clients than other types of workers: 25–40 hours per week of direct-contact services is common for a client.

Some ABA workers are often in dangerous working environments, in homes and clinics, with clients who may sometimes behave unpredictably or aggressively. Despite these hazards and risks and despite the growing number of ABA workers nationally, there are no data on frequency and severity of injuries among this population of workers, and the only evidence is anecdotal in nature. The goal of the study is to collect data on the burden of work-related injuries among ABA workers to begin to fill the gaps in the research and obtain a better understanding of the hazards and risks they encounter.

This study consists of a one-time 10-minute survey targeted to credentialed ABA workers. Survey respondents will include individuals currently credentialed by the Behavior Analysis Certification Board. This includes registered behavior technicians, board certified assistant behavior analysts, board certified behavior analysts, and board-certified behavior analysts—doctoral. The survey consists of questions related to demographics, organizational safety climate, injuries, safety training, and burnout. A brief message and a link to complete the online survey will be sent by email. Based on previous research with internet surveys, we anticipate an approximate response rate of 10%. The etiologic approach will provide data to assess important characteristics of the population; guide control measures; serve as a quantitative basis to define objectives and specific priorities; and inform the designing, planning, and evaluation of future interventions.

CDC requests OMB approval for an estimated 4,000 annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Board Certified Behavior Analysts (BCBA, BCBA–D, and BCaBA)	Survey	8,640	1	10/60
Registered Behavior Technicians (RBT)	Survey	15,360	1	10/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–13091 Filed 6–16–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

CDC Town Hall Meeting on Laboratory Biosafety—Use of Laboratory Instruments

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces a meeting regarding biosafety and laboratory instrumentation.

DATES: The meeting will be held on Friday, June 24, 2022, from 10 a.m. to 3:30 p.m., EDT.

ADDRESSES: This meeting is open to the public through a virtual format, limited only by the webcast lines available. Registration is not required. Visit the CDC Safe Labs website for the meeting webcast at *https://www.cdc.gov/safelabs/biosafety-townhall.html.*

FOR FURTHER INFORMATION CONTACT: Nancy E. Cornish M.D., Center for Surveillance, Epidemiology and Laboratory Services, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop V24–3, Atlanta, Georgia 30329–4018; Phone: (404)498–2720; Email: *dlsbiosafety@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The purpose of this meeting is to provide an overview and discussion on laboratory biosafety when using laboratory instruments to test human and biologic specimens. Meeting topics are listed in the ''Matters to be Considered'' section of this notice.

Matters to be Considered: The agenda will include presentations and discussions on four topic areas: (1) instrument design and incorporating biosafety; (2) perceived risks to laboratory personnel and impact on testing; (3) independent assessment of risks and instrument design; and (4) a discussion of potential areas of collaboration to address issues discussed during the meeting. There will be prepared presentations, discussions among presenters and panelists, and a period for questions and public comments. Agenda items are subject to change as priorities dictate.

Background: CDC's Division of Laboratory Systems is hosting the town hall meeting in collaboration with clinical and public health laboratory partners, and instrument manufacturers to address clinical laboratory biosafety. The recent publication *Clinical Laboratory Biosafety Gaps: Lessons Learned from Past Outbreaks Reveal a Path to a Safer Future* (Cornish NE. et. al. Clinical Laboratory Biosafety Gaps: Lessons Learned from Past Outbreaks Reveal a Path to a Safer Future. Clin Microbiol Rev. July 2021, Vol. 34/3 e00126–18) discussed critical gaps in clinical laboratory biosafety, including issues related to the use and disinfection of laboratory instruments. The discussion and feedback generated during the meeting will assist in evaluating current biosafety guidance and identify opportunities for improvement in clinical laboratory biosafety and use of laboratory instrumentation. This meeting is a listening session. Participants may provide individual advice or perspectives. CDC is not seeking consensus advice or recommendations from participants.

Dated: June 14, 2022.

Angela K. Oliver,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2022–13123 Filed 6–16–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0030]

Agency Information Collection Activities; Proposed Collection; Comment Request; Human Drug Compounding Under Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) 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, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on electronic reporting for outsourcing facilities.

DATES: Submit either electronic or written comments on the collection of information by August 16, 2022.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 16, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

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):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, 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–2015–N–0030 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Human Drug Compounding Under Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- 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 Dockets Management Staff. 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: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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 Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), 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.

Human Drug Compounding Under Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act

OMB Control Number 0910–0800—Revision

This information collection helps support implementation of sections 503A (21 U.S.C. 353a) and 503B (21 U.S.C. 353b) of the Federal Food Drug and Cosmetic Act (FD&C Act), which govern requirements for pharmacy compounding and outsourcing facilities, respectively. For efficiency of Agency operations, we are revising the information collection to include related reporting activities currently approved under OMB control number 0910–0827. Specifically, upon electing and in order to become an outsourcing facility, respondents must register under section 503B of the FD&C Act and submit certain reports and updates to FDA. The information is required to be submitted by electronic means unless otherwise exempt, and prepared in such form and manner as the Secretary of the Department of Health and Human Services may prescribe through regulation or guidance. In the guidance for industry ''Electronic Drug Product Reporting for Human Drug Compounding Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act,'' (December 2016) available on our website at *https://www.fda.gov/media/90173/download,* we explain how facilities that elect to register with FDA as outsourcing facilities are to submit drug product reports, consistent with section 503B of the FD&C Act. The guidance document describes who must report and what information must be provided to FDA. The guidance document also explains that drug compounding reports must be submitted in structured product labeling (SPL) format using FDA's electronic submissions system, and discusses the consequences of outsourcing facilities' failure to submit reports.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Section 503B of the FD&C act	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Initial product reports	3	53	159	0.0833 (5 minutes)	13.25
Waiver request from electronic submission of initial product reports.	1	1	1	1	1
June product reports	75	53	3,975	0.025 (1.5 minutes)	99.375
December product reports	75	53	3,975	0.025 (1.5 minutes)	99.375

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

Section 503B of the FD&C act	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Waiver request from electronic submission of product reports.	1	1	1	1	1
Total					214

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Respondents to this collection of information are outsourcing facilities. Based upon our evaluation of the information collection, we have adjusted our estimate downward by 16 hours (from 230 to 214) annually to reflect more recent data. We estimate that each year three outsourcing facilities will submit a product report upon initial registration under section 503B of the FD&C Act. We estimate that twice each year 75 outsourcing facilities will submit a report identifying all human drugs compounded in the facility in the previous 6 months. For the purposes of this estimate, each product's SPL submission is considered a separate product response, and therefore each facility's product report will include multiple product responses. We estimate that each facility will average 53 product responses. We expect each product report will consist of multiple product responses per facility and estimate that preparing and submitting this information electronically may take up to 5 minutes for each initial product response.

Assuming an average of 53 product responses per facility, we estimate that, for semiannual reports, preparing and submitting this information electronically will take 1.5 minutes per product response. Our burden estimate for semiannual product report submissions is lower than for initial product reports because outsourcing facilities can save each product response once initially created and submitted. For subsequent reports, an outsourcing facility may resubmit the same file(s) after changing the RootID and version number (both SPL metadata), effective date (to identify the reporting period), and the number of units produced, along with other data as appropriate, to appropriate values for the reporting period. Furthermore, if a product was not compounded during a particular reporting period, no product response would be sent for that product during that reporting period.

We expect to receive no more than one waiver request from the electronic submission process for initial product reports and semiannual reports, and that each waiver request will take 60 minutes to prepare and submit.

Dated: June 13, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13068 Filed 6–16–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–3662]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Guidance on Reagents for Detection of Specific Novel Influenza A Viruses

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by July 18, 2022.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0584. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Rachel Showalter, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 240–994–7399, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Guidance on Reagents for Detection of Specific Novel Influenza A Viruses—21 CFR Part 866

OMB Control Number 0910–0584—Extension

In accordance with section 513 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360c), FDA evaluated an application for an in vitro diagnostic device for detection of influenza subtype H5 (Asian lineage), commonly known as avian flu. FDA concluded that this device is properly classified into class II in accordance with section 513(a)(1)(B) of the FD&C Act, because it is a device for which the general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, but there is sufficient information to establish special controls to provide such assurance. The statute permits FDA to establish as special controls many different things, including postmarket surveillance, development and dissemination of guidance recommendations, and ''other appropriate actions as the Secretary [of HHS] deems necessary'' (section 513(a)(1)(B) of the FD&C Act). This information collection is a measure that FDA determined to be necessary to provide reasonable assurance of safety and effectiveness of reagents for detection of specific novel influenza A viruses.

FDA issued an order classifying the H5 (Asian lineage) diagnostic device into class II on March 22, 2006 (71 FR 14377), establishing the special controls necessary to provide reasonable assurance of the safety and effectiveness of that device and similar future devices. The new classification was codified in 21 CFR 866.3332, a regulation that describes the new classification for reagents for detection of specific novel influenza A viruses and sets forth the special controls that help to provide a reasonable assurance of the safety and effectiveness of devices classified under that regulation. The regulation refers to the document entitled ''Class II Special Controls Guidance Document: Reagents for Detection of Specific Novel Influenza A Viruses,'' which provides recommendations for measures to help provide a reasonable assurance of safety and effectiveness for these reagents. The guidance recommends that sponsors obtain and analyze postmarket data to ensure the continued reliability of their device in detecting the specific novel influenza A virus that it is intended to detect, particularly given the propensity for influenza viruses to mutate and the potential for changes in disease prevalence over time. The guidance document is available on our website at: *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm078583.htm.*

As updated sequences for novel influenza A viruses become available from the World Health Organization, National Institutes of Health, and other public health entities, sponsors of reagents for detection of specific novel influenza A viruses will collect this information, compare them with the primer/probe sequences in their devices, and incorporate the result of these analyses into their quality management system, as required by 21 CFR 820.100(a)(1). These analyses will be evaluated against the device design validation and risk analysis required by 21 CFR 820.30(g) to determine if any design changes may be necessary.

In the **Federal Register** of January 25, 2022 (87 FR 3812), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Recordkeeping regarding reagents for detection of specific novel influenza A viruses	12	2	24	15	360

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection reflects an overall increase of 330 hours and a corresponding increase of 22 records. We attribute this adjustment to an increase in the number of devices of this type being manufactured over the last few years.

Dated: June 13, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13069 Filed 6–16–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–4042]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Establishing and Maintaining Lists of U.S. Establishments With Interest in Exporting Center for Food Safety and Applied Nutrition-Regulated Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by July 18, 2022.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0509. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Establishing and Maintaining Lists of U.S. Establishments With Interest in Exporting CFSAN-Regulated Products

OMB Control Number 0910–0509—Extension

The United States exports a large volume and variety of foods in international trade. Foreign governments often require official certification from the responsible authority of the country of origin about imported foods and establishments involved in their production, storage, or distribution. Some foreign governments establish additional requirements with which exporters are required to comply and ask for additional assurances from the responsible authority. Importing countries may require, and FDA may provide, official certification or assurances for food products in different forms, including certificates that accompany specific products or lists of establishments and products that comply with certain requirements.

To facilitate exports of food subject to importing country listing requirements, FDA has historically provided official certification in the form of country- and product-specific export lists that include establishments and their products when: (1) the establishment has expressed interest in exporting their products to these countries; (2) the establishment and the products are subject to FDA's jurisdiction; and (3) the establishment can demonstrate that it is in good regulatory standing for the products it intends to export and the products are expected to comply with applicable FDA requirements. As we advise in the guidance document ''Establishing and Maintaining a List of U.S. Milk and Milk Product, Seafood, Infant Formula, and Formula for Young Children Manufacturers/Processors with Interest in Exporting to China,'' (November 2018), available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-establishing-and-maintaining-list-us-milk-and-milk-product-seafood-infant-formula,* FDA considers ''good regulatory standing'' as meaning that an establishment is in substantial compliance with applicable FDA requirements and is not the subject of a pending enforcement action (*e.g.,* an injunction or seizure) or pending administrative action (*e.g.,* a warning letter).

FDA has generally published guidance documents for these country- and product-specific lists under the authority of section 701(h) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 371(h)), which authorizes the Secretary of Health and Human Services (the Secretary) to develop guidance documents with public participation presenting the views of the Secretary on matters under the jurisdiction of FDA. The guidance documents generally explain what information establishments should submit to FDA to be considered for inclusion on the lists and what criteria FDA intends to use to determine eligibility for placement on the lists. The guidance documents also explain how FDA intends to update the lists and communicate any new information to the governments that requested the lists. Finally, the guidance documents note that the information is provided voluntarily by establishments with the understanding that it may be posted on FDA's external website and that it will be communicated to, and possibly further disseminated by, the government that requested the list; thus, FDA considers the information on the lists to be information that is not protected from disclosure under 5 U.S.C. 552(b)(4). The guidance documents include ''Establishing and Maintaining a List of U.S. Dairy Product Manufacturers/Processors with Interest in Exporting to Chile'' and ''Establishing and Maintaining a List of U.S. Milk and Milk Product, Seafood, Infant Formula, and Formula for Young Children Manufacturers/Processors with Interest in Exporting to China.'' Additional information about FDA's Food Export Lists program is available at *https://www.fda.gov/food/exporting-food-products-united-states/food-export-lists.* FDA has also published a guidance document on export certification that contains useful information that applies to export lists entitled, ''FDA Export Certification,'' (August 2021) available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/fda-export-certification.*

Foreign governments are increasingly relying on certification as a strategy for ensuring the safety of imported food products, and many countries have announced new requirements for lists of establishments and products certified to comply with certain food safety requirements. FDA is committed to facilitating compliance with new listing requirements for U.S. establishments that export FDA-regulated food products. We also understand that complying with multiple country- and product-specific listing requirements can be burdensome to U.S. establishments. For this reason, we plan to create a new list of establishments and products certified for export that would be offered to importing countries in lieu of country-specific lists.

Application for inclusion on all export lists will continue to be voluntary. However, some foreign governments may require inclusion on export lists as a precondition for market access or to satisfy other importing country registration or approval requirements. FDA uses the Export Listing Module (ELM), an electronic system (Form FDA 3972), to receive and process applications for inclusion on export lists for Center for Food Safety and Applied Nutrition (CFSAN)-regulated products. The ELM allows applicants to provide information about the products intended for export, the establishment that produces those products, evidence of the establishment's compliance with applicable requirements for the products intended for export, and any additional data or information (such as third-party certifications) that foreign governments may require. We request that this information be updated every 2 years. Additional information and screenshots of the ELM are available at *https://www.fda.gov/food/exporting-food-products-united-states/food-export-lists.* If an establishment is unable to apply via the ELM, it may contact CFSAN and request assistance.

We use the information submitted by establishments to determine eligibility for certification and inclusion on the export lists, which may be published on our website or the websites of foreign governments. The purpose of the lists is to help CFSAN-regulated industries meet the import requirements of foreign governments. This collection of information is intended to cover all of CFSAN's existing export lists, as well as any additional export lists established by the center.

FDA notes that section 801 of the FD&C Act (21 U.S.C. 381) also provides that FDA may charge a fee of up to $175 if the Agency issues an export certification within 20 days of receipt of a complete request for such certification.

Description of Respondents: Respondents to this collection of information include U.S. establishments subject to FDA/CFSAN jurisdiction that wish to be included on export lists.

In the **Federal Register** of January 25, 2022 (87 FR 3814), we published a 60-day notice requesting public comment on the proposed collection of information. One comment was received offering general support for the information collection and offered points FDA might consider as it develops and maintains such lists. FDA appreciates this comment and continuously works to provide interested persons with useful information as its limited resources permit. The comment did not suggest alternative estimates.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
New request	167	5	835	1	835
New request + third-party certification	85	2	170	22	3,740
Biennial update	132	4	528	0.5 (30 minutes)	264
Biennial update + third-party certification	58	2	116	22	2,552

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Occasional updates	60	2	120	0.5 (30 minutes)	60
Total			1,769		7,451

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, the estimated burden for this information collection has decreased. The number of respondents has declined dramatically since we transitioned to using the ELM, which also allows us to collect more precise data. These changes resulted in overall decreases of 3,421 responses and 14,837 burden hours.

Dated: June 10, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13074 Filed 6–16–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0545]

Agency Information Collection Activities; Proposed Collection; Comment Request; Biological Products: Reporting of Biological Product Deviations and Human Cells, Tissues, and Cellular and Tissue-Based Product Deviations in Manufacturing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) 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, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements relating to the reporting of biological product deviations and human cells, tissues, and cellular and tissue-based product (HCT/P) deviations in manufacturing, and Forms FDA 3486 and 3486A.

DATES: Submit either electronic or written comments on the collection of information by August 16, 2022.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 16, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

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):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, 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–2009–N–0545 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Biological Products: Reporting of Biological Product Deviations and Human Cells, Tissues, and Cellular and Tissue-Based Deviations in Manufacturing; Forms FDA 3486 and 3486A.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• 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 Dockets Management Staff. 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: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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 Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), 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.

Biological Products: Reporting of Biological Product Deviations and Human Cells, Tissues, and Cellular and Tissue-Based Product Deviations in Manufacturing; Forms FDA 3486 and 3486A

OMB Control Number 0910–0458—Extension

Under section 351 of the Public Health Service Act (PHS Act) (42 U.S.C. 262), all biological products, including human blood and blood components, offered for sale in interstate commerce must be licensed and meet standards, including those prescribed in the FDA regulations, designed to ensure the continued safety, purity, and potency of such products. In addition, under section 361 of the PHS Act (42 U.S.C. 264), FDA may issue and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases between the States or possessions or from foreign countries into the States or possessions. Further, the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 351) provides that drugs and devices (including human blood and blood components) are adulterated if they do not conform with current good manufacturing practice (CGMP) assuring that they meet the requirements of the FD&C Act. Establishments manufacturing biological products, including human blood and blood components, must comply with the applicable CGMP regulations (parts 211, 606, and 820 (21 CFR parts 211, 606, and 820)) and current good tissue practice (CGTP) regulations (part 1271 (21 CFR part 1271)) as appropriate. FDA regards biological product deviation (BPD) reporting and HCT/P deviation reporting to be an essential tool in its directive to protect public health by establishing and maintaining surveillance programs that provide timely and useful information.

Section 600.14 (21 CFR 600.14), in brief, requires the manufacturer who holds the biological product license, for other than human blood and blood components, and who had control over a distributed product when the deviation occurred, to report to the Center for Biologics Evaluation and Research (CBER) or to the Center for Drug Evaluation and Research (CDER) as soon as possible but at a date not to exceed 45 calendar days after acquiring information reasonably suggesting that a reportable event has occurred. Section 606.171 (21 CFR 606.171), in brief, requires licensed manufacturers of human blood and blood components, including Source Plasma, unlicensed registered blood establishments, and transfusion services, who had control over a distributed product when the deviation occurred, to report to CBER as soon as possible but at a date not to exceed 45 calendar days after acquiring information reasonably suggesting that a reportable event has occurred. Similarly, § 1271.350(b) (21 CFR 1271.350(b)), in brief, requires HCT/P establishments that manufacture non-reproductive HCT/Ps described in § 1271.10 (21 CFR 1271.10) to investigate and report to CBER all HCT/P deviations relating to a distributed HCT/P that relates to the core CGTP requirements, if the deviation occurred in the establishment's facility or in a facility that performed a manufacturing step for the establishment under contract, agreement or other arrangement. Form FDA 3486 is used to submit BPD reports and HCT/P deviation reports.

Respondents to this collection of information are: (1) licensed manufacturers of biological products other than human blood and blood components, (2) licensed manufacturers of blood and blood components including Source Plasma, (3) unlicensed registered blood establishments, (4) transfusion services, and (5) establishments that manufacture non-reproductive HCT/Ps regulated solely under section 361 of the PHS Act as described in § 1271.10. The number of respondents and total annual responses are based on the BPD reports and HCT/P deviation reports FDA received in fiscal year (FY) 2021. The number of licensed manufacturers and total annual responses under § 600.14 include the estimates for BPD reports submitted to both CBER and CDER. Based on the information from industry, the estimated average time to complete a deviation report is 2 hours, which includes a minimal one-time burden to create a user account for those reports submitted electronically. The availability of the standardized report form, Form FDA 3486, and the ability to submit this report electronically to CBER (CDER does not currently accept electronic filings) further streamlines the report submission process.

CBER has developed a web-based addendum to Form FDA 3486 (Form FDA 3486A) to provide additional information when a BPD report has been reviewed by FDA and evaluated as a possible recall. The additional information requested includes information not contained in the Form FDA 3486 such as: (1) distribution pattern; (2) method of consignee notification; (3) consignee(s) of products for further manufacture; (4) additional product information; (5) updated product disposition; and (6) industry recall contacts. This information is requested by CBER through email notification to the submitter of the BPD report. This information is used by CBER for recall classification purposes. CBER estimates that 3 percent of the total BPD reports submitted to CBER would need additional information submitted in the addendum. CBER further estimates that it would take between 10 and 20 minutes to complete the addendum. For calculation purposes, CBER is using 15 minutes.

Activities such as investigating, changing standard operating procedures or processes, and follow up are currently required under parts 211 (approved under OMB control number 0910–0139), 606 (approved under OMB control number 0910–0116), 820 (approved under OMB control number 0910–0073), and 1271 (approved under OMB control number 0910–0543) and, therefore, are not included in the burden calculation for the separate requirement of submitting a deviation report to FDA.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	FDA form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
600.14; Reporting of product deviations by licensed manufacturers	3486	103	6.864	707	2	1,414
606.171; Reporting of product deviations by licensed manufacturers, unlicensed registered blood establishments, and transfusion services	3486	2,008	6.883	13,821	2	27,642
1271.350(b); HCT/P deviations	3486	80	2.575	206	2	412
Web-based Addendum	[2] 3486A	66	6.69	442	0.25	110.5
Total				15,176		29,578.5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] Three percent of the number of respondents ((2,008 + 103 + 80) × 0.03 = 66) and total annual responses to CBER ((13,821 + 707 + 206) × 0.03 = 442).

Our estimated burden for the information collection reflects an overall decrease of approximately 65,014 hours and a corresponding decrease of 34,152 responses. We attribute this adjustment to a decrease in the number of deviation reports we received in FY 2021 from licensed manufacturers and unlicensed registered blood establishments under § 606.171. This is likely due to our issuance of the revised guidance document entitled ''Biological Product Deviation Reporting for Blood and Plasma Establishments'' (85 FR 14682, March 13, 2020), which provided blood and plasma establishments with revised recommendations related to BPD reporting. The revised guidance provided a less burdensome policy for reporting BPDs that is consistent with public health and eliminated the reporting of post donation information (PDI) events as BPD reports because these reports were no longer unexpected or unforeseeable. Given the substantial number of PDI reports FDA has received, the Agency is aware that these events occur, and the submission of additional PDI reports to FDA is unlikely to facilitate the identification of manufacturing or safety issues.

Dated: June 14, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13086 Filed 6–16–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0721]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Accreditation of Third-Party Certification Bodies To Conduct Food Safety Audits and Issue Certifications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 18, 2022.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0750. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–45, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Accreditation of Third-Party Certification Bodies To Conduct Food Safety Audits and Issue Certifications—21 CFR Part 1, Subpart M

OMB Control Number 0910–0750—Extension

This information collection helps to implement FDA's Accredited Third-Party Certification Program (also referred to as the third-party food program), established and administered under section 808 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 384d), and codified in 21 CFR part 1, subpart M (21 CFR parts 1.600 through 1.725) of Agency regulations. The regulations communicate eligibility criteria, assessment standards, and establish procedures and requirements for participation. For more information visit our website at *https://www.fda.gov/food/importing-food-products-united-states/accredited-third-party-certification-program.*

Under the third-party food program, accreditation bodies (ABs) apply to FDA for recognition. Recognized ABs accredit third-party certification bodies (CBs) under the program, except in limited circumstances. The accredited CBs conduct food safety audits and issue food or facility certifications to eligible foreign entities. FDA uses certifications issued by accredited third-party auditors/CBs in deciding whether to admit certain imported food (both food for human and other animals) into the United States. Under the third-party program, FDA may grant recognition of an AB for up to 5 years from the date of recognition. Current third-party program AB participants are recognized for the duration from 2018 to 2023 and will need to submit renewal of recognition applications to continue their participation.

There are approximately 200,000 foreign food (both food for human and other animals) exporters who offer their food products for import into the United States. These foreign food exporters include approximately 130,000 food production facilities and approximately 71,000 farms. A proportion of these foreign food exporters may offer food subject to mandatory certification requirements under section 801(q)(3) of the FD&C Act (21 U.S.C. 381(q)(3)). In that case, to continue exporting food products into the United States, eligible entities must either obtain certification from a CB accredited under the third-party program, or obtain certification from a foreign government designated by FDA. We assume in any given year, 75 foreign food exporters will be subject to requirements in section 801(q) of the FD&C Act.

Participating in the third-party accreditation program helps reduce the number of redundant audits necessary to assess compliance with food safety requirements of the FD&C Act and applicable regulations. Required data elements are submitted using FDA's Unified Registration Listing System (FURLS), an electronic portal (Forms FDA 3997 for ABs and 3997a for CBs) that enables respondents to complete data fields and provide information to FDA electronically. The AB and CB portals provide a standardized format for entering information, prompting respondents for input and facilitating FDA's review of the submittal. Instructions may be accessed at *https://www.fda.gov/food/importing-food-products-united-states/accredited-third-party-certification-program.*

Respondents to the collection of information are eligible entities seeking audits, certification, and/or recertification by accredited CBs participating in the third-party program, and ABs and CBs seeking to comply with the recognition requirements. An eligible entity is a foreign entity in the import supply chain of food for consumption in the United States that chooses to be subject to a food safety audit conducted by an accredited third-party CB.

In the **Federal Register** of February 16, 2022, (87 FR 8846), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR part 1, subpart M	Number of respondents	Number of responses per respondent [2]	Total annual responses	Average burden per response [2]	Total hours
AB applications, renewals, notifications, revocations	25	11.36	284	3.18	903
CB certifications, regulatory audits and assessments, notifications.	208	147.29	30,638	0.25 (15 minutes)	7,661
CB applications for direct accreditation & renewal	1	1	1	90	90
Total			30,923		8,654

[1] We estimate no capital costs or operating and maintenance costs for the information collection.
[2] Figures rounded to the nearest one, one-hundred as calculated based on total number of records and hours.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR part 1, subpart M	Number of recordkeepers	Number of records per recordkeeper [2]	Total annual records	Average burden per recordkeeping [2]	Total hours
AB documenting certification procedures; maintaining applicable records.	25	426.56	10,664	0.25 (~15 minutes)	2,677
AB establishing and updating public list of CBs	25	1	25	52.8	1,320
CB documenting procedures for accreditation; maintaining applicable records (audits, certifications, serious risks).	208	112.72	23,446	0.35 (~20 minutes)	8,228
CB establishing & updating public list of eligible entities.	208	1.31	273	44.19	12,064
Contract modification [2]	7	9	63	2	126
Total			34,471		24,415

[1] We estimate no capital costs, or operating and maintenance costs for the information collection.
[2] Figures rounded to the nearest one, one-hundred as calculated based on total number of records and hours.

We include in our estimate reporting burden attributable to required submissions, including notifications, to FDA; and recordkeeping burden attributable to the time we assume necessary for searching data sources, and preparing and maintaining records described in the applicable regulations. We estimate that 25 ABs will accredit

CBs who conduct food safety audits of foreign eligible entities that offer food for import to the United States. We also estimate the 208 accredited CBs will participate in the third-party program. In addition, we expect that one CB will apply and participate in the third-party program via direct accreditation by FDA. Finally, we attribute nominal burden to recordkeeping attendant to contractual modifications that may be part of accreditation.

Based on a review of the information collection since last OMB approval, we have made only nominal adjustments to our burden estimate.

Dated: June 13, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13071 Filed 6–16–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Request for Information: Early Hearing Detection and Intervention Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of request for public comment.

SUMMARY: HRSA's Early Hearing Detection and Intervention (EHDI) Program is requesting input from the public to inform future EHDI program development.

DATES: Submit comments no later than July 18, 2022.

ADDRESSES: Submit electronic comments to *ehdi@hrsa.gov.* Please submit your response only one time by July 18, 2022.

FOR FURTHER INFORMATION CONTACT: Sandra Battiste, MPH at *ehdi@hrsa.gov* or (301) 443–0223.

SUPPLEMENTARY INFORMATION: HRSA's EHDI Program, authorized under 42 U.S.C. of the Public Health Service Act, seeks to enable states, jurisdictions, families, and clinical, educational, and social service providers to develop coordinated systems of care so that newborns, infants, and young children who are deaf or hard of hearing are identified as early as possible and receive the services they need. Early involvement can help these children meet age-appropriate language, literacy, social-emotional, and other developmental milestones. HRSA currently funds 59 states and jurisdictions [1] through the EHDI grants program in order to (1) increase health professionals' engagement with and knowledge of the EHDI system,[2] (2) improve access to early intervention services and language acquisition, and (3) improve family engagement, partnership, and leadership in EHDI systems. The HRSA-funded National Technical Resource Center supports states and territories by providing technical assistance and resources in order to meet EHDI program goals and objectives.

HRSA investments also support family engagement and workforce development related to EHDI. For example, the Family Leadership in Language and Learning program aims to strengthen family leadership and inclusion of families, parents and caregivers of children who are deaf or hard of hearing within the EHDI system. In addition, HRSA funds the Leadership Education in Neurodevelopmental and Related Disabilities program, authorized under the Public Health Service Act, to support workforce development through audiology training grants. More information about the HRSA EHDI program is available online at: *https://mchb.hrsa.gov/maternal-child-health-initiatives/early-hearing-detection-and-intervention.html.*

Responses

HRSA is seeking responses that address the following questions. A response to each question is not required.

1. What strategies or programs are needed to support EHDI programs to ensure that all newborns are screened by 1 month of age, a diagnosis is made by 3 months of age, and children who are deaf or hard of hearing are enrolled in and start to receive intervention services by 6 months of age?

2. What strategies should be considered to support the timely identification and receipt of services for young children up to age 3?

3. What strategies should be considered to ensure that infants and young children receive screening and diagnosis services that are high quality and evidence-based?

4. What strategies should be considered to ensure that providers collect and report high quality data on hearing screening, diagnosis, and follow-up to EHDI programs for public health surveillance?

5. What strategies or programs would ensure that families of children who are deaf or hard of hearing receive information that is accurate, comprehensive, up-to-date, and evidence-based, as appropriate, to allow families to make important decisions for their children in a timely manner, including decisions with respect to the full range of assistive hearing technologies and communications modalities, as appropriate?

6. What strategies would help ensure families, parents, and caregivers are continuously engaged as active partners in the EHDI system?

7. What approaches that foster family-to-family and deaf and hard of hearing consumer-to-family supports by families and adults who are deaf or hard of hearing should be considered?

8. What new evidence-based or promising approaches that help deaf or hard of hearing children meet language, literacy, social, emotional, and other developmental milestones should be considered within EHDI Programs/the EHDI system?

9. How has COVID–19 impacted the EHDI system of care, including the ability of EHDI programs to share or report information in a timely manner? Are there any notable promising practices or approaches used in response that should be further explored?

10. What ongoing and emerging gaps in access to services are present within the EHDI system? Are there populations that are experiencing inequities in access to timely identification and receipt of services? What approaches should be used to address these gaps?

Respondents can also provide additional comments or recommendations that are not specifically linked to the questions above. All responses may but are not required to identify the individual's name, address, email, telephone number, professional or organizational affiliation, background or area of expertise (*e.g.,* program participant, family member, clinician, public health worker, researcher, EHDI Coordinator, etc.), and topic/subject matter. Information obtained as a result of this request for information (RFI) may be

[1] For the purpose of this request for information, the term ''jurisdiction'' includes the District of Columbia, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

[2] For the purpose of this request for information, the EHDI system is defined as ''families, consumers, providers, services, and programs that work towards developing coordinated and comprehensive state and territory systems so that families with newborns, infants, and young children who are deaf or hard of hearing receive appropriate and timely services that include hearing screening, diagnosis, and intervention.'' Early Hearing Detection and Intervention Program Notice of Funding Opportunity HRSA–20–047''?

used by HRSA on a non-attribution basis for program planning. Comments in response to this RFI will be made publicly available, so respondents should bear this in mind when making comments. HRSA will not respond to any individual comments.

Special Note to Commenters

Whenever possible, respondents are asked to draw their responses from objective, empirical, and actionable evidence and to cite this evidence within their responses.

The information obtained through this RFI may help inform the next iteration of the HRSA EHDI program portfolio of investments. This RFI is issued solely for information and planning purposes; it does not constitute a Request for Proposal, applications, proposal abstracts, or quotations. This RFI does not commit the U.S. Government to contract for any supplies or services or make a grant or cooperative agreement award. Further, HRSA is not seeking proposals through this RFI and will not accept unsolicited proposals. HRSA will not respond to questions about the policy issues raised in this RFI. Responders are advised that the U.S. Government will not pay for any information or administrative costs incurred in response to this RFI; all costs associated with responding to this RFI will be solely at the interested party's expense. Not responding to this RFI does not preclude participation in any future procurement or program, if conducted.

Diana Espinosa,

Deputy Administrator.

[FR Doc. 2022–13037 Filed 6–16–22; 8:45 am]

BILLING CODE 4165–15–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, 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: Respiratory Sciences.

Date: July 12–13, 2022.

Time: 9:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Eugene Carstea, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7818, Bethesda, MD 20892, (301) 408–9756, *carsteae@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Epidemiology and Public Health.

Date: July 12, 2022.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Cynthia C. McOliver, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1007G, Bethesda, MD 20892, (301) 594–2081, *mcolivercc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Pain Neurobiology.

Date: July 13, 2022.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Roger Janz, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–8515, *janzr2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–NS–22–034: HEAL Initiative.

Date: July 13, 2022.

Time: 3:00 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Roger Janz, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–8515, *janzr2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Academic Industrial Partnerships for Translation of Medical Technologies.

Date: July 14–15, 2022.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Steven Anthony Ripp, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–3010, *steven.ripp@nih.gov.*

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; HIV Immunopathogenesis and Vaccine Development Study Section.

Date: July 14–15, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shiv A. Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cardiovascular Sciences.

Date: July 14, 2022.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4136, Bethesda, MD 20892, 301–435–0904, *sara.ahlgren@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–OD–22–006: RADx-UP Community-Engaged Research on Rapid SARS–CoV–2 Testing among Underserved and Vulnerable Populations.

Date: July 15, 2022.

Time: 11:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Annie L. McRee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 100, Bethesda, MD 20892, (301) 827–7396, *mcreeal@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Research Enhancement Awards: Genes, Genomes, and Genetics.

Date: July 15, 2022.

Time: 11:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Guoqin Yu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1276, *guoqin.yu@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member

Conflicts—Bioengineering, Biodata, and Biomodeling Technologies.

Date: July 19, 2022.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 435–0902, *charlesvi@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: June 14, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13135 Filed 6–16–22; 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, 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; Fellowships: Chemistry, Biochemistry and Biophysics B.

Date: July 14–15, 2022.

Time: 10:00 a.m. to 8:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dennis Pantazatos, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–2381, *dennis.pantazatos@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurodegeneration, Cellular Metabolism and Neuroinflammation.

Date: July 15, 2022.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Vanessa S. Boyce, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4185, MSC 7850, Bethesda, MD 20892, (301) 402–3726, *boycevs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Endocrinology, Metabolism, Nutrition and Reproductive Sciences.

Date: July 19, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jonathan Michael Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867–5309, *jonathan.peterson@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cancer Biology AREA/REAP Review.

Date: July 20, 2022.

Time: 12:00 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sarita Kandula Sastry, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20782, 301–402–4788, *sarita.sastry@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Metabolism and Reproductive Sciences.

Date: July 20, 2022.

Time: 12:00 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Hui Chen, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, Bethesda, MD 20892, 301–435–1044, *chenhui@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Digestive Sciences Activities.

Date: July 21–22, 2022.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Santanu Banerjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2106, Bethesda, MD 20892, (301) 435–5947, *banerjees5@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 20–300: Maternal and Pediatric Pharmacology and Therapeutics.

Date: July 21, 2022.

Time: 10:00 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Vector Biology and Drug Development.

Date: July 21, 2022.

Time: 12:30 p.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Gagan Pandya, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 3200, MSC 7808, Bethesda, MD 20892, (301) 435–1167, *pandyaga@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Gastrointestinal Immunology and Diseases.

Date: July 22, 2022.

Time: 1:00 p.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jianxin Hu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2156, MSC 7818, Bethesda, MD 20892, (301) 827–4417, *jianxinh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–22–056: Research Resource for Human Organs and Tissues.

Date: July 28, 2022.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David Balasundaram, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301–435–1022, *balasundaramd@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: June 14, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13134 Filed 6–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting 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 Mental Health Special Emphasis Panel; Pathway to Independence Awards (K99/R00).

Date: July 12, 2022.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: June 14, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13126 Filed 6–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting 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 Human Genome Research Institute Special Emphasis Panel; New and Early Career Genomic Investigators.

Date: July 22, 2022.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 300, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rudy O. Pozzatti, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 300, Bethesda, MD 20892, (301) 435–1580, *pozzattr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: June 14, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13137 Filed 6–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting 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 Center for Complementary and Integrative Health Special Emphasis Panel; Center of Excellence for Research on Complementary and Integrative Health (P01) (CERCIH).

Date: July 15, 2022.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Complementary and Integrative, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sonia Elena Nanescu, Ph.D.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: June 14, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13132 Filed 6–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting 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 Allergy and Infectious Diseases Special Emphasis Panel; SUNBEAM—Analysis and Bioinformatics Center (ABC) (UM1 Clinical Trial Not Allowed).

Date: July 19, 2022.

Time: 9:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F52, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Lindsey M. Pujanandez, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F52, Rockville, MD 20852, (240) 627–3206, *lindsey.pujanandez@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 13, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13064 Filed 6–16–22; 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, 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: Population Sciences and Epidemiology Integrated Review Group; Cancer, Heart, and Sleep Epidemiology B Study Section.

Date: July 13–14, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nketi Innocent Forbang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1006K1, Bethesda, MD 20892, (301) 594–0357, *forbangni@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–19–367: Maximizing Investigators' Research Award (R35—Clinical Trial Optional).

Date: July 19–20, 2022.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ian Frederick Thorpe, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, *ian.thorpe@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Epidemiology and Population Sciences.

Date: July 20–21, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Allison N. Kurti, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1007J, Bethesda, MD 20892, (301) 594–1814, *kurtian@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Macromolecular Biophysics and Biological Chemistry.

Date: July 28, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: William A. Greenberg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1726, *greenbergwa@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: June 14, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13133 Filed 6–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, NIAAA.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Alcohol Abuse and Alcoholism, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIAAA.

Date: September 14–15, 2022.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5625 Fishers Lane, Rockville, MD 20852 (Virtual Meeting).

Contact Person: David Goldman, M.D., Clinical Director, Office of the Clinical Director, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5625 Fishers Lane, Suite 3S32, MSC 9412, Rockville, MD 20852, (301) 443–0059, *davidgoldman@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: June 14, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13136 Filed 6–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting 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 Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: July 12, 2022.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E70A, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Annie Walker-Abbey, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E70A, Rockville, MD 20852, 240–627–3390, *aabbey@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 13, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13062 Filed 6–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, 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 on Alcohol Abuse and Alcoholism Special Emphasis Panel; RFA AA21–005 and RFA AA21–006—Specialized Alcohol Research Centers (P50) and Comprehensive Alcohol Research Centers (P60) Reviews.

Date: July 15, 2022.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700 B Rockledge Drive, Room 2114, Bethesda, MD 20892, (301) 451–2067, *srinivar@mail.nih.gov*.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Member Conflict SEP.

Date: July 19, 2022.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700 B Rockledge Drive, Room 2114, Bethesda, MD 20892, (301) 451–2067, *srinivar@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: June 14, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13125 Filed 6–16–22; 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, 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: Cancer Prevention and Therapy.

Date: July 12, 2022.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Laura Asnaghi, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 6200, MSC 7804, Bethesda, MD 20892, (301) 443–1196, *laura.asnaghi@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Psychopathology, Addictions, Alternative Medicine, and Community-based Interventions.

Date: July 13–14, 2022.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David Erik Pollio, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 1006F, Bethesda, MD 20892, (301) 594–4002, *polliode@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cognitive and Neuropathological Signatures of Alzheimer's Disease, Brain Injury and Aging.

Date: July 13, 2022.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Samuel C. Edwards, Ph.D., Chief, BDCN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Research on Current Topics in Alzheimer's Disease and Its Related Dementias.

Date: July 14–15, 2022.

Time: 9:30 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: Salma A. Quraishi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–0592, *salma.quraishi@nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; HIV/AIDS Intra- and Inter-personal Determinants and Behavioral Interventions Study Section.

Date: July 14–15, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–806–6596, *rubertm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neuroinflammation and Alterations in the Blood Brain Barrier.

Date: July 14, 2022.

Time: 10:00 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: Mariam Zaka, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1009J, Bethesda, MD 20892, (301) 435–1042, *zakam2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biobehavioral Medicine and Health Outcomes.

Date: July 15, 2022.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sarah Vidal, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 710Q, Bethesda, MD 20892, (301) 480–5359, *sarah.vidal@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Risk Prevention and Health Behavior.

Date: July 18, 2022.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mark A. Vosvick, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, Bethesda, MD 20892, 301–402–4128, *mark.vosvick@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Health Care, Services and Disparities.

Date: July 19–20, 2022.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Seetha Bhagavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 237–9838, *bhagavas@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Genes, Genomes and Genetics.

Date: July 19, 2022.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rebecca Catherine Burgess, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–8034, *rebecca.burgess@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Tobacco Regulatory Science B.

Date: July 22, 2022.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Pamela Jeter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 10J08, Bethesda, MD 20892, (301) 435–2591, *pamela.jeter@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: June 14, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13131 Filed 6–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, 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 Neurological Disorders and Stroke Special Emphasis Panel; Neurological Sciences and Disorders B (NSD–B) Member Conflict SEP Panel.

Date: July 11, 2022.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Eric S. Tucker, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Boulevard, Room 3208, MSC 9529, Rockville, MD 20852, 301–827–0799, *eric.tucker@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Clinical Trial Readiness for Functional Neurological Disorders.

Date: July 12, 2022.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Ana Olariu, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Boulevard, Room 3208, MSC 9529, Bethesda, MD 20892, 301–496–9223, *Ana.Olariu@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: June 13, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13060 Filed 6–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2018–0001]

Request for Applicants for Appointment to the Surface Transportation Security Advisory Committee

AGENCY: Transportation Security Administration, DHS.

ACTION: Committee management; request for applicants.

SUMMARY: The Transportation Security Administration (TSA) is requesting applications from individuals who are interested in being appointed to serve on the Surface Transportation Security Advisory Committee (STSAC). All applicants must represent one of the constituencies specified below in order to be eligible for appointment. STSAC's mission is to provide advice, consultation, and recommendations to the TSA Administrator on improving surface transportation security matters, including developing, refining, and implementing policies, programs, initiatives, rulemakings, and security directives pertaining to surface transportation security, while adhering to sensitive security guidelines. The STSAC will consider risk-based approaches in the performance of its duties.

DATES: Applications for membership must be submitted to TSA using one of the methods in the **ADDRESSES** section below on or before July 18, 2022.

ADDRESSES: Applications must be submitted by one of the following means:

- *Email: STSAC@tsa.dhs.gov.*
- *Mail:* Judith Harroun-Lord, STSAC Designated Federal Officer, Transportation Security Administration (TSA–28), TSA Mailstop 6028, 6595 Springfield Center Drive, Springfield, VA 20598–6028.

See **SUPPLEMENTARY INFORMATION** for application requirements.

FOR FURTHER INFORMATION CONTACT: Judith Harroun-Lord, STSAC Designated Federal Officer (DFO), Transportation Security Administration (TSA–28), TSA Mailstop 6028, 6595 Springfield Center Drive, Springfield, VA 20598–6028, *STSAC@tsa.dhs.gov,* 571–227–2283.

SUPPLEMENTARY INFORMATION: The STSAC is an advisory Committee established pursuant to section 1969, Division K, *TSA Modernization Act,* of the *FAA Reauthorization Act of 2018* (Pub. L. 115–254; 132 Stat. 3186; Oct. 5, 2018). The Committee is composed of individual members representing key constituencies affected by surface transportation security requirements.

Membership

The STSAC is composed of no more than 40 voting members from among stakeholders representing each mode of surface transportation, such as passenger rail, freight rail, mass transit, pipelines, highways, over-the-road bus, school bus industry, and trucking; and may include representatives from—

1. Associations representing such modes of surface transportation;
2. Labor organizations representing such modes of surface transportation;
3. Groups representing the users of such modes of surface transportation, including asset manufacturers, as appropriate;
4. Relevant law enforcement, first responders, and security experts; and
5. Such other groups as the Administrator considers appropriate.

The STSAC also includes nonvoting members, serving in an advisory capacity, who are designated by the TSA; the Department of Transportation; the Coast Guard; and such other Federal department or agency as the Administrator considers appropriate.

The STSAC does not have a specific number of members allocated to any membership category and the number of members in a category may change to fit the needs of the Committee, but optimally each category is represented by a minimum of one individual. Members serve as representatives and speak on behalf of their respective constituency group. Membership on the Committee is personal to the appointee and a member may not send an alternate to a Committee meeting. The members of the Committee shall not receive any compensation from the Government by reason of their service on the Committee.

Committee members are appointed by and serve at the pleasure of the Administrator of TSA for a term of two years, but a voting member may continue to serve until the Administrator appoints a successor. TSA evaluates Committee applicants to determine suitability, which includes a background check.

Committee Meetings

The Committee shall meet as frequently as deemed necessary by the Designated Federal Officer (DFO) in consultation with the Chairperson, but no less than two (2) scheduled meetings each year. At least one meeting will be open to the public each year. Unless the DFO decides otherwise, meetings will be held in person in the Washington, DC metropolitan area or through web conferencing.

In addition, STSAC members are expected to participate on STSAC subcommittees that normally meet more frequently to deliberate and discuss specific surface transportation matters.

Application for Advisory Committee Appointment

TSA is seeking applications for members with specific expertise in surface transportation. Any person wishing to be considered for appointment to STSAC must provide the following:

- Complete professional resume.
- Statement of interest and reasons for application, including the membership category and how you represent a significant portion of that constituency, and a brief explanation of how you can contribute to one or more TSA strategic initiatives, based on your prior experience with TSA or your review of current TSA strategic documents that can be found at *www.tsa.gov/about/strategy.*
- Home and work addresses, telephone number, and email address.

Please submit your application to the DFO in **ADDRESSES** noted above by July 18, 2022.

Eddie D. Mayenschein,

Assistant Administrator, Policy, Plans, and Engagement.

[FR Doc. 2022–13053 Filed 6–16–22; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7050–N–27; OMB Control No.: 2510–0006]

30-Day Notice of Proposed Information Collection: Legal Instructions Concerning Applications for Full Insurance Benefits—Assignment of Multifamily and Healthcare Mortgages to the Secretary

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 18, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.* Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on November 23, 2021, at 86 FR 66582.

A. Overview of Information Collection

Title of Information Collection: Legal Instructions Concerning Applications for Full Insurance Benefits—Assignment of Multifamily and Healthcare Mortgages to the Secretary.

OMB Approval Number: 2510–0006.

Type of Request: Revision of a currently approved collection.

Form Number: HUD Form 2510.

Description of the need for the information and proposed use: Mortgagees of FHA-insured mortgages may receive mortgage insurance benefits upon assignment of mortgages to the Secretary. In connection with the assignment, legal documents (*e.g.,* mortgage, mortgage note, security agreement, title insurance policy) must be submitted to the Department. The instructions contained in the Legal Instructions Concerning Applications for Full Insurance Benefits—Assignment of Multifamily and Healthcare Mortgages describe the documents to be submitted and the procedures for submission.

The Legal Instructions Concerning Applications for Full Insurance Benefits—Assigment of Multifamily and Healthcare Mortgages, in its current form and structure, can be found at *https://www.hud.gov/sites/documents/leginstrfullinsben.pdf.*

HUD proposes to revise this document with clarifying changes and updates to reflect current HUD requirements and policies, including electronic submission for legal review, as well as current practices in real estate, title insurance, hazard insurance and mortgage financing transactions.

Information collection 2510–0006	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD 2510	17	1	17	26.5	450.5	$71.17	$32,062.09
Total	....	....	....	....	....	....	....

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) 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) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Data Officer.

[FR Doc. 2022–13111 Filed 6–16–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6268–N–04]

Notice of Regulatory Waiver Requests Granted for the Fourth Quarter of Calendar Year 2021

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on October 1, 2021 and ending on December 31, 2021.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10276, Washington, DC 20410–0500, telephone 202–708–3055 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the fourth quarter of calendar year 2021.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to

waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from October 1, 2021 through December 31, 2021. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the fourth quarter of calendar year 2021) before the next report is published (the first quarter of calendar year 2022), HUD will include any additional waivers granted for the fourth quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Damon Y. Smith,

General Counsel.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development, October 1, 2021 Through December 31, 2021

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.

II. Regulatory waivers granted by the Office of Housing.

III. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 91.105(c)(2), and (k); 24 CFR 91.115(c)(2), and (i); and 24 CFR 91.401.

Project/Activity: Any participating jurisdiction or grantee located in the declared-disaster areas (designated in FEMA–4630–DR–KY) affected by the severe storms, straight-line winds, flooding, and tornados in FEMA–4630–DR–KY (the ''disaster'').

Nature of Requirement: This provision allows a CPD grantee to amend an approved consolidated plan in accordance with 24 CFR 91.505. Substantial amendments to the consolidated plan, such as the addition of new activities or a change in the use of grant funds from one eligible activity to another, are subject to the citizen participation process in the grantee's citizen participation plan. The citizen participation plan must provide citizens with 30 days to comment on substantial amendments. In addition, the regulations require the grantee to follow its citizen participation plan to provide citizens with reasonable notice and opportunity to comment. The citizen participation plan must state how reasonable notice and opportunity to comment will be given.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development

Date Granted: December 21, 2021.

Reason Waived: Several grantees in the declared-disaster areas are interested in amending their approved consolidated plans to include or revise activities in response to the disaster. Given the need to expedite actions to respond to damage caused by the disaster, HUD waived the 30-day public comment requirement of 24 CFR 91.105(c)(2), and (k), 91.115(c)(2), and (i) and 91.401 and reduced the public comment period to no less than seven days for grantees preparing amendments to prior year plans in response to the disaster. In reducing the comment period to seven days, HUD balanced the need to quickly assist families dealing with the aftereffects of the disaster while continuing to provide reasonable notice and opportunity for citizens to comment on the proposed uses of CDBG, HOME, HTF, HOPWA, and ESG funds.

In addition, HUD recognizes the destruction wrought by the disaster makes it difficult for impacted jurisdictions within the declared-disaster areas to provide notice to citizens in accordance with their citizen participation plans. Therefore, HUD waived 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i), and 24 CFR 91.401 to the extent necessary to allow these grantees to determine what constitutes reasonable notice and opportunity to comment given their circumstances and provide that level of notice and opportunity to comment when amending prior year plans in response to the disaster.

Applicability: This authority is in effect for grantees in the declared-disaster areas and is limited to facilitating preparation of substantial amendments to FY 2021 and prior year plans.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 92.203(a)(1) and (2).

Project/Activity: Projects located in the declared-disaster areas (designated in FEMA–4630–DR–KY) affected by the disaster.

Nature of Requirement: These sections of the HOME regulation require initial income determinations for HOME beneficiaries by examining source documents covering the most recent two months.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: Many families displaced by the disaster (as documented by FEMA registration) may have had their income documentation destroyed or made inaccessible by the disaster and therefore, may not be able to qualify for HOME assistance if the requirement remains effective. This waiver permits the participating jurisdiction to use self-certification of income, as provided in § 92.203(a)(1)(ii), in lieu of source documentation to determine eligibility for HOME assistance of persons displaced by the disaster.

Applicability: This waiver applies only to families displaced by the disaster (as documented by FEMA registration) whose income documentation was destroyed or made inaccessible by the disaster and remains in effect for six months from December 21, 2021. The participating jurisdiction or, as appropriate, HOME project owner, is required to maintain: (1) a record of FEMA registration to demonstrate that a family was displaced by the disaster; and (2) a statement signed by appropriate family members certifying to the family's size and annual income and that the family's income documentation was destroyed or is inaccessible.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 92.209(e), (h)(1), and (i)

Project/Activity: Projects located in the declared-disaster area (designated in FEMA–4630–DR–KY) affected by the disaster.

Nature of Requirement: The HOME regulation at 24 CFR 92.209(e) requires that the term of a HOME tenant-based rental assistance (TBRA) contract must begin on the first day of the lease. Section 92.209(h)(1) limits the maximum subsidy that a participating jurisdiction may pay toward a HOME TBRA recipient's rent to the difference between the participating jurisdiction's rent standard for the unit size and 30 percent of the family's monthly adjusted income. Section 92.209(i) requires that units occupied by TBRA recipients meet the housing quality standards established in 24 CFR 982.401.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development

Date Granted: December 21, 2021.

Reason Waived: Waiving these provisions will provide participating jurisdictions with greater flexibility to use HOME TBRA as an emergency housing resource.

Applicability: The provision of 24 CFR 92.209(e) that the start date of a HOME TBRA contract begin on the first day of the term of a tenant's lease is waived for HOME TBRA contracts that a participating jurisdiction executes for persons or families displaced by the disaster for a period of 24 months after December 21, 2021. The provision of 24 CFR 92.209(h)(1) imposing the maximum HOME TBRA subsidy amount a participating jurisdiction may provide to a family under HOME TBRA is waived for TBRA recipients who are displaced by the disaster for a period of 24 months after December 21, 2021. The waiver of the housing quality standards requirements at 24 CFR 92.209(i) applies to units leased by HOME TBRA recipients who were displaced by the disaster and are being assisted through a HOME TBRA program funded by the participating jurisdiction for a period of 24 months after December 21, 2021.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, U.S. Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 92.218 and 92.222(b).

Project/Activity: Any participating jurisdiction located in the declared-disaster area (designated in FEMA–4630–DR–KY) affected by the disaster.

Nature of Requirement: This provision requires all HOME participating jurisdictions to contribute throughout the fiscal year to housing that qualifies as affordable housing under the HOME program. The contributions must total no less than 25 percent of the HOME funds drawn from the participating jurisdiction's HOME Investment Trust Fund Treasury account. Reducing the match requirement for the participating jurisdiction by 100 percent for FY 2022 and FY 2023 will eliminate the need for the participating jurisdiction to identify match for HOME projects related to the damage caused by the disaster. The requirement that the participating jurisdiction must submit a copy of the Presidential major disaster-declaration is waived.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: Given the urgent housing needs created by the disaster and the substantial financial impact the participating jurisdiction will face in addressing those needs, the approval of a match reduction will relieve the participating jurisdiction from the need to identify and provide matching contributions to HOME projects.

Applicability: This match reduction applies to funds expended by a participating jurisdiction located in the declared-disaster area from December 12, 2021, through September 30, 2023. The suspension also applies to State-funded HOME projects located in declared-disaster areas.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Department of Housing and Urban Development, Office of Community Planning and Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 92.251.

Project/Activity: Projects located in the declared-disaster area (designated in FEMA–4630–DR–KY) affected by the disaster.

Nature of Requirement: This provision requires that housing assisted with HOME funds meet property standards based on the activity undertaken, (*e.g.,* homebuyer assistance), and state and local standards and codes or model codes for rehabilitation and new construction. Property standard requirements are waived only for repair of properties damaged by the disaster. Units must meet State and local health and safety codes. The lead housing safety regulations established in 24 CFR part 35 and the Section 504 accessibility requirements at 24 CFR part 8 are not waived.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: This waiver is required to enable the participating jurisdiction to meet the critical housing needs of families whose housing was damaged and families who were displaced by the disaster.

Applicability: This waiver applies only to housing units located in the declared-disaster areas which were damaged by the disaster and to which HOME funds are committed within two years of December 21, 2021.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 93.151(c).

Project/Activity: Projects located in the declared-disaster area (see FEMA–4630–DR–KY) affected by the tornados and severe storms.

Nature of Requirement: This section of the HTF regulation requires initial income determinations for HTF beneficiaries by examining source documents covering the most recent two months.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: Many families' income documentation may have been destroyed or made inaccessible by the disaster and therefore, these families will not be able to qualify for HTF assistance if the requirement remains effective. This waiver permits the grantee to use self-certification of income, as provided in section 93.151(d)(2), in lieu of source documentation to determine initial eligibility of persons displaced by the disaster for HTF assistance.

Applicability: This waiver applies only to families displaced by the disaster (as documented by FEMA registration) whose income documentation was destroyed or made inaccessible by the disaster and remains in effect for six months from December 21, 2021. The grantee or, as appropriate, HTF project owner, is required to maintain: (1) a record of FEMA registration to demonstrate that a family was displaced by the disaster; and (2) a statement signed by appropriate family members certifying to the family's size and annual income and that the family's income documentation was destroyed or is inaccessible.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 92.252(d)(1) Utility Allowance Requirements.

Project/Activity: The Cities of Oakland and Bakersfield, and the County of Marin, California requested a waiver of 24 CFR 92.252(d)(1) to allow use of the utility allowance established by the local public housing agency (PHA) for three HOME-assisted projects—Monarch Homes, Piper Courts, and Residences of East Hills.

Nature of Requirement: The regulation at 24 CFR 92.252(d)(1) requires participating jurisdictions to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. However, participating jurisdictions are not permitted to use the utility allowance established by the local public housing authority for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: October 13, 2021.

Reason Waived: The HOME requirements for establishing a utility allowances conflict with Project Based Voucher program requirements. It is not possible to use two different utility allowances to set the rent for a single unit and it is administratively burdensome to require a project owner establish and implement different utility allowances for HOME-assisted units and non-HOME assisted units in a project.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 92.252(d)(1) Utility Allowance Requirements.

Project/Activity: The City of Los Angeles and the County of Alameda, California requested a waiver of 24 CFR 92.252(d)(1) to allow use of the utility allowance established by the local public housing agency (PHA) for two HOME-assisted projects—7th and Witmer Apartments; Meridian Apartments and T. Bailey Manor Apartments; and La Vereda Apartments.

Nature of Requirement: The regulation at 24 CFR 92.252(d)(1) requires participating jurisdictions to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. However, participating jurisdictions are not permitted to use the utility allowance established by the local public housing authority for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: The HOME requirements for establishing a utility allowances conflict with Project Based Voucher program requirements. It is not possible to use two different utility allowances to set the rent for a single unit and it is administratively burdensome to require a project owner establish and implement different utility allowances for HOME-assisted units and non-HOME assisted units in a project.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 93.400(d)(2).

Project/Activity: The State of California requested a waiver of 24 CFR 93.400(d)(2) to enable the State to retain HTF funds committed to one HOME-assisted project-PATH Villas Hollywood.

Nature of Requirement: The regulation at 24 CFR 93.400(d)(2) requires HUD to reduce or recapture any fiscal year grant funds in the State's HTF local account that are not expended within 5 years after the date of HUD's execution of the HTF grant agreement. Therefore, the State must expend its annual HTF allocation within 5 years after the date of HUD's execution of the HTF grant agreement.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: The Department determined that there is sufficient good cause to grant a waiver of the requirement in 24 CFR 93.400(d)(2) to reduce or recapture the State's FY 2016 HTF funds committed to PATH Villas Hollywood due to project delays caused by litigation and the COVID–19 pandemic. Waiving 24 CFR 93.400(d)(2) will enable the State to retain HTF funds committed to PATH Villas Hollywood and prevent the potential loss of affordable units if the project loses necessary funds for completion.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 570.209(b)(3)(i)(A).

Project/Activity: The District of Columbia requested a waiver of the public benefit standard for special economic development activities. The project entails the use of Community Development Block Grant (CDBG) funds (which term includes funds received from a Section 108 guaranteed loan) to support infrastructure construction for a mixed-use economic development project. This activity is eligible at 24 CFR 570.703(i)(1) pursuant to 24 CFR 570.203(b) and will meet the criteria for national objectives under the CDBG program by creating or retaining permanent jobs where at least 51 percent of the jobs, computed on a full-time equivalent basis, involve the employment of LMI persons pursuant to 24 CFR 570.208(a)(4).

Nature of Requirement: This regulation provides that an activity assisted under 24 CFR 570.203 must produce at least a minimum level of public benefit from the expenditure of CDBG funds. An activity will be considered to demonstrate sufficient public benefit if it creates or retains at least one permanent, full time equivalent (FTE) job per $50,000 in CDBG assistance.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: The scale of the proposed 1.59 million gross square foot mixed-use economic development project will have a substantial impact across much of the northeastern portion of the District through the creation of a new grocery option in an area that lacks fresh food, jobs, commercial industry, public infrastructure, and affordable housing. The project will introduce new neighborhood amenities to an area that has a higher percentage of low-income citizens than the District as a whole (approximately 52 percent compared to 31 percent for the District as a whole). The project includes rental housing units that will be designated as affordable for households making less than 50 percent of the area median income, helping increase the supply of desperately needed affordable housing in the District. This will enable more residents of the District to afford to live in the city where they work. The project will be transformative for the area, creating a new market and bringing financial and social opportunity to an underserved part of the District.

Contact: Paul Webster, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7282, Washington, DC 20410, telephone (202) 402–4563.

• *Regulation:* 24 CFR 91.105(c)(2) and (k); 24 CFR 91.115 (c)(2), and (i); and 24 CFR 91.401.

Project/Activity: Any HUD Community Planning and Development (CPD) grantee located in the counties included in the declared-disaster area (see 4630–DR–KY) seeking to expedite action in response to the 2021 tornados and severe storms, upon notification to the Community Planning and Development Director in its respective HUD Field Office. This authority is in effect for grantees in the declared-disaster areas and is limited to facilitating preparation of substantial amendments to FY 2021 and prior year plans.

Nature of Requirement: The regulations at 24 CFR 91.105(c)(2) and (k); 24 CFR 91.115(c)(2) and (i); and 24 CFR 91.401 require a 30-day public comment period in the development of a consolidated plan and prior to the implementation of a substantial amendment.

Granted By: James Arthur Jemison, II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 22, 2021.

Reason Waived: Several Kentucky CPD grantees were affected by tornados and severe storms weather that hit the state on December 10, 2021. As a result of substantial property loss and destruction, many individuals and families residing in the declared-disaster areas were displaced from their homes, including beneficiaries of various CPD programs, and families eligible to receive CPD program assistance. Some individuals and families continued to live in homes with habitability deficits, particularly related to potable water. A Presidentially declared disaster declaration was issued on December 12, 2021 (4630–DR–KY). The waiver granted will allow grantees to expedite recovery efforts for low- and moderate-income residents affected by the property loss and destruction resulting from this event.

Contact: James E. Höemann, Director, Entitlement Communities Division, Office of

Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7282, Washington, DC 20410, telephone (202) 402–5716.

• *Regulation:* 24 CFR 91.105(c)(2) and (k); 24 CFR 91.115(c)(2) and (i); and 24 CFR 91.401.

Project/Activity: Any HUD Community Planning and Development (CPD) grantee located in the counties included in the declared-disaster area (see 4630–DR–KY) seeking to expedite action in response to the 2021 tornados and severe storms, upon notification to the Community Planning and Development Director in its respective HUD Field Office. This authority is in effect for grantees within the declared-disaster areas and is limited to facilitating preparation of substantial amendments to FY 2021 and prior year plans

Nature of Requirement: The regulations at 24 CFR 91.105(c)(2) and (k); 24 CFR 91.115(c)(2) and (i); and 24 CFR 91.401 require the grantee to follow its citizen participation plan to provide citizens with reasonable notice and opportunity to comment. The citizen participation plan must state how reasonable notice and opportunity to comment will be given.

Granted By: James Arthur Jemison, II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 22, 2021.

Reason Waived: As stated above, several Kentucky CPD grantees were affected by tornados and severe storms weather that hit the state on December 10, 2021. As a result of substantial property loss and destruction, many individuals and families residing in the declared-disaster areas were displaced from their homes, including beneficiaries of various CPD programs, and families eligible to receive CPD program assistance. Some individuals and families continued to live in homes with habitability deficits, particularly related to potable water. The waiver granted will allow grantees to determine what constitutes reasonable notice and opportunity to comment given their circumstances and provide that level of notice and opportunity to comment when amending prior year plans in response to the disaster.

Contact: James E. Höemann, Director, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7282, Washington, DC 20410, telephone (202) 402–5716.

• *Regulation:* Section 105(a) of the Housing and Community Development Act of1974, as amended (the HCDA) and 24 CFR 570.207(b)(3).

Project/Activity: Any Community Development Block Grant (CDBG) Entitlement or State CDBG Program grantee located in the declared-disaster areas (designated in 4630–DR–KY) seeking to expedite action in response to the disaster, upon notification to the Community Planning and Development Director in its respective HUD Field Office.

Nature of Requirement: The regulations at 24 CFR 570.207(b)(3) prohibit the use of CDBG funds for the construction of new, permanent residential structures. New housing construction is not generally an eligible activity under Section 105 of the HCDA. It may be undertaken indirectly through CDBG assistance provided to Community Based Development Organizations or other nonprofit entities specified in Section 105(a)(15) of the HCDA.

Granted By: James Arthur Jemison, II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: HUD recognizes that the disaster caused damage and destruction to a large number of housing units within the declared-disaster areas. Allowing new housing construction will enable CDBG grantees to replace affordable housing units that were lost as a result of the disaster. To expedite the rebuilding process, HUD suspends Section 105(a) of HCDA and waives 24 CFR 570.207(b)(3) through the end of a grantee's 2023 program year to permit grantees to directly use CDBG funds for new housing construction activities to address damage from the tornados and severe storms. In addition to the flexibility provided by the suspension of the statute, grantees are encouraged to take advantage of the reconstruction provisions at Section 105(a)(4) of the HCDA.

Contact: James E. Höemann, Director, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7282, Washington, DC 20410, telephone (202) 402–5716.

• *Regulation:* 24 CFR 570.201(e)(1) or (2) and Section 105(a)(8) of the HCDA.

Project/Activity: Any CDBG Entitlement grantee or State CDBG Program unit of local government assisting persons and families who have registered with FEMA in connection with the disaster upon notification by the grantee to the Community Planning and Development Director in its respective HUD Field Office.

Nature of Requirement: Section 105(a)(8) sets forth the limitation of no more than 15 percent of each grant to be used for public services. The regulations at 24 CFR 570.201(e) limit the amount of CDBG funds used for public services to no more than 15 percent of the grantee's most recent CDBG grant plus 15 percent of program income received.

Granted By: James Arthur Jemison, II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: Several CDBG grantees located within the declared-disaster areas were affected by the tornados and severe storms. The waiver granted will allow these grantees to expedite recovery efforts for low- and moderate-income residents affected by the disaster; pay for additional support services for affected individuals and families, including, but not limited to, food, health, employment, and case management services to help persons and families impacted by the property loss and destruction caused by the tornados and severe storms; and enable grantees to pay for the basic daily needs of individuals and families affected by the tornados and severe storms on an interim basis. This authority is in effect through the end of the grantee's 2022 program year.

Contact: James E. Höemann, Director, Entitlement Communities Division, Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7282, Washington, DC 20410, telephone (202) 402–5716.

• *Regulation:* 24 CFR 570.207(b)(4) (Entitlements).

Project/Activity: All CDBG grantees located within and outside declared-disaster areas (designated in 4630–DR–KY) assisting persons and families who have registered with FEMA in connection with the disaster.

Nature of Requirement: The CDBG regulations at 24 CFR 570.207(b)(4) prohibit income payments, but permit emergency grant payments for three months. ''Income payments'' means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities. Emergency grant payments made over a period of up to three consecutive months to the providers of such items and services on behalf of an individual or family are eligible public services.

Granted By: James Arthur Jemison, II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: HUD waives the provisions of 24 CFR 570.207(b)(4) to permit emergency grant payments for items such as food, clothing, housing (rent or mortgage), or utilities for up to six consecutive months. While this waiver allows emergency grant payments to be made for up to six consecutive months, the payments must still be made to service providers as opposed to the affected individuals or families. Many individuals and families have been forced to abandon their homes due to the damage associated with the disaster. The waiver will allow CDBG grantees, including grantees providing assistance to evacuees outside the declared-disaster areas, to pay for the basic daily needs of individuals and families affected by the disaster on an interim basis. This authority is in effect through the end of the grantee's 2022 program year. This waiver aligns with waivers currently in effect for CDBG coronavirus (CDBG–CV) grants. The six-month periods allowed by waiver for CDBG and CDBG–CV shall not be used consecutively for the same beneficiary.

Contact: James E. Höemann, Director, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7282, Washington, DC 20410, telephone (202) 402–5716.

• *Regulations:* 24 CFR 574.310(b)(2), Housing Quality Standards (HQS).

Project/Activity: Property Standards for HOPWA.

Nature of Requirement: Section 574.310(b)(2) of the HOPWA regulations provides minimum housing quality standards that apply to all housing for which HOPWA funds are used for acquisition, rehabilitation, conversion, lease, or repair; new construction of single room occupancy dwellings and community residences; project or tenant-based rental assistance; or operating costs under 24 CFR 574.300(b)(3), (4), (5), or (8).

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: On March 31, 2020 HUD waived the physical inspection requirement for tenant-based rental assistance at 24 CFR 574.310(b) for one year so long as grantees or project sponsors were able to visually inspect the unit using technology to ensure the unit met HQS before any assistance was provided and grantees or project sponsors had written policies in place to physically reinspect the unit after health officials determined special measures to prevent the spread of COVID–19 were no longer necessary.

On May 22, 2020, HUD waived the physical inspection requirement for acquisition, rehabilitation, conversion, lease, or repair; new construction of single room occupancy dwellings and community residences; project or tenant-based rental assistance; or operating costs for one year so long as grantees or project sponsors met the criteria outlined in the waiver. On March 31, 2021, HUD again waived this requirement for all applicable housing types until June 30, 2021. On June 30, 2021, HUD extended the waiver until September 30, 2021.

Since the original waiver flexibility expired on September 30, 2021, grantees reported that it was still challenging to physically inspect units for HQS because of stay-at-home orders for many grantee workplaces, staffing shortages, and program clients feeling uncomfortable with other people entering their units out of fear of contracting COVID–19. As people experiencing homelessness are at higher risk of COVID–19 infection, and people living with HIV experience disproportionately poor health outcomes and higher hospitalization rates due to COVID–19, it continued to be important to move people living with HIV quickly into their own housing.

Applicability: This waiver was in effect until March 31, 2022 for grantees and project sponsors that met the following criteria:

1. The grantee or project sponsor can visually inspect the unit using technology, such as video streaming, to ensure the unit meets HQS before any assistance is provided; and

2. The grantee or project sponsor has written policies that require physical reinspection of the units not previously physically inspected by June 30, 2022.

Contact: Amy Palilonis, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7248, Washington, DC 20410, telephone (202) 402–5916. *amy.l.palilonis@hud.gov.*

• *Regulations:* 24 CFR 574.320(a)(2), Rent Standard.

Project/Activity: Rent Standard for HOPWA Rental Assistance.

Nature of Requirement: Grantees must establish rent standards for their rental assistance programs based on FMR (Fair Market Rent) or the HUD-approved community-wide exception rent for unit size.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: This waiver enables HOPWA grantees in areas covered by a major disaster declaration under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 4630–DR–KY, to expedite efforts to meet the critical housing needs of low-income people living with HIV and their families in the declared-disaster areas. Waiving the rent standard requirement, while still requiring that the unit be rent reasonable in accordance with § 574.320(a)(3), will make more units available to HOPWA eligible individuals and families in need of permanent housing in the declared-disaster areas.

Applicability: The rent standard requirement is waived for any rent amount that takes effect during the two-year period beginning on December 21, 2021 for any individual or family who is renting or executes a lease for a unit in the declared disaster areas. Grantees and project sponsors must still ensure the reasonableness of rent charged for units in the declared-disaster areas in accordance with § 574.320(a)(3). Individuals and families are not required to register for FEMA assistance in order for this waiver to be applicable.

Contact: Amy Palilonis, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7248, Washington, DC 20410, telephone (202) 402–5916. *amy.l.palilonis@hud.gov.*

• *Regulations:* 24 CFR 574.320(a)(2), Rent Standard.

Project/Activity: Rent Standard for HOPWA Rental Assistance.

Nature of Requirement: Grantees must establish rent standards for their rental assistance programs based on FMR (Fair Market Rent) or the HUD-approved community-wide exception rent for unit size.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: HUD originally waived the FMR rent standard requirement for tenant-based rental assistance for one year on March 31, 2020. On May 22, 2020, HUD waived this requirement for one year for all rental assistance types. On March 31, 2021, HUD again waived this requirement for all rental assistance types until June 30, 2021. On June 30, 2021, HUD again waived this requirement until December 31, 2021. As people experiencing homelessness are at higher risk of COVID–19 infection, and people living with HIV experience disproportionately poor health outcomes and higher hospitalization rates due to COVID–19, it continued to be important ensure people living with HIV can obtain and maintain housing. Extending the waiver of the FMR rent standard limit, while still requiring that the unit be rent reasonable in accordance with § 574.320(a)(3), assisted grantees and project sponsors in ensuring low-income people living with HIV could obtain and maintain safe, stable housing in tight rental markets.

Applicability: The FMR requirement continued to be waived until March 31, 2022. Grantees and project sponsors must still ensure the reasonableness of rent charged for a unit in accordance with § 574.320(a)(3).

Contact: Amy Palilonis, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7248, Washington, DC 20410, telephone (202) 402–5916. *amy.l.palilonis@hud.gov.*

• *Regulations:* 24 CFR 574.310(b)(2)(iii), Space and Security.

Project/Activity: Adequate Space and Security.

Nature of Requirement: This section of the HOPWA regulations provides that each resident must be afforded adequate space and security for themselves and their belongings.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: When HUD originally waived this requirement on March 31, 2020, an end date was not established. Grantees and project sponsors operating housing facilities and shared housing arrangements still report need for flexibility to use optional appropriate spaces for quarantine services of eligible households affected by COVID–19. Optional spaces may include the placement of families in a hotel/motel room where family members may be required to utilize the same space not allowing for adequate space and security for themselves and their belongings. Therefore, HUD continued to offer this waiver flexibility, but established an end date of March 31, 2022.

Applicability: This space and security requirement was waived until March 31, 2022, for grantees addressing appropriate quarantine space for affected eligible households during the allotted quarantined time frame recommended by local health care professionals.

Contact: Amy Palilonis, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7248, Washington, DC 20410, telephone (202) 402–5916. *amy.l.palilonis@hud.gov.*

• *Regulations:* 24 CFR 574.530, Recordkeeping.

Project/Activity: Source Documentation for Income and HIV Status Determinations.

Nature of Requirement: Each grantee must maintain records to document compliance with HOPWA requirements, which includes determining the eligibility of a family to receive HOPWA assistance.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: This waiver permits HOPWA grantees and project sponsors, located within and outside of the areas covered by a major disaster declaration under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 4630–DR–KY, to rely upon a family member's self-certification of income and credible information on their HIV status (such as knowledge of their HIV-related medical care) in lieu of source documentation to determine eligibility for HOPWA assistance for individuals and families displaced by the disaster. Many individuals and families displaced by the disaster whose homes have been destroyed or damaged will not have immediate access to documentation of income or medical records and, without this waiver, will be unable to document their eligibility for HOPWA assistance.

Applicability: This waiver is available to HOPWA grantees, located within and outside of the declared-disaster areas, to assist eligible persons and families who have been displaced by the disaster. Grantees must require written certification of HIV status and income of such individuals and families seeking assistance and obtain source documentation of HIV status and income eligibility within six months of December 21, 2021. Individuals and families are not required to register for FEMA assistance in order to receive the benefit of this waiver, unless they are being assisted outside of the declared-disaster areas.

Contact: Amy Palilonis, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7248, Washington, DC 20410, telephone (202) 402–5916. *amy.l.palilonis@hud.gov.*

• *Regulation:* 24 CFR 576.106(a), 576.105(a)(5), and 576.105(b)(2).

Project/Activity: HUD granted a waiver of 24 CFR 576.106(a), 576.105(a)(5), and 576.105(b)(2) in the December 21, 2021 memorandum: Availability of Waivers of Community Planning and Development Grant Program and Consolidated Plan Requirements to Facilitate Recovery from the Severe Storms, Straight-Line Winds, Flooding, and Tornadoes. HUD waived the applicable requirements to the extent necessary to authorize the use of ESG funds to be used to provide up to 36 consecutive months of rental assistance, utility payments, and housing stability case management, in addition to the 30 days of housing stability case management that may be provided before the move into permanent housing under 24 CFR 576.105(b)(2).

Nature of Requirement: The ESG regulation at 24 CFR 576.106(a) prohibits a program participant from receiving more than 24 months of ESG rental assistance during any three-year period. Section 576.105(a)(5) prohibits a program participant from receiving more than 24 months of utility payments under ESG during any three-year period. Section 576.105(b)(2) limits the provision of housing stability case management to 30 days while the program participant is seeking permanent housing and to 24 months during the period the program participant is living in permanent housing.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: Waiving the 24-month caps on rental assistance, utility payments, and housing stability case management assistance will assist individuals and families, both those already receiving assistance and those who will receive assistance after December 21, 2021, to maintain stable permanent housing in place or in another area and help them return to their hometowns, as desired, when additional permanent housing is available.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 576.106(d)(1).

Project/Activity: HUD granted a waiver of 24 CFR 576.106(d)(1) in the December 21, 2021 memorandum: Availability of Waivers of Community Planning and Development Grant Program and Consolidated Plan Requirements to Facilitate Recovery from the Severe Storms, Straight-Line Winds, Flooding, and Tornadoes. HUD waived the applicable requirement to the extent necessary to authorize the use of ESG funds to be used above the Fair Market Rent (FMR) amount, not to exceed rent reasonableness, for any rent amount that takes effect during the two-year period beginning on December 21, 2021 for any individual or family who is renting or executes a lease for a unit in a declared-disaster area.

Nature of Requirement: Under 24 CFR 576.106(d)(1), rental assistance cannot be provided unless the total rent is equal to or less than the FMR established by HUD, as provided under 24 CFR part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: This waiver is required to enable ESG recipients to meet the critical housing needs of individuals and families whose housing was damaged or who were displaced as a result of the tornadoes and severe storms. Waiving the FMR restriction will make more units available to individuals and families in need of permanent housing.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 576.403(c).

Project/Activity: HUD granted a waiver of 24 CFR 576.403(c) in the December 21, 2021 memorandum: Availability of Waivers of Community Planning and Development Grant Program and Consolidated Plan Requirements to Facilitate Recovery from the Severe Storms, Straight-Line Winds, Flooding, and Tornadoes. HUD waived the applicable requirement for units in the declared disaster area that are or will be occupied by individuals or families eligible for ESG Rapid Re-housing or Homelessness Prevention assistance, provided that: (1) each unit meets applicable state and local standards; (2) each unit is free of life-threatening conditions as defined in Notice PIH 2017–20 (HA); and (3) recipients assure all units in which program participants are assisted meet the ESG housing standards within 60 days of the date of the December 21, 2021 memorandum.

Nature of Requirement: If ESG funds are used to help a program participant remain in or move into housing, the housing must meet the minimum habitability standards provided in 24 CFR 576.403(c).

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: This waiver is needed to enable ESG recipients to expeditiously meet the critical housing needs of many eligible individuals and families in the declared disaster area.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 576.403(b).

Project/Activity: HUD granted a waiver of 24 CFR 576.403(b) in the December 21, 2021, memorandum: Availability of Waivers of Community Planning and Development Grant Program and Consolidated Plan Requirements to Facilitate Recovery from the Severe Storms, Straight-Line Winds, Flooding, and Tornadoes. HUD waived the applicable requirement for shelters in the declared disaster area that are or will be occupied by individuals or families eligible for ESG emergency shelter assistance, provided that: (1) each shelter meets applicable state and local standards; (2) each shelter is free of life-threatening conditions as defined in Notice PIH 2017–20 (HA); and (3) recipients ensure that these shelters meet the ESG shelter standards within 60 days of the date of the memorandum.

Nature of Requirement: If ESG funds are used for shelter operations costs, the shelter must meet the minimum safety, sanitation and privacy standards under 24 CFR 576.403(b). If ESG funds are used to convert a building into a shelter, rehabilitation a shelter, or otherwise renovate a shelter, the shelter must meet the minimum safety, sanitation, and privacy standards in 24 CFR 576.403(b) as well as applicable state or local government safety and sanitation standards.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: This waiver is needed to enable ESG recipients to expeditiously meet the critical emergency shelter needs of many eligible individuals and families in the declared disaster area.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 576.203(b).

Project/Activity: HUD granted a waiver of 24 CFR 576.203(b) in the December 21, 2021 memorandum: Availability of Waivers of Community Planning and Development Grant Program and Consolidated Plan Requirements to Facilitate Recovery from the Severe Storms, Straight-Line Winds, Flooding, and Tornadoes. HUD waived the ESG expenditure deadline only for costs of providing homelessness prevention and rapid re-housing assistance to individuals and families under the flexibility provided by the waivers of 24 CFR 576.106(a), 576.105(a)(5), and 576.105(b)(2) and 24 CFR 576.106(d)(1), which were provided in the 12/21/2021 memorandum, and reasonable HMIS and administrative costs related to that assistance.

Nature of Requirement: Section 576.203(b) of the ESG regulations requires all expenditures under an ESG grant to be made within 24 months after the date HUD signs the grant agreement with the recipient. For purposes of this requirement, expenditure means either an actual cash disbursement for a direct charge for a good or service or an indirect cost, or the accrual of a direct charge for a good or service or an indirect cost.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: If not waived, the 24-month expenditure deadline would limit the effectiveness of waivers of the FMR requirement and the term limits on Rental Assistance and Housing Relocation and Stabilization Services also granted in the same memorandum. Providing a limited waiver of the expenditure deadline as described in the applicability paragraph below will support recipients' ability to assist individuals and families as provided by the related waivers.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 576.106(d)(1).

Project/Activity: HUD granted a waiver of 24 CFR 576.106(d)(1) in the December 30, 2021 memorandum: Availability of Additional Waivers for Community Planning and Development (CPD) Grant Programs to Prevent the Spread of COVID–19 and Mitigate Economic Impacts Caused by COVID–19. HUD waived the applicable requirement for any individual or family receiving Rapid Re-housing or Homelessness Prevention assistance who executes a lease for a unit during the period beginning on December 30, 2021 and ending on March 31, 2022. The ESG recipient or subrecipient must still ensure that the units in which ESG assistance is provided to these individuals and families meet the rent reasonableness standard.

Nature of Requirement: Under 24 CFR 576.106(d)(1), rental assistance cannot be provided unless the total rent is equal to or less than the FMR established by HUD, as provided under 24 CFR part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: This waiver is required to enable ESG recipients to meet the critical housing needs of individuals and families whose housing was damaged or who were displaced as a result of the tornadoes and severe storms. Waiving the FMR restriction will make more units available to individuals and families in need of permanent housing.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 576.105(a)(5), (b)(2) and (c).

Project/Activity: HUD granted a waiver of 24 CFR 576.105(a)(5), (b)(2) and (c) in the December 30, 2021 memorandum: Availability of Additional Waivers for Community Planning and Development (CPD) Grant Programs to Prevent the Spread of COVID–19 and Mitigate Economic Impacts Caused by COVID–19. HUD waived the applicable requirement for program participants receiving rapid re-housing and homelessness prevention assistance who will have reached these 24-month limits between December 30, 2021 and March 31, 2022, as long as the assistance provided under this waiver does not extend beyond March 31, 2022, and is limited to program participants who will not be able to obtain or maintain housing without the benefit of this waiver.

Nature of Requirement: Section 576.105(a)(5) prohibits a program participant from receiving more than 24 months of utility payments under ESG during any three-year period. Section 576.105(b)(2) limits the provision of housing stability case management to 30 days while the program participant is seeking permanent housing and to 24 months during the period the program participant is living in permanent housing. Section 576.105(c) limits the total amount of time a program participant may receive services under section 576.105(b) to 24 months during any 3-year period.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: This waiver is required for the following reasons: (1) Those residing in congregate settings, where many people who lose their housing reside after losing their housing, are at increased risk of COVID–19 infection; (2) Helping program participants maintain housing will therefore continue to decrease the risk of people experiencing and at risk of homelessness from contracting COVID–19; and (3) Although this waiver flexibility can already be used with respect to ESG–CV and FY2020 and earlier FY funds, making this waiver flexibility applicable to the newer FY2021 ESG grant funds will minimize the chances that service providers will run out of usable ESG funds to help their existing program participants remain stably housed during these critical winter months when people are spending most of their time indoors and the risk of spread is at its highest.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 576.106(a).

Project/Activity: HUD granted a waiver of 24 CFR 576.106(a) in the December 30, 2021 memorandum: Availability of Additional Waivers for Community Planning and Development (CPD) Grant Programs to Prevent the Spread of COVID–19 and Mitigate Economic Impacts Caused by COVID–19. HUD waived the applicable requirement for program participants receiving rapid re-housing and homelessness prevention rental assistance who will have reached these 24-month limits between December 30, 2021 and March 31, 2022, as long as the assistance provided under this waiver does not extend beyond March 31, 2022, and is limited to program participants who will not be able to obtain or maintain housing without the benefit of this waiver.

Nature of Requirement: Section 576.106(a) limits the total amount of time a program participant may receive rental assistance to 24 months in a three-year period.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: This waiver is required for the following reasons: (1) Those residing in congregate settings, where many people who lose their housing reside after losing their housing, are at increased risk of COVID–19 infection; (2) Helping program participants maintain housing will therefore continue to decrease the risk of people experiencing and at risk of homelessness from contracting COVID–19; and (3) Although this waiver flexibility can already be used with respect to ESG–CV and FY2020 and earlier FY funds, making this waiver flexibility applicable to the newer FY2021 ESG grant funds will minimize the chances that service providers will run out of usable ESG funds to help their existing program participants remain stably housed during these critical winter months when people are spending most of their time indoors and the risk of spread is at its highest.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 576.105, 24 CFR 576.106.

Project/Activity: HUD granted a waiver of 24 CFR 576.105 and 24 CFR 576.106 in the December 30, 2021 memorandum: Availability of Additional Waivers for Community Planning and Development (CPD) Grant Programs to Prevent the Spread of COVID–19 and Mitigate Economic Impacts Caused by COVID–19. HUD waived 24 CFR

576.105 and 24 CFR 576.106 to the extent necessary to permit program participants to receive assistance in units they rent through a legally valid sublease from the primary leaseholder. This waiver is only made available with respect to leases and subleases entered into between December 30, 2021 and March 31, 2022. However, unless HUD notifies the recipient otherwise, the recipient may continue to use its FY2021 ESG grant funds to assist program participants housed under this waiver through the end of their otherwise allowable term of assistance.

Nature of Requirement: The use of ''owner'' and ''lease'' in 24 CFR 576.105 and 576.106 restrict program participants from receiving rental assistance under 24 CFR 576.106 and certain services under 24 CFR 576.105 with respect to units program participants sublease or lease from a person other than the owner or the owner's agent.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: This waiver is required to improve recipients' and subrecipients' chances of helping more program participants move into housing quickly by quickly identifying housing in tight rental markets and helping people obtain or maintain housing during this critical time period, which is necessary to prevent the spread of COVID–19. In addition, because FY2021 ESG grant funding will remain available for longer than ESG–CV funding and FY2020 and earlier fiscal year ESG grants, extending this waiver to FY2021 ESG grants will maximize the time and opportunities to facilitate stable housing outcomes for program participants who are housed through this type of waiver and may need a longer period of ESG assistance than the expenditure deadlines for ESG–CV and FY2020 and earlier fiscal year grants would allow.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 576.2, definition of ''homeless,'' (1)(iii).

Project/Activity: HUD granted a waiver of 24 CFR 576.2, definition of ''homeless,'' (1)(iii) in the December 30, 2021 memorandum: Availability of Additional Waivers for Community Planning and Development (CPD) Grant Programs to Prevent the Spread of COVID–19 and Mitigate Economic Impacts Caused by COVID–19. HUD waived 24 CFR 576.2, definition of ''homeless,'' (1)(iii) to allow an individual to qualify as homeless under paragraph (1)(iii) of the homeless definition in 24 CFR 576.2 so long as he or she is exiting an institution where they resided for 120 days or less and resided in an emergency shelter or place not meant for human habitation immediately before entering that institution. This waiver is in effect for individuals whose homeless status is determined between December 30, 2021 and March 31, 2022.

Nature of Requirement: An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution is considered homeless per 24 CFR 576.2, definition of ''homeless.''

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: This waiver is necessary to decrease the risk of COVID–19 infection by expanding housing options for people who were experiencing homelessness and institutionalized for longer than traditionally required due to COVID–19. Additionally, since people experiencing homelessness are showing an increased risk of COVID–19 infection, lower vaccination rates and poorer health outcomes when compared to the general population it is important that they be able to exit to permanent housing when they exit an institution to allow for social distancing and decrease the risk of COVID–19 infection.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

Continuum of Care (CoC) Program

• *Regulation:* 24 CFR 578.37(a)(1)(ii), 24 CFR 578.37(a)(1)(ii)(C), and 24 CFR 578.51(a)(1)(i).

Project/Activity: HUD granted a waiver of 24 CFR 578.37(a)(1)(ii), 24 CFR 578.37(a)(1)(ii)(C), and 24 CFR 578.51(a)(1)(i) in the December 21, 2021 memorandum: Availability of Waivers of Community Planning and Development Grant Program and Consolidated Plan Requirements to Facilitate Recovery from the Severe Storms, Straight-Line Winds, Flooding, and Tornadoes. For two years from December 21, 2021, the 24-month limit on rental assistance is waived for individuals and families who meet the following criteria: (1) The individual or family lives in a declared-disaster area or was displaced from a declared-disaster area as a result of the disaster; and (2) the individual or family is currently receiving rental assistance or begins receiving rental assistance within two years after December 21, 2021.

Nature of Requirement: The CoC Program regulation at 24 CFR 578.37(a)(1)(ii) and 24 CFR 578.51(a)(1)(i) defines medium-term rental assistance as 3 to 24 months and 24 CFR 578.37(a)(1)(ii) and 24 CFR 578.37(a)(1)(ii)(C) limits rapid re-housing projects to medium-term rental assistance, or no more than 24 months.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: Waiving the 24-month cap on rapid re-housing rental assistance will assist individuals and families affected by the disaster, including those already receiving rental assistance as well as those who will receive rental assistance within 2 years of December 21, 2021, to maintain stable permanent housing in another area and help them return to their hometowns, as desired, when additional permanent housing becomes available. It will also provide additional time to stabilize individuals and families in permanent housing where vacancy rates are extraordinarily low due to the disaster. Experience with prior disasters has shown us some program participants need additional months of rental assistance to identify and stabilize in housing of their choice, which can mean moving elsewhere until they are able to return to their hometowns.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.3, definition of permanent housing, 24 CFR 578.51(l)(1).

Project/Activity: HUD granted a waiver of 24 CFR 578.3, definition of permanent housing, 24 CFR 578.51(l)(1) in the December 21, 2021 memorandum: Availability of Waivers of Community Planning and Development Grant Program and Consolidated Plan Requirements to Facilitate Recovery from the Severe Storms, Straight-Line Winds, Flooding, and Tornadoes. The one-year lease requirement is waived for two years beginning on December 21, 2021 for program participants living in a declared-disaster area or program participants displaced from a declared-disaster area as a result of the disaster, so long as the initial lease term of all leases is for more than one month, and the leases are renewable for terms that are a minimum of one month long and the leases are terminable only for cause.

Nature of Requirement: The CoC Program regulation at 24 CFR 578.3, definition of permanent housing, and 24 CFR 578.51(l)(1) requires program participants residing in permanent housing to be the tenant on a lease for a term of one year that is renewable and terminable only for cause.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: Waiving the one-year lease requirement will allow program participants receiving PSH or RRH assistance under the CoC Program to enter into leases that have an initial term of less than one year, so long as the leases have an initial term of more than one month. While some program participants desire to identify new housing, many program participants displaced during the disaster desire to return to their original permanent housing units when repairs are complete because of proximity to schools and access to public transportation and services. Additionally, it will permit new program participants to identify permanent housing units in a tight rental market where many landlords prefer lease terms of less than one year and might not be willing to alter their policies regarding the length of lease terms when considering permanent housing applicants. Therefore, HUD had determined that waiving the one-year lease requirement will improve the housing options available to program participants in permanent housing projects.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.53(e)(2).

Project/Activity: HUD granted a waiver of 24 CFR 578.53(e)(2) in the December 21, 2021 memorandum: Availability of Waivers of Community Planning and Development Grant Program and Consolidated Plan Requirements to Facilitate Recovery from the Severe Storms, Straight-Line Winds, Flooding, and Tornadoes. The one-time limit on moving costs of program participants is waived for two years beginning on December 21, 2021 for program participants living in a declared-disaster area or program participants displaced from a declared-disaster area as a result of the disaster.

Nature of Requirement: The CoC Program regulation at 24 CFR 578.53(e)(2) limits recipients of supportive service funds to using those funds to pay for moving costs to provide reasonable moving assistance, including truck rental and hiring a moving company, to only one-time per program participant.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: Waiving this provision will permit recipients to pay for reasonable moving costs for program participants more than once and will assist program participants affected by the disaster as well as those who become homeless in the areas impacted by the disaster to stabilize in housing locations of their choice. Many current program participants received assistance moving into their assisted units prior to being displaced by the disaster, and experience with prior disasters has shown us some program participants will need additional assistance moving to a new unit while others will need assistance moving back to their original units after repairs are completed. Further, until the housing market stabilizes, experience has shown many program participants will need to move more than once during their participation in a program to find a unit that best meets their needs.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.49(b)(2).

Project/Activity: HUD granted a waiver of 24 CFR 578.49(b)(2) in the December 21, 2021 memorandum: Availability of Waivers of Community Planning and Development Grant Program and Consolidated Plan Requirements to Facilitate Recovery from the Severe Storms, Straight-Line Winds, Flooding, and Tornadoes. The FMR restriction is waived for any lease executed by a recipient or subrecipient in declared-declared areas to provide transitional or permanent supportive housing during the 2-year period beginning on December 21, 2021. The affected recipient or subrecipient must still ensure that rent paid for individual units that are leased with CoC Program leasing dollars meet the rent reasonableness standard in 24 CFR 578.49(b)(2) meaning the rent paid must be reasonable in relation to rents being charged for comparable units, taking into account the location, size, type, quality, amenities, facilities, and management services.

Nature of Requirement: The CoC Program regulation at 24 CFR 578.49(b)(2) prohibits a recipient from using grant funds for leasing to pay above FMR when leasing individual units, even if the rent is reasonable when compared to other similar, unassisted units.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 21, 2021.

Reason Waived: Waiving the limit on using leasing funds to pay above FMR for individual units above FMR, but not greater than reasonable rent, will provide recipients and subrecipients with more flexibility in identifying housing options for program participants in declared-declared areas. The rental markets in areas impacted by disasters are often more expensive after the disaster due to decreased housing stock and increased rents. These more expensive rents are not reflected in the HUD-determined FMRs.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.75(b)(1).

Project/Activity: HUD granted a waiver of 24 CFR 578.75(b)(1), in the December 30, 2021 memorandum: Availability of Additional Waivers for Community Planning and Development (CPD) Grant Programs to Prevent the Spread of COVID–19 and Mitigate Economic Impacts Caused by COVID–19. This waiver of the requirement in 24 CFR 578.75(b)(1) that the recipient or subrecipient physically inspect each unit to assure that the unit meets HQS before providing assistance on behalf of a program participant is in effect until March 31, 2022 for recipients and subrecipients that are able to meet the following criteria: (a) The recipient is able to visually inspect the unit using technology, such as video streaming, to ensure the unit meets HQS before any assistance is provided; and (b) The recipient or subrecipient has written policies that require physical inspection of the units not previously physically inspected by June 30, 2022.

Nature of Requirement: 24 CFR 278.75(b)(1) requires that recipients or subrecipients physically inspect each unit to assure that it meets HQS before any assistance will be provided for that unit on behalf of a program participant.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: On March 31, 2020, HUD waived the physical inspection requirement at 24 CFR 578.75(b)(1) for 6-months so long as recipients or subrecipients were able to visually inspect the unit using technology to ensure the unit met HQS before any assistance was provided and recipients or subrecipients had written policies in place to physically reinspect the unit within 3 months after the health officials determined special measures to prevent the spread of COVID–19 are no longer necessary. On September 30, 2020, HUD waived the physical inspection requirement at 24 CFR 578.75(b)(1) until December 31, 2020, which HUD then extended until March 31, 2021, June 30, 2021, and September 30, 2021, so long as recipients and subrecipients could meet certain criteria outlined in the waiver. Since the original waiver flexibility expired on September 30, 2021, recipients report that it is challenging to physically inspect units for HQS because of staffing shortages and program participants being uncomfortable with other people entering their units out of fear of contracting COVID–19. Due to the increased risk of COVID–19 infection, low vaccination rates and poorer health outcomes of people experiencing homelessness if they contract COVID–19, it continues to be important to move people quickly into their own housing to enable social distancing and prevent the spread of COVID–19. Additionally, recipients need time to prepare staff to inspect (and reinspect as discussed below) units for HQS. Therefore, HUD is again waiving the initial inspection requirement at 24 CFR 578.75(b)(1) as further specified below to allow recipients to move people from the streets and shelters into housing more quickly.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.75(c) and 24 CFR 982.401(d)(2)(ii) as required by 24 CFR 578.75(b).

Project/Activity: HUD granted a waiver of 24 CFR 578.75(c) and 24 CFR 982.401(d)(2)(ii) as required by 24 CFR 578.75(b), in the December 30, 2021 memorandum: Availability of Additional Waivers for Community Planning and Development (CPD) Grant Programs to Prevent the Spread of COVID–19 and Mitigate Economic Impacts Caused by COVID–19. The requirement that each unit assisted with CoC Program funds or YHDP funds have at least one bedroom or living/sleeping room for each two persons is waived for recipients providing Permanent Housing-Rapid Re-housing assistance for leases and occupancy agreements executed by recipients and subrecipients between December 30, 2021 and March 31, 2022. Assisted units with leases of occupancy agreements signed during the waiver period may have more than two persons for each bedroom or living/sleeping room until the later of (1) the end of the initial term of the lease or occupancy agreement; or (2) March 31, 2022. As a reminder, recipients are still required to follow State and local occupancy laws.

Nature of Requirement: 24 CFR 578.75(c), suitable dwelling size, and 24 CFR 982.401(d)(2)(ii) as required by 24 CFR 578.75(b), Housing Quality Standards, requires units funded with CoC Program funds to have at least one bedroom or living/sleeping room for each two persons.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: On September 30, 2020, HUD waived the requirements at 24 CFR 982.401(d)(2)(ii) and 24 CFR 578.75(c) to allow households experiencing homelessness to obtain permanent housing that is affordable and that they assess is adequate. HUD extended these flexibilities on December 30, 2020, to the later of (1) the end of the initial term of the lease or occupancy agreement; or (2) March 31, 2021. HUD again extended these flexibilities on March 31, 2021, to the later of (1) the end of the initial term of the lease or occupancy agreement; or (2) June 30, 2021. HUD again extended these flexibilities on July 1, 2021, to the later of (1) the end of the initial term of the lease or occupancy agreement; or (2) December 31, 2021. As of December 30, 2021, there continues to be a limited supply of affordable housing in many jurisdictions across the country and this has been made even more challenging due to the economic impact of COVID–19. Further, low vaccination rates and poorer health outcomes, compounded by the increased risk for COVID–19 infection, require that we expedite program participants' transition from homelessness to housing. Therefore, HUD is waiving the requirements at 24 CFR 982.401(d)(2)(ii) and 24 CFR 578.75(c) as further specified below to reduce the spread of COVID–19 by allowing households to move into housing instead of staying in congregate shelter. However, consistent with the Executive Order on Fighting the Spread of COVID–19 by Providing Assistance to Renters and Homeowners, grantees should balance use of this waiver with the recommendations of public health officials to limit community spread, and reduce risks to high-risk populations. For example, a large unit with rooms than can be partitioned for privacy and distancing, or the waiver can be applied for units that will house only one family household.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

- *Regulation:* 24 CFR 578.49(b)(2).

Project/Activity: HUD granted a waiver of 24 CFR 578.49(b)(2), in the December 30, 2021 memorandum: Availability of Additional Waivers for Community Planning and Development (CPD) Grant Programs to Prevent the Spread of COVID–19 and Mitigate Economic Impacts Caused by COVID–19. The FMR restriction continues to be waived for any lease executed by a recipient or subrecipient to provide transitional or permanent supportive housing until March 31, 2022. The affected recipient or subrecipient must still ensure that rent paid for individual units that are leased with leasing dollars meet the rent reasonableness standard in 24 CFR 578.49(b)(2).

Nature of Requirement: The CoC Program regulation at 24 CFR 578.49(b)(2) prohibits a recipient from using grant funds for leasing to pay above FMR when leasing individual units, even if the rent is reasonable when compared to other similar, unassisted units.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: HUD originally waived this requirement for 6-months on March 31, 2020. On September 30, 2020, HUD again waived this requirement until December 31, 2020. On December 30, 2020, HUD again waived this requirement until March 31, 2021. On March 31, 2021, HUD again waived this requirement until June 30, 2021. On July 1, 2021, HUD again waived this requirement until December 31, 2021. Extending this waiver of the limit on using grant leasing funds to pay above FMR for individual units, but not greater than reasonable rent, will assist recipients in locating additional units to house individuals and families experiencing homelessness in tight rental markets. This is necessary due to the increased risk of COVID–19 infection, the low vaccination rates and poorer health outcomes from COVID–19 experienced by individuals and families experiencing homelessness when compared to the general population. Permanent housing allows for social distancing and reduces the risk of COVID–19 infection.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

- *Regulation:* 24 CFR 578.3, definition of permanent housing, 24 CFR 578.51(l)(1).

Project/Activity: HUD granted a waiver of 24 CFR 578.3, definition of permanent housing, 24 CFR 578.51(l)(1)in the December 30, 2021 memorandum: Availability of Additional Waivers for Community Planning and Development (CPD) Grant Programs to Prevent the Spread of COVID–19 and Mitigate Economic Impacts Caused by COVID–19. The one-year lease requirement is waived for leases executed between December 30, 2021 and March 31, 2022, so long as the initial term of all leases is at least one month.

Nature of Requirement: The CoC Program regulation at 24 CFR 578.3, definition of permanent housing, and 24 CFR 578.51(l)(1) requires program participants residing in permanent housing to be the tenant on a lease for a term of one year that is renewable and terminable for cause.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: HUD originally waived this requirement for 6-months on March 31, 2020, again until December 31, 2020 on September 30, 2020, again until March 31, 2021 on December 30, 2020, again on March 31, 2021 until June 30, 2021, and again on July 1, 2021 until December 31, 2021 to help recipients more quickly identify permanent housing for individuals and families experiencing homelessness, which is helpful in preventing the spread of COVID–19. Extending this waiver is necessary because recipients report challenges in identifying housing for program participants in tight rental markets due to the economic impact of COVID–19. Additionally, helping program participants move into housing quickly will continue to decrease the risk of people experiencing homelessness of contracting COVID–19 even after special measures are no longer necessary to prevent the spread of COVID–19 since people experiencing homelessness are at increased risk of COVID–19 infection, show lower rates of vaccination and poorer health outcomes from COVID–19 when compared to the general population.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

- *Regulation:* 24 CFR 578.75(b)(2).

Project/Activity: HUD granted a waiver of 24 CFR 578.75(b)(2), in the December 30, 2021 memorandum: Availability of Additional Waivers for Community Planning and Development (CPD) Grant Programs to Prevent the Spread of COVID–19 and Mitigate Economic Impacts Caused by COVID–19. The requirement at 24 CFR 578.75(b)(2) was waived until March 31, 2022 for recipients and subrecipients that are able to visually re-inspect the unit using technology, such as video streamlining, to ensure the unit meets HQS.

Nature of Requirement: 24 CFR 578.75(b)(2) requires that recipients or subrecipients are required to inspect all units supported by leasing or rental assistance funding under the CoC and YHDP Programs at least annually during the grant period to ensure the units continue to meet HQS.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: HUD originally waived the requirement for 1-year on March 31, 2020 to help recipients and subrecipients prevent the spread of COVID–19. On March 31, 2021, HUD extended the waiver until June 30, 2021. On July 1, 2021, HUD extended the waiver until September 30, 2021. Since the original waiver flexibility expired on September 30, 2021, recipients report that it is challenging to physically re-inspect units for HQS because of staffing shortages and program participants being uncomfortable having other people enter their units out of fear of contracting COVID–19. It continues to be important to maintain housing for people to enable social distancing and prevent the spread of COVID–19. Therefore, HUD is again waiving the requirement to inspect all units supported by leasing and rental assistance funds.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.3, definition of ''homeless'' (1)(iii).

Project/Activity: HUD granted a waiver of 24 CFR 578.3, definition of ''homeless'' (1)(iii), in the December 30, 2021 memorandum: Availability of Additional Waivers for Community Planning and Development (CPD) Grant Programs to Prevent the Spread of COVID–19 and Mitigate Economic Impacts Caused by COVID–19. An individual may qualify as homeless under paragraph (1)(iii) of the homeless definition in 24 CFR 578.3 so long as he or she is exiting an institution where they resided for 120 days or less and resided in an emergency shelter or place not meant for human habitation immediately before entering that institution. This waiver is in effect until March 31, 2022.

Nature of Requirement: An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution is considered homeless per 24 CFR 578.3, definition of ''homeless.''

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: HUD originally waived this requirement on September 30, 2020, until March 31, 2021 to keep housing options open for individuals who otherwise would have been homeless but were reporting longer stays in institutions as a result of COVID–19 (*e.g.,* longer time in jail due to a 9 postponed court dates due to courts closings or courts operating at reduced capacity and longer hospital stays when infected with COVID–19). HUD again waived this requirement on March 31, 2021 until June 30, 2021 and again on July 1, 2021 until December 31, 2021. Allowing someone who was residing in an emergency shelter or place not meant for human habitation prior to entering the institution to maintain their homeless status while residing in an institution for longer than 90 days is necessary to prevent the spread of and respond to COVID–19 by expanding housing options for people who were experiencing homelessness and institutionalized for longer than traditionally required due to COVID–19. Recipients continue to report potential program participants are staying in institutions for longer periods of time due to COVID–19. Additionally, since people experiencing homelessness are at higher risk of COVID–19 infection, showing lower vaccination rates and poorer health outcomes when compared to the general population it is important that they be able to exit to permanent housing when they exit an institution to allow for social distancing and prevent the spread of COVID–19. Therefore, HUD is extending this waiver to allow someone who was residing in an emergency shelter or place not meant for human habitation prior to entering the institution to maintain their homeless status while residing in an institution for longer than 90 days.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.37(a)(1)(ii), 24 CFR 578.37(a)(1)(ii)(C), and 24 CFR 578.51(a)(1)(i).

Project/Activity: HUD granted a waiver of 24 CFR 578.37(a)(1)(ii), 24 CFR 578.37(a)(1)(ii)(C), and 24 CFR 578.51(a)(1)(i), in the December 30, 2021 memorandum: Availability of Additional Waivers for Community Planning and Development (CPD) Grant Programs to Prevent the Spread of COVID–19 and Mitigate Economic Impacts Caused by COVID–19. The 24-month rental assistance restriction is waived for program participants in permanent housing rapid re-housing project who will have reached 24 months of rental assistance until March 31, 2022. Program participants who have reached 24 months of rental assistance during this time and who will not be able to afford their rent without additional rental assistance will be eligible to receive rental assistance until March 31, 2022.

Nature of Requirement: The CoC Program regulation at 24 CFR 578.37(a)(1)(ii) and 24 CFR 578.51(a)(1)(i) defines medium-term rental assistance as 3 to 24 months and 24 CFR 578.37(a)(1)(ii) and 24 CFR 578.37(a)(1)(ii)(C) limits rental assistance in rapid re-housing projects to medium-term rental assistance, or no more than 24 months.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: HUD originally waived this requirement on May 22, 2020 until 3 months after a state or local public health official has determined special measures are no longer necessary to prevent the spread of COVID–19. Recipients continue to report program participants are experiencing difficulty affording rent even after receiving 24 months of rental assistance. On July 1, 2021, HUD established an end date of this waiver of December 31, 2021. However, continuing to waive the limit on using rental assistance in rapid re-housing projects to pay more than 24 months will ensure that individuals and families currently receiving rapid re-housing assistance do not lose their assistance, and consequently their housing, during the COVID–19 public health crisis and the subsequent economic downturn. Because COVID–19 has been shown to rapidly spread in shelter settings, which is where many individuals and families will reside if they lose their housing, this will reduce the number of people who become homeless again due to the economic impact of COVID–19 and thus decrease the risk of COVID–19 infection.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.103(a) and 24 CFR 578.103(a)(4)(i)(B).

Project/Activity: HUD granted a waiver of 24 CFR 578.103(a) and 24 CFR 578.103(a)(4)(i)(B), in the December 30, 2021 memorandum: Availability of Additional Waivers for Community Planning and Development (CPD) Grant Programs to Prevent the Spread of COVID–19 and Mitigate Economic Impacts Caused by COVID–19. The requirement that staff-recorded observation of disability be confirmed and accompanied by other evidence no later than 45 days from the application for assistance documentation requirement is waived until March 31, 2022. A written certification by the individual seeking assistance that they have a qualifying disability will be acceptable documentation approved by HUD under 24 CFR 578.103(a)(4)(i)(B)(5) until March 31, 2021.

Nature of Requirement: 24 CFR 578.103(a) requires recipient to maintain records providing evidence they met program requirements and 24 CFR 578.103(a)(4)(i)(B) establishes the requirements for documenting disability for individuals and families that meet the ''chronically homeless'' definition in 24 CFR 578.3. Acceptable evidence of disability includes intake-staff recorded observations of disability no later than 45 days from the date of application for assistance, which is confirmed and accompanied by evidence in paragraphs 24 CFR 578.103(a)(4)(i)(B)(1), (2), (3), or (5). HUD is waiving the requirement to obtain additional evidence to confirm staff-recorded observations of disability.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 2021.

Reason Waived: On March 31, 2020, HUD waived the requirement to obtain additional evidence within 45 days and instead allowed recipients up to 6-months from the date of application for assistance to confirm intake staff-recorded observations of disability with other evidence because recipients were reporting difficulty obtaining third-party documentation of disability in the middle of a pandemic, impacting their ability to house potential program participants quickly. On September 30, 2020, HUD waived, in its entirety, the requirement to obtain additional evidence to verify intake staff-recorded observations of disability until public health officials determine no additional special measures are necessary to prevent the spread of COVID–19. On July 1, 2021, HUD extended this waiver until December 31, 2021. Many communities continue to experience substantial rates of COVID–19 and hospitalizations and resulting in staff shortages for non-COVID related concerns. As a result of this and of reduced hours of agencies and providers that can provide disability documentation, recipients are reporting that obtaining documentation of a disability still takes longer than usual. Because of the increased risk of COVID–19 infection and poorer health outcomes from COVID–19 experienced by people experiencing homelessness when compared to the general population it remains important to house people quickly to allow for social distancing and decrease the risk of COVID–19 infection. Therefore, HUD is continuing this waiver flexibility until March 31, 2022.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

Regulation: 24 CFR 200.73(c), Property Development.

Project/Activity: Boardwalk Apartments, Project No. 042–35579 and Glenville Apartments, Project No. 041–35520, Cleveland, Ohio.

Nature of Requirement: 24 CFR 200.73 (c). The regulation requires that not less than five rental dwelling units [of an FHA insured multifamily housing project] shall be on one site. Chapter 3 Section 3.1.30 of the MAP Guide permits a project with two or more non-contiguous parcels of land when the parcels comprise one marketable, manageable real estate entity. The regulation requires that a site contain not less than 5 rental dwelling units and reads as follows:

(c) The improvements shall constitute a single project. Not less than five rental dwelling units or personal care units, 20 medical care beds, or 50 manufactured home pads, shall be on one site, except that such limitations do not apply to group practice facilities.

The Boardwalk Glenville is a Section 221(d)(4) substantial renovation project of two separate FHA-insured loans, Boardwalk Apartments and Glenville Apartments. The two projects total 26 scattered sites, 173 apartment units plus a management office, are owned by Boardwalk Glenville Limited Partnership, and located in Cleveland, Ohio. The Lender included in the waiver request a roster of each building's address, parcel, total site count and bedroom unit count and configuration. The proposed FHA-insured mortgage amount is $9,200,000, that is $56,000 per unit in hard costs planned for the renovation of the existing units and the construction of a new community building. The Boardwalk Glenville project will also receive $21,266,657 in additional funding from a variety of sources such as local bank loans, HOME, deferred and contributed developer fees, seller notes and Low-Income Housing Tax Credit equity.

Granted By: Lopa P. Kolluri, Principal Deputy Assistant Secretary Office of Housing—Federal Housing Administration, H.

Date Granted: December 10, 2021.

Reason Waived: The sponsors recently purchased the properties and intend to merge the two properties into one marketable project. To accomplish this goal, the sponsors are applying for a 4% LIHTC allocation to rehabilitate buildings and construct a new 2,000 square foot neighborhood community building located adjacent to the existing Management Office. In addition, Glenville has 50 units covered by a Section 8 HAP Contract. Boardwalk has 123 units covered by a Section 8 HAP Contract. In the proposed Firm Application, the owners will request a 20-year renewal of both HAP contracts. The proposed 221(d)(4) FHA-insured transaction and rehabilitation of the properties will ensure the subject property continues as affordable, marketable, and viable in the community. The waiver will meet HUD's goal of preserving and maintain affordable rental housing for low-income families.

Contact: Thomas A. Bernaciak, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410–8000, telephone (202) 402–3242.

• *Regulation:* 24 CFR 203.604 Servicing Responsibilities, Contact with the Mortgagor.

Project/Activity: Temporary, Partial Waiver of Servicing Mortgagee's Responsibility to Contact Mortgagor in Person.

Nature of Requirement: 24 CFR 203.604 Contact with the Mortgagor, under Mortgagee Actions under Subpart C—Servicing Responsibilities requires mortgagees to have a face-to-face interview with the mortgagor, or make a reasonable effort to arrange such a meeting, before three full monthly installments due on the mortgage are unpaid.

Granted By: Lopa P. Kolluri, Principal Deputy Assistant Secretary for Housing—Federal Housing Administration.

Date Granted: December 2, 2021.

Reason Waived: HUD's servicing requirement for FHA-insured forward mortgages requires that a mortgagee conduct a face-to-face interview with the borrower, which is not practical given the public health recommendations being disseminated by local, state, and federal government agencies to limit contact between individuals, in order to contain the spread of the COVID–19 virus and its variants. HUD recognizes that, beyond government recommendations, there is public concern about possible transmission of COVID–19 from in-person contact, and that mortgagees and borrowers may be hesitant to meet in-person. FHA-approved mortgagees have been able to successfully establish contact with borrowers through alternate methods, gather and convey required information, and determine the borrower's circumstances and appropriate repayment plans, as required by § 203.604, without a face-to-face interview. The waiver was granted to protect the public health while ensuring delinquent borrowers were provided the opportunity to learn about options available to bring their mortgages current.

Contact: Elissa Saunders, Acting Director, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 9278, Washington, DC 20410, telephone (202) 402–2378, *Elissa.O.Saunders@hud.gov*.

• *Regulation:* 24 CFR 3282.14(b), Alternative construction of manufactured homes, 1/16/84.

Project/Activity: Regulatory Waiver for Industry-Wide Alternative Construction Letter for Swinging Exterior Passage Doors (21–IW1–AC).

Nature of Requirement: 24 CFR 3282.14(b), Request for Alternative Construction, requires manufactured housing manufacturers to submit a request for Alternative Construction consideration for the use of construction designs or techniques that do not conform with HUD Standards, to receive permission from HUD to utilize such designs or techniques in the manufacturing process for manufactured homes.

Granted By: Lopa P. Kolluri, Principal Deputy Assistant Secretary for Housing—Federal Housing Administration.

Date Granted: December 13, 2021.

Reason Waived: Many manufactured home manufacturers are currently facing shortages in the supply of swinging exterior passage doors that are listed or specifically certified for use in manufactured homes due to COVID–19 pandemic impacts. The major supply line of certified swinging exterior passage doors cannot meet the current and near term future demands of the manufactured housing industry, yet alternative door options are available that provide performance equivalent or superior to that required by the Standards yet cannot be utilized without an Alternative Construction approval. To resolve this matter for the whole industry in an expedient manner while protecting the health and safety of consumers and maintaining durability of the homes, this regulatory waiver was granted to allow the Office of Manufactured Housing Programs to provide an industry-wide Alternative Construction approval letter that could be used by any manufacturer experiencing supply chain issues for swinging exterior passage doors.

Contact: Teresa B. Payne, Administrator, Office of Manufactured Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 9168, Washington, DC 20410–0800, (202) 402–5365, *Teresa.L.Payne@hud.gov*.

• *Regulation:* 24 CFR 3282.14(b), Alternative construction of manufactured homes, 1/16/84.

Project/Activity: Regulatory Waiver for Industry-Wide Alternative Construction Letter for Electrical Circuit Breakers for Water Heater Installations (20–IW2–AC).

Nature of Requirement: 24 CFR 3282.14(b), Request for Alternative Construction, requires manufactured housing manufacturers to submit a request for Alternative Construction consideration for the use of construction designs or techniques that do not conform with HUD Standards, to receive permission from HUD to utilize such designs or techniques in the manufacturing process for manufactured homes.

Granted By: Lopa P. Kolluri, Principal Deputy Assistant Secretary for Housing—Federal Housing Administration.

Date Granted: December 13, 2021.

Reason Waived: Since the early months of the pandemic, the manufactured housing industry has continued to encounter difficulties in obtaining certain electrical circuit breakers. Although pandemic and national emergency restrictions are easing nationwide and production has resumed, manufacturers continue to struggle to procure these circuit breakers due to supply chain issues and personnel shortages. In order to build a manufactured home in compliance with the Manufactured Home Construction and Safety Standards, (24 Code of Federal Regulations (CFR) 3280, *et seq.* (the Standards), manufacturers must use circuit breakers that have been certified to specific standards, incorporated by reference. Specifically, there are limited supplies of 25 ampere (amp), double-pole circuit breakers that are necessary for Rheem brand 4,500-watt, 240-volt water heater installations to conform to HUD's Standards.

Contact: Teresa B. Payne, Administrator, Office of Manufactured Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 9168, Washington, DC 20410, telephone (202) 402–5365, *Teresa.L.Payne@hud.gov*.

• *Regulation:* 24 CFR 219.220(b)(1995).

Project/Activity: Seniority House, Springfield, Massachusetts.

Nature of Requirement: The regulation at 24 CFR 219.220(b)(1995), which governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects, states ''Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the project.'' The Project was awarded a Flexible Subsidy Operating Assistance Loan in the amount of $2,392,748.00 in September 1992 at 1 percent interest per annum.

Granted By: Lopa P. Kolluri, Principal Deputy Assistant Secretary for Housing—Federal Housing.

Date Granted: November 21, 2021.

Reason Waived: The owner requested and was granted waiver of the requirement to repay the Flexible Subsidy Operating Assistance Loan in full when it became due. Deferring the loan payment will preserve the affordable housing resource for an additional 20 years through the execution and recordation of a Rental Use Agreement. The request to defer the Flexible Subsidy payment is part of the owner's proposal to apply for Tenant Protection Vouchers (TPV) assistance under PIH 2019–01/Housing Notice 2019–02, *Funding Availability for Set-Aside Tenant Protection Vouchers* (Notice H 2019–02). Per Section III A(5) of Notice H 2019–02, the Owner has elected for a Project Based Voucher (PBV) contract in lieu of Enhanced Vouchers. The owner currently anticipates structuring a preservation transaction involving the syndication of 4% Low Income Housing Tax Credit (LIHTC) at the end of this year.

The owner plans to use approximately $161,698 698 ($460,698–$167,000 remain in account and use $132,000 for roof repairs) of the reserve for replacement funds when the Use Agreement is executed to pay down part of the outstanding balance including interest of $3,074,855.58 Flex Sub Loan balance, which is in compliance with Housing Notice 2011–05, *Policies and Procedures for the deferred repayment of Operating Assistance Flexible Subsidy Loans* (Notice H 2011–05).

The remaining balance of the Flex Sub Loan will be secured by a Surplus Cash Note. The owner will allocate up to a maximum of 75% percent of surplus cash on an annual basis to pay down the loan. If the preservation transaction is not pursued, the owner will still be subject to the 75 percent Surplus Cash Note requirements.

Contact: Brenda Sharon Young, Transaction Manager, Office of Recapitalization, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6128, Washington, DC 20410, telephone (202) 402–6275 or *Brenda.S.Young@hud.gov*.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* Section 19(A)(1).

Project/Activity: Aurora Housing Authority, Nebraska.

Nature of Requirement: Section 19(A)(1) prohibits a PHA from entering into a contract, subcontract, or arrangement in connection with the administration of its public housing program where any present or former member or officer of the governing body of the PHA has an interest, direct or indirect, during his or her tenure or for one year thereafter.

Date Granted: October 1, 2021.

Contact: Todd Thomas, Director, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4228, Washington, DC 20410, telephone (202) 402–5687.

• *Regulation:* 24 CFR 1000.14.

Project/Activity: Tlingit Haida Regional Housing Authority's (THRHA) Voluntary purchase of parcel with Indian Housing Block Grant (IHBG) funds.

Nature of Requirement: The regulation at 24 CFR 1000.14 requires an appraisal to be completed by a qualified appraiser before property is purchased with IHBG funds.

Granted By: Dominique Blom, General Deputy Assistant for Public and Indian Housing.

Date Granted: October 21, 2021.

Reason Waived: The parcel identified for purchase by THRHA required an appraiser with a general appraisal license to complete an appraisal. THRHA contacted all the appraisers in the Juneau-Douglas area, but none had this certification. The only qualified appraiser in Southeast Alaska was closed due to COVID–19, and the only viable alternative would have been to try to get an appraiser with the required certification from outside the area to travel to Juneau for the appraisal, which would have incurred additional costs and scheduling issues. Because of THRHA's extensive experience in the local market and due diligence in performing a cost estimate for the voluntary purchase of this parcel, THRHA's request to waive the appraisal requirement at 24 CFR 1000.14 was found to be reasonable and justified.

Contact: Greg Stuckey, Administrator, Alaska Office of Native American Programs, 3000 C Street, Suite 401, Anchorage, AK 99503, telephone (907) 677–9860 or AKONAP Administrator, at *Greg.M.Stuckey@hud.gov*.

[FR Doc. 2022–13128 Filed 6–16–22; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7056–N–19; OMB Control No.: 2502–0178]

60-Day Notice of Proposed Information Collection: Management Reviews of Multifamily Housing Programs HUD–9834

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date: August 16, 2022.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Management Review for Multifamily Housing Projects.

OMB Approval Number: 2502–0178.

Type of Request: Extension of currently approved collection.

Form Number: HUD–9834.

Description of the need for the information and proposed use: This information collection is used by HUD, by Mortgagees and by Contract Administrators (CAs) to evaluate the quality of project management; determine the causes of project problems; devise corrective actions to stabilize projects and prevent defaults; and to ensure that fraud, waste and mismanagement are not problems for the community. The information collected also supports enforcement actions when owners fail to implement corrective actions. ''HUD is currently engaged in rule making that would reduce the frequency of MORs for high-performing properties and consequently reduce the estimated total burden hours for this Collection. Changes to required frequencies for regularly-scheduled MORs are anticipated to be completed with publication of a final rule anticipated in this year, 2022.''

Respondents: Business or other for-profit.

Estimated Number of Respondents: 27,127.

Estimated Number of Responses: 27,127.

Frequency of Response: Annually.

Average Hours per Response: 8.

Total Estimated Burden: 217,127.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) 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) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(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 those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Janet M. Golrick,

Acting, Chief of Staff for the Office of Housing—Federal Housing Administration.

[FR Doc. 2022–13070 Filed 6–16–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0141]

Proposed Extension of Information Collection: Emergency Mine Evacuation

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Emergency Mine Evacuation.

DATES: All comments must be received on or before August 16, 2022.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2022–0027.
- *Mail/Hand Delivery:* Mail or visit DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.
- MSHA will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and non-metal mines.

MSHA requires each operator of an underground coal mine to submit a Mine Emergency Evacuation and Firefighting Program of Instruction to the MSHA District Manager for approval. Upon approval by the MSHA District Manager, the operator uses the approved instruction program to implement programs for training miners to respond appropriately to mine emergencies. MSHA uses the plans to ensure that the operator's program will provide the required training and drills to all miners. MSHA requires the operators to certify the training and drills for each miner at the completion of each quarterly drill, annual expectations training, or other training, and that a copy be provided to the miner upon request. These certifications are used by MSHA, operators, and miners as evidence that the required training has been completed.

MSHA also requires that escapeway maps show the Self-Contained, Self-Rescuer (SCSR) storage locations. Accurate and up-to-date maps are essential to the engineering plans and safe operation of mines and to the health and safety of the miners. MSHA and other emergency evacuation personnel will use the notations on the maps should a rescue or recovery operation be necessary. Miners use the escapeway maps in training and during mine evacuations. Escapeway maps are required to be posted or readily accessible for all miners in each working section, areas where mechanized mining equipment is being installed or removed, at surface locations where miners congregate, and in each refuge alternative. The persons that test SCSRs are required to certify that the tests were completed and record all corrective actions.

MSHA inspectors use these records to determine compliance with the standards which includes requirements for compiling, maintaining, and reporting an inventory of all SCSRs at the mine, and for reporting defects, performance problems, or malfunctions with SCSRs. This will assure that MSHA can investigate SCSR problems, if necessary, notify other users of these problems before accidents occur, and require manufacturers to address potential problems with these critical devices.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Emergency Mine Evacuation. MSHA is particularly interested in comments that:

• Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;

• Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

• Suggest methods to 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.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Emergency Mine Evacuation. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0141.

Affected Public: Business or other for-profit.

Number of Respondents: 155.

Frequency: On occasion.

Number of Responses: 867,338.

Annual Burden Hours: 372,761 hours.

Annual Respondent or Recordkeeper Cost: $62,186.

MSHA Forms: MSHA Form 2000–222, Self Contained Self Rescuer (SCSR) Inventory and Report.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Song-ae Aromie Noe,

Certifying Officer.

[FR Doc. 2022–13103 Filed 6–16–22; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0039]

Intertek Testing Services NA, Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Intertek Testing Services NA, Inc., for expansion of the recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before July 5, 2022.

ADDRESSES: Submit comments by any of the following methods:

Electronically: Submit comments and attachments electronically at *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *https://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions. Please note: While OSHA's docket office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the rulemaking record by express delivery, hand delivery, and messenger service.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2007–0039). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *https://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Extension of comment period: Submit requests for an extension of the comment period on or before July 5, 2022 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and

Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693–1999 or email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that Intertek Testing Services NA, Inc. (ITSNA), is applying for expansion of the current recognition as a NRTL. ITSNA requests the addition of one test standard to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including ITSNA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *https://www.osha.gov/dts/otpca/nrtl/index.html.*

ITSNA currently has thirteen facilities (sites) recognized by OSHA for product testing and certification, with the headquarters located at: Intertek Testing Services NA, Inc., 545 East Algonquin Road, Suite F, Arlington Heights, Illinois 60005. A complete list of ITSNA's scope of recognition is available at *https://www.osha.gov/nationally-recognized-testing-laboratory-program/its.*

II. General Background on the Application

ITSNA submitted one application, dated November 23, 2021 (OSHA–2007–0039–0035), to expand the recognition to include one additional test standard. The standard requested in the expansion application is a replacement standard for ISA 12.12.01, which is currently included in ITSNA's NRTL scope of recognition. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1, below, lists the appropriate test standard found in ITSNA's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARD FOR INCLUSION IN ITSNA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 121201	Nonincendive Electrical Equipment for Use in Class I and Class II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations.

III. Preliminary Findings on the Application

ITSNA submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file, and pertinent documentation, indicate that ITSNA has met the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include the addition of the one test standard for NRTL testing and certification listed in Table 1. This preliminary finding does not constitute an interim or temporary approval of ITSNA's application.

OSHA seeks comment on this preliminary determination.

IV. Public Participation

OSHA welcomes public comment as to whether ITSNA meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at *https://www.regulations.gov* under Docket No. OSHA–2007–0039 (for further information, see the ''*Docket*'' heading in the section of this notice titled **ADDRESSES**).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant ITSNA's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, Sept. 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC, on June 10, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–13106 Filed 6–16–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0028]

Eurofins Electrical and Electronic Testing NA, Inc. a/k/a MET Laboratories, Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Eurofins Electrical and Electronic Testing NA, Inc. a/k/a MET Laboratories, Inc., for expansion of the recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before July 5, 2022.

ADDRESSES: Submit comments by any of the following methods:

Electronically: Submit comments and attachments electronically at *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *https://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions. *Please note:* While OSHA's docket office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the rulemaking record by express delivery, hand delivery, and messenger service.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2006–0028). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *https://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Extension of comment period: Submit requests for an extension of the comment period on or before July 5, 2022 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693–1999 or email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that Eurofins Electrical and Electronic Testing NA, Inc. a/k/a MET Laboratories, Inc. (MET),[1] is applying for expansion of the current recognition as a NRTL. MET requests the addition of one test standard to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including MET, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *https://www.osha.gov/dts/otpca/nrtl/index.html.*

MET currently has one facility (site) recognized by OSHA for product testing and certification, with the headquarters located at: MET Laboratories, Inc., 914 West Patapsco Avenue, Baltimore,

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[1] In its **Federal Register** Notices, OSHA previously referred to Eurofins Electrical and Electronic Testing NA, Inc. a/k/a MET Laboratories, Inc. simply as ''MET Laboratories, Inc.'' OSHA is now referring to this NRTL as ''Eurofins Electrical and Electronic Testing NA, Inc. a/k/a MET Laboratories, Inc.,'' in this and future **Federal Register** Notices, because: (1) Eurofins Electrical and Electronic Testing NA, Inc. acquired MET Laboratories, Inc., and this NRTL's current certificate of NRTL recognition lists the NRTL's name as ''Eurofins Electrical and Electronic Testing NA, Inc.;'' (2) this NRTL continues to refer to itself as ''MET Laboratories, Inc.;'' and (3) this NRTL's certification mark continues to be ''MET'' (see *https://www.osha.gov/nationally-recognized-testing-laboratory-program/met;* OSHA–2006–0028–0089).

Maryland 21230. A complete list of MET's scope of recognition is available at *https://www.osha.gov/nationally-recognized-testing-laboratory-program/met.*

II. General Background on the Application

MET submitted one application, dated November 1, 2021 (OSHA–2006–0028–0089), to expand the recognition to include one additional test standard. The standard requested in the expansion application is a replacement standard for ISA 12.12.01, which is currently included in MET's NRTL scope of recognition. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1, below, lists the appropriate test standard found in MET's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARD FOR INCLUSION IN MET'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 121201	Nonincendive Electrical Equipment for Use in Class I and Class II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations.

III. Preliminary Findings on the Application

MET submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file, and pertinent documentation, indicate that MET has met the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include the addition of the one test standard for NRTL testing and certification listed in Table 1. This preliminary finding does not constitute an interim or temporary approval of MET's application.

OSHA seeks comment on this preliminary determination.

IV. Public Participation

OSHA welcomes public comment as to whether MET meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at *https://www.regulations.gov* under Docket No. OSHA–2008–0026 (for further information, see the "*Docket*" heading in the section of this notice titled **ADDRESSES**).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant MET's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, Sept. 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC, on June 10, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–13098 Filed 6–16–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0041]

FM Approvals LLC: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of FM Approvals LLC, for expansion of the recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before July 5, 2022.

ADDRESSES: Submit comments by any of the following methods:

Electronically: Submit comments and attachments electronically at *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *https://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions. *Please note:* While OSHA's docket office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the rulemaking record by express delivery, hand delivery, and messenger service.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2007–0041). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *https://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Extension of comment period: Submit requests for an extension of the comment period on or before July 5, 2022 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693–1999 or email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that FM Approvals LLC (FM), is applying for expansion of the current recognition as a NRTL. FM requests the addition of one test standard to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including FM, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *https://www.osha.gov/dts/otpca/nrtl/index.html.*

FM currently has two facilities (sites) recognized by OSHA for product testing and certification, with the headquarters located at: FM Approvals LLC, 1151 Boston-Providence Turnpike, Norwood, Massachusetts 02062. A complete list of FM's scope of recognition is available at *https://www.osha.gov/nationally-recognized-testing-laboratory-program/fm.*

II. General Background on the Application

FM submitted one application, dated November 3, 2021 (OSHA–2007–0041–0018), to expand the recognition to include one additional test standard. The standard requested in the expansion application is a replacement standard for ISA 12.12.01, which is currently included in FM's NRTL scope of recognition. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1, below, lists the appropriate test standard found in FM's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARD FOR INCLUSION IN FM'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 121201	Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations.

III. Preliminary Findings on the Application

FM submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file, and pertinent documentation, indicate that FM has met the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include the addition of the one test standard for NRTL testing and certification listed in Table 1. This preliminary finding does not constitute an interim or temporary approval of FM's application.

OSHA seeks comment on this preliminary determination.

IV. Public Participation

OSHA welcomes public comment as to whether FM meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at *https://www.regulations.gov* under Docket No. OSHA–2007–0041 (for further information, see the ''*Docket*'' heading in the section of this notice titled **ADDRESSES**).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational

Safety and Health on whether to grant FM's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, Sept. 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC, on June 10, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–13101 Filed 6–16–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0042]

CSA Group & Testing Certification Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of CSA Group & Testing Certification Inc., for expansion of the recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before July 5, 2022.

ADDRESSES: Submit comments by any of the following methods:

Electronically: Submit comments and attachments electronically at *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *https://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions. *Please note:* While OSHA's docket office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the rulemaking record by express delivery, hand delivery, and messenger service.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2006–0042). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *https://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Extension of comment period: Submit requests for an extension of the comment period on or before July 5, 2022 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693–1999 or email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that CSA Group Testing & Certification Inc. (CSA), is applying for expansion of the current recognition as a NRTL. CSA requests the addition of one test standard to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including CSA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *https://www.osha.gov/dts/otpca/nrtl/index.html.*

CSA currently has seven facilities (sites) recognized by OSHA for product testing and certification, with the headquarters located at: CSA Group Testing & Certification Inc., 178 Rexdale Boulevard, Etobicoke, Ontario, M9W 1R3, Canada. A complete list of CSA's scope of recognition is available at *https://www.osha.gov/nationally-recognized-testing-laboratory-program/csa.*

II. General Background on the Application

CSA submitted an application, dated September 24, 2021 (OSHA–2006–0042–0027), to expand the recognition to include four additional test standards. This notice covers the requested expansion to include UL 121201 only. The remaining standards in that application will be covered in a future notice. The standard requested in the expansion application and addressed here is a replacement standard for ISA 12.12.01, which is currently included in CSA's NRTL scope of recognition. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1, below, lists one appropriate test standard found in CSA's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARD FOR INCLUSION IN CSA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 121201	Nonincendive Electrical Equipment for Use in Class I and Class II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations.

III. Preliminary Findings on the Application

CSA submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file, and pertinent documentation, indicate that CSA has met the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include the addition of the one test standard for NRTL testing and certification listed in Table 1. This preliminary finding does not constitute an interim or temporary approval of CSA's application.

OSHA seeks comment on this preliminary determination.

IV. Public Participation

OSHA welcomes public comment as to whether CSA meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at *https://www.regulations.gov* under Docket No. OSHA–2006–0042 (for further information, see the "*Docket*" heading in the section of this notice titled **ADDRESSES**).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant CSA's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, Sept. 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC, on June 10, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–13105 Filed 6–16–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Susan Harwood Training Grant Program, FY 2022; Availability of Funds and Funding Opportunity Announcements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of availability of funds and funding opportunity announcements.

SUMMARY: This notice announces availability of $11,787,000 for Susan Harwood Training Grant Program grants. Three separate funding opportunity announcements are available for Targeted Topic Training grants, Training and Educational Materials Development Grants, and two types of new Capacity Building grants: Capacity Building Pilot and Capacity Building Developmental grants.

DATES: Grant applications for Susan Harwood Training Program grants must be received electronically by the *Grants.gov* system no later than 11:59 p.m., ET, on August 1, 2022.

ADDRESSES: The complete Susan Harwood Training Grant Program funding opportunity announcements and all information needed to apply are available at the *Grants.gov* website, *www.grants.gov*.

FOR FURTHER INFORMATION CONTACT: Questions regarding the funding opportunity announcement should be emailed to Donna Robertson, Harwood Grants Coordinator at *HarwoodGrants@dol.gov* or directed to OSHA via telephone at 847–725–7805. Personnel will not be available to answer questions after 5:00 p.m., ET. To obtain further information on the Susan Harwood Training Grant Program, visit the OSHA website at *www.osha.gov/harwoodgrants*. Questions regarding *Grants.gov* should be emailed to *Support@grants.gov* or directed to Applicant Support toll free at 1–800–518–4726. Applicant Support is available 24 hours a day, 7 days a week except Federal holidays.

SUPPLEMENTARY INFORMATION:

Funding Opportunity Number: SHTG–FY–22–01 (Targeted Topic Training grants).

Funding Opportunity Number: SHTG–FY–22–02 (Training and Educational Materials Development grants).

Funding Opportunity Number: SHTG–FY–22–03 (Capacity Building grants).

Catalog of Federal Domestic Assistance Number: 17.502.

Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is Section 21 of the Occupational Safety and Health Act of 1970, (29 U.S.C. 670), Public Law 117–103, and Secretary of Labor's Order No. 8–2020 (85 FR 58393, September 18, 2020).

Signed at Washington, DC, on June 13, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–13104 Filed 6–16–22; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (22–044)]

NASA Astrophysics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Astrophysics Advisory Committee. This Committee reports to the Director, Astrophysics Division, Science Mission Directorate, NASA Headquarters. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Wednesday, July 20, 2022, 10 a.m.–5 p.m., Thursday, July 21, 2022, 9 a.m.–2 p.m., Eastern Time.

ADDRESSES: Due to current COVID–19 issues affecting NASA Headquarters occupancy, public attendance will be virtual only. See dial-in and Webex information below under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Mrs. KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355, or *karshelia.kinard@nasa.gov.*

SUPPLEMENTARY INFORMATION: As noted above, this meeting is virtual and will take place telephonically and via Webex. Any interested person must use a touch-tone phone to participate in this meeting. The Webex connectivity information for each day is provided below. For audio, when you join the Webex event, you may use your computer or provide your phone number to receive a call back, otherwise, call the U.S. toll conference number listed for each day.

On Wednesday, July 20, the event address for attendees is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=mc77ac80add65be8709b618f203d38388,* the meeting number is 2761 468 1003, and meeting password is APACsummer0720#.

On Thursday, July 21, the event address for attendees is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=m8324392b2010732a13acad48a4615a8b,* the meeting number is 2764 645 0187, and meeting password is APACsummer0721#.

To join by telephone, the numbers are: 1–929–251–9612 or 1–415–527–5035, for each day.

The agenda for the meeting includes the following topics:

—Astrophysics Division Update
—Updates on Specific Astrophysics Missions
—Reports from the Program Analysis Groups

The agenda will be posted on the Astrophysics Advisory Committee web page: *https://science.nasa.gov/researchers/nac/science-advisory-committees/apac.*

The public may submit and upvote comments/questions ahead of the meeting through the website *https://nasa.cnf.io/sessions/pdx5/#!/dashboard* that will be opened for input on July 10, 2022.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2022–13109 Filed 6–16–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Subject 60-Day Notice for the "Regional and State Arts Agency ARP Funding Survey" Proposed Collection; Comment Request

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection for the survey of state arts agencies in regards to the impact of American Rescue Plan (ARP) funding awards on grantees. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below within 60 days from the date of this publication in the **Federal Register**.

ADDRESSES: Send comments to Sunil Iyengar, National Endowment for the Arts, via email (*research@arts.gov*).

SUPPLEMENTARY INFORMATION: The NEA is particularly interested in comments which:

- 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 submissions of responses.

Dated: June 14, 2022.

Meghan Judger,

Support Services Specialist, Office of Administrative Services & Contracts, National Endowment for the Arts.

[FR Doc. 2022–13130 Filed 6–16–22; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; National Science Foundation Request for Proposals

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to reinstate, with changes, this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by August 16, 2022 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

FOR FURTHER INFORMATION, OR SEND COMMENTS, CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite E7400, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: ''National Science Foundation Proposal/Award Information—NSF Proposal and Award Policies and Procedures Guide.''

OMB Approval Number: 3145–0080.

Expiration Date of Approval: Not applicable.

Type of Request: Intent to seek approval to reinstate with revisions an information collection for three years. The primary purpose of this reinstatement is to.

Proposed Project: The National Science Foundation Act of 1950 at 42 U.S.C. 1862(a)(1) allows the National Science Foundation to issue ''other arrangements'' to ''. . . support scientific, engineering, and educational activities and to appraise the impact of research upon industrial development and upon the general welfare.'' Issuing other arrangements necessarily includes preparing and issuing requests for other arrangement proposals. Because these are unique to NSF's mission, we are seeking to reinstate this information collection.

Use of the Information: Requests for Other Arrangement Proposals (RFOAPs) are used to competitively solicit proposals in response to NSF science and engineering needs. Impact will be on those individuals or organizations who elect to submit proposals in response to an RFOAP. Information gathered will be evaluated in light of NSF other arrangement requirements to determine who will be awarded an ''other arrangement.''

The NSF Act of 1950, as amended, 42 U.S.C. 1870, Sec. II, states that NSF has the authority to:

''(c) enter into contracts or *other arrangements,* or modifications thereof, for the carrying on, by organizations or individuals in the United States and foreign countries, including other government agencies of the United States and of foreign countries, of such scientific or engineering activities as the Foundation deems necessary to carry out the purposes of this Act, and, at the request of the Secretary of Defense, specific scientific or engineering activities in connection with matter relating to international cooperation or national security, and, when deemed appropriate by the Foundation, such contracts or other arrangements or modifications thereof, may be entered into without legal consideration, without performance or other bonds and without regard to section 5 of title 41, U.S.C.''

Where NSF chooses to issue an ''other arrangement,'' NSF must receive and evaluate proposals to support NSF's program requirements.

Burden on the Public: The Foundation estimates that an average of 250 hours will be expended for each proposal submitted. An estimated 70 respondents are expected to answer a request for ''other arrangements'' during the course of one year for a total of 17,500 burden hours annually.

Comments: Comments are invited on (a) whether the proposed 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 proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to 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.

Dated: June 14, 2022.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2022–13110 Filed 6–16–22; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of June 20, 27, July 4, 11, 18, 25, 2022. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Wendy.Moore@nrc.gov* or *Betty.Thweatt@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of June 20, 2022

There are no meetings scheduled for the week of June 20, 2022.

Week of June 27, 2022—Tentative

There are no meetings scheduled for the week of June 27, 2022.

Week of July 4, 2022—Tentative

There are no meetings scheduled for the week of July 4, 2022.

Week of July 11, 2022—Tentative

There are no meetings scheduled for the week of July 11, 2022.

Week of July 18, 2022—Tentative

Thursday, July 21, 2022

9:00 a.m. Update on 10 CFR part 53 Licensing and Regulation of Advanced Nuclear Reactors (Contact: Greg Oberson: 301–415–2183)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the web address—*https://video.nrc.gov/.*

Week of July 25, 2022—Tentative

There are no meetings scheduled for the week of July 25, 2022.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: June 15, 2022.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2022–13227 Filed 6–15–22; 4:15 pm]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95093; File No. SR–NYSE–2022–11]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Amend the NYSE Listed Company Manual To Provide a Limited Exemption From the Shareholder Approval Requirements for Closed-End Management Investment Companies With Equity Securities Listed Under Section 102.04 of the Listed Company Manual

June 13, 2022.

I. Introduction

On February 23, 2022, New York Stock Exchange LLC (''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Section 312.03 of the NYSE Listing Company Manual (''LCM'' or ''Manual'') to provide an exemption from certain shareholder approval requirements of that rule for listed registered closed-end management investment companies (''closed-end funds'') and business development companies (''BDCs'') under certain circumstances. On March 8, 2022, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety. The proposed rule change, as amended by Amendment No. 1, was published for comment in the **Federal Register** on March 15, 2022.[3] The Commission has received no comments on the proposed rule change. On April 26, 2022, pursuant to Section 19(b)(2) of the Exchange Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] This order institutes proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act [6] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal, as Modified by Amendment No. 1

Section 312.03(b)(i) of the Manual requires listed issuers to obtain shareholder approval prior to the issuance of common stock, or of securities convertible into or exercisable for common stock, in any transaction or series of related transactions, to a director, officer or substantial security holder of the company (each a ''Related Party'') if the number of shares of common stock to be issued, or if the number of shares of common stock into which the securities may be convertible or exercisable, exceeds either one percent of the number of shares of common stock or one percent of the voting power outstanding before the issuance.[7] However, shareholder approval will not be required if such transaction is a cash sale for a price that is at least the Minimum Price.[8]

According to the Exchange, Section 312.03(b)(ii) of the Manual provides that shareholder approval is also required prior to the issuance of common stock, or of securities convertible into or exercisable for common stock, where such securities are issued as consideration in a transaction or series of related transactions in which a Related Party has a five percent or greater interest (or such persons collectively have a ten percent or greater interest), directly or indirectly, in the company or assets to be acquired or in the consideration to be paid in the transaction or series of related transactions and the present or potential issuance of common stock, or securities convertible into common stock, could result in an issuance that exceeds either five percent of the number of shares of common stock or five percent of the voting power outstanding before the issuance.[9]

The Exchange further states that Section 312.03(b)(iii) of the Manual provides that any sale of stock to an

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 94388 (March 9, 2022), 87 FR 14589 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 94795, 87 FR 25689 (May 2, 2022). The Commission designated June 13, 2022, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change, as modified by Amendment No. 1.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* NYSE LCM Section 312.03(b)(i).

[8] *See id.* ''Minimum Price'' means a price that is the lower of: (i) the Official Closing Price immediately preceding the signing of the binding agreement; or (ii) the average Official Closing Price for the five trading days immediately preceding the signing of the binding agreement. *See* NYSE LCM Section 312.04(h). ''Official Closing Price'' of the issuer's common stock means the official closing price on the Exchange as reported to the Consolidated Tape immediately preceding the signing of a binding agreement to issue the securities. *See* NYSE LCM Section 312.04(i).

[9] *See* Notice, *supra* note 3, at 14590; NYSE LCM Section 312.03(b)(ii).

employee, director or service provider is also subject to the equity compensation rules in Section 303A.08 of the Manual.[10] For example, according to the Exchange, a sale of stock to any such parties at a discount to the then market price would be treated as equity compensation under Section 303A.08 notwithstanding that shareholder approval may not be required under Section 312.03(b) or 312.03(c) of the Manual.[11]

According to the Exchange, Section 312.03(c) of the Manual also requires listed issuers to obtain shareholder approval prior to the issuance of common stock, or of securities convertible into or exercisable for common stock, in any transaction or series of related transactions if: (1) the common stock has, or will have upon issuance, voting power equal to or in excess of 20 percent of the voting power outstanding before the issuance of such stock or of securities convertible into or exercisable for common stock; or (2) the number of shares of common stock to be issued is, or will be upon issuance, equal to or in excess of 20 percent of the number of shares of common stock outstanding before the issuance of the common stock or of securities convertible into or exercisable for common stock.[12]

The Exchange states that it proposes to exempt closed-end funds and BDCs with equity securities listed under Section 102.04 of the Manual[13] from having to comply with the shareholder approval requirements in Sections 312.03(b) and (c) of the Manual in connection with the acquisition of the stock or assets of an affiliated registered investment company in a transaction that complies with Rule 17a–8 under the 1940 Act (''Rule 17a–8'')[14] and does not otherwise require shareholder approval under the 1940 Act or the rules thereunder or any other Exchange rule.[15] In support of its proposal, the Exchange states it believes Rule 17a–8 provides protections that obviate the need for a shareholder approval requirement in these circumstances.[16]

Sections 17(a)(1) and (2) of the 1940 Act prohibit, among other things, certain transactions between registered investment companies and affiliated persons.[17] Rule 17a–8[18] provides an exemption from Sections 17(a)(1) and (2) of the 1940 Act for certain mergers of affiliated companies, provided, among other things, the board of directors of each investment company, including a majority of the directors that are not interested persons of the respective investment company or of any other company or series participating in the transaction, must determine that (i) participation in the merger is in the best interests of its respective investment company, and (ii) the interests of the company's existing shareholders will not be diluted as a result of the transaction.[19] In addition, under Rule 17a–8, an affiliated merger must be approved by a majority of the outstanding voting securities of the merging company that is not the surviving company unless certain conditions are met.[20] The Exchange states in its filing that Rule 17a–8 does not require the surviving company to obtain shareholder approval in connection with the merger of an affiliated company.[21]

The Exchange asserts that, because the board of each merging company must make an affirmative decision that the transaction is in the best interest of its respective company and that the transaction will not result in dilution for existing shareholders, the Exchange believes the provisions of Rule 17a–8 protect against dilution and also provide safeguards for existing shareholders when the transaction involves a director, officer, or substantial shareholder of the listed company that has a significant interest in the company or assets to be acquired or the consideration to be paid and therefore may benefit from the transaction.[22]

Notwithstanding the proposed exemption, the Exchange states that if other provisions of Exchange rules and the 1940 Act and the rules thereunder require shareholder approval, those will still apply.[23] The Exchange also states that the adopting release for Rule 17a–8 specifically noted that nothing in Rule 17a–8 relieves a fund of its obligation to obtain shareholder approval as may be required by state law or a fund's organizational documents.[24]

III. Proceedings To Determine Whether To Approve or Disapprove SR–NYSE–2022–11, as Modified by Amendment No. 1, and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act[25] to determine whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as modified by Amendment No. 1. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved.

Pursuant to Section 19(b)(2)(B) of the Exchange Act,[26] the Commission is providing notice of the grounds for disapproval under consideration. The

[10] *See* Notice, *supra* note 3, at 14590; NYSE LCM Section 312.03(b)(iii).

[11] *See id.* Consequently, the company would be required to either: (i) obtain shareholder approval of such sale, or (ii) issue such shares under an equity compensation plan that had previously been approved by shareholders and for which shareholder approval under Section 303A.08 of the Manual is not otherwise required. Moreover, shareholder approval is required if any of the subparagraphs of Section 312.03 require such approval, notwithstanding the fact that the transaction does not require approval under Section 312.03(b) or one or more of the other subparagraphs of Section 312.03. *See* NYSE LCM Section 312.03(b)(iii).

[12] *See* Notice, *supra* note 3, at 14590; NYSE LCM Section 312.03(c). However, shareholder approval will not be required for any such issuance involving: any public offering for cash; or any other financing (that is not a public offering for cash) in which the company is selling securities for cash, if such financing involves a sale of common stock, or securities convertible into or exercisable for common stock, at a price at least as great as the Minimum Price, provided that if the securities in such financing are issued in connection with an acquisition of the stock or assets of another company, shareholder approval will be required if the issuance of such securities alone or when combined with any other present or potential issuance of common stock, or securities convertible into common stock in connection with such acquisition, is equal to or exceeds either 20 percent of the number of shares of common stock or 20 percent of the voting power outstanding before the issuance. *See* NYSE LCM Section 312.03(c).

[13] *See* NYSE LCM Section 102.04 (providing minimum numerical standards for closed-end management investment companies registered under the Investment Company Act of 1940 (''1940 Act'') and closed-end management investment companies that have filed an election to be treated as a BDC under the 1940 Act).

[14] 17 CFR 270.17a–8.

[15] *See* Notice, *supra* note 3, at 14590; proposed NYSE LCM Section 312.03(f).

[16] *See* Notice, *supra* note 3, at 14590.

[17] *See* 15 U.S.C. 80a–17(a)(1)–(2). *See also* the definition of ''affiliated person'' in the 1940 Act, 15 U.S.C. 80a–2(a)(3).

[18] Section 57(i) of the 1940 Act makes Rule 17a–8 applicable to BDCs. *See* 15 U.S.C. 80a–56(i) (providing that ''. . . the rules and regulations of the Commission under subsections (a) and (d) of section 17 applicable to registered closed-end investment companies shall be deemed to apply to transactions subject to subsections (a) and (d) of this section''); *see also* Investment Company Act Release No. 26520 (July 27, 2004), 69 FR 46378 at nn. 9 & 27 (noting that certain rules, including Rule 17a–8, ''apply to investment companies, including registered investment companies and business development companies, if they rely on these rules'').

[19] 17 CFR 270.17a–8(a)(2).

[20] 17 CFR 270.17a–8(a)(3).

[21] *See* Notice, *supra* note 3, at 14590.

[22] *See id.*

[23] *See id.* at 14591.

[24] *See id.* at 14591, n.10 (citing Investment Company Act Release No. 25666 (July 18, 2002), 67 FR 48512 (July 24, 2002) at n.18).

[25] 15 U.S.C. 78s(b)(2)(B).

[26] *Id.*

Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with the Exchange Act, and, in particular, with Section 6(b)(5) of the Exchange Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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 and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[27]

As discussed above, the Exchange is proposing to exempt closed-end funds and BDCs from the requirement to obtain shareholder approval prior to issuances of securities in connection with the acquisition of stock or assets of an affiliated company, provided that the transaction complies with Rule 17a–8, which requires, among other things, that the board of directors of each company participating in such a merger determines that participation in the merger is in the best interests of the company and that the interests of the company's shareholders will not be diluted as a result of the merger. Although the Commission previously approved a similar exemption for exchange-traded funds (''ETFs''),[28] there are differences between ETFs and closed-end funds and BDCs. Shares of closed-end funds and BDCs often trade at prices that are less than, or at a ''discount'' to, the fund's net asset value per share. In contrast, ETFs may trade at a discount but often to a much lesser degree than closed-end funds and BDCs. Due to these circumstances, shareholders of closed-end funds and BDCs may have an interest in expressing their views on a proposal by management to merge the closed-end fund or BDC into an affiliated fund. In addition, unlike shareholders of ETFs,[29] shareholders of closed-end funds and BDCs typically participate in annual shareholder meetings with respect to the election of directors and other matters. The Exchange's proposal therefore raises questions as to whether the elimination of the current ability of shareholders of closed-end funds and BDCs to vote on mergers with affiliated companies is consistent with Section 6(b)(5) of the Exchange Act, which requires the rules of the Exchange to, among other relevant provisions, protect investors and the public interest.[30]

Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations thereunder . . . is on the self-regulatory organization ['SRO'] that proposed the rule change.'' [31] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[32] and any failure of an SRO to provide this information may result in the Commission not having sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rule and regulations.[33]

For these reasons, the Commission believes it is appropriate to institute proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act [34] to determine whether the proposal should be approved or disapproved.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) or any other provision of the Exchange Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[35]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved by July 8, 2022. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by July 22, 2022.

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in Notice,[36] in addition to any other comments they may wish to submit about the proposed rule change.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2022–11 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–2022–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE,

[27] 15 U.S.C. 78f(b)(5).

[28] The Commission previously approved NYSE Arca, Inc.'s proposal to exempt issuers of Unit Investment Trusts, Investment Company Units, Exchange-Traded Fund Shares, Portfolio Depositary Receipts, Managed Fund Shares, Active Proxy Portfolio Shares, and Managed Portfolio Shares from the requirement to obtain shareholder approval prior to the issuance of securities in connection with certain acquisitions of the stock or assets of an affiliated registered investment company in a transaction that complies with Rule 17a–8. *See* Securities Exchange Act Release No. 91901 (May 14, 2021), 86 FR 27487 (May 20, 2021).

[29] *See id.* at n.18.

[30] 15 U.S.C. 78f(b)(5).

[31] Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

[32] *See id.*

[33] *See id.*

[34] 15 U.S.C. 78s(b)(2)(B).

[35] Section 19(b)(2) of the Exchange Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[36] *See* Notice, *supra* note 3.

Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2022–11 and should be submitted on or before July 8, 2022. Rebuttal comments should be submitted by July 22, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13042 Filed 6–16–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95092; File No. SR–FINRA–2022–015]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend FINRA Rule 8312 (FINRA BrokerCheck Disclosure) To Release Information on BrokerCheck® Relating to Firm Designation as a Restricted Firm

June 13, 2022.

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 June 3, 2022, the Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 FINRA. 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

FINRA is proposing to amend Rule 8312 (FINRA BrokerCheck Disclosure) to release information on BrokerCheck® as to whether a particular member firm or former member firm is currently designated as a ''Restricted Firm'' pursuant to Rule 4111 (Restricted Firm Obligations) and Rule 9561 (Procedures for Regulating Activities Under Rule 4111).

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

8000. INVESTIGATIONS AND SANCTIONS

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8300. SANCTIONS

* * * * *

8312. FINRA BrokerCheck Disclosure

(a) No Change.

(b)(1) No Change.

(2) The following information shall be released pursuant to this paragraph (b):

(A) through (F) No Change.

(G) Historic Complaints (*i.e.,* the information last reported on Registration Forms relating to customer complaints that are more than two (2) years old and that have not been settled or adjudicated, and customer complaints, arbitrations or litigations that have been settled for an amount less than $10,000 prior to May 18, 2009 or an amount less than $15,000 on or after May 18, 2009 and are no longer reported on a Registration Form), provided that any such matter became a Historic Complaint on or after August 16, 1999; [and]

(H) the name and succession history for current or former BrokerCheck Firms[.]*; and*

(I) information as to whether a particular current or former member is currently designated as a Restricted Firm pursuant to Rules 4111 and 9561.

(c) through (g) No Change.

• • • Supplementary Material:

.01 through .03 No Change.

* * * * *

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

In its filing with the Commission, FINRA 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. FINRA 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

Background

On July 30, 2021, the SEC issued an order approving proposed rule changes concerning firms with a significant history of misconduct.[3] The new rules include new Rule 4111 (Restricted Firm Obligations), new Rule 9561 (Procedures for Regulating Activities Under Rule 4111), and amendments to Rule 9559 (Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series).

Rule 4111 establishes an annual process to designate as ''Restricted Firms'' member firms that present a high degree of risk to the investing public, based on numeric thresholds of firm-level and individual-level disclosure events, and then impose on such firms a ''Restricted Deposit Requirement'' [4] or, in addition or in the alternative, conditions or restrictions on the member firm's operations that are necessary or appropriate to protect investors and the public interest.[5]

Rule 4111 is designed to protect investors and the public interest by strengthening tools available to FINRA to address the risks posed by member firms with a significant history of misconduct.[6] The rule will create incentives for firms to change behaviors and activities, either to avoid being designated or re-designated as a Restricted Firm, to mitigate FINRA's concerns.[7]

New Rules 4111 and 9561, and the amendments to Rule 9559, were

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[37] 17 CFR 200.30–3(a)(57).

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 92525 (July 30, 2021), 86 FR 42925 (August 5, 2021) (Order Approving File No. SR–FINRA–2020–041, as Modified by Amendment Nos. 1 and 2) (''SEC Order''); *see also* Securities Exchange Act Release No. 92525 (July 30, 2021), 86 FR 49589 (September 3, 2021) (Order Approving File No. SR–FINRA–2020–041) (Correction).

[4] *See* Rule 4111(i)(15) (definition of ''Restricted Deposit Requirement''). A firm subject to a Restricted Deposit Requirement will be required to establish a Restricted Deposit Account and deposit in that account cash or qualified securities with an aggregate value that is not less than the member's Restricted Deposit Requirement. *See* Rule 4111(a); 4111(i)(14) (definition of ''Restricted Deposit Account'').

[5] *See* SEC Order, 86 FR 42925, 42932. Firms designated as Restricted Firms will have significantly higher levels of risk-related disclosures as compared to firms of similar sizes. *See* SEC Order, 86 FR 42925, 42926. There are numeric thresholds for seven firm-size categories, based on the number of Registered Persons In-Scope. *See* Rule 4111(i)(11); *see also* Rule 4111(i)(13) (definition of ''Registered Persons In-Scope'').

[6] *See* SEC Order, 86 FR 42925, 42926.

[7] *See* SEC Order, 86 FR 42925, 42926, 42932.

effective on January 1, 2022.[8] FINRA explained in *Regulatory Notice* 21–34 that FINRA would announce, in a separate *Regulatory Notice,* the first Evaluation Date no less than 120 calendar days before the first Evaluation Date, and that FINRA expected that the first Evaluation Date would be mid-year 2022. On February 1, 2022, FINRA announced that the first Evaluation Date for Rule 4111 would be June 1, 2022.[9]

Proposed Amendments to Rule 8312

To enhance the investor-protection benefits of Rule 4111, FINRA is proposing rule changes to amend Rule 8312 (FINRA BrokerCheck Disclosure) to release information on BrokerCheck as to whether a particular member firm or former member firm is currently designated as a Restricted Firm pursuant to Rules 4111 and 9561.[10]

Rule 8312 governs the information FINRA releases to the public through its BrokerCheck system.[11] BrokerCheck helps investors make informed choices about the brokers and member firms with which they conduct business by providing registration and disciplinary history to investors at no charge. FINRA requires member firms to inform their customers of the availability of BrokerCheck.[12]

Information that is released on BrokerCheck includes, among other things, information reported on the most recently filed ''Registration Forms'' (with limited exceptions) for both firms and registered individuals, and summary information about certain arbitration awards against a firm involving a securities or commodities dispute with a public customer.[13] To provide enhanced disclosure to the public, FINRA is proposing to amend Rule 8312 to release information on BrokerCheck as to whether a particular member firm or former member firm is currently designated as a ''Restricted Firm'' pursuant to Rules 4111 and 9561. As explained above, Rule 4111 will be an important new tool to identify and respond to firms that present a high degree of risk to investors. Disclosing on BrokerCheck the firms that are designated as Restricted Firms would provide material information to investors concerning the identity of firms that FINRA has determined pose far higher risks to the public than firms of similar size.[14]

If the proposed rule change is approved, information that a firm is a Restricted Firm would display on BrokerCheck while that firm is designated as a Restricted Firm. This would include while a Rule 9561 expedited proceeding to review a Department of Member Regulation (''Department'') decision is pending, because a Department decision that designates a firm as a Restricted Firm will not be stayed during a Rule 9561 expedited proceeding.[15] When a firm is not designated, or is no longer designated, as a Restricted Firm, no historical information would be displayed on BrokerCheck that the firm was a Restricted Firm.

For example:

➢ If FINRA designates a firm as a Restricted Firm in Year 1 but does not re-designate the firm as a Restricted Firm in Year 2, the Restricted Firm status would display in BrokerCheck beginning from the date in Year 1 when the Department designated the firm as a Restricted Firm to the date in Year 2 when the firm is no longer designated as a Restricted Firm.

➢ If a firm is designated as a Restricted Firm in Year 1 and subsequently in Year 1 withdraws from FINRA membership and becomes a former member firm,[16] the Restricted Firm status would continue to display in BrokerCheck until the date in Year 2 when the firm is no longer designated as a Restricted Firm (*i.e.,* when the annual calculation of the ''Preliminary Criteria for Identification'' [17] for member firms occurs), even though the firm had withdrawn from FINRA membership before that date.[18]

Information that a firm is currently a Restricted Firm would be displayed in BrokerCheck on both a firm's summary report and detailed report. Specifically, those reports would include the text, ''This firm is currently designated as a Restricted Firm pursuant to FINRA Rule 4111 (Restricted Firm Obligations),'' in a color or font that is prominent. The alert also would include the text ''Click here for more information,'' with a hyperlink to a page on FINRA's website that provides for the investing public a clear explanation of Rule 4111 and what it means to be a Restricted Firm.[19] FINRA believes that releasing information on BrokerCheck as to whether a particular member firm or former member firm is currently designated as a Restricted Firm would help inform investors of firms that may pose outlier-level risks compared to firms of similar sizes, which may incent investors to research more carefully the background of the firm. FINRA also believes that the public disclosure of the firms currently designated as Restricted

[8] *See Regulatory Notice* 21–34 (September 2021). On May 26, 2022, FINRA filed for immediate effectiveness a proposed rule change to make non-substantive and technical amendments to Rules 4111 and 9561. *See* SR–FINRA–2022–014 (Form 19b–4), available at *https://www.finra.org/sites/default/files/2022-05/sr-finra-2022-014.pdf.*

[9] *See Information Notice,* February 1, 2022 (FINRA Announces Rule 4111 (Restricted Firm Obligations) Evaluation Date); *see also* Rule 4111(i)(5) (definition of ''Evaluation Date''). As FINRA explained in that *Information Notice,* FINRA plans to actually perform the annual calculation at least 30 days after the June 1, 2022 Evaluation Date.

[10] In the rulemaking that approved the new rules concerning firms with a significant history of misconduct, FINRA committed to file this proposed rule change to Rule 8312. *See* Letter from Michael Garawski, Associate General Counsel, FINRA, to Vanessa Countryman, Secretary, SEC, dated July 20, 2021, at p. 3, (''July 2021 FINRA Response to Comments'').

[11] The BrokerCheck website address is *brokercheck.finra.org.*

[12] *See* Rule 2210(d)(8) (requiring that each of a member's websites include a readily apparent reference and hyperlink to BrokerCheck on the initial web page that the member intends to be viewed by retail investors and any other web page that includes a professional profile of one or more registered persons who conduct business with retail investors); Rule 2267 (requiring members to provide to customers the FINRA BrokerCheck Hotline Number and a statement as to the availability to the customer of an investor brochure that includes information describing BrokerCheck).

[13] *See* Rule 8312. Rule 8312 uses the term ''Registration Forms'' to refer collectively to the Uniform Application for Securities Industry Registration or Transfer (Form U4), the Uniform Termination Notice for Securities Industry Registration (Form U5), the Uniform Disciplinary Action Reporting Form (Form U6), the Uniform Application for Broker-Dealer Registration (Form BD), and the Uniform Request for Broker-Dealer Withdrawal (Form BDW). *See* Rule 8312(b)(2)(A).

[14] This disclosure would be similar to disclosures on BrokerCheck as to whether a particular member is subject to the provisions of Rule 3170 (the ''Taping Rule''). *See* Rule 8312(b)(2)(F).

[15] *See* Rule 9561(a)(4) (Effectiveness of the Rule 4111 Requirements).

[16] *See* Rule 4111(i)(7) (definition of ''Former Member'').

[17] *See* Rule 4111(i)(9) (definition of ''Preliminary Criteria for Identification'').

[18] FINRA believes that disclosing on BrokerCheck the former members that are currently designated as Restricted Firms would provide valuable information to investors and third parties. A former member that is currently designated as a Restricted Firm was a member at the time it was designated as a Restricted Firm, and it remains designated as a Restricted Firm until the date when the next annual calculation of the Preliminary Criteria for Identification for member firms occurs. During the period when a former member remains designated as a Restricted Firm, it continues to be subject to the obligations imposed on it pursuant to Rule 4111 and to a presumption that any application it files to withdraw all or any portion of its Restricted Deposit Requirement should be denied. *See* Rule 4111(f)(1), (3). Disclosure on BrokerCheck of information for a firm that was designated as a Restricted Firm and became a former member in the same year also could be information that investors consider when weighing their options in active or contemplated arbitration claims against former members. *See Regulatory Notice* 20–11 (April 2020).

[19] This would be similar in nature to how the information in BrokerCheck that a firm is a ''taping firm'' includes a hyperlink to a page on FINRA's website containing a clear description of what it means to be a ''taping firm.'' *See Regulatory Notice* 21–09 (March 2021); FINRA Taping Rule, available at *https://www.finra.org/rules-guidance/guidance/taping-rule.*

Firms would create additional incentives for firms with a significant history of misconduct to change behaviors and activities to reduce risk.

If the proposed rule change is approved, FINRA expects that the effective date of the proposed rule change would be a date after FINRA completes the first annual Rule 4111 cycle, but no later than the Evaluation Date for the second annual Rule 4111 cycle. After the effective date, FINRA would make the relevant disclosures on BrokerCheck beginning with the firms that are designated or re-designated as Restricted Firms in the second annual Rule 4111 cycle. This would allow FINRA to gain meaningful experience with new Rule 4111, including any operational shortcomings, before FINRA begins disclosing Restricted Firms on BrokerCheck.[20]

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* following Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[21] which requires, among other things, that FINRA 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 15A(i)(1) of the Act,[22] which requires that FINRA establish and maintain a toll-free telephone listing, and a readily accessible electronic or other process, to receive and promptly respond to inquiries regarding, registration information on its members and their associated persons, and to adopt rules governing the process for making inquiries and the type, scope, and presentation of information to be provided in response to such inquiries. Publicly disclosing through BrokerCheck information concerning the current status of a member firm as a Restricted Firm would inform more investors of which firms pose high risks to the investing public, compared to firms of similar sizes, and thereby incent investors to research carefully the background of the firm and may also act to incentivize firms with a significant history of misconduct to change behaviors and activities to reduce risk.

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

FINRA 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.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to analyze the regulatory need for the proposed rule change, its potential economic impacts, including anticipated benefits and costs, and the alternatives FINRA considered in assessing how to best meet its regulatory objectives.

1. Regulatory Need

Rule 4111 identifies member firms that present a high degree of risk to the investing public and allows FINRA to impose on such firms a Restricted Deposit Requirement and, in addition or in the alternative, other conditions or restrictions on firms' operations. FINRA anticipates that investors may benefit from the public disclosure of information that a firm is a ''Restricted Firm,'' both in how it would help investors decide whether to use a firm and its registered representatives for brokerage services, and in how it would make stronger the incentives for a firm to improve its supervisory and compliance practices. The proposed amendments to Rule 8312 would provide this information to investors through BrokerCheck.

2. Economic Baseline

The economic baseline for the proposed rule change is the current regulatory framework and Rule 4111 (which was approved by the SEC on July 30, 2021, and was effective on January 1, 2022), the information currently available on BrokerCheck, and current investor utilization of BrokerCheck.[23] Rule 4111 creates a multi-step process for FINRA's determination of whether a member firm should be designated as a Restricted Firm. The first step in the process is an annual calculation to determine whether a member firm meets the Preliminary Criteria for Identification.[24] Only some of the firms that meet the Preliminary Criteria for Identification will be designated as Restricted Firms at the end of the multi-step process.[25]

The proposed amendments to Rule 8312 are expected to affect users of BrokerCheck, currently and formerly registered firms, and, indirectly, the individuals associated with those firms. Users of BrokerCheck include, among others, investors, member firms and other entities in the financial services industry, regulators, and individuals registered as brokers or seeking employment in the brokerage industry. The information about firms currently available to investors through BrokerCheck is derived from the Registration Forms and the disclosures required thereunder, and includes a description of where and when the firm was established, people and entities that own controlling shares or directly influence the firm's daily operations, a firm's history that details mergers, acquisitions or name changes affecting the firm, the firm's active licenses and registrations, the types of businesses it conducts, information about arbitration awards and disciplinary matters, and information as to whether a particular

[20] Information that a firm is currently designated as a Restricted Firm would not be made available on BrokerCheck prior to the effective date of the proposed rule change, and information about the obligations to which a Restricted Firm is subject would not be made available on BrokerCheck. FINRA recognizes that information about a firm's Restricted Firm designation and the obligations imposed on it would be important to state securities regulators, both before and after the effective date of the proposed rule change. FINRA reiterates its commitment to working with individual state securities regulators to share information concerning whether firms that operate in their individual states have been designated by FINRA as Restricted Firms, along with information concerning any obligations that have been imposed pursuant to Rules 4111 and 9561 on the Restricted Firm. *See* July 2021 FINRA Response to Comments, *supra* note 10, at p. 3.

[21] 15 U.S.C. 78*o*–3(b)(6).

[22] 15 U.S.C. 78*o*–3(i)(1).

[23] This analysis uses a baseline inclusive of Rule 4111 for clarity and simplicity. The expected impacts of Rule 4111 were considered in detail in SR–FINRA–2020–041. *See* Securities Exchange Act Release No. 90527 (November 27, 2020), 85 FR 78540, 78551–54 (December 4, 2020) (Notice of Filing of File No. SR–FINRA–2020–041) (''Filing'').

[24] The Preliminary Criteria for Identification are based on information that is reportable on Forms U4, U5, U6 and BD or derived from customer arbitrations filed with FINRA Dispute Resolution Services' arbitration forum. *See* Rule 4111(i)(4). Most of this information is disclosed on BrokerCheck.

[25] In 2019, for example, there were 40 small firms (1.3% of all small member firms) and five mid-size firms (2.5% of all mid-size member firms) that would have met the Preliminary Criteria for Identification had it existed at that time. *See* SR–FINRA–2020–041, Exh. 3g, available at *https://www.finra.org/sites/default/files/2021-07/SR-FINRA-2020-041-Amendment2.pdf.* These statistics correspond to the number of firms that would have met the Preliminary Criteria for Identification as of year-end (December 31, 2019) of the identification year. The total number of member firms that would have met the Preliminary Criteria for Identification had it existed at the time has trended down since 2014, when 75 small firms (2% of all small member firms), four mid-size firms (1.9% of all mid-size member firms) and one large firm (0.6% of all large member firms) would have met the Preliminary Criteria for Identification. FINRA defines a small firm as a member with at least one and no more than 150 registered persons, a mid-size firm as a member with at least 151 and no more than 499 registered persons, and a large firm as a member with 500 or more registered persons. *See* FINRA By-Laws, Article I.

member is subject to the provisions of the Taping Rule, among other information and disclosures.[26] In 2020, BrokerCheck helped users conduct almost 38 million searches of firms and individual brokers. Information available on BrokerCheck may reach investors through additional channels, because the data may be copied and compiled through data gathering or extraction tools, subject to applicable terms of use.[27]

3. Economic Impacts

The proposed amendments to Rule 8312 would disclose in BrokerCheck a firm's designation as a Restricted Firm for the duration of that designation. As noted above, the potential benefits to investors need not be limited to individuals who consult BrokerCheck, because third parties may harvest and compile the information and make it available through other outlets, subject to applicable terms of use.

The disclosure on BrokerCheck of firms' Restricted Firm designations may benefit investors. Currently, BrokerCheck already displays disclosures reported on the most recently filed Registration Forms for both firms and registered individuals, as well as summary information about certain arbitration awards against firms involving a securities or commodities dispute with a public customer. However, with the proposed additional disclosure of a firm's designation as a Restricted Firm, investors might be prompted to learn more about such Restricted Firms, engage with them more cautiously, or—for investors currently using the services of Restricted Firms—critically review their experiences with these firms. As discussed at length in SR–FINRA–2020–041, FINRA's analysis indicated that firms that would have met the Preliminary Criteria for Identification during the 2013–2017 review period had on average 6–20 times more new ''Registered Person and Member Firm Events'' [28] after their identification than other firms of the same size category.[29]

The disclosure on BrokerCheck of a firm's Restricted Firm designation and the resulting additional investor caution may help some investors avoid the harms associated with future misconduct. Although the magnitude of these effects is not known, they would supplement the protective effects of the obligations imposed by FINRA on the designated Restricted Firms.[30] The anticipated benefits to investors of the proposed amendments would increase with the likelihood that potential or actual customers of a designated Restricted Firm seek or learn information in BrokerCheck about a firm's Restricted Firm designation and consider it in their research on the background of a firm.

The disclosure on BrokerCheck of firms' Restricted Firm designations and additional investor caution may have a range of effects on such firms. Designated Restricted Firms may respond by offering more competitive pricing or improved customer service. Designated Restricted Firms may also act to improve internal controls in order to avoid additional reputational harm and being re-designated as a Restricted Firm in subsequent years. However, additional investor caution, if significant enough, may cause financial distress at some firms. Disclosing a firm's Restricted Firm designation on BrokerCheck may lead investors to review their engagement with the firm more critically and, therefore, also may potentially lead to increased customer complaints, arbitration cases and possible awards against, and settlements by, such firms. In addition, as noted in SR–FINRA–2020–041, Restricted Firms may have greater difficulty or increased costs associated with maintaining a clearing arrangement, loss of trading partners, or similar impairments where third parties can determine that a firm meets the Preliminary Criteria for Identification or has been deemed to be a Restricted Firm.[31] While some third parties like clearing firms may require a firm to disclose Restricted Firm status during private contract negotiations, other third-party firms may learn of a firm's Restricted Firm designation only after the information is disclosed publicly. These third-party firms may then anticipate an increase in legal and contingent costs through the potential liabilities that they face through their business relationships with a Restricted Firm. As a result, Restricted Firms may find that costs of these third-party agreements increase and potentially lose access to such providers. While the magnitude of these reactions from investors and third parties cannot be quantified, it is possible that the disclosure of the designation as a Restricted Firm may result in some firms going out of business.

4. Alternatives Considered

FINRA recognizes that the design and implementation of the rule proposals may impose direct and indirect costs on a variety of stakeholders, including firms, brokers, regulators, investors and the public. Accordingly, in developing its rule proposals, FINRA seeks to identify ways to enhance the efficiency and effectiveness of the proposed rules while maintaining their regulatory objectives.

In developing the proposal, FINRA considered two different alternatives for when to begin releasing information on BrokerCheck as to whether a particular member firm or former member firm is currently designated as a Restricted Firm. Specifically, FINRA considered whether to begin releasing this information on BrokerCheck during the first annual Rule 4111 cycle or, instead, the second annual Rule 4111 cycle. FINRA has proposed to start this disclosure in the second annual Rule 4111 cycle, and not sooner, because it would allow FINRA and member firms to gain meaningful experience with new Rule 4111, including any operational shortcomings, before FINRA begins disclosing Restricted Firms on BrokerCheck.

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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

[26] *See* About BrokerCheck, *https://www.finra.org/investors/learn-to-invest/choosing-investment-professional/about-brokercheck;* Rule 8312.

[27] *See* Section 5 of the FINRA BrokerCheck Terms of Use, *https://brokercheck.finra.org/terms.*

[28] *See* Rule 4111(i)(12) (defining ''Registered Person and Member Firm Events'' to include ''Registered Person Adjudicated Events,'' ''Registered Person Pending Events,'' ''Registered Person Termination and Internal Review Events,'' ''Member Firm Adjudicated Events,'' and ''Member Firm Pending Events,'' all of which are defined in Rule 4111(i)(4)).

[29] FINRA's analysis compared firms that satisfied the Preliminary Criteria for Identification in each year between 2013 and 2017 to firms of similar size that did not satisfy the criteria and looked at the number of subsequent disclosure events in the remainder of the period analyzed, which ended in 2019. *See* Filing, *supra* note 23, 85 FR 78540, 78552; SR–FINRA–2020–041, Exhibit 3c, available at *https://www.finra.org/sites/default/files/2020-11/SR-FINRA-2020-041.pdf.*

[30] Rule 4111 will create strong measures of deterrence of misconduct while a firm is designated a Restricted Firm. *See* Filing, 85 FR 78540, 78550.

[31] *See* Filing, 85 FR 78540, 78553.

(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–FINRA–2022–015 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–FINRA–2022–015. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2022–015 and should be submitted on or before July 8, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13044 Filed 6–16–22; 8:45 am]

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[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–245, OMB Control No. 3235–0204]

Submission for OMB Review; Comment Request Extension: Rule 19d–3

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 19d–3 (17 CFR 240.19d–3) under the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*).

Rule 19d–3 prescribes the form and content of applications to the Commission by persons seeking Commission review of final disciplinary actions against them taken by self-regulatory organizations (''SROs'') for which the Commission is the appropriate regulatory agency. The Commission uses the information provided in the application filed pursuant to Rule 19d–3 to review final actions taken by SROs including: (1) final disciplinary sanctions; (2) denial or conditioning of membership, participation or association; and (3) prohibitions or limitations of access to services offered by a SRO or member thereof.

The staff estimates that 32 respondents will file one application pursuant to Rule 19b–3 each year. The staff estimates that the average number of hours necessary to comply with the requirements of Rule 19d–3 is approximately eighteen hours. We estimate that approximately 16 firms or natural persons would draft the applications themselves, and therefore incur an hour burden of 18 hours each (a total hour burden of 288), and that 16 would hire outside counsel, and therefore incur a cost burden of $8,496 each (a total cost burden of $135,936).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by July 18, 2022 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: June 13, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13048 Filed 6–16–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–242, OMB Control No. 3235–0206]

Submission for OMB Review; Comment Request Extension: Rule 19d–1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street, NE Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 19d–1 (17 CFR 240.19d–1) under the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*) (''Exchange Act'').

Rule 19d–1 prescribes the form and content of notices to be filed with the Commission by self-regulatory organizations (''SROs'') for which the Commission is the appropriate regulatory agency concerning the following final SRO actions: (1) disciplinary actions with respect to any person; (2) denial, bar, prohibition, or limitation of membership, participation or association with a member or of access to services offered by an SRO or member thereof; (3) summarily suspending a member, participant, or person associated with a member, or summarily limiting or prohibiting any persons with respect to access to or services offered by the SRO or a member thereof; and (4) delisting a security.

The Rule enables the Commission to obtain reports from the SROs containing information regarding SRO determinations to delist a security, discipline members or associated persons of members, deny membership or participation or association with a member, and similar adjudicated findings. The Rule requires that such actions be promptly reported to the Commission. The Rule also requires that the reports and notices supply sufficient information regarding the background, factual basis and issues involved in the proceeding to enable the Commission: (1) to determine whether the matter should be called up for review on the Commission's own motion; and (2) to ascertain generally whether the SRO has adequately carried out its responsibilities under the Exchange Act.

It is estimated that approximately 19 respondents will file a total of approximately 912 submissions per year (an average of 48 per respondent). The Commission estimates that the average number of hours necessary to comply with the requirements of Rule 19d–1 for each submission is 1 hour. The total annual burden for all respondents is thus 912 hours. The Commission estimates that the internal compliance cost per respondent is approximately $319 per response. The annual internal cost of compliance for all respondents is thus approximately $290,928 (19 respondents × 48 responses × $319 per response).

The filing of notices pursuant to Rule 19d–1 is mandatory for the SROs, but does not require the collection of confidential information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by July 18, 2022 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: June 13, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13049 Filed 6–16–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95088; File No. SR–NYSEArca–2022–34]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules 6.40P–O and 6.41P–O

June 13, 2022.

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 June 3, 2022, NYSE Arca, Inc. (''NYSE Arca'' 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Rules 6.40P–O (Pre-Trade and Activity-Based Risk Controls) and 6.41P–O (Price Reasonability Checks—Orders and Quotes). The proposed rule change is available on the Exchange's website 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

The Exchange proposes to modify Rules 6.40P–O (Pre-Trade and Activity-Based Risk Controls) and 6.41P–O (Price Reasonability Checks—Orders and Quotes) to clarify the application of certain risk checks on Pillar as set forth below.[4]

First, the Exchange proposes a clarifying change to Rule 6.40P–O regarding the reference to ''Auction-Only Orders'' as described below. Rule 6.40P–O describes Activity-Based Risk Controls that are available to Entering Firms.[5] Each Entering Firm may apply one of three activity-based risk limits to its orders and quotes in an options class based on specified thresholds measured over the course of a specified time period or Interval.[6] Rule 6.40P–O(c)(2) sets forth the potential automated breach action for the Activity-Based Risk Controls that the Exchange may take should an Entering Firm exceed its established risk limit. Rule 6.40P–O(d) describes how an Entering Firm's ability to enter orders, quotes, and related instructions would be reinstated after certain automated breach actions have been triggered.[7] And, Rule 6.40P–O(e) sets forth Kill Switch Action functionality that allows an Entering Firm to expressly direct the Exchange to take certain bulk cancel or block actions with respect to orders and quotes in the event of a breach. The Exchange applies the aforementioned actions to the quotes and orders submitted by an Entering

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Rules 6.40P–O and 6.41P–O describe certain risk checks available for orders and Market Maker quotes on Pillar. The Exchange notes that because it has not yet migrated to the Pillar platform, Rules 6.40–O (Risk Limitation Mechanism), 6.60–O (Price Protection—Orders) and 6.61–O (Price Protection—Quotes) set forth the applicable risk checks that continue to apply to orders and Market Maker quotes, which rules are not being modified by this filing. The Exchange has announced July 11, 2022 as the planned migration date for Pillar, as announced here: *https://www.nyse.com/trader-update/history#110000421498.*

[5] *See* Rule 6.40P–O(a)(1) (defining Entering Firms as all OTP Holders and OTP Firms (including those acting as Market Makers)).

[6] *See* Rule 6.40P–O(a)(3) (defining Activity-Based Risk Controls, which controls are not applied to interest represented in open outcry except for CTB Orders) and Rule 6.40P–O(a)(5) (defining Interval as the configurable time period during which the Exchange would determine if an Activity-Based Risk Control is breached).

[7] *See* Rule 6.40P–O(c)(2) (applies in the reinstatement of an Entering Firm in the event that a ''Block Only'' or ''Cancel and Block'' Automated Breach Action is triggered).

Firm, unless otherwise specified in the Rule. In particular, the Rule explicitly refers to the handling of Auction-Only Orders in the event of a breach.

Rule 6.62P–O(c) sets forth the order types that qualify as ''Auction-Only Orders,'' which orders are designated to participate solely in Auctions held during the opening (or reopening) of option series.[8] Subsequent to the adoption of Rule 6.40P–O, the Exchange adopted Rule 6.91P–O, regarding complex order trading. Rule 6.91P–O(b)(2)(C) describes ECO GTX Orders. ECO GTX Orders are utilized solely for a Complex Order Auction or COA, which may only occur once a series opens or reopens.[9] As such, for the avoidance of doubt, the Exchange proposes to specify (by definition) that ''Auction-Only Orders'' referred to throughout Rule 6.40P–O refer to the order types set forth in Rule 6.62P–O(c) (Orders and Modifiers) and (by extension) do not include ECO GTX Orders which the Exchange will handle like any other unexecuted (non-Auction Only) order when an Activity-Based Risk Control threshold is breached.[10] The Exchange believes this proposed change would make clear that Auction-Only Orders do not include ECO GTX Orders and, as a result would add clarity and transparency to Exchange rules making them easier to navigate and comprehend.

Next, the Exchange proposes a clarifying change to Rule 6.41P–O regarding the application of the ''Price Reasonability Checks'' to orders and quotes, which include the Arbitrage Check and the Intrinsic Value Check, when such checks rely on last sale information.[11] In particular, the Arbitrage Check will reject or cancel (if resting) a buy order or quote for call options if the price of the order or quote ''is equal to or greater than the last sale price of the underlying security on the Primary Market, plus a specified threshold to be determined by the Exchange and announced by Trader Update.''[12] Similarly, for the Intrinsic Value Check, the Exchange deems the Intrinsic Value of a put option as being ''equal to the strike price minus the last sale price of the underlying security on the Primary Market'' and the Intrinsic Value of a call option as being ''equal to the last sale price of the underlying security on the Primary Market minus the strike price.''[13]

However, certain trades such as odd-lot transactions are not considered ''last-sale eligible,'' which means the related pricing data is not available/reported. As such, when the Exchange does not have access to such ''last-sale eligible'' information, it cannot perform the Checks as intended. Therefore, the Exchange proposes to clarify the impacted sections of the Rule to provide that the applicable Checks would use as a reference ''the price of the last-sale eligible trade of the underlying security on the Primary Market.''[14] In addition, and consistent with the aforementioned changes, the Exchange proposes to add a provision to Rule 6.41P–O(a)(3), regarding the circumstances under which the Price Reasonability Checks do not apply, to include ''any options series for which there is no last-sale eligible trade in the underlying security on the Primary Market since the opening of trading.''[15] The Exchange believes these proposed changes add clarity and transparency to Exchange rules making them easier to navigate and comprehend.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[16] in general, and furthers the objectives of Section 6(b)(5),[17] in particular, because it is 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 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 believes that the proposed rule change to clarify the ''Auction-Only Orders'' covered in Rule 6.40P–O would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors because it would add clarity and transparency to Exchange rules making them easier to navigate and comprehend. Moreover, the proposed change would avoid potential confusion regarding the application of Rule 6.40P–O to ECO GTX Orders (as mentioned in Rule 6.91P–O).

The Exchange believes that the proposed rule change to clarify that the Exchange would rely on ''the price of the last-sale eligible trade of the underlying security on the Primary Market,'' in conducting certain of the Price Reasonability Checks would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors because it would add clarity and transparency to Exchange rules making them easier to navigate and comprehend.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not intended to address competition, but rather to clarify the Exchange's rules regarding certain risk checks and how such checks are applied. The proposed change would apply to all similarly-situated market participants.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[18] and Rule 19b–4(f)(6) thereunder.[19] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on

[8] *See* Rule 6.62P–O(c)(1)–(3) (defining as Auction-Only Orders: Limit-on-Open Orders (LOO Orders), Market-on-Open Orders (MOO Orders), and Imbalance Offset Orders (IO Orders)).

[9] *See* Rule 6.91P–O(f) (providing, in relevant part, that a COA may only be conducted when a complex strategy is open for trading).

[10] *See* proposed Rule 6.40P–O(a)(6). *See, e.g.,* Rule 6.40P–O(c)(2)(C)(iii) (providing that for Entering Firms that opt for ''Cancel and Block'' handling upon trigger of an Activity-Based Risk Control, ''the Exchange will cancel all unexecuted orders and quotes in the Consolidated Book other than Auction-Only Orders and orders designated GTC'').

[11] *See* Rule 6.41P–O(b) and (c) (describing the Arbitrage Check and the Intrinsic Value Check, respectively).

[12] *See* Rule 6.41P–O(b)(2).

[13] *See* Rule 6.41P–O(c)(2)(1)–(2).

[14] *See* proposed Rule 6.41P–O(b)(2), (c)(1)–(2).

[15] *See* proposed Rule 6.41P–O(a)(3)(iv). The Exchange also proposes to make non-substantive conforming changes to this paragraph. *See* proposed Rule 6.41P–O(a)(3)(iii) (removing now-extraneous and) and (v) (re-numbered existing provision), which changes add clarity, transparency, and internal consistency to Exchange rules.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(6).

competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [20] and subparagraph (f)(6) of Rule 19b–4 thereunder.[21]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [22] of the Act 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–NYSEArca–2022–34 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–2022–34. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2022–34 and should be submitted on or before July 8, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13040 Filed 6–16–22; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A)(iii).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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.

[22] 15 U.S.C. 78s(b)(2)(B).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95094; File No. SR–MSRB–2022–04]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Consisting of Amendments to Certain Administrative Rules and Articles of the By-Laws of the Municipal Securities Rulemaking Board Relating to the MSRB's Officers

June 13, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 7, 2022 the Municipal Securities Rulemaking Board (''MSRB'') 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 MSRB. 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 MSRB filed with the Commission a proposed rule change consisting of amendments to MSRB Rules A–3, A–4, A–5, and A–8 and Articles 3, 4, 5, 8, 11, 12, 13, 14, 15, and 16 of the By-Laws of the Municipal Securities Rulemaking Board (''Bylaws'') (the ''proposed rule change'') relating to the MSRB's officers. The MSRB has designated the proposed rule change as concerned solely with the administration of the self regulatory organization under Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(3) thereunder,[4] which renders the proposal effective upon filing with the Commission. As described below, the proposed rule change would modify provisions regarding the Board's officers.

The text of the proposed rule change is available on the MSRB's website at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2022-Filings.aspx,* at the MSRB'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 MSRB 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 MSRB 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

Background

The Bylaws relate to the Board's governance and address topics such as Board membership, meetings, and officers, among other things. The current Bylaws are organized into 16 Articles (the proposed rule change would organize the Bylaws into 14

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(3).

Articles), and certain of the Articles in the Bylaws parallel MSRB administrative rules. MSRB Rules A–2 through A–10 are paralleled in the Bylaws and, when the Board amends any of these administrative rules, the paralleled Article in the Bylaws is amended also.[5] The Bylaws are publicly available on the MSRB's website.[6]

Designation of Officers of the Board

MSRB Rule A–5 and Article 5 of the Bylaws contain provisions regarding officers and employees of the Board and, among other things, designate the Board's required officer positions. Current MSRB Rule A–5 and Articles 5, 12, 13 and 14 of the Bylaws designate a Chair, Vice Chair, President, Secretary, General Counsel, Treasurer, Assistant Treasurer and Assistant Secretary. The proposed rule change would narrow the officer positions designated in MSRB Rule A–5 and the Bylaws to a Chair, Vice Chair, President and Secretary. The proposed rule change would provide the Board with increased flexibility by designating only essential officer positions in MSRB Rule A–5 and the Bylaws and, accordingly, allowing the Board to create additional officer positions as the Board determines is appropriate in light of governance needs, without requiring the Board to amend the Bylaws. While providing the Board with increased flexibility, the proposed rule change still provides the Board with the officer positions required by the Virginia Nonstock Corporation Act,[7] pursuant to which the Board is organized.

The proposed rule change would also expressly reflect in MSRB Rule A–5(a) and Article 5(a) of the Bylaws that the Board may appoint additional officers as shall be stated in a resolution of the Board, as provided for in the Virginia Nonstock Corporation Act.[8] The proposed rule change would also replace the reference to ''personnel'' in MSRB Rule A–5(c) and Article 5(c) of the Bylaws with ''employees'' to match the title of Rule A–5 and Article 5 of the Bylaws, which is ''Officers and Employees of the Board.''

The Bylaws also include Articles which describe each officer position. The proposed rule change would move the Bylaw Articles which describe the President and Secretary positions and modify the descriptions of these officer positions to better reflect their respective responsibilities. Current Article 12 describes the President position. The proposed rule change would move this description to Article 11, which is currently titled ''Reserved,'' and add language to reflect the President's responsibility for advancing the Board's strategic goals and general supervision, management and control.

Current Article 14(a) describes the Secretary position. The proposed rule change would move this description to Article 12, which currently describes the President position, and add language to expressly reflect the Secretary's responsibility for preparing minutes of all meetings of the Board and maintaining records of all actions taken by the Board without a meeting by unanimous written consent.

The proposed rule change would delete the General Counsel, Treasurer, Assistant Treasurer and Assistant Secretary from MSRB Rule A–5 and Articles 5, 13 and 14 of the Bylaws. Specifically, the proposed rule change would remove the description of the General Counsel position in Article 13, the description of the Treasurer position in Article 14(b), and the descriptions of the Assistant Secretary and Assistant Treasurer position in Article 14(c). As a result of such deletions, current Article 15 relating to the Board's policies and procedures would move to Article 13 and current Article 16 relating to amendment of By-Laws provisions other than rules of the Board would move to Article 14.

The proposed rule change would also remove the phrase ''of the Board'' and ''to the Board'' following references to the officer positions to improve consistency in the manner in which officer positions are referred to in the MSRB's administrative rules and Bylaws.

Addition of Vice Chair to Compensation Listing

MSRB Rule A–3(d) and Article 3(d) of the Bylaws relate to the Board's compensation and expenses. The proposed rule change would add the Vice Chair position to the list of positions for which the Board may provide reasonable compensation to correct the omission of the Vice Chair position from this listing. The proposed rule change would reflect the MSRB's current policy, which is to provide reasonable compensation to the Vice Chair. The proposed rule change would also remove references to ''MSRB'' in MSRB Rule A–3(d) and Article 3(d) of the Bylaws to improve consistency in the MSRB's administrative rules and Bylaws, which both use the term ''Board'' as opposed to ''MSRB''.

Removal of Notice Period for Chair and Vice Chair Resignations

MSRB Rule A–5(b) and Article 5(b) of the Bylaws detail matters relating to the election, term, and resignation of the Chair and Vice Chair. The proposed rule change would remove provisions in MSRB Rule A–5(b) and Article 5(b) of the Bylaws specifying a minimum and maximum notice period for resignations of the Chair and Vice Chair. The removal of a notice period would better reflect the resignation process for officers under the Virginia Nonstock Corporation Act which provides that an officer may resign at any time.[9] The removal of a notice period also would protect the public interest by permitting the Chair or Vice Chair to resign if circumstances arise that call for a notice period shorter than ten days, or no notice period at all.[10]

Election of Chair and Vice Chair and Appointment of Other Officers

The proposed rule change would revise MSRB Rule A–5(b) and Article 5 of the Bylaws to make explicit that the provisions regarding election, terms, resignation and vacancy therein relate solely to the Chair and Vice Chair positions and not to other officer positions. The proposed rule change would also explicitly state that persons serving as President[11] and Secretary shall be appointed by resolution of the Board.

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Sections 15B(b)(2)(I) and 15B(b)(2)(C) of the Exchange Act.[12] Section 15B(b)(2)(I) of the Exchange Act provides that the MSRB's rules shall provide for the

[5] The MSRB amends Articles in the Bylaws that are not administrative rules pursuant to current Article 16 of the Bylaws (the proposed rule change would move the text of Article 16 to Article 14).

[6] The Bylaws are available at *https://www.msrb.org/-/media/Files/Goverance/By-Laws.ashx?*

[7] Va. Code Ann. § 13.1–872.

[8] Va. Code Ann. § 13.1–872(A).

[9] *See* Va. Code Ann. § 13.1–874(A).

[10] MSRB rules provide for disqualification and removal from the Board under certain circumstances. See MSRB Rule A–3(c)(ii) (providing that a Board member's change in employment or other circumstances that results in a conflict with Board composition requirements disqualifies the member from serving on the Board as of the date of the change); MSRB Rule A–3(c)(iii) (providing that the Board may remove a member if it finds that the member has willfully violated any provision of the Act, any rule or regulation of the Commission thereunder, or any rule of the Board or has abused his or her authority or has otherwise acted, or failed to act, so as to affect adversely the public interest or the best interests of the Board). Circumstances could arise, however, in which the public interest may be better served by an accelerated departure from the Board through an immediate resignation.

[11] Pursuant to current Article 12 of the Bylaws (which the proposed rule change would move to Article 11), the person employed as the Chief Executive Officer shall hold the office of President.

[12] 15 U.S.C. 78*o*–4(b)(2)(I), 78*o*–4(b)(2)(C).

operation and administration of the Board, including the selection of a Chairman from among the members of the Board, the compensation of the members of the Board, and the appointment and compensation of such employees, attorneys, and consultants as may be necessary or appropriate to carry out the Board's functions under this section.[13] Section 15B(b)(2)(C) of the Exchange Act provides that the MSRB's rules be designed to protect investors, municipal entities, obligated persons, and the public interest.[14]

The proposed rule change is consistent with Section 15B(b)(2)(I) of the Exchange Act [15] because the amendments relating to the designation of officers of the Board, the addition of the Vice Chair to the compensation listing, the removal of the notice provision for the Chair and Vice Chair positions, and the election of the Chair and Vice Chair and appointment of other officers all deal with matters relating to the operation and administration of the Board.

The proposed rule change is also consistent with Section 15B(b)(2)(C) of the Exchange Act [16] because it would protect the public interest by eliminating the notice period for resignations of the Chair and Vice Chair so that the Chair or Vice Chair could resign on shorter than ten days' notice, or no notice at all, if the circumstances would be better addressed by an accelerated departure from the Board.

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

Section 15B(b)(2)(C) of the Exchange Act requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.[17] The proposed rule change relates only to the administration of the Board and would not impose requirements on dealers, municipal advisors or others. Accordingly, the MSRB does not believe that the proposed rule change would result in any burden on competition.

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

Written comments were neither solicited nor received on the proposed rule change.

[13] 15 U.S.C. 78*o*–4(b)(2)(I).

[14] 15 U.S.C. 78*o*–4(b)(2)(C).

[15] 15 U.S.C. 78*o*–4(b)(2)(I).

[16] 15 U.S.C. 78*o*–4(b)(2)(C).

[17] *Id.*

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and paragraph (f) of Rule 19b–4 thereunder.[19] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2022–04 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–MSRB–2022–04. 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 website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2022–04 and should be submitted on or before July 8, 2022.

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f).

For the Commission, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13041 Filed 6–16–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95090; File No. SR–ICEEU–2022–013]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to Part HH of the ICE Clear Europe Delivery Procedures

June 13, 2022.

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 May 31, 2022, ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II, and III below, which Items have been prepared primarily by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(4)(ii) thereunder,[4] such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') proposes to amend Part HH of its Delivery Procedures (''Delivery

[20] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(4)(ii).

Procedures'' or ''Procedures'') to correct a drafting inconsistency.

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

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

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICE Clear Europe is proposing to amend Part HH of the Delivery Procedures, which addresses delivery under the monthly ICE Endex French PEG Natural Gas futures contract (''Monthly Contract''), and daily futures contract with respect to the same underlying commodity (''Daily Contract'') to correct an inconsistency in the delivery timetable for routine deliveries of Daily Contracts. Currently, the delivery timetable in Section 6.2 provides that for Daily Contracts Exchange for Physicals (''EFPs'') and Exchange for Swaps (''EFSs'') may be posted up to one hour following the cessation of trading. This is inconsistent with existing Section 3.6, which provides that with respect to Daily Contracts, EFPs and EFSs may be posted up to thirty minutes following the cessation of trading. The proposed amendment would change the delivery timetable to be consistent with Section 3.6, which sets forth the correct deadline.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendment to the Delivery Procedures is consistent with the requirements of Section 17A of the Act [5] and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act [6] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest.

As discussed above, the amendment would modify Part HH of the Delivery Procedures in order to correct an inconsistency regarding the deadline for submission of EFPs and EFSs with respect to Daily Contracts. In ICE Clear Europe's view the amendment would thus facilitate the clearing membership process, and related risk management by the Clearing House. The amendments would therefore facilitate the prompt and accurate clearing of cleared contracts and protect investors and the public interest in the sound operations of the Clearing House, consistent with the requirement s of Section 17A(b)(3)(F).[7] Further, the amendment will not affect the safeguarding of securities and funds in the custody or control of the Clearing House or for which it is responsible, within the meaning Section 17A(b)(3)(F).[8]

The proposed amendment is also consistent with relevant provisions of Rule 17Ad–22.[9] Rule 17Ad–22(e)(10) [10] provides that, ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonable designed to, as applicable [. . .] establish and maintain transparent written standards that state its obligations with respect to the delivery of physical instruments, and establish and maintain operational practices that identify, monitor and manage the risks associated with such physical deliveries.'' The proposed amendment, which would correct an inconsistency regarding the deadline for submission of EFPs and EFSs with respect to Daily Contracts, would not otherwise change the delivery terms and conditions for the Daily Contracts or otherwise affect the ICE Clear Europe's existing financial resources, risk management, systems and operational arrangements supporting delivery. The amendment thus appropriately clarifies the role and responsibilities of the Clearing House and Clearing Members with respect to physical delivery. As a result, ICE Clear Europe believes the amendment is consistent with the requirements of Rule 17Ad–22(e)(10).[11]

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

ICE Clear Europe does not believe the proposed amendment would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendment to the Delivery Procedures is intended to correct an inconsistency in the delivery timetable for routine deliveries of Daily Contracts. ICE Clear Europe does not believe that the amendment would adversely affect competition among Clearing Members, materially affect the cost of clearing, adversely affect access to clearing for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. Accordingly, ICE Clear Europe does not believe that the amendment would impose any impact or burden on competition that is not appropriate in furtherance of the purpose of the Act.

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

Written comments relating to the proposed amendment has not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and paragraph (f) of Rule 19b–4 [13] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2022–013 on the subject line.

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 240.17Ad–22.

[10] 17 CFR 240.17Ad–22(e)(10).

[11] 17 CFR 240.17Ad–22(e)(10).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

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–ICEEU–2022–013. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation.* All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2022–013 and should be submitted on or before July 8, 2022.

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

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13043 Filed 6–16–22; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95091; File No. SR–NASDAQ–2022–036]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Fees at Equity 7, Section 118(a)

June 13, 2022.

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 June 1, 2022, The Nasdaq Stock Market LLC (''Nasdaq'' 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 amend the Exchange's transaction fees at Equity 7, Section 118, to: (i) eliminate the Nasdaq Growth Program, at Equity 7, Section 114(j); (ii) adjust or eliminate several of the Exchange's transaction credits, at Equity 7, 118(a); (iii) add a new credit to Equity 7, Section 118(a); and (iv) re-organize, re-format, and re-state the Exchange's schedule of transaction fees and credits at Equity 7, Section 118(a), as described further below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* 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 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.

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

[2] 17 CFR 240.19b–4.

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

1. Purpose

The proposed Rule change will (i) eliminate the Nasdaq Growth Program, at Equity 7, Section 114(j); (ii) adjust or eliminate several of the Exchange's transaction credits, at Equity 7, 118(a); (iii) add a new credit to Equity 7, Section 118(a); and (iv) re-organize, re-format, and re-state the Exchange's schedule of transaction fees and credits at Equity 7, Section 118(a).

Elimination of the Nasdaq Growth Program

The Exchange presently offers the ''Nasdaq Growth Program,'' as set forth in Equity 7, Section 114(j),[3] which exists to incentivize members to increase the extent to which they add liquidity to the Exchange over time. Under the Nasdaq Growth Program, the Exchange provides a credit of $0.0025 per share executed (in securities priced at $1 or more) to members that provide a certain amount of liquidity to the Exchange and also grow the extent to which they add such liquidity over time. Specifically, a member is eligible for the credit if it both: (A) adds greater than 750,000 shares a day on average during the month through one or more of its Nasdaq Market Center MPIDs; and (B) increases its shares of liquidity provided through one or more of its Nasdaq Market Center MPIDs as a percent of Consolidated Volume[4] by 20% versus the member's Growth Baseline or (ii) have met the growth criteria in Equity 7, Section 114(j)(1)(A) and (j)(1)(B)(i) in three separate months and maintained or increased its shares of liquidity provided through one or more of its Nasdaq Market Center MPIDs as a percent of Consolidated Volume compared to the Growth Baseline established when the member met the

[3] *See* Securities Exchange Act Release No. 78977 (September 29, 2016), 81 FR 69140 (October 5, 2016) (SR–NASDAQ–2016–132).

[4] Pursuant to Equity 7, Section 118(a), the term ''Consolidated Volume'' shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity. For the purposes of calculating the extent of a member's trading activity during the month on Nasdaq and determining the charges and credits applicable to such member's activity, all M–ELO Orders that a member executes on Nasdaq during the month will count as liquidity-adding activity on Nasdaq.

criteria for the third month.[5] The Exchange provides this Nasdaq Growth Program credit in lieu of other credits that it otherwise makes available to a member for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity under Equity 7, Section 118 if the former credit is greater than the latter credit.

The Exchange proposes to eliminate the Nasdaq Growth Program because it has not been successful in accomplishing its objectives. That is, it has not induced members to grow materially the extent to which they add liquidity to the Exchange over time. The Exchange has limited resources to allocate to incentive programs like this one and it must, from time to time, reallocate those resources to maximize their net impact on the Exchange, market quality, and participants. Going forward, the Exchange plans to reallocate the resources it devotes to the Nasdaq Growth Program to other incentive programs that it hopes will be more impactful.

Adjustments to Transaction Credits for Displayed Quotes/Orders (Other Than Supplemental Orders or Designated Retail Orders) That Provide Liquidity to the Exchange

Next, the Exchange proposes to adjust several existing credits to its members for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity to the Exchange. For all of these credits described below, the purpose of the changes is to recalibrate the credits to account for changes in member behavior over time that have rendered the credits less challenging for members to attain. That is, the Exchange proposes to reduce the amount of the credits because members now readily meet the volume requirements to qualify for them, such that the credits reward these members for remaining static in their activity on the Exchange. By reducing the amount of these credits, the Exchange wishes to incent such members to strive to qualify for higher available credits by further increasing the extent to which they add liquidity to the Exchange.

Currently, the Exchange provides a $0.0025 per share executed credit for securities in all three Tapes to a member with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.10% of Consolidated Volume. The Exchange proposes to reduce the amount of this credit to $0.0020 per share executed for securities in all three Tapes.

Currently, the Exchange also provides a $0.0020 per share executed credit for securities in Tape C to a member with shares of liquidity provided in all securities representing less than 0.10% of Consolidated Volume, through one or more of its Nasdaq Market Center MPIDs; provided that (i) the member also provides a daily average of at least 250,000 shares of liquidity provided in securities listed on an exchange other than Nasdaq, or (ii) the member routes a daily average volume of at least 10,000 shares during the month via the QDRK routing strategy. The Exchange proposes to reduce the amount of this credit for securities in Tape C to $0.0018 per share executed.

Currently, the Exchange provides a $0.0025 per share executed credit for securities in all three Tapes to a member that provides a daily average of at least 4 million shares of liquidity, of which more than 1.5 million shares per day must consist of non-displayed liquidity, excluding midpoint orders, or Midpoint Extended Life Orders (''M–ELOs''). The Exchange proposes to reduce the amount of this credit to $0.0020 per share executed for securities in all three Tapes.

Finally, the Exchange currently provides a credit of $0.0020 per share executed for securities in Tapes A and B and $0.0015 per share executed for securities in Tape C for all other displayed quotes/orders that provide liquidity to the Exchange. The Exchange proposes to reduce the amount of this credit to $0.0018 per share executed for securities in Tapes A and B, and to $0.0013 per share executed for securities in Tape C.

Elimination of Two Credits for Non-Displayed Orders (Other Than Supplemental Orders) That Provide Liquidity to the Exchange

The Exchange proposes to eliminate two credits for non-displayed orders (other than Supplemental orders) that provide liquidity to the Exchange.

Presently, the Exchange provides a credit of $0.0019 per share executed for securities in Tapes and B [sic], and $0.0013 per share executed for securities in Tape C, to a member with midpoint orders (excluding buy (sell) orders with Midpoint pegging that receive an execution price that is lower (higher) than the midpoint of the NBBO) if the member (i) executes a combined volume of 1 million or more shares in midpoint orders provided and M–ELO executed during the month through one or more of its Nasdaq Market Center MPIDs and (ii) has a 10% or greater increase in midpoint orders provided and M–ELO executed through one or more of its Nasdaq Market Center MPIDs during the month over the month of April 2019. The Exchange proposes to eliminate this credit.

The Exchange also provides a credit of $0.00125 per share executed for securities in Tapes A and B, and $0.0010 per share executed for securities in Tape C, to a member with other non-displayed orders if the member, during the month (i) provides 0.30% or more of Consolidated Volume through non-displayed orders (including midpoint orders) and through M–ELO Orders; and (ii) increases providing liquidity through non-displayed orders (including midpoint orders) and through M–ELO Orders by 0.10% or more as a percentage of Consolidated Volume relative to the member's August 2020 Consolidated Volume provided through non-displayed orders (including midpoint orders) and through M–ELO. The Exchange also proposes to eliminate this credit.

The Exchange proposes to eliminate these two credits because the baseline months for the growth elements of these tiers—April 2019 and August 2020—are no longer relevant benchmarks, as substantial increases in trading volumes have occurred since times. As such, these credits no longer provide growth incentives that are aligned with the Exchange's needs. Again, the Exchange has limited resources to devote to incentive programs, and it is appropriate for the Exchange to reallocate these incentives periodically in a manner that best achieves the Exchange's overall mix of objectives.

Adjustment to Existing Credits and Addition of New Credit for Non-Displayed Orders (Other Than Supplemental Orders) That Provide Liquidity to the Exchange

The Exchange proposes to adjust and add to a series of credits that the Exchange presently offers to members that either grow the extent of their volumes of M–ELO or midpoint orders relative to a baseline month or execute a substantial number of such orders on the Exchange during the month.

Presently, the Exchange provides a credit of $0.0001 per share executed to

[5] As defined in Equity 7, Section 114, the ''Growth Baseline'' is the member's shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs as a percent of Consolidated Volume during the last month a member qualified for the Nasdaq Growth Program under Equity 7, Section 114(j)(1)(B)(i). If a member has not qualified for a credit under this program, its May 2018 share of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs as a percent of Consolidated Volume is used to establish a baseline.

a member, through one or more of its Nasdaq Market Center MPIDs, either: (i) increases the extent of its ADV of M–ELO Orders and/or midpoint orders (that execute against M–ELO Orders) in all securities by an ADV of 1 million shares or more during the month relative to the month of June 2021; or (ii) executes a combined volume of at least 3 million shares ADV through midpoint orders provided and M–ELO Orders during the month and increases the extent of its ADV of midpoint orders provided and M–ELO Orders in all securities by 100% or more during the month relative to the month of June 2021. Alternatively, the Exchange provides a credit of $0.00015 per share executed to a member which, through one or more of its Nasdaq Market Center MPIDs, either: (i) increases the extent of its ADV of M–ELO Orders and/or midpoint orders (that execute against M–ELO Orders) in all securities by an ADV of 2 million shares or more during the month relative to the month of June 2021; or (ii) executes a combined volume of at least a 4 million shares ADV through midpoint orders provided and M–ELO Orders during the month and increases the extent of its ADV of midpoint orders provided and M–ELO Orders in all securities by 150% or more during the month relative to the month of June 2021. The Exchange proposes to lower first of these credits from $0.0001 to $0.00005 per share executed and lower the second of these credits from $0.00015 to $0.00010 per share executed.

Next, the Exchange proposes to add a new credit of $0.0015 per share executed for a member that, through one or more of its Nasdaq Market Center MPIDs, executes a combined volume of at least a 5 million shares ADV through midpoint orders provided and M–ELO Orders during the month. This new proposed credit will not be combinable with the other two existing credits.

Together, the adjustments to the two existing credits, and the addition of the third, will re-align existing incentives for members to grow or add M–ELO or midpoint liquidity while introducing a new incentive for members to add even larger volumes of M–ELO and midpoint orders during the month to attain the highest existing level of credits. To the extent that the Exchange succeeds through these proposals in increasing the addition of midpoint or M–ELO liquidity or executions on the Exchange, all participants will benefit from the increase in market quality.

Additionally, and as part of the reorganization described below, the Exchange proposes to relocate the two existing credits and the new credit in the section of the schedule entitled ''Supplemental credit to member for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity (per share executed.'' The Exchange believes that the three credits are, in fact, supplemental credits and belong logically in that section of the schedule.

Finally, for ease of reference, the Exchange proposes to refer to these three credits as ''M–ELO Supplemental Credits,'' and label them M–ELO Supplemental Credit A ($0.00005), B ($0.0001), and C ($0.00015), respectively.

Elimination of Supplemental Credit for Certain Midpoint Orders

Presently, the Exchange provides a supplemental credit for midpoint orders (excluding buy (sell) orders with midpoint pegging that receive an execution price that is lower (higher) than the midpoint of the NBBO). A member currently receives a credit of either: (a) $0.0001 per share executed for orders in securities in all three Tapes if the member, during the month (i) provides at least 15 million shares of midpoint liquidity per day during the month and (ii) increases providing liquidity through midpoint orders by 10% or more relative to the member's May 2021 ADV provided through midpoint orders; or (b) $0.0002 per share executed for orders in securities in all three Tapes if the member, during the month (i) provides at least 15 million shares of midpoint liquidity per day during the month; and (ii) increases providing liquidity through midpoint orders by 30% or more relative to the member's May 2021 ADV provided through midpoint orders. The Exchange proposes to eliminate the $0.001 per share executed credit but retain the $0.0002 per share executed credit.

The Exchange proposes to eliminate the credit because many members now readily meet the volume requirements to qualify for it, such that the credit in many cases rewards these members for remaining static in their activity on the Exchange. By eliminating the lower of these two credits, the Exchange wishes to incent such members to strive to qualify for the higher credit by further increasing the extent to which they add liquidity to the Exchange.

Reorganization and Re-Formatting of Exchange's Schedule of Transaction Credits and Charges

In addition to the above changes to the substance of the Exchange's schedule of credits and fees, at Equity 7, Section 118(a), the Exchange also proposes non-substantive amendments to the schedule that will re-organize and re-format it to render it shorter, better and more logically organized, and easier to read and comprehend.

Most notably, the Exchange proposes to consolidate the schedule of charges and fees and restate it as a single chart. Presently, the Rule lists the contents of the schedule three times successively—once for securities in Tape A, once for securities in Tape B, and once for securities in Tape C. This format is cumbersome for participants to read and onerous for the Exchange to maintain. The proposed amendments will shorten and simplify the schedule by listing all of the Exchange's transaction credits and charges one time. It will do so by reformatting the schedule into a chart with rows listing each tier of credit/charge and columns listing the applicable amounts of those credits/charges for transactions in securities in each of the three Tapes. In the proposed amended and restated schedule, when a credit or charge does not apply to securities in a particular Tape, the chart will so indicate with the term ''N/A.'' [6]

The Exchange also proposes to re-format and emphasize in bold type the headings for the credits and fees that comprise the schedule so that members can distinguish these sections more easily. The proposal will simplify the schedule by removing redundant explanatory text, such as the phrase ''per share executed'' for each credit/charge (the headings of the chart already indicate that all credits and charges apply on a per share executed basis), ''charge to . . .'' (as the headings of the schedule already state where they are charges and credits), and ''in additional to the credits provided for . . .'' (which is not needed for credits already under the heading ''Supplemental credit to member . . .'').

The proposed amendments will consolidate existing definitions of certain terms used within Section 118(a) into a single bulleted definitions paragraph at the outset of the Rule, including the terms ''ADV'' (or ''Average Daily Volume''), ''Consolidated Volume,'' and ''Designated Retail Order.'' The proposal will not make any substantive changes to the meanings of these terms.

The proposal will also re-format aspects of the schedule where presently, multiple credits and charges are listed in the same cells, and are thus difficult to read. For example, the proposed rule

[6] The proposed rule change is similar to the formatting and organization changes made to the Exchange's sister exchange, Nasdaq BX, Inc., in 2019. *See* Securities Exchange Act Release No. 85912 (May 22, 2019); 84 FR 24834 (May 29, 2019) (SR–BX–2019–013).

will separate the single cells listing a ''charge or credit to [a] member entering TFTY, MOPB, MOPP, SAVE, SOLV, CART, QDRK, QCST or directed order that executes in a venue other than the Nasdaq Market Center'' into multiple rows corresponding to each of them individually.

Additionally, the proposal will amend the existing line item entitled ''Credit to other members'' by retitling it ''Credit for all other displayed quotes/order that provide liquidity (per share executed).'' This proposal will clarify that this credit applies to members for all other displayed quotes/orders not otherwise covered by all of the preceding credits for displayed quotes or orders that provide liquidity to the Exchange (rather than a subset thereof).

The Exchange will relocate several charges and credits that are either misplaced or logically belong in other sections of the schedule. For example, in the section entitled ''Charge to enter orders that execute in the Nasdaq Market Center,'' the Exchange proposes to move the $0.0030 per share executed credit for ''all other orders that execute in the Nasdaq Market Center'' to the end of the section, as it is a baseline charge absent the availability of discounted charges. Additionally, the Exchange proposes to move from the displayed credits section of the schedule to the section listing supplemental credits for displayed orders/quotes that provide liquidity (other than Supplemental orders or Designated Retail Orders) the following three credits, as these credits logically are supplemental, rather than regular credits: (a) a $0.0005 per share executed credit for securities in Tape B for a member with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent at least 1.75% of Consolidated Volume, including shares of liquidity provided with respect to securities that are listed on exchanges other than Nasdaq or NYSE that represent at least 0.60% of Consolidated Volume; (b) a $0.0001 per share executed credit for securities in Tape B for a member with shares of liquidity provided in securities that are listed on exchanges other than Nasdaq or NYSE during the month representing at least 0.10% of Consolidated Volume through one or more of its Nasdaq Market Center MPIDs; and (c) a $0.0005 per share executed credit for securities in Tape A for a member with shares of liquidity provided in Tape A securities through one or more of its Nasdaq Market Center MPIDs that represent at least 0.75% of Consolidated Volume, and shares of liquidity provided in Tape B securities through one or more of its Nasdaq Market Center MPIDs that represent at least 0.60% of Consolidated Volume. Similarly, the Exchange proposes to relocate to the regular displayed credits section of the schedule two credits that are misplaced now in the supplemental credits section: (a) a $0.0026 per share executed credit for securities in all Tapes to a member that, through one or more of its Nasdaq Market Center MPIDs: (i) provides shares of liquidity in all securities that represent equal to or greater than 0.15% of Consolidated Volume; (ii) increases the extent to which it provides liquidity in all securities as a percentage of Consolidated Volume by 20% or more during the month relative to the month of May 2021; and (iii) has a ratio of at least 50% NBBO liquidity provided (as defined in Equity 7, Section 114(g)) to liquidity provided by displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) during the month; and (b) a $0.0027 per share executed credit for securities in all Tapes to a member that, through one or more of its Nasdaq Market Center MPIDs: (i) provides shares of liquidity in all securities that represent equal to or greater than 0.20% of Consolidated Volume; (ii) increases the extent to which it provides liquidity in all securities as a percentage of Consolidated Volume by 35% or more during the month relative to the month of May 2021; and (iii) has a ratio of at least 60% NBBO liquidity provided (as defined in Equity 7, Section 114(g)) to liquidity provided by displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) during the month. Finally, the Exchange proposes to relocate to the section entitled ''Supplemental credit to member for displayed quotes/orders (other than Supplemental Orders) that provide liquidity (per share executed) the following credit, which was also misplaced in error: a $0.0005 per share executed credit for securities in Tape B to a member with shares of liquidity provided in securities that are listed on exchanges other than Nasdaq or NYSE during the month representing at least 0.10% of Consolidated Volume through one or more of its Nasdaq Market Center MPIDs.

Other non-substantive changes include correcting current inconsistencies in terminology, capitalizing defined terms, de-capitalizing undefined terms, and de-capitalizing the first word in the row. Misspellings of certain terms, including ''RTFY,'' ''TFYY,'' and ''MELO,'' will be corrected to ''RFTY,'' ''TFTY,'' and ''M–ELO,'' respectively. The proposal also reconciles terminological inconsistencies among the three existing statements of the schedule, *e.g.,* ''nondisplayed'' and ''non-displayed'', and ''of'' and ''of which.'' The proposal also duly capitalizes the defined terms ''Order,'' ''Customer,'' and ''Market Hours.''

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposal is also consistent with Section 11A of the Act relating to the establishment of the national market system for securities.

The Proposals are Reasonable, an Equitable Allocation of Fees, and are not Unfairly Discriminatory

The Exchange's proposals are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .''[9]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

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

forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [10]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds. The Exchange is also subject to intense competition for retail order flow with off-exchange competitors, including wholesale market makers.

The Exchange believes it is reasonable, equitable, and not unfairly discriminatory to eliminate the Nasdaq Growth Program because the Program has not been successful in inducing members to grow materially the extent to which they add liquidity to the Exchange over time. The Exchange has limited resources to allocate to incentive programs like this one and it must, from time to time, reallocate those resources to maximize their net impact on the Exchange, market quality, and participants. Going forward, the Exchange plans to reallocate the resources it devotes to the Nasdaq Growth Program to other incentive programs that it hopes will be more impactful.

It is also reasonable, equitable, and not unfairly discriminatory for the Exchange to adjust several existing credits for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity to the Exchange. These adjustments will recalibrate the credits to account for changes in member behavior over time that have rendered the credits less challenging for members to attain. That is, the Exchange proposes to reduce the amount of the credits because many members now readily meet the volume requirements to qualify for them, such that the credits in many cases reward these members for remaining static in their activity on the Exchange. By reducing the amount of these credits, the Exchange wishes to incent such members to strive to qualify for higher available credits by further increasing the extent to which they add liquidity to the Exchange.

It is reasonable, equitable, and not unfairly discriminatory for the Exchange to eliminate two credits for non-displayed orders (other than Supplemental orders) that provide liquidity to the Exchange. The baseline months for the growth elements of these tiers—April 2019 and August 2020—are no longer relevant benchmarks, as substantial increases in trading volumes have occurred since these dates. As such, these credits no longer provide growth incentives that are aligned with the Exchange's needs. Again, the Exchange has limited resources to devote to incentive programs, and it is appropriate for the Exchange to reallocate these incentives periodically in a manner that best achieves the Exchange's overall mix of objectives.

It is reasonable, equitable, and not unfairly discriminatory for the Exchange to lower two existing credits for members that add or grow the extent to which they add midpoint or M–ELO liquidity to the Exchange, as well as add a new such credit. Together, the adjustments to the two existing credits, and the addition of the third, will re-align existing incentives for members to grow or add M–ELO or midpoint liquidity while introducing a new incentive for members to add even larger volumes of M–ELO and midpoint orders during the month to attain the highest existing level of credits. To the extent that the Exchange succeeds through these proposals in increasing the addition of midpoint or M–ELO liquidity or executions on the Exchange, all participants will benefit from the increase in market quality.

Furthermore, it is reasonable, equitable, and not unfairly discriminatory for the Exchange to eliminate one of its supplemental credits for midpoint orders (excluding buy (sell) orders with midpoint pegging that receive an execution price that is lower (higher) than the midpoint of the NBBO). Many members now readily meet the volume requirements to qualify for this credit, such that it rewards these members for remaining static in their activity on the Exchange. By eliminating the lower of these two credits, the Exchange wishes to incent such members to strive to qualify for the higher credit by further increasing the extent to which they add liquidity to the Exchange.

The Exchange notes that the credits affected by this proposal are voluntary. Moreover, nothing about the Exchange's volume-based tiered pricing model, as set forth in Equity 7, is inherently unfair; instead, it is a rational pricing model that is well-established and ubiquitous in today's economy among firms in various industries—from co-branded credit cards to grocery stores to cellular telephone data plans—that use it to reward the loyalty of their best customers that provide high levels of business activity and incent other customers to increase the extent of their business activity. It is also a pricing model that the Exchange and its competitors have long employed with the assent of the Commission. It is fair because it enhances price discovery and improves the overall quality of the equity markets.

Those participants that are dissatisfied with the elimination of the Nasdaq Growth Program or the amendments to the Exchange's schedule of credits are free to shift their order flow to competing venues that provide more generous incentives or less stringent qualifying criteria.

Finally, the Exchange believes that it is reasonable to re-organize, re-format, and re-state its schedule of credits and charges, Equity 7, Section 118(a). As noted above, the existing schedule is needlessly long, complex, and repetitive, and it contains unintended inconsistencies in terminology and capitalization, as well as several typographical errors. The Exchange believes that its proposals to address these issues will render the schedule shorter, simpler, more consistent, better and more logically organized, and more readable, to the benefit of investors, participants, and the public. It will also ease the burden to the Exchange of administering the schedule when it proposes to make substantive changes thereto, as it will no longer need to make three amendments to the schedule to accomplish a single change. The Exchange does not intend for the reorganization, reformatting, or restatement of the schedule to themselves effect any substantive changes to existing credits or charges.

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.

Intramarket Competition

The Exchange does not believe that its proposals will place any category of Exchange participant at a competitive disadvantage.

As noted above, the Exchange's intends for its proposed substantive changes to its credits to reallocate its limited resources more efficiently and

[10] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

for optimized effect, to recalibrate them to reflect changing market behavior, and to align them with the Exchange's overall mix of objectives. The Exchange notes that its members are free to trade on other venues to the extent they believe that these proposals are not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

Intermarket Competition

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its credits and fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own credits and fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which credit or fee changes in this market may impose any burden on competition is extremely limited. The proposals are reflective of this competition.

Even as one of the largest U.S. equities exchanges by volume, the Exchange has less than 20% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues, which comprises upwards of 50% of industry volume.

In sum, if the change proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

Finally, the Exchange does not believe that its proposal to re-organize, re-format, and re-state its schedule of credits and fees, at Equity 7, Section 118(a), will have any impact on competition, as it will merely render the schedule shorter, simpler, more consistent, better and more logically organized, and more readable, to the benefit of investors, participants, and the public. It will also ease the burden to the Exchange of administering the schedule when it proposes to make substantive changes thereto, as it will no longer need to make three amendments to the schedule to accomplish a single change. The Exchange does not intend for the reorganization, reformatting, or restatement of the schedule to themselves effect any substantive changes to existing credits or charges.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[11]

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–NASDAQ–2022–036 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–10

All submissions should refer to File Number SR–NASDAQ–2022–036. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2022–036 and should be submitted on or before July 8, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13039 Filed 6–16–22; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17487 and #17488; NEW MEXICO Disaster Number NM–00081]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of New Mexico

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Mexico (FEMA–4652–DR), dated 06/08/2022.

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 200.30–3(a)(12).

Incident: Wildfires and Straight-line Winds.

Incident Period: 04/05/2022 and continuing.

DATES: Issued on 06/08/2022.

Physical Loan Application Deadline Date: 08/08/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 03/08/2023.

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, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 06/08/2022, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications 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: Colfax, Mora, San Miguel.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	1.875
Non-Profit Organizations Without Credit Available Elsewhere ...	1.875
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere ...	1.875

The number assigned to this disaster for physical damage is 17487 5 and for economic injury is 17488 0.

(Catalog of Federal Domestic Assistance Number 59008)

Joshua Barnes,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2022–13032 Filed 6–16–22; 8:45 am]

BILLING CODE 8026–09–P

SOCIAL SECURITY ADMINISTRATION

[Docket No SSA–2022–0027]

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes one new information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA.

Comments: https://www.reginfo.gov/public/do/PRAMain. Submit your comments online referencing Docket ID Number [SSA–2022–0027].

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*.

Or you may submit your comments online through *https://www.reginfo.gov/public/do/PRAMain,* referencing Docket ID Number [SSA–2022–0027].

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than August 16, 2022. Individuals can obtain copies of the collection instrument by writing to the above email address.

The National Beneficiary Survey (NBS)—0960–NEW Background

SSA's Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs provide a crucial and necessary safety net for working-aged people with disabilities. By improving employment outcomes for SSDI beneficiaries and SSI recipients, SSA supports the effort to reduce the reliance of people with disabilities on these programs. SSA previously conducted seven rounds of the National Beneficiary Survey (NBS) in 2004, 2005, 2006, 2010, 2015, 2017, and 2019. Conducting the prior rounds of the NBS provided SSA with an important understanding of the work interests and experiences of SSI recipients and SSDI beneficiaries, and helped SSA gain information about their impairments; health; living arrangements; family structure; pre-disability occupation; and use of non-SSA programs (*e.g.,* the Supplemental Nutrition Assistance Program). The prior rounds of NBS data are available to researchers and the public. SSA contracted with Mathematica to conduct the NBS data collection.

NBS Project Description

The primary purpose of the new NBS is to: (1) assess beneficiary well-being and interest in work; (2) learn about beneficiary work experiences (successful and unsuccessful); and (3) to identify factors that promote or restrict long-term work success. As with the previous NBS rounds, the current NBS will collect information on factors such as health; living arrangements; family structure; current occupation; use of non-SSA programs; knowledge of SSDI and SSI work incentive programs; obstacles to work; and beneficiary interest and motivation to return to work. SSA is requesting clearance to administer Round 8 of the NBS in 2023. The information we will collect is not something we can obtain from SSA administrative data or other sources. In the Round 8 NBS, the sample design is similar to the ones we used for the prior NBS. The sample includes the nationally representative beneficiary samples (RBS) of adult SSDI and SSI disability program participants, as well as the successful worker sample (SWS) which includes beneficiaries who worked above the substantial gainful activity for at least three consecutive months during the six months preceding their NBS interview. SSA plans to complete 8,000 interviews: 5,000 from a cross-sectional sample of active beneficiaries (SSI and SSDI) and 3,000 from a successful worker sample, and will conduct the survey interviews primarily by telephone. We will send a letter in advance informing the beneficary that an interviewer will contact them to conduct, or schedule a date and time for the survey. The beneficiary can also contact the 800 number we provide in the sample letter to schedule the interview or take the survey with an interviewer. We will send follow-up letters and postcards reminding the beneficiary to contact us, if they have not already done so, and we will also send postcard messages about establishing the best time for the beneficiary to take the survey.

In addition to the Round 8 NBS, we propose to conduct an experimental web and a paper-based data collection effort to test if these modes are feasible methods to collect data from nonrespondents. SSA will conduct this experiment during the administration of the Round 8 NBS, and we will include a shorter version of the instrument for web and paper administration designed to collect critical data from nonrespondents to the telephone interview modality. We will mail the abbreviated experimental paper version survey to the beneficiaries to complete and send back to Mathematica.

We will pull the sample for the experimental web and paper administration of the NBS from Round 8 SWS nonrespondents. Respondent participation in the NBS is voluntary and the decision to participate has no impact on current or future receipt of payments or benefits. Respondents are current SSDI beneficiaries and SSI recipients.

Type of Request: Request for a new information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office or for teleservice centers (minutes)	Total annual opportunity cost (dollars) ***
Representative Beneficiary Sample	5,000	1	60	5,000	$11.70 *	5 **	$63,379 ***
Successful Worker Sample	3,000	1	70	3,500	11.70 *	5 **	45,829 ***
Successful Worker Sample web-based experiment	125		25	52	11.70 *		608 ***
Successful Worker Sample, paper-based experiment respondent	100		25	42	11.70 *		491 ***
Totals	8,225			8,594			110,307 **

* We based this figure on the average DI payments based on SSA's current FY 2022 data (*https://www.ssa.gov/legislation/2022factsheet.pdf*).
** We based this figure by averaging the average FY 2022 wait times for field offices and teleservice centers, based on SSA's current management information data.
*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: June 13, 2022.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2022–13028 Filed 6–16–22; 8:45 am]

BILLING CODE 4191–02–P

SURFACE TRANSPORTATION BOARD

Two-Week Notice of Amended Request for Emergency Approval of Information Collection: Urgent Rail Service Issues

AGENCY: Surface Transportation Board.

ACTION: Amended Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995, the Surface Transportation Board gives notice that it is requesting from the Office of Management and Budget emergency approval for an existing collection without an OMB Control Number, Urgent Rail Service Issues, as described below. This notice amends and supersedes the previous notice seeking comments and extends the due dates, so that all comments will now be due on a single date.

DATES: Comments on this information collection should be submitted by July 1, 2022.

ADDRESSES: Direct all comments to Chris Oehrle, PRA Officer, Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001, or to *PRA@stb.gov.* When submitting comments, please refer to ''Urgent Rail Service Issues.'' For further information regarding this collection, contact Ian Anderson at (202) 245–0337 or *Ian.Anderson@stb.gov.* Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Comments are requested concerning each collection as to (1) whether the particular collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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, when appropriate. Submitted comments will be included and summarized in the Board's request for OMB approval.

Subjects: In this notice, the Board is requesting comments on the following information collection:

Description of Collection

Title: Urgent Rail Service Issues.

OMB Control Number: 2140–XXXX.

STB Form Number: None.

Type of Review: Emergency approval of an existing information collection without an OMB control number.

Respondents: Class I (Large) railroads.

Number of Respondents: Seven.

Estimated Time Per Response: See Table below.

TABLE—ESTIMATED HOURS PER RESPONSE

Type of filing	Estimated hours per response
Service Recovery Plans *	80
Historical Data *	8
Service Progress Reports *	8
Individual Conference Calls *	0.5
Weekly Performance Data	8
Monthly Employment Data	16
Supplement to April 2022 Employment Data	8

* These sub-collections only apply to the four largest Class I railroads.

Frequency: One-time, bi-weekly and monthly, as provided in Table below

TABLE—ESTIMATED NUMBER OF RESPONSES

Type of filing	Number of respondents	Estimated frequency
Service Recovery Plans *	4	1
Historical Data *	4	1
Service Progress Reports *	4	13
Individual Conference Calls *	4	6
Weekly Performance Data	7	26
Monthly Employment Data	7	6
Supplement to April 2022 Employment Data	7	1

* These sub-collections only apply to the four largest Class I railroads

Total Burden Hours (annually including all respondents): 2,964 (sum of estimated hours per response × number of annual responses × frequency for each type of filing), as provided in Table below

TABLE—TOTAL ESTIMATED BURDEN HOURS

Type of filing	Estimated hours per response	Number of respondents	Estimated frequency	Total annual burden hours
Service Recovery Plans *	80	4	1	320
Historical Data *	8	4	1	32
Service Progress Reports *	8	4	13	416
Individual Conference Calls *	0.5	4	6	12
Weekly Performance Data	8	7	26	1,456
Monthly Employment Data	16	7	6	672
Supplement to April 2022 Employment Data	8	7	1	56
Total Annual Burden Hours				2,964

* These sub-collections only apply to the four largest Class I railroads.

Total ''Non-hour Burden'' Cost: There are no non-hourly burden costs for this collection. The collections may be filed electronically.

Needs and Uses: The Board is responsible for the economic regulation of common carrier rail transportation. Under 49 U.S.C. 1321(b), 11123, and 11145(a), the Board is empowered to address immediate service issues. Collecting this information will enable the Board to take necessary action to timely deal with the unanticipated and urgent service issues affecting the U.S. rail system. These measures are meant to inform the Board's assessment of further actions that may be warranted to address the acute service issues facing the rail industry and to promote industry-wide transparency, accountability, and improvements in rail service.

At the Board's April 26 and 27, 2022 public hearing in *Urgent Issues in Freight Rail Service,* the Board received extensive testimony on severe rail service issues reported by a wide range of witnesses—including agricultural, energy, and other shippers, as well as government officials, rail labor, and rail experts. The Board has also continued to review and monitor weekly rail service performance data that indicated substantial deterioration in service.

In a decision served on May 6, 2022, the Board found that immediate action was needed to address the significant service problems, and it ordered certain railroads to immediately submit relevant information. This information collection directed the four largest U.S. rail carriers—BNSF Railway Company (BNSF), CSX Transportation (CSXT), Norfolk Southern Railway Company (NSR), and Union Pacific Railroad Company (UP)—to submit service recovery plans, along with bi-weekly progress reports for the next six months, in an effort to address service deficiencies that are impacting the public, businesses, and the U.S. economy. This collection also required all Class I rail carriers operating in the United States to report more comprehensive and customer-centric performance metrics and employment data, also for a six-month period.

In a decision served June 13, 2022, the Board is supplementing its May 6 decision and is (1) requiring BNSF, CSXT, NSR, and UP to correct deficiencies in their service recovery plans and provide additional information on their actions to improve service and communications with customers and (2) updating the technical documentation required of all Class I railroad for both the weekly service data and the monthly employment data. The Board is taking this action to better inform its and the public's assessment of actions that may be warranted to address the acute service issues described above.

This decision and notice concurrently reflects the Board's decision to supplement this information collection. Correspondingly, it updates, amends and supersedes the Board's notice published June 3, 2022 (87 FR 33,868). It updates the burdens for this information collection to reflect a higher level of specificity requested for Service Recovery Plans and additional metrics requested for the Monthly Employment Data, as updated in the Board's decision served concurrently with this decision.

This updated collection will be used by the Board to inform its understanding of the current service problems and progress being made to resolve them and inform whether additional action is warranted. The collection is also intended to promote industry-wide transparency, accountability, and improvements in rail service. Although not all Class I carriers are experiencing service problems to the same degree, the Board is also requiring certain reporting requirements to apply to all Class I carriers so that the Board can assess the current service issues across the rail network as a whole. Because the U.S. rail system is an interconnected network, problems in one geographic area can quickly spread elsewhere. The supplemented reporting requirements will give the agency and stakeholders access to data needed for a more-timely understanding of the extent and location of the acute service issues and labor and equipment shortages. The information received by the Board from this collection will be filed in Docket No. EP 770 (Sub-No. 1) and will be publicly available at *www.stb.gov* and may be found by a search in that docket under the ''Proceedings and Actions'' pull-down menu.

The Board makes this submission because, under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under 5 CFR 1320.13, emergency processing is appropriate here and the Board is providing an extended two-week comment period through publication in the **Federal Register** concerning each proposed collection of information.

Dated: June 13, 2022.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2022–13029 Filed 6–16–22; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Release Certain Properties From All Terms, Conditions, Reservations and Restrictions of a Quitclaim Deed Agreement Between the City of Fernandina Beach and the Federal Aviation Administration for the Fernandina Beach Municipal Airport, Fernandina Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release 0.28 acres at the Fernandina Beach Municipal Airport, Fernandina Beach, FL from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the City of Fernandina Beach, dated July 9, 1947. The release of property will allow the City of Fernandina Beach to dispose of the property for other than aeronautical purposes. The property is located on the North side of Airport Road at the Fernandina Beach Municipal Airport, within the city limits of Fernandina Beach, Nassau County, Florida. The parcel is currently designated as surplus property. The property will be released of its federal obligations for the purpose of selling the property at fair market value for light industrial future commmerical development. The fair market value lease of this parcel has been determined to be $40,000.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Fernandina Beach Municipal Airport and the FAA Airports District Office.

ADDRESSES: Documents are available for review at Fernandina Beach Municipal Airport, and the FAA Airports District Office, 8427 SouthPark Circle, Suite 524, Orlando, FL 32819. Written comments on the Sponsor's request must be delivered or mailed to: Jenny Iglesias-Hamann, Community Planner, Orlando Airports District Office, 8427 SouthPark Circle, Suite 524, Orlando, FL 32819.

DATES: Comments are due on or before July 18, 2022.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

FOR FURTHER INFORMATION CONTACT: Jenny Iglesias-Hamann, Community Planner, Orlando Airports District Office, 8427 SouthPark Circle, Suite 524, Orlando, FL 32819.

Rebecca Henry Harper,

Acting Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 2022–13027 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Membership in the National Parks Overflights Advisory Group

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Solicitation of applications.

SUMMARY: The Federal Aviation Administration (FAA) and the National Park Service (NPS) invite interested persons to apply to fill one current and one upcoming vacancy on the National Parks Overflights Advisory Group (NPOAG). This notice invites interested persons to apply for the current and upcoming openings. The current opening is for a representative of Native American tribes. The upcoming opening is for a representative of environmental concerns.

DATES: Persons interested in these membership openings will need to apply by July 29, 2022.

FOR FURTHER INFORMATION CONTACT: Keith Lusk, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, 777 S Aviation Boulevard, Suite 150, El Segundo, CA 90245, telephone: (424) 405–7017, email: *Keith.Lusk@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181, and subsequently amended in the FAA Modernization and Reform Act of 2012. The Act required the establishment of the advisory group within one year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of representatives of general aviation, commercial air tour operators, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

In accordance with the Act, the advisory group provides ''advice, information, and recommendations to the Administrator and the Director—

(1) On the implementation of this title [the Act] and the amendments made by this title;

(2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will

receive preferential treatment in a given air tour management plan;

(3) On other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.''

Membership

The current NPOAG is made up of one member representing general aviation, three members representing the commercial air tour industry, four members representing environmental concerns, and two members representing Native American tribes. Members serve three year terms. Current members of the NPOAG are as follows:

Murray Huling representing general aviation; Eric Lincoln, James Viola, and John Becker representing commercial air tour operators; Robert Randall, Dick Hingson, Les Blomberg, and John Eastman representing environmental interests; and Carl Slater representing Native American tribes, with one current opening. The three-year term of Mr. Randall expires on September 18, 2022.

Selections

In order to retain balance within the NPOAG, the FAA and NPS are seeking candidates interested in filling the one current vacant seat representing Native American tribes and the one upcoming seat representing environmental concerns. The FAA and NPS invite persons interested in these openings on the NPOAG to contact Mr. Keith Lusk (contact information is written above in **FOR FURTHER INFORMATION CONTACT**). Requests to serve on the NPOAG must be made to Mr. Lusk in writing and postmarked or emailed on or before July 29, 2022. Any request to fill one of these seats must describe the requestor's affiliation with federally-recognized Native American tribes or any environmental stakeholder groups, as appropriate. The request should also explain what expertise the requestor would bring to the NPOAG as related to issues and concerns with aircraft flights over national parks or tribal lands. The term of service for NPOAG members is 3 years. Members may re-apply for another term.

On August 13, 2014, the Office of Management and Budget issued revised guidance regarding the prohibition against appointing or not reappointing federally registered lobbyists to serve on advisory committees (79 FR 47482).

Therefore, before appointing an applicant to serve on the NPOAG, the FAA and NPS will require the prospective candidate to certify that they are not a federally registered lobbyist.

Issued in El Segundo, CA, on June 13, 2022.

Keith Lusk,

Program Manager, Special Programs Staff, Western-Pacific Region.

[FR Doc. 2022–13055 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA 2022–0019]

Agency Information Collection Activities: Notice of Request for New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval to submit one information collection, which is summarized below under Supplementary Information. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 16, 2022.

ADDRESSES: You may submit comments identified by Docket ID FHWA 2022–0019 by any of the following methods:

Website: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Patricia Sergeson, 202–493–3166, Department of Transportation, Federal Highway Administration, Office of Corporate Research, Technology and Innovation Management, Turner-Fairbank Highway Research Center, 6300 Georgetown Pike, McLean, VA 22101. Office hours are from 8 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: *Title:* Transportation Pooled Fund Excellence Award.

OMB Control Number: (if applicable).

Summary

Respondents: Any participant in the Transportation Pooled Fund (TPF) program can submit a nomination of a TPF study for the TPF Excellence Award, including staff from the 50 States, the District of Columbia, and Puerto Rico.

Background: FHWA is partnering with the American Association of State Highway and Transportation Officials (AASHTO) Research Advisory Committee (RAC) to further promote research, innovation, and excellence through a new TPF Program Excellence Award.

For more than 45 years, the FHWA's TPF Program has enabled public and private entities to collaboratively conduct cutting-edge transportation research. Through the TPF Program, participants are able to pool funds and expertise to develop innovative solutions at a lower cost while extending the reach and impact of their research.

The TPF Excellence Award will recognize outstanding TPF studies that have made significant advancements in national research efforts in the areas of safety, economic growth, equity, and/or transformative climate solutions. The future award will highlight the importance of meaningful collaboration and partnership in transportation research. Administered through a partnership between FHWA and the AASHTO RAC, the biennial TPF Excellence Award will recognize one FHWA-led TPF study and one State department of transportation (DOT)-led study. Nominations would be received between February 1 and May 1 every 2 yr. Nomination forms would be sent to FHWA Division Offices and State DOTs to solicit nominees.

Award: Any participant in the TPF program can nominate a TPF study that is completed and has posted a final report by June 30 of the year submitted. The nominator is responsible for completing the nomination form that summarizes the outstanding accomplishments of the entry. FHWA will use the collected information to evaluate, showcase, and enhance the public's knowledge of research and innovation conducted through these TPF projects. Nominations will be reviewed by an independent panel of judges from various backgrounds. The awards will be given every 2 yr. The winners will be presented awards at the completion of the process.

Frequency: The information will be collected biennially.

Estimated Average Burden per Response: 5 h per respondent per application.

Estimated Total Annual Burden Hours: It is expected that the respondents will complete approximately 20 applications for an estimated total of 100 annual burden hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Public Comments Invited: You are asked to comment on any aspect of these information collections, including: (1) Whether the proposed collections are necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burdens could be minimized, including use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of these information collections.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: June 14, 2022.

Michael Howell,

Information Collection Officer.

[FR Doc. 2022–13107 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2021–0080; Notice 1]

FCA US LLC Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: FCA US LLC f/k/a Chrysler Group LLC (collectively referred to as "FCA US") has determined that certain model year (MY) 2018–2022 Alfa Romeo Stelvio motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 111, *Rear Visibility.* FCA US filed a noncompliance report dated September 21, 2021. FCA US subsequently petitioned NHTSA on October 14, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of FCA US' petition.

DATES: Send comments on or before July 18, 2022.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. Overview

FCA US has determined that certain MY 2018–2022 Alfa Romeo Stelvio motor vehicles do not fully comply with the requirements of paragraphs S2 and S.5.5.1 of FMVSS No. 111, *Rear Visibility* (49 CFR 571.111). FCA US filed a noncompliance report dated September 21, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* FCA US subsequently petitioned NHTSA on October 14, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of FCA US' petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved

Approximately 43,701 MY 2018–2022 Alfa Romeo Stelvio motor vehicles manufactured between April 12, 2017, and August 27, 2021, are potentially involved.

III. Noncompliance

FCA US explains that the noncompliance is that the subject vehicles are equipped with rearview camera displays that when tested to FMVSS No. 111, covers a required portion of a test object and therefore, do not fully meet the field of view requirements outlined in paragraphs S2 and S5.5.1 of FMVSS No. 111. Specifically, the rearview camera display includes ''dynamic guidelines'' that project the vehicle to be wider than it is. As a result, the ''dynamic gridlines'' partially cover the lower inside edges of the front test object when the steering wheel is straight.

IV. Rule Requirements

Paragraphs S2 and S5.5.1 of FMVSS No. 111 include the requirements relevant to this petition. Paragraph S2 of FMVSS No. 111 specifies that the purpose of this standard is to reduce the number of deaths and injuries that occur when the driver of a motor vehicle does not have a clear and reasonably unobstructed view to the rear. Paragraph S5.5.1 of FMVSS No. 111 requires the rearview image to include: (a) A minimum of a 150-mm wide portion along the circumference of each test object located at positions F and G; and (b) the full width and height of each test object located at positions A through E, when tested in accordance with the procedures in S14.1 of FMVSS 111.

V. Summary of FCA US' Petition

The following views and arguments presented in this section, V. Summary of FCA US' Petition, are the views and arguments provided by FCA US. They have not been evaluated by the Agency and do not reflect the views of the Agency.

In its petition, FCA US describes the subject noncompliance and explains that it is caused by an incorrect calibration in the subject vehicles. According to FCA US the subject noncompliance is inconsequential to motor vehicle safety because the subject noncompliance ''does not create an unclear or unreasonably obstructed view to the rear.'' FCA US specifies that although the subject noncompliance exists, the obstruction caused by the gridlines while performing the FMVSS No. 111 test is ''transitory'' and does not ''significantly obstruct the view to the rear.'' [1] Further, the gridlines will move rearward as the vehicle does, resulting in the test objects to be ''displayed in full.''

FCA US quoted an excerpt from the notice of final rule for FMVSS No. 111 in which FCA US says that NHTSA ''acknowledged that over lays, such as gridlines, could provide safety-related benefits.''

FCA US concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that FCA US no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after FCA US notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2022–13082 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–59–P

[1] *FCA US provided photos of the noncompliance in its petition which can be viewed in full at https://www.regulations.gov/docket/NHTSA-2021-0080.*

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2021–0066; Notice 1]

Volkswagen Group of America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: Volkswagen Group of America, Inc., (Volkswagen), has determined that certain model year (MY) 2021 Audi motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 135, *Light Vehicle Brake Systems.* Volkswagen filed a noncompliance report dated July 26, 2021. Volkswagen subsequently petitioned NHTSA on August 25, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Volkswagen's petition.

DATES: Send comments on or before July 18, 2022.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Vince Williams, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366–2319, *Vince.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Overview

Volkswagen determined that certain MY 2021 Audi A6 Sedan, A6 Allroad, A7, RS6 Avant, RS7, S6 sedan, and S7 motor vehicles do not fully comply with paragraph S5.4.3 of FMVSS No. 135, *Light Vehicle Brake Systems* (49 CFR 571.135).

Volkswagen filed an original noncompliance report dated July 26, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Volkswagen petitioned NHTSA on August 25, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Volkswagen's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. Vehicles Involved

Approximately 4,267 MY 2021 Audi A6 Sedan, A6 Allroad, A7, RS6 Avant, RS7, S6 sedan, and S7, manufactured between January 11, 2021, and April 14, 2021, are potentially involved:

III. Noncompliance

Volkswagen explains that a small number of the subject vehicles may have a European-specification brake fluid reservoir cap instead of the one required for the North American/United States market as required by paragraph S5.4.3 of FMVSS No. 135. Specifically, the subject brake fluid reservoir caps may not include the required warning label.

IV. Rule Requirements

Paragraph S5.4.3 of FMVSS 135, includes the requirements relevant to this petition. Each vehicle equipped with hydraulic brakes shall have a brake fluid warning statement that reads as follows, in letters at least 3.2 mm (1⁄8 inch) high: ''WARNING: Clean filler cap before removing. Use only ____ fluid from a sealed container.'' (Inserting the recommended type of brake fluid as specified in 49 CFR 571.116, *e.g.,* ''DOT 3.'' The lettering shall be permanently affixed, engraved, or embossed, located so as to be visible by direct view, either on or within 100 mm (3.94 inches) of the brake fluid reservoir filler plug or cap, and of a color that contrasts with its background, if it is not engraved or embossed.

V. Summary of Volkswagen's Petition

The following views and arguments presented in this section, ''V. Summary of Volkswagen's Petition,'' are the views and arguments provided by Volkswagen. They have not been evaluated by the Agency and do not reflect the views of the Agency. Volkswagen describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Volkswagen explains that it believes the subject noncompliance to be inconsequential to motor vehicle safety because ''the brake fluid cap shows clearly the specification of the brake fluid required'' and ''provides clear symbols including one for caution and one for referring to owner manual instructions. The manual indicates the proper brake fluid specification for use in the vehicle.'' Volkswagen also states that the ''brake fluid cap conforms to the requirements of ISO9128''2006 which is a requirement of UN–ECE Regulations 13 and 13h.''

Volkswagen contends that the following previous grants of inconsequentiality petitions support NHTSA's granting of its petition for the subject noncompliance:

- Jaguar Land Rover North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 84 FR 13095 (April 3, 2019).
- Ford Motor Company, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 69931 (November 21, 2013).
- Hyundai Motor Company, Grant of Petition for Decision of Inconsequential Noncompliance, 73 FR 38290 (July 3, 2008).

According to Volkswagen, ''service to the brake system involving an exchange of the brake fluid is not a standard maintenance activity'' and repairs to the brake system ''requires basic technical knowledge regarding the brake system and should be performed by a trained technician.''

Volkswagen states that it has not received any field or customer complaints or notification of any accident or injuries related to the subject noncompliance. Further, Volkswagen states that as of April 14, 2021, production of the subject vehicles has been corrected and the vehicles ''at the factory have been corrected and unsold units will be correct prior to sale.''

Volkswagen concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Volkswagen no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Volkswagen notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2022–13079 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2021–0052; Notice 1]

Maserati North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: Maserati North America, Inc. (''MNA''), has determined that certain Model Year (MY) 2017 2021 Maserati Levante motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less.* MNA filed an original noncompliance report dated June 7, 2021, and subsequently petitioned NHTSA on June 24, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of MNA's petition.

DATES: Send comments on or before July 18, 2022.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477—78).

FOR FURTHER INFORMATION CONTACT: Ahmad Barnes, Office of Vehicle Safety Compliance, NHTSA, (202) 366–7236.

SUPPLEMENTARY INFORMATION:

I. Overview

MNA has determined that certain MY 2017 2021 Maserati Levante motor vehicles do not fully comply with the requirements of paragraph S4.3(c) of FMVSS No. 110, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less* (49 CFR 571.110). MNA filed a noncompliance report dated June 7, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* MNA subsequently petitioned NHTSA on June 24, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of MNA's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved

Approximately 2,917 MY 2017 2021 Maserati Levante motor vehicles equipped with 21-inch and 22-inch tires and manufactured between July 14, 2016, and May 3, 2021, are potentially involved.

III. Noncompliance

MNA explains that the noncompliance is that the subject vehicles are equipped with a vehicle placard affixed to the driver's side B-pillar erroneously understating the maximum permissible cold tire pressure and therefore, do not fully meet the requirements specified in paragraph S4.3(c) of FMVSS No. 110. Specifically, the vehicle placards for the subject vehicles state that the rear 265/40 R21 (105Y) XL and 105W XL tires have a maximum cold tire pressure of 36 psi, when it should state a maximum cold tire pressure of 38 psi, the front 265/35 ZR22 (102Y) XL tires state a maximum cold tire pressure of 33 psi, when it should state a maximum cold tire pressure of 36 psi, and the rear 295/30 ZR22 (103Y) XL tires state a maximum cold tire pressure of 36 psi, when it should state a maximum cold tire pressure of 40 psi.

IV. Rule Requirements

Paragraph S4.3(c) of FMVSS No. 110 includes the requirements relevant to this petition. Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in S4.3(a) through (g), and may show, at the manufacturer's option, the information specified in S4.3(h) and (i), on a placard permanently affixed to the driver's side B-pillar. This information shall be in the English language and conform in color and format, not including the border surrounding the entire placard, as shown in the example set forth in Figure 1 in this standard. At the manufacturer's option, the information specified in S4.3 (c), (d), and, as appropriate, (h) and (i) may be shown, alternatively to being shown on the placard, on a tire inflation pressure label which must conform in color and format, not including the border surrounding the entire label, as shown in the example set forth in Figure 2 in this standard.

V. Summary of MNA's Petition

The following views and arguments presented in this section, ''V. Summary of MNA's Petition,'' are the views and arguments provided by MNA. They have not been evaluated by the Agency and do not reflect the views of the Agency. MNA describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, MNA submitted the following reasoning:

1. The incorrect pressure values are all within the range of acceptable tire inflation and would not cause a Tire Pressure Monitoring System (''TPMS'') alert.

a. The affected Maserati Levante vehicles are compliant with FMVSS No. 138.

b. Consistent with FMVSS No. 138, the TPMS illuminates at equal to or less than the pressure 25 percent below the correct vehicle manufacturer's recommended cold inflation pressure. The TPMS warning telltale will illuminate prior to the tire pressure dropping to the range of 24.7–27 PSI on the affected Maserati Levante vehicles, which is significantly above the 23.2 PSI requirement called out, and tested to, in FMVSS No. 139 (discussed below).

c. Maserati believes the warning provided by the TPMS will give drivers ample time to check and inflate tires well before low tire inflation becomes a safety concern.

2. The subject tires passed a low-inflation-pressure performance test.

a. The affected Maserati Levante vehicles are equipped with tires that are compliant with FMVSS No. 139.

b. Tire manufacturers are required to certify the tires meet all applicable requirements of FMVSS No. 139.

c. FMVSS No. 139 specifies a low-inflation-pressure performance test in which the tire is loaded to its maximum tire load capacity and inflated to only 160 kPa (23.2 PSI), significantly less than the TPMS telltale activation pressure for the subject Maserati Levante vehicles. In order to pass this test, the tires are loaded to 100 percent of the tire's maximum load-carrying capacity and then run on a test axle for 1.5 hours at 23.2 PSI.

3. MNA is not aware of any crashes, injuries, or customer complaints associated with this condition.

4. NHTSA has previously granted inconsequential treatment for FMVSS No. 110 noncompliance for incorrect vehicle placard values; see examples below:

a. General Motors, LLC, 83 FR 24162 (May 24, 2018);

b. Volkswagen Group of America, Inc., 81 FR 38772 (June 14, 2016); and

c. Mercedes-Benz USA, LLC, 82 FR 17515 (April 11, 2017).

MNA concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that MNA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after MNA notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2022–13081 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2021–0045; Notice 1]

Vermeer Manufacturing Company, Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: Vermeer Manufacturing Company (''Vermeer'') has determined that certain Model Year (MY) 2006–2021 Vermeer, Vac-Tron, and McLaughlin trailers manufactured by its subsidiary, Vermeer MV Solutions, Inc. (including its predecessors in interest Mclaughlin Group, Inc. and Vac-Tron Equipment, LLC) do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 Kilograms (10,000 Pounds) or Less.* Vermeer filed a noncompliance report dated April 26, 2021, and amended it on May 14, 2021, and May 20, 2021. Simultaneously, Vermeer petitioned NHTSA on May 20, 2021, and amended it on June 10, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Vermeer's petition.

DATES: Send comments on or before July 18, 2022.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Ahmad Barnes, Office of Vehicle Safety Compliance, NHTSA, (202) 366–7236.

SUPPLEMENTARY INFORMATION:

I. Overview

Vermeer has determined that certain MY 2006–2021 Vermeer, Vac-Tron, and McLaughlin trailers do not fully comply with the requirements of paragraph S4.3.5 of FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 Kilograms (10,000 Pounds) or Less* (49 CFR 571.110). Vermeer filed an original noncompliance report dated April 26, 2021, and amended it on May 14, 2021, and May 20, 2021. Vermeer simultaneously petitioned NHTSA on May 20, 2021, and amended it on June 10, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Vermeer's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Trailers Involved

Approximately 1,308 of the following MY 2006–2021 Vermeer, Vac-Tron, and McLaughlin trailers, manufactured by Vermeer's subsidiary, Vermeer MV Solutions, Inc. (including its predecessors in interest Mclaughlin Group, Inc. and Vac-Tron Equipment, LLC) between March 1, 2006, and April 28, 2021, are potentially involved:

- MY 2021 Vermeer LPMINI
- MY 2014–2021 Vac-Tron LPMINI
- MY 2021 Vermeer LPMINIXDT
- MY 2019–2021 Vac-Tron LPSDT
- MY 2021 Vermeer LPSDT
- MY 2019–2020 Vac-Tron LPSGT
- MY 2021 Vermeer LPSGT
- MY 2019–2021 Vac-Tron LPXDT
- MY 2014–2020 Vac Tron LPMINIXDT
- MY 2015–2019 Vac Tron LP573XDT
- MY 2015 Vac-Tron CS530GT
- MY 2013 Vac-Tron CS555GT
- MY 2016–2018 Vac-Tron CS570GT
- MY 2018 Vac-Tron CS573GT
- MY 2017–2018 Vac-Tron CV570GT
- MY 2017–2018 Vac-Tron CV570SGT
- MY 2016–2018 Vac-Tron CV573GT
- MY 2016–2019 Vac-Tron CV573SGT
- MY 2019–2021 Vac-Tron CVGT
- MY 2021 Vermeer CVGT
- MY 2019–2021 Vac-Tron CVSGT
- MY 2021 Vermeer LPXDT
- MY 2021 Vermeer CVSGT
- MY 2016 Vac-Tron EV150DT
- MY 2011–2019 Vac-Tron EV150GT
- MY 2019–2021 Vac Tron EVGT
- MY 2006 Vac-Tron FM150SGT
- MY 2008 Vac-Tron FM350SDT
- MY 2011–2018 Vac-Tron JETTERTLR
- MY 2013–2017 Vac-Tron LP303GT
- MY 2016 Vac-Tron LP303XDT
- MY 2011–2013 Vac-Tron LP305DT
- MY 2012 Vac-Tron LP305GT
- MY 2014 Vac-Tron LP333DT
- MY 2014–2015 Vac-Tron LP333GT
- MY 2011–2012 Vac-Tron LP355DT
- MY 2013 Vac-Tron LP355GT
- MY 2018 Vac-Tron LP370XDT
- MY 2015–2019 Vac-Tron LP373GT
- MY 2016–2018 Vac-Tron LP373SGT
- MY 2017 Vac-Tron AIR373SDT
- MY 2017–2018 Vac-Tron LP373XDT
- MY 2013 Vac-Tron LP500DT
- MY 2011 Vac-Tron LP500GT
- MY 2013–2017 Vac-Tron LP533SDT
- MY 2015 Vac-Tron LP533SGT
- MY 2011–2012 Vac-Tron AIR555SDT
- MY 2016–2018 Vac-Tron AIR573SDT
- MY 2019 Vac-Tron AIRSDT
- MY 2012 Vac-Tron CS350GT
- MY 2021 Vermeer CS418B
- MY 2012–2016 Vac-Tron CS500DT
- MY 2011–2015 Vac-Tron CS500GT
- MY 2012 Vac-Tron LP550SDT
- MY 2011–2013 Vac-Tron LP555DT
- MY 2009–2013 Vac-Tron LP555SDT
- MY 2016 Vac-Tron LP573GT
- MY 2015–2019 Vac-Tron LP573SDT
- MY 2015–2018 Vac-Tron LP573SGT
- MY 2016–2021 McLaughlin CS418B
- MY 2015–2019 McLaughlin V25G
- MY 2014–2020 McLaughlin VX30
- MY 2014–2019 McLaughlin VX30G
- MY 2014–2021 McLaughlin VX50
- MY 2008 McLaughlin V250
- MY 2013–2014 McLaughlin V500LEG
- MY 2012–2014 McLaughlin V500LELT
- MY 2012–2014 McLaughlin V500LELTHD
- MY 2007 McLaughlin V500LT

III. Noncompliance

Vermeer explains that the noncompliance is that the subject trailers are not equipped with vehicle placards as required by paragraph S4.3.5 of FMVSS No. 110.

IV. Rule Requirements

Paragraph S4.3.5 of FMVSS No. 110 includes the requirements relevant to this petition. Each trailer, except for an incomplete vehicle, must show the information specified in S4.3 (c) through (g) and may show the information specified in paragraphs S4.3 (h) and (i), on a placard permanently affixed proximate to the certification label specified in 49 CFR part 567. Additionally, each trailer must on its placard contain a cargo capacity statement expressed as ''The weight of cargo should never exceed XXX kilograms or XXX pounds'' in the same location on the placard specified for the ''vehicle capacity weight'' statement required by this standard. The information specified in paragraph S4.3 (e) shall be shown on both the vehicle placard and on the tire inflation pressure label (if such a label is affixed to provide the information specified in S4.3 (c), (d), (h), and (i)) in the format and color scheme set forth in Figures 1 and 2.

V. Summary of Vermeer's Petition

The following views and arguments presented in this section, ''V. Summary of Vermeer's Petition,'' are the views and arguments provided by Vermeer. They have not been evaluated by the Agency and do not reflect the views of the Agency. Vermeer describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Vermeer provided background information about the subject trailers to further explain why it believes the subject noncompliance is inconsequential to safety. Vermeer says that the subject trailers are ''used by professional construction companies, not by the general public.'' In support, Vermeer cited several decisions NHTSA has published in the past regarding consideration in evaluating inconsequential noncompliance petitions. Vermeer quotes NHTSA as saying that ''the issue to consider is the consequence to an occupant who is exposed to the consequence of that noncompliance'' [1] and that NHTSA also considers the ''specific facts before it in a particular petition'' [2] in addition to ''whether an occupant who is affected by the noncompliance is *likely to be exposed to a significantly greater risk than an occupant in a compliant vehicle* [emphasis added by Vermeer].'' [3]

According to Vermeer, [t]he purpose of the tire placard is informational and not a substantive performance standard, and the missing information is readily available to operators from other sources.'' Vermeer notes that along with the required information being readily available in the owner's manual, the missing information from the tire placard can also be found on the tire sidewalls and rims installed on the subject trailers. Vermeer also notes that another source of the missing information would be *MyVermeer.com.*

Vermeer observes that NHTSA has previously granted inconsequentiality petitions that pertain to a similar noncompliance as the subject petition. These include:

- *See* Mercedes-Benz USA, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 84 FR 25118 (May 30, 2019);
- *See* General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 84 FR 25117 (May 30, 2019);
- *See* Mercedes-Benz USA, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 82 FR 5640 (January 18, 2017);
- *See* Volkswagen Group of America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 88728 (December 8, 2016);
- *See* Volkswagen Group of America, Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 28935 (May 10, 2016);
- *See* Chrysler Group, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 30607 (May 17, 2016);
- *See* BMW of North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 76408 (December 17, 2013);
- *See* Chrysler Group, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 38443 (June 26, 2013); and
- *See* Hyundai-Kia America Technical Center, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 38445 (June 26, 2013).

Vermeer emphasized that the operators of the subject trailers ''would be experienced with and knowledgeable about these trailers.'' Vermeer says that the granting of an inconsequentiality petition submitted by Chrysler Group supports this assertion.[4]

Last, Vermeer contends that the subject trailers meet all of the other requirements with FMVSS No. 110 and that Vermeer ''is not aware of any complaints, claims, or incidents related to the subject noncompliance.''

Vermeer concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject trailers that Vermeer no longer controlled at the time it determined that the noncompliance existed.

However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant trailers under their control after Vermeer notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke, III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2022–13078 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–59–P

[1] *See* General Motors, LLC, Denial of Petition for Decision of Inconsequential Noncompliance, 85 FR 71713 (Nov. 10, 2020); *see also* General Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance, 69 FR 19897 (Apr. 14, 2004).

[2] *See* BMW of North America, LLC; Jaguar Land Rover North America, LLC; and Autoliv, Inc.; Decisions of Petitions for Inconsequential Noncompliance, 84 FR 19994 (May 7, 2019) (citing General Motors, LLC., Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 92963 (Dec. 20, 2016)).

[3] *See* Cosco Inc.; Denial of Application of Inconsequential Noncompliance, 64 FR 29408 (Jun. 1, 1999).

[4] *See* Chrysler Group, LLC, Grant of Petition for Decision of Inconsequential Noncompliance; 81 FR 30607 (May 17, 2016).

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2021–0037; Notice 1]

BMW of North America, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: BMW of North America, LLC, a subsidiary of BMW AG, Munich, Germany, (collectively ''BMW''), has determined that certain Model Year (MY) 2018–2021 BMW K 1600 motorcycles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 123, *Motorcycle Controls and Displays.* BMW filed an original noncompliance report dated March 18, 2021, and, subsequently, BMW petitioned NHTSA on April 9, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of BMW's petition.

DATES: Send comments on or before July 18, 2022.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal holidays.

• *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/*. Follow the online instructions for submitting comments.

• Comments may also be faxed to (202) 493–2181.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Frederick Smith, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366–7487.

SUPPLEMENTARY INFORMATION:

I. Overview

BMW has determined that certain MY 2018–2021 BMW K 1600 motorcycles do not fully comply with the requirements of paragraph S5.2.5 of FMVSS No. 123, *Motorcycle Controls and Displays* (49 CFR 571.123). BMW filed a noncompliance report dated March 18, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* BMW subsequently petitioned NHTSA on April 9, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of BMW's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Motorcycles Involved

Approximately 4,966 MY 2018–2021 BMW K 1600 GTL, B, and Grand America motorcycles manufactured between April 13, 2017, and February 23, 2021, are potentially involved.

III. Noncompliance

BMW explains that the noncompliance is that the subject motorcycles are equipped with passenger footrests that fold upward and slightly forward, but not rearward, when not in use, and, therefore, do not fully comply to the requirements specified in paragraph S5.2.5 of FMVSS No. 123.

IV. Rule Requirements

Paragraph S5.2.5 of FMVSS No. 123 includes the requirements relevant to this petition. Footrests shall be provided for each designated seating position. Each footrest for a passenger other than an operator shall fold rearward and upward when not in use.

V. Summary of BMW's Petition

The following views and arguments presented in this section, ''V. Summary of BMW's Petition,'' are the views and arguments provided by BMW. They have not been evaluated by the Agency and do not reflect the views of the Agency. BMW describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, BMW submitted the following reasoning:

1. *Passenger Footrest Location:* For the MY 2021 BMW K 1600 GTL, the passenger footrest is attached to the mounting bracket and the bracket is bolted to the motorcycle frame. Similar configurations are applicable to the K 1600 B and K 1600 Grand America. There are slight differences in the geometry and mounting locations for the passenger footrest between the K 1600 GTL and the K 1600 B/Grand America. The mounting locations for the rider footrest are identical, but for the K 1600 GTL, the mounting location for the passenger footrest is higher.

2. *Lean Angle:* The lean angle is the angle that is subtended by the intersection of a plane passing through the longitudinal axis of the motorcycle when it is upright (vertical), and a plane passing through the longitudinal axis of the motorcycle when the motorcycle is at a specific angle (*i.e.,* the lean angle) from upright (vertical).

3. *Ground Contact of Certain Components/Distance to Passenger Footrest:* During a banked turn, although there is no possibility for ground contact to occur with the passenger footrest, an analysis was performed to determine the distance between the passenger footrest and the ground when other motorcycle components contact the ground.

a. *K 1600 GTL:* While in a banked turn, the first component that could contact the ground would be the rider's footrest at an angle of approximately 39 degrees. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 95.4 mm (3.8 in) in a left lean angle, and approximately 93.9 mm (3.7 in) in a right lean angle.

If the rider continued to increase the lean angle, other components, such as the engine spoiler, or the engine protection guard (if equipped), at approximately 43 degrees, would contact the ground. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 63.3 mm (2.5 in) in a left lean angle, and approximately 61.8 mm (2.4 in) in a right lean angle. The distance-to-ground measurements for the passenger footrest, if it were even possible for the silencer to contact the ground at a lean angle of approximately 46 degrees (left) and approximately 47.9 degrees (right), was calculated, see Table 1 below.

b. *K 1600 B/K 1600 Grand America:* Similar to the analysis for the K 1600 GTL, analyses were performed for the K 1600 B and the K 1600 Grand America. In a banked turn, if the rider continued to increase the lean angle, there are a number of components that would contact the ground, and at those points, the passenger footrest would be several inches from the ground.

c. *K 1600 Grand America:* Please note that for the K 1600 Grand America, the rider floorboard and the engine protection guard are standard equipment. While in a banked turn, the first component that could contact the ground would be the rider's floorboard at an angle of approximately 34.5 degrees. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 85.1 mm (3.4 in) in a left lean angle, and approximately 83.5 mm (3.3 in) in a right lean angle.

If the rider continued to increase the lean angle, the rider's footrest could contact the ground at an angle of approximately 39 degrees. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 51.1 mm (2.0 in) in a left lean angle, and approximately 49.5 mm (1.9 in) in a right lean angle. If the rider continued to increase the lean angle, the silencer, at approximately 42 degrees, would contact the ground. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 24.4 mm (1.0 inches) in a left-leaning condition and approximately 18.8 mm (0.7 inches) in a right-leaning condition.

d. *K 1600 B:* While in a banked turn, the first component that could contact the ground would be the rider's footrest at an angle of approximately 39 degrees. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 51.1 mm (2.0 in) in a left lean angle, and approximately 49.5 mm (1.9 in) in a right lean angle.

If the rider continued to increase the lean angle, the passenger footrest would be at a distance to the ground of approximately 24.4 mm (1.0 inches) in a left-leaning condition, and approximately 18.8 mm (0.7 inches) in a right-leaning condition.

e. *Summary Table for All Models:* A summary of the measurements is contained in Tables 1 and 2 below. Table 1 includes the motorcycle models, components that were used in the analyses, and the lean angles for the various components. Table 2 contains the distance to the ground of the passenger footrest when specific components are in contact with the ground.

TABLE 1

Model	K 1600 GTL	K 1600 B	K 1600 GA	K 1600 GTL		K 1600 B/K 1600 GA	
Component	Std/Opt/Acc	Std/Opt/Acc	Std/Opt/Acc	Lean angle left (deg)	Lean angle right (deg)	Lean angle left (deg)	Lean angle right (deg)
Rider Footrest	Std	Std	Std	39	39	39	39
Engine Protection Guard	Opt	Opt	Std	43	43	43	43
Rider Floorboard	Not available	Acc	Std	N/A	N/A	34.5	34.5
LED Auxiliary Light	Opt	Opt	Opt	43	43	43	43
Engine Spoiler	Std	Std	Std	43.5	43.5	43.5	43.5
Gear Lever	Std	Std	Std	42.5	N/A	42.5	N/A
Foot Brake	Std	Std	Std	N/A	43.7	N/A	43.7
Silencer	Std	Std	Std	46	47.9	42	42
Side Stand	Std	Std	Std	46	N/A	43.8	N/A
Center Stand	Std	Opt	Opt	46	46	42.5	42.5
Engine Protector Pad	Std	Std	Std	48.5	47.9	48.5	47.9

TABLE 2

Model	K 1600 GTL				K 1600 B/K 1600 Grand America			
Component	Lean angle left (deg)	Distance to ground (mm)	Lean angle right (deg)	Distance to ground (mm)	Lean angle left (deg)	Distance to ground (mm)	Lean angle right (deg)	Distance to ground (mm)
Passenger Footrest	39	95.4	39.0	93.9	34.5	85.1	34.5	83.5
	43	63.3	43.0	61.8	39.0	51.1	39.0	49.5
	46	39.3	47.9	22.5	42.0	24.4	42.0	18.8

4. *Test Rides to Assess Component Contact with Ground:* Test rides were conducted with a K 1600 GTL and with a K 1600 Grand America to evaluate the issue in a dynamic/real-world environment. Brief on-board videos were taken to provide a close-up view of certain components prior to, and at, contact with the Ground.

a. *K 1600 GTL:* When the rider is performing a banked turn and is just starting to increase the lean angle, at this point no component has contacted the ground. As the angle increases, the rider achieves an angle where the rider's footrest first starts to contact the ground and is evident by white ''sparks'' as a result of the contact. At this point, the passenger footrest is still approximately several inches from the ground.

b. *K 1600 B/Grand America:* A similar video for the K 1600 Grand America depicts a similar condition. As the rider increases the lean angle in a banked turn, the rider's footrest will eventually contact the ground and, at that point, the passenger footrest is still approximately several inches from the ground.

5. *Conclusion:* While in a banked turn, there is no possibility for the passenger footrest to contact the ground. If the lean angle is increased, there are a number of motorcycle components that would contact the ground and, at those points, the passenger footrest is still approximately several inches from the ground.

6. *Field Experience*: BMW has not received any complaints from vehicle owners and is not aware of any accidents or injuries that have occurred as a result of this issue.

7. *Vehicle Production*: Vehicle production has been corrected to conform to paragraph S5.2.25 of FMVSS No. 123.

BMW concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke, III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2022–13080 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket ID Number DOT–OST–2014–0031]

Agency Information Collection: Activity Under OMB Review; Part 249, Preservation of Records

AGENCY: Office of the Assistant Secretary for Research and Technology (OST–R), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for reinstatement of an expired collection. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 25, 2022 (87 FR page 17136). DOT received a comment from an individual stating that DOT should continue to require air carriers to retain paper complaint forms and submit the forms to DOT's Bureau of Transportation Statistics (BTS) because the online DOT form is insufficient. We note that this PRA action pertains only to how long air carriers must retain certain records, including any complaints received. DOT is not in any way through this PRA action affecting the ability of persons to file a complaint against an air carrier. The comment has been referred to the DOT Office of Aviation Consumer Protection for evaluation.

DATES: Written comments should be submitted by July 18, 2022.

FOR FURTHER INFORMATION CONTACT: Jeff Gorham, Office of Airline Information, RTS–42, Room E34–414, OST–R, BTS, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, Telephone Number (202) 366–4406, Fax Number (202) 366–3383 or EMAIL *jeff.gorham@dot.gov.*

Comments: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 2138–0006.

Title: Preservation of Air carrier Records—14 CFR part 249.

Form No.: None.

Type of Review: Extension of a currently approved collection.

Respondents: Certificated air carriers and charter operators.

Number of Respondents: 89 certificated air carriers and 280 charter operators.

Estimated Time per Response: 3 hours per certificated air carrier, 1 hour per charter operator.

Total Annual Burden: 547 hours.

This collection needs a new OMB control number as it was previously and erroneously entered into ROCIS as a generic collection.

Needs and Uses: Part 249 requires the retention of records such as: general and subsidiary ledgers, journals and journal vouchers, voucher distribution registers, accounts receivable and payable journals and legers, subsidy records documenting underlying financial and statistical reports to DOT, funds reports, consumer records, sales reports, auditors' and flight coupons, air waybills, etc. Depending on the nature of the document, the carrier may be required to retain the document for a period of 30 days to 3 years. Public charter operators and overseas military personnel charter operators must retain documents which evidence or reflect deposits made by each charter participant and commissions received by, paid to, or deducted by travel agents, and all statements, invoices, bills and receipts from suppliers or furnishers of goods and services in connection with the tour or charter. These records are retained for 6 months after completion of the charter program.

Not only is it imperative that carriers and charter operators retain source documentation, but it is critical that we ensure that DOT has access to these records. Given DOT's established information needs for such reports, the underlying support documentation must be retained for a reasonable period of time. Absent the retention requirements, the support for such reports may or may not exist for audit/validation purposes and the relevance and usefulness of the carrier submissions would be impaired, since the data could not be verified to the source on a test basis.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Comments are invited on: whether the proposed record retention requirements are necessary for the proper performance of the functions of the Department. Comments should address whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 21, 2022.

William Chadwick Jr.,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 2022–13113 Filed 6–16–22; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Domestic First Lien Residential Mortgage Data

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 comment on the renewal of an 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 respondents are 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 its information collection titled ''Domestic First Lien Residential Mortgage Data.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: *Comments must be received by:* July 18, 2022.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

• *Email: prainfo@occ.treas.gov.*

• *Mail:* Chief Counsel's Office, Attention: Comment Processing, 1557–0331, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

• *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

• *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0331'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. 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.

Written comments and recommendations for the proposed information collection should also be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

On March 29, 2022, the OCC published a 60-day notice for this information collection, 87 FR 18070. You may review comments and other related materials that pertain to this information collection following the close of the 30-day comment period for this notice by the method set forth in the next bullet.

• *Viewing Comments Electronically:* Go to *www.reginfo.gov*. Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' from the drop-down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0331'' or ''Domestic First Lien Residential Mortgage Data.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.

• For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

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 asks that OMB extend its approval of the collection in this document.

Title: Domestic First Lien Residential Mortgage Data.

OMB Control No.: 1557–0331.

Description: Section 104(a) of the Helping Families Save Their Homes Act of 2009 (12 U.S.C. 1715z–25(a)) (Act), as amended by section 1493(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, requires the OCC to submit a quarterly report to Congress on mortgage modification activity in the Federal banking system. Section 104(b) of the Act (12 U.S.C. 1715z–25(b)) requires the OCC to collect mortgage modification data from national banks and Federal savings associations and provides for the collection of all data necessary to fulfill the reporting requirements of section 104(a). Those requirements include information on the number of mortgage modifications in each state that have certain characteristics such as changes to the principal amount of a loan or changes to a homeowner's total monthly principal and interest payment.

The OCC currently collects aggregate data on first-lien residential mortgage loans serviced by seven national banks with large mortgage-servicing portfolios. The required aggregate data are industry standard measures of portfolio performance, including: (1) outstanding loan count and unpaid principal balance; (2) delinquency and liquidation ratios; and (3) the number of loss mitigation actions completed.

Type of Review: Extension without change of an existing information collection.

Affected Public: Businesses or other for-profit.

Frequency of Response: On occasion.

Estimated Number of Respondents: 7.

Estimated Total Annual Burden: 576 hours.

On March 29, 2022, the OCC published a 60-day notice for this information collection, 87 FR 18070. 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 shall have practical utility;

(b) The accuracy of the OCC'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 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.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–13090 Filed 6–16–22; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records entitled, ''Case and Correspondence Management (CCM)–VA'' (75VA001B). VA is updating the name and contact information for the point of contact and System Manager. This is a minor change and will not require Congressional and Office of Management and Budget review.

DATES: Comments on this modified system of records must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the modified system of records will become effective a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Comments may be submitted through *www.Regulations.gov* or mailed to VA Privacy Service, 810 Vermont Avenue NW, (005R1A), Washington, DC 20420. Comments should indicate that they are submitted in response to ''Case and Correspondence Management (CCM)'' (75VA001B). Comments received will be available at *regulations.gov* for public viewing, inspection, or copies.

FOR FURTHER INFORMATION CONTACT: Uriel Williams, Data Manager, Office of the Executive Secretary, Office of the Secretary, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–4869, *VAExecSec@va.gov.*

SUPPLEMENTARY INFORMATION:

I. Description of the System of Records

This system of records, now known as ''Case and Correspondence Management (CCM),'' is the Secretary's official correspondence record, and includes the name, address and other identifying information pertaining to the correspondent, as well as background information concerning matters which the correspondent has brought to the Department's attention. The system of records also contains documents generated within VA that may contain the names, addresses and other identifying information of individuals who conduct business with VA, as well as material received, background information compiled and/or response sent.

II. Proposed Routine Use Disclosures of Data in the System

VA is rewriting existing routine uses in the system using plain language. The use of plain language in these routine uses does not, and is not intended to, change the disclosures authorized under these routine uses. VA is amending, deleting, rewriting and reorganizing the order of the routine uses in this system of records, as well as adding new routine uses. Accordingly, the following changes are made to the current routine uses and are incorporated in the amended system of records notice.

Current routine use number 1 is amended for clarity to reflect VA's authorization to disclose individually identifiable information to Members of Congress, or a staff person acting for the Member, when the Member or staff person requests the records on behalf of and at the written request of the individual.

Current routine use number 2 is deleted in its entirety and the information contained therein is clarified with the addition of routine use number 11.

New routine use number 2 addresses disclosure of information by VA to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with VA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

Current routine use number 3 is deleted in its entirety and the information contained therein is clarified with the addition of routine use 5.

New routine use number 3 addresses disclosure by VA to another Federal agency or Federal entity, when VA determines that the information is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach; or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

Current routine use number 4 is deleted in its entirety and the information contained therein is clarified with the addition of routine use number 6.

New routine use number 4 addresses disclosure by VA of information that, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to a Federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law. The disclosure of the names and addresses of veterans and their dependents from VA records under this routine use must also comply with the provisions of 38 U.S.C. 5701.

Current routine use number 5 is deleted in its entirety and the information contained therein is clarified with the addition of routine use number 4.

New routine use number 5 addresses disclosure by VA to the Department of Justice (DoJ), or in a proceeding before a court, adjudicative body, or other administrative body before which VA is authorized to appear, when:

(a) VA or any component thereof;

(b) Any VA employee in his or her official capacity;

(c) Any VA employee in his or her individual capacity where DoJ has agreed to represent the employee; or

(d) The United States, where VA determines that litigation is likely to affect the agency or any of its components, is a party to such proceedings or has an interest in such proceedings, and VA determines that use of such records is relevant and necessary to the proceedings.

Current routine use number 6 is deleted in its entirety.

New routine use number 6 addresses disclosure by VA to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for VA, when reasonably necessary to accomplish an agency function related to the records.

Current routine use number 7 is deleted in its entirety and the information contained therein is clarified with the addition of routine use number 2 and 3.

New routine use number 7 addresses disclosure by VA to the Office of Personnel Management (OPM) in connection with the application or effect of civil service laws, rules, regulations, or OPM guidelines in particular situations.

New routine use number 8 addresses disclosure of information to the Equal Employment Opportunity Commission (EEOC) in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law.

New routine use number 9 addresses disclosure of information to the Federal Labor Relations Authority (FLRA) in connection with the investigation and resolution of allegations of unfair labor practices; the resolution of exceptions to arbitration awards when a question of material fact is raised; matters before the Federal Service Impasses Panel; and the investigation of representation petitions and the conduct or supervision of representation elections.

New routine use number 10 addresses disclosure of information to the Merit Systems Protection Board (MSPB) in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

New routine use number 11 addresses disclosure of information to the National Archives and Records Administration (NARA) in records management inspections conducted under 44 U.S.C. 2904 and 2906, or other functions authorized by laws and policies governing NARA operations and VA records management responsibilities.

III. Compatibility of the Proposed Routine Uses

Release of information from these records, pursuant to routine uses, will be made only in accordance with the Privacy Act of 1974. The Privacy Act of 1974 permits agencies to disclose information about individuals, without their consent, for a routine use when the information will be used for a purpose that is compatible with the purpose for which the information was collected. VA has determined that the disclosure of information for the above-stated purposes in the proposed amendment to routine uses is a proper and necessary use of the information collected by the electronic document tracking system and is compatible with the purpose for which VA collected the information.

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Kurt D. DelBene, Assistant Secretary for Information and Technology and Chief Information Officer, approved this document on June 12, 2022 for publication.

Dated: June 14, 2022.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

SYSTEM NAME AND NUMBER:

Case and Correspondence Management (CCM)–VA (75VA001B)

SECURITY CLASSIFICATION:

Unclassified

SYSTEM LOCATION:

Paper records are maintained in the Office of the Executive Secretary (001B), Office of the Secretary, Department of Veterans Affairs (VA) Central Office (VACO), 810 Vermont Avenue NW, Washington, DC 20420. Records are also maintained in VIEWS. Copies of some documents may be located in other offices throughout VACO and occasionally at field facilities, such as the Veterans Health Administration VA medical centers and Veterans Integrated Service Network offices; Veterans Benefits Administration regional offices and Area Offices; National Cemetery Administration national cemeteries and Memorial Service Network offices. Address locations for VA field facilities are listed in Appendix 1 of the biennial publication of the VA Privacy Act Issuances.

SYSTEM MANAGER(S):

Uriel Williams, Data Manager, Office of the Executive Secretary, Office of the Secretary, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–4869, *VAExecSec@va.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 501.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to permit VA to identify and respond to individuals and/or organizations who have submitted correspondence or documents to VA. The system of records also contains documents generated within VA that may contain the names, addresses and other identifying information of individuals who conduct business with VA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who voluntarily provide personal contact information when submitting correspondence or other documents to the Department, including, but not limited to: Members of Congress and their staff, officials and representatives of other Federal agencies, State, local and tribal governments, foreign governments, and veterans service organizations; representatives of private or commercial entities; veterans and other VA beneficiaries; VA employees; and other individuals who correspond with the VA Secretary and Deputy Secretary and other VA officials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Full name, postal address, email address, phone and fax numbers of individuals corresponding with the Department, the name of the organization or individual being represented, as well as supporting documents.

RECORD SOURCE CATEGORIES:

Records in this system are derived from processing replies to correspondence, and other inquiries that originate from Members of Congress; other Federal agencies; State, local and tribal governments; foreign governments, veterans service organizations; representatives of private or commercial entities; veterans and their beneficiaries; VA employees; and other individuals who correspond with VA or one of its components. Records maintained include material received, background information compiled and/or response sent.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. Congress: To a Member of Congress or staff acting upon the Member's behalf

when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

2. Data breach response and remediation, for VA: To appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records, (2) VA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with VA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

3. Data breach response and remediation, for another Federal agency: To another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

4. Law Enforcement: To a Federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law, provided that the disclosure is limited to information that, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature. The disclosure of the names and addresses of veterans and their dependents from VA records under this routine use must also comply with the provisions of 38 U.S.C. 5701.

5. DoJ for Litigation or Administrative Proceeding: To the Department of Justice (DoJ), or in a proceeding before a court, adjudicative body, or other administrative body before which VA is authorized to appear, when:

(a) VA or any component thereof;

(b) Any VA employee in his or her official capacity;

(c) Any VA employee in his or her individual capacity where DoJ has agreed to represent the employee; or

(d) The United States, where VA determines that litigation is likely to affect the agency or any of its components, is a party to such proceedings or has an interest in such proceedings, and VA determines that use of such records is relevant and necessary to the proceedings.

6. Contractors: To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for VA, when reasonably necessary to accomplish an agency function related to the records.

7. OPM: To the Office of Personnel Management (OPM) in connection with the application or effect of civil service laws, rules, regulations, or OPM guidelines in particular situations.

8. EEOC: To the Equal Employment Opportunity Commission (EEOC) in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law.

9. FLRA: To the Federal Labor Relations Authority (FLRA) in connection with the investigation and resolution of allegations of unfair labor practices, the resolution of exceptions to arbitration awards when a question of material fact is raised, matters before the Federal Service Impasses Panel, and the investigation of representation petitions and the conduct or supervision of representation elections.

10. MSPB: To the Merit Systems Protection Board (MSPB) in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

11. NARA: To the National Archives and Records Administration (NARA) in records management inspections conducted under 44 U.S.C. 2904 and 2906, or other functions authorized by laws and policies governing NARA operations and VA records management responsibilities.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained on paper in the Office of the Executive Secretary (001B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420. Records are also maintained electronically in VIEWS.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved using name, claim file number, social security number, date of birth, and other unique identifiers belonging to the individual to whom the information pertains.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system are retained and disposed of in accordance with the schedule approved by the Archivist of the United States, Records Schedule Number DAA–0015–2018–0002.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Hard copy records are maintained in a controlled facility, where physical entry is restricted by the use of locks, guards, and/or administrative procedures. Records are also maintained in VIEWS. Access to records is limited to those employees who require the records to perform their official duties consistent with the purpose for which the information was collected. All personnel whose official duties require access to the information are trained in the proper safeguarding and use of the information.

RECORD ACCESS PROCEDURES:

Individuals seeking information on the existence and content of records in this system pertaining to them should contact the system manager in writing as indicated above. A request for access to records must contain the requester's full name, address, telephone number, be signed by the requester, and describe the records sought in sufficient detail to enable VA personnel to locate them with a reasonable amount of effort.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records in this system pertaining to them should contact the system manager in writing as indicated above. A request to contest or amend records must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record.

NOTIFICATION PROCEDURES:

Generalized notice is provided by the publication of this notice. For specific notice, see Record Access Procedure, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

87 FR 31061 (May 20, 2022).

[FR Doc. 2022–13066 Filed 6–16–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Veterans Legacy Grants Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of funding availability.

SUMMARY: The Department of Veterans Affairs (VA) National Cemetery Administration (NCA) is establishing grants for the Veterans Legacy Grants Program (VLGP) to provide funding to educational institutions and other eligible entities to conduct cemetery research and produce educational tools for the public to utilize and learn about the histories of Veterans interred in VA national cemeteries and VA grant-funded State and Tribal Veterans' cemeteries. This notice includes information about the general process for applying for a VLGP grant, criteria for evaluating applications, priorities related to the award of grants and other general requirements and guidance regarding VLGP grants.

DATES: Applications for grants under the VLGP must be received by the VLGP Office by 5 p.m., Eastern Time, on July 18, 2022. (In the interest of fairness to all competing applicants, this deadline is firm as to date and hour. VA will treat any application that is received after the deadline as ineligible for consideration. Applicants should take this requirement into account and submit their materials early to avoid the risk of unanticipated delays, computer service outages, or other submission-related problems that might result in ineligibility.) Successful applicants will be notified within 30 days following the application deadline. The VLGP grant award will cover a period of 1 year.

ADDRESSES: For a Copy of the Application Package: The required documentation for an application is outlined under the ''Application Documentation Required'' section of this NOFA. Questions should be referred to the VLGP Office by email at: *VLGP@VA.gov.* For detailed VLGP information and requirements, see 38 CFR 38.710–38.785.

For Submission of Application Package: Applicants must submit applications electronically by following instructions found at: *www.Grants.gov* and *https://www.cem.va.gov/legacy/grants.asp.*

For Technical Assistance: Information regarding how to obtain technical assistance with the preparation of a grant application is available on the VLGP website at: *https://www.cem.va.gov/legacy/grants.asp.*

FOR FURTHER INFORMATION CONTACT: Dr. Denise Rosier, Program Director, Veterans Legacy Grants Program, *Denise.Rosier@va.gov,* 202–461–5362. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Funding Opportunity Title: Veterans Legacy Grant Program.

Announcement Type: Initial.

Funding Opportunity Number: VA–NCA–VLGP–FY2022.

Assistance Listing: 64.204, VA Veterans Legacy Grant Program.

I. Funding Opportunity Description

A. *Purpose:* Funding for VLGP grants under this NOFA is authorized by 38 U.S.C. 2400 note. This NOFA announces the availability of funding to applicants found eligible to receive a VLGP grant to tell stories focused on underrepresented Veterans or Service members, to include, but not limited to, Veterans or Service members underrepresented by race, ethnicity, or identity, as well as Veterans or Service members from our LGBTQ+ communities, from any period of American history, so they are honored in perpetuity.

Funding is interdisciplinary and not restricted according to academic focus or specialization. Eligible applicants are institutions of higher learning, educational institutions, local educational agencies, State educational agencies, or non-profits. Successful applications will:

1. Meet the mission of VLGP to commemorate our Nation's Veterans and Service members through the discovery and sharing of their stories. VLGP encourages students and teachers at the K–12 levels and universities around the country to immerse themselves in the rich historical resources found within one or more of VA's 155 national cemeteries or one or more of the 119 VA grant-funded State, Territorial, or Tribal Veterans cemeteries.

2. Include a study of Veterans or Service members interred in one of VA's national cemeteries or in one of the VA grant-funded State, Territorial, or Tribal cemeteries.

3. Foster engagement in the communities surrounding one or several of these cemeteries.

4. Tell the stories of those interred in these cemeteries with a focus on underrepresented Veterans or Service members, to include, but not limited to, Veterans or Service members underrepresented by race, ethnicity, or identity as well as Veterans or Service members from our LGBTQ+ community, from any period of American history.

B. *Priorities:* Competitive Preference Priorities (CPP) for fiscal year (FY) 2022 and any subsequent year in which we make awards from the list of applications from this annual competition, VA will prioritize applications that align with specific VLGP initiatives, which will be noted as CPPs. We will award up to an additional three points to an application if the application meets one or more of the following CPPs, described in a one-page abstract submitted with the application and listed on the VLGP Profile Form:

1. Successfully showcasing Veterans or Service members interred in these cemeteries with a focus on underrepresented Veterans or Service members, to include, but not limited to, Veterans or Service members underrepresented by race, ethnicity, identity, as well as Veterans or Service members from our LGBTQ+ community, from any period of American history.

2. Creatively highlighting interred Veterans and Service members who have never been studied or researched in previous VLGP project proposals.

3. Maximizing the use of best practices in digital scholarship, pedagogy, scholarly communication and digital public engagement.

New CPPs will be outlined in each NOFA each FY it is announced.

Note: If applicants wish to be considered for CPP points, applicants must include, in a one-page abstract submitted with the application, a statement indicating which, if any, of the CPPs are addressed. If an applicant addresses CPPs, this information must also be listed on the VLGP Profile Form.

C. *Total Available Funds:* The total funds allocated for VLGP in FY 2022 is $2.2 million.

Under Public Law 116–107 1(a)(4), each grant may not exceed $500,000 in total costs for the entire grant period of one FY. If more than one application per applicant's employer identification number is received by the due date and time, VA will consider only one application. VA reserves the right to select which application to consider based on the submission dates and times or based on other factors included in 38 CFR 38.710–38.785.

D. *Eligible Recipients:* Applicants must be an eligible entity that meets one of the definitions in 38 CFR 38.715 for an institution of higher learning, educational institution, local educational agency, State educational agency, or a non-profit.

II. Award Information

A. *Allocation of funds:* A total of up to $2.2 million in Federal funding is available under this NOFA with a maximum award of $500,000 per grant. Funding awarded under this NOFA for a specific project will be for a period of

1 year, beginning on October 17, 2022, and dependent upon factors such as funding availability, the recipient meeting the performance goals established in the grant agreement and statutory and regulatory requirements. The number of grants awarded during this period is at the discretion of VA.

B. *Funding Restrictions:* No part of an award under this NOFA may be used for a course buyout, and the grant funds shall not be used to substitute a class that a professor is required to teach during an academic year.

C. *Funding Limitations:* VA's decisions will be based on factors such as need, geographic dispersion and availability of funding.

III. Application and Submission Information

A. *Obtaining a Grant Application:* The required documentation for an application submission is outlined below in the ''Application Documentation Required'' section of this NOFA. Standard forms, which must be included as part of a complete application package, may be downloaded directly from VA's VLGP website at: *https://www.cem.va.gov/legacy/grants.asp.* Questions should be referred to the VLGP Office at: *VLGP@VA.gov.* For detailed VLGP information and requirements, see 38 CFR 38.710–38.785.

B. *Submitting a Grant Application:* Applicants should ensure that they include all required documents in their email application submission, carefully follow the format and provide the information requested and described below. Submission of an application that contains conflicting information or is incomplete, untimely, or incorrectly formatted will result in the application being rejected. Applicants must submit applications electronically by following instructions found at *www.Grants.gov* and *https://www.cem.va.gov/legacy/grants.asp.* Applications must be submitted as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected or not funded.

IV. Application Documentation Required

A. *Application for Federal Assistance (SF–424) and supporting documents:* Applicants are required to complete the SF–424 and attach the following supporting documents.

1. Project Abstract: In 500 words or less, double-spaced, 12-point Times New Roman font, provide a brief abstract of the proposed project. As applicable, include other information relevant to an understanding of the overall project and specify if you wish to be considered for CPP points set out in section I.B. (*Priorities*) of this NOFA.

2. Project Proposal: In 1,200 words or less, double-spaced, 12-point Times New Roman font, the applicant must include a narrative outlining the plan for the project and include a detailed timeline for the tasks outlined in the project description and proposed milestones (see section IV.C. for additional information).

3. Expertise and Capacity: In 500 words or less, double-spaced, 12-point Times New Roman font, the applicant must include a description of the applicant's ability and capacity to administer the project. This should include any evidence of past experience with projects similar in scope as defined by the NOFA, to include descriptions of the engagement model, examples of successful leadership and management of a project of similar (or greater) scale and budget, or related work in this field.

4. Proposed Budget: In 500 words or less, double-spaced, 12-point Times New Roman font, the proposed budget should identify all costs and proposed expenditures, to include additional compensation and honoraria (and to whom); equipment costs; production costs; and travel costs. Word count does not include charts, graphs, or spreadsheets an applicant may choose to provide as additional attachments.

5. Project Team: If applicable, the applicant must provide a narrative description of anticipated project team and any extramural partner(s), including the responsibilities of the principal investigator, the co-principal investigators and any extramural partner entity.

B. *Eligibility:* Applicants must meet definitions for eligible recipients in 38 CFR 38.715(c) and provide supporting documentation of status (for example, Section 503(c)(3) status, consolidated State plan).

C. *Project Proposals:* Project Proposals should support the memorialization of the Nation's Service members' and Veterans' legacy enshrined in national cemeteries or VA grant-funded cemeteries in the following areas:

1. Outreach: A framework for digital and non-digital outreach based on student research focused on a VA national cemetery (or cemeteries) or VA grant-funded State, Territorial or Tribal cemetery (or cemeteries).

2. Educational Materials: A framework of digital instructional materials relevant to the grade level of K–12 students involved (*e.g.,* lesson plans, learning guides). Alternatively, materials intended for general education of the public may be developed in conjunction with the above or in lieu of it, but preference will be given to proposals that include development of instructional materials intended for K–12 audiences.

3. Extended Memorialization: A way to present the students' research in a way that is appropriate to their discipline and accessible to the public (such as a website or other medium).

Materials produced under this grant program must be based on research on the Service members and/or Veterans interred or memorialized in VA's national cemeteries or VA grant-funded cemeteries, conducted by students under the guidance of an appropriate educational professional (*e.g.,* licensed teacher, tenure-track professor with terminal degree, or program officer of an educational non-profit entity). The research must be produced into formats accessible to students, teachers, scholars and the American public. This research may be conducted within the context of any established academic discipline or may be interdisciplinary as long as the research conveys findings about individual Service members or Veterans that are otherwise not available or are currently unknown. NCA's VLGP is committed to memorializing all Service members and Veterans, but Service members and Veterans from underrepresented communities are of particular interest. No preference will be given to any disciplinary or methodological approach. Intrinsic to the research process under this grant program is students visiting a national cemetery or VA grant-funded cemetery of interest more than once.

D. *Applicant Contact Information:* Must not be a toll-free number or P.O. Box address. Must be a working number and physical address for grantee accessibility.

1. Location of the administrative office where correspondence can be sent to the Executive Director/President/Chief Executive Officer/Department Chair (no P.O. Boxes). Include complete address, city, state, zip code + four-digit extension, county and congressional district.

2. Organization Primary Contact: Include the name, title, phone and email address. Note: VLGP views the organization's primary contact as assigned to the organization, not a specific grant application, and should be someone who normally signs grant agreements or makes executive decisions for the organization.

3. Grant Contact #1: Include the name, title, phone and email address.

Note: This contact is specific to a grant application under this NOFA and may be a Program Manager, Director, Case Manager, Grant Administrator, or other individual of similar position.

V. Application Review Information

A. *Application Review:* Staff reviewers from VA and possibly other Federal agencies will assess and score all compliant applications. The applications will be ranked from highest to lowest based on application scores as explained below.

B. *Applicant Clarification:* Following the review process, VA may request clarifying information to inform funding recommendations. A request for clarification does not guarantee a grant award. If an organization does not respond by the deadline to a request for clarification, VA will remove its application from consideration.

C. *Application Scoring:* Applications will be evaluated and scored based on the follow criteria (100-point scale):

1. Team—10 possible points.
2. Student research products—15 possible points.
3. Outreach—15 possible points.
4. Instructional materials—15 possible points.
5. Extended memorialization—15 possible points.
6. Budget—15 possible points.
7. Collection of program assessment data—15 possible points.

In addition to the possible 100-point scale, applications can receive up to an additional three points for CPPs as noted in Section I.B.

D. *Technical Factors:* Applications will be reviewed and evaluated based on the following technical factors to determine the best value for NCA and VLGP:

1. Team: The team of contributing scholars must consist of at least two members from accredited institutions of higher education within the area of focus, each of whom is a faculty member who holds an advanced degree in their field and has evidence of demonstrated scholarly output. The team will designate a single Point of Contact.

2. Student research products: Applicants shall define a framework of at least two digital media products produced for educational outreach based on student-generated research. The final products must be publicly accessible examples of applied cemetery research.

3. Outreach: Applicants shall define how they plan to develop a framework for digital and non-digital outreach focused on a VA national cemetery (or cemeteries) or VA grant-funded State, Territorial or Tribal cemetery (or cemeteries).

4. Instructional materials: Applicants shall include the development of at least five lesson plans appropriate to the schools, grades and subjects of teachers and K–12 students in the partnership. ''Lesson plan'' includes a plan of instruction that reflects the state's K–12 curriculum standards, *e.g.,* Common Core State Standards, and includes all other resources, materials and aids required for the school-based implementation of the lesson. The lesson plan product can be multiple lessons, structured around pre- and post-visit learning.

5. Extended memorialization: Applicants shall define how they plan to use the student research to extend memorialization of the Service members' or Veterans' legacy enshrined in a national cemetery or VA grant-funded cemetery of focus.

6. Collection of program assessment data: Applicants shall design assessment instruments for their students and the K–12 students showing how this participation in this program affected students' performance in their subject of inquiry, *e.g.,* history, film, education, American social studies, English Language Arts, art. Data should be anonymously sampled but demonstrated to be valid and reliable.

E. *Risk Assessment Evaluation:* In addition to the application scoring of technical factors, VA staff (and possibly other Federal agency staff) will evaluate the risks to the program posed by each applicant, including conducting due diligence to ensure an applicant's ability to manage Federal funds. This evaluation is in addition to the evaluation of the applicant's quality of its application, and results from this evaluation will inform funding decisions. If VA determines to make an award, special conditions that correspond to the degree of risk assessed may be applied to the award. In evaluating risks, VA may review and consider the following:

- Financial stability;
- Quality of management systems and ability to meet the management standards prescribed in the uniform in 2 CFR part 200;
- Applicant's record in managing previous Federal awards, grants, or procurement awards, including:
  - Timeliness of compliance with applicable reporting requirements;
  - Accuracy of data reported;
  - Validity of performance measure data reported;
  - Conformance to the terms and conditions of previous Federal awards; and
  - If applicable, the extent to which any previously awarded amounts will be expended prior to future awards.
- Information available through Office of Management and Budget (OMB)-designated repositories of Governmentwide eligibility qualification or financial integrity information, such as:
  - Federal Awardee Performance and Integrity Information System;
  - Dun and Bradstreet; and
  - ''Do Not Pay.''

Applicants may review and comment on information available through these OMB-designated repositories, and VA will consider any comments made by the applicant.

- Reports and findings from single audits performed under Subpart F—Audit Requirements, 2 CFR part 200, OMB Circular A–133 and findings of any other available audits;
- Applicant organization's annual report;
- Publicly available information, including information from the applicant organization's website;
- Applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on award recipients; and
- Applicant's past compliance or ability to comply with Federal procurement requirements in procuring the Project Coordinator and Investor(s) in accordance with 2 CFR 200.317–200.326.

F. *Priority Groups:* This award cycle places no priority consideration on grant applications with any specific focus, discipline, or product. Applicants can create a proposal that meets the priority and preference of the VLGP as outlined in this NOFA and 38 CFR 38.710–38.785.

G. *Disposition of Applications:* Upon review of an application and dependent on availability of funds, VA will:

- Approve the application for funding, in whole or in part, for such amount of funds, and subject to such conditions that VA deems necessary or desirable; or,
- Determine that the application is of acceptable quality for funding, in that it meets minimum criteria, but disapprove the application for funding because it did not rank sufficiently high in relation to other applications to qualify for an award based on the level of funding available; or,
- Disapprove the application for failure to meet the applicable selection criteria at a sufficiently high level in comparison to other applications to justify an award of funds, or for another reason as provided in the documentation of the decision; or

• Defer action on the application for such reasons as lack of funds or a need for further review.

H. *Withdrawal of Application:* Applicants may withdraw a VLGP application submitted through *Grants.gov* by writing the VA point of contact specified in this NOFA within 15 days to request withdrawal with a rationale for the request.

VI. Award Administration Information

A. *Selection for Funding:* VA will utilize the ranked scores of applications as the primary basis for selection, ultimately made by the delegated official who may factor in the risk assessment and clarifying information provided by the applicant.

B. *Award Notice:* Although subject to change, the VLGP Office expects to announce grant awards in the 4th quarter of FY 2022. Awards will be for 12 months. The initial announcement will be made via news release which will be posted on VA's VLGP website at: *https://www.cem.va.gov/legacy/grants.asp.* Following the initial announcement and after the application deadline, the VLGP Office will send notification letters to the grant recipients. Applicants who are not selected will be sent a declination letter.

C. *Grant Agreements:* After an applicant is approved for award, VA will draft a grant agreement to be executed by VA and the grantee. Upon execution of the grant agreement, VA will obligate the grant amount. Grantees will be subject to requirements of this NOFA, the VLGP regulations (38 CFR 38.710–38.785), other Federal grant requirements under 2 CFR part 200 and the grantee's VLGP application. A full copy of the regulations governing the VLGP is available at the VLGP website at: https://www.cem.va.gov/legacy/grants.asp.

D. *Administrative and National Policy:* VA places great emphasis on responsibility and accountability. VA has procedures in place to monitor grant programs and outcomes associated with the services provided under the VLGP.

E. *Payment:* Grant awards will be paid in a method that is in accordance with VA and other Federal fiscal requirements. Funds will be disbursed on initial obligation and halfway through the grant period (*i.e.,* for 1st 6 months and then for the 2nd 6 months). Awardees will be required to support their request for funding based on the project budget.

F. *Reporting:* 1. Annual report: All grantees must submit to VA, not later than 60 days after the last day of the grant period, a final report. The final report must include: a program evaluation, proof of meeting VA objectives as outlined in the mission of the VLGP and a summary of the effectiveness of the completed proposal. The grantee must be open to a possible site visit and external evaluation to be considered for future funding.

2. Additional reporting: VA may request additional information, records and reports to allow VA to assess program effectiveness.

G. *Recovery of funds:* VA may recover from the grantee any funds that are not used in accordance with the grant agreement. If VA decides to recover funds, VA will issue to the grantee a notice of intent to recover grant funds, and the grantee will then have 30 days to submit documentation demonstrating why the grant funds should not be recovered. After review of all submitted documentation, VA will determine whether action will be taken to recover the grant funds. When VA decides to recover grant funds from the grantee, VA will stop further payments of grant funds until the grant funds are recovered and the condition that led to the decision to recover grant funds has been resolved.

H. *Financial Management:* The grantee shall conform to the Single Audit Act Amendments of 1996, as implemented by 2 CFR part 200. All grantees must use a financial management system that complies with 2 CFR part 200. Grantees must meet the applicable requirements of OMB's regulations on Cost Principles at 2 CFR part 200.

I. *Availability of Grant Funds:* Federal financial assistance will become available subsequent to the effective date of the grant as set forth in the grant agreement. Recipients may be reimbursed for costs resulting from obligations incurred before the effective date of the grant, if such costs are authorized by VA within this NOFA or the grant agreement or subsequently by VA in writing and otherwise would be allowable as costs of the grant under applicable guidelines, regulations and terms and conditions of the grant agreement.

Signing Authority: Denis McDonough, Secretary of Veterans Affairs, approved this document on June 13, 2022, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2022–13054 Filed 6–16–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0009]

Agency Information Collection Activity Under OMB Review: Application for Veteran Readiness and Employment for Claimants With Service-Connected Disabilities

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0009.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0009'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 501(a), and 38 U.S.C. 3102.

Title: Application for Veteran Readiness and Employment for Claimants with Service-Connected Disabilities (Chapter 31, Title 38, U.S.C.) VA Form 28–1900.

OMB Control Number: 2900–0009.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 28–1900 is used by Veterans and Service members with service-connected disabilities to apply for benefits and services under the Chapter 31 program. Without the information, eligibility and entitlement to Chapter 31 could not be determined under 38 U.S.C. 501(a) and 38 U.S.C. 3102.

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 OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 87 FR 70 on April 12, 2022, pages 21702 and 21703.

Affected Public: Individuals or Households.

Estimated Annual Burden: 16,167 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 97,000.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–13067 Filed 6–16–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0866]

Agency Information Collection Activity Under OMB Review: Application for Veteran Employment Through Technology Education Courses (VET TEC) High Technology Program

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection revision should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0866.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0866'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Pub. L. 115–48 Section 116.

Title: Application for Veteran Employment Through Technology Education Courses (VET TEC) High Technology Program.

OMB Control Number: 2900–0866.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 22–0994 allows students to apply to VA's VET TEC program. Education Service requests approval of this information collection to continue to accept applications that provide Veterans the opportunity to enroll in high technology programs that may fall outside of the definition of higher education. VA requires approval of this information collection so students may apply to enroll with a qualified provider.

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 OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 87 FR 70 on April 12, 2022, page(s) 21703.

Affected Public: Institutions or Households.

Estimated Annual Burden: 2,731 hours.

Estimated Average Burden Time per Respondent: 10 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 16,389.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–13140 Filed 6–16–22; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Securities and Exchange Commission

17 CFR Parts 230, 232, 239, et al.

Investment Company Names; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 232, 239, 270 and 274

[Release No. 33–11067; 34–94981; IC–34593; File No. S7–16–22]

RIN 3235–AM72

Investment Company Names

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission (the ''Commission'') is proposing to amend the rule under the Investment Company Act of 1940 (the ''Investment Company Act'' or the ''Act'') that addresses certain broad categories of investment company names that are likely to mislead investors about an investment company's investments and risks. The proposed amendments to this rule are designed to increase investor protection by improving and clarifying the requirement for certain funds to adopt a policy to invest at least 80% of their assets in accordance with the investment focus that the fund's name suggests, updating the rule's notice requirements, and establishing recordkeeping requirements. The Commission also is proposing enhanced prospectus disclosure requirements for terminology used in fund names, and additional requirements for funds to report information on Form N–PORT regarding compliance with the proposed names-related regulatory requirements.

DATES: Comments should be received on or before August 16, 2022.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/submitcomments.htm*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–16–22 on the subject line;

Paper Comments

- Send paper comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–16–22. 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 website (*http://www.sec.gov/rules/proposed.shtml*). Comments are also available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Operating conditions may limit access to the Commission's public reference room. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission's website. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at *www.sec.gov* to receive notifications by email.

FOR FURTHER INFORMATION CONTACT: Pamela Ellis, Mykaila DeLesDernier, Bradley Gude, Senior Counsels; Amanda Hollander Wagner, Branch Chief; or Brian McLaughlin Johnson, Assistant Director, at (202) 551–6792, Investment Company Regulation Office, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Commission is proposing for public comment: amendments to 17 CFR 270.35d–1 (''rule 35d–1'') under the Investment Company Act; amendments to Form N–1A [referenced in 17 CFR 239.15A and 17 CFR 274.11A], Form N–2 [referenced in 17 CFR 239.13 and 17 CFR 274.11a–1], Form N–8B–2 [referenced in 17 CFR 274.12], and Form S–6 [referenced in 17 CFR 239.16] under the Investment Company Act and the Securities Act of 1933 (''Securities Act'') [15 U.S.C. 77a *et seq.*]; amendments to Form N–PORT [referenced in 17 CFR 274.150] under the Investment Company Act; amendments to 17 CFR 232.11 (''rule 11 of Regulation S–T'') and 17 CFR 232.405 (''rule 405 of Regulation S–T'') under the Securities Exchange Act of 1934 (''Exchange Act'') [15 U.S.C. 78a *et seq.*]; amendments to 17 CFR 230.485 (''rule 485'') under the Securities Act; and amendments to 17 CFR 230.497 (''rule 497'') under the Securities Act.

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I. Introduction and Background

The name of a registered investment company or business development company (''BDC'') is a means of communicating information about the fund to investors and is also an important marketing tool for the fund.[1] While the Commission has often cautioned against investors relying on a fund's name as the sole source of information about the fund's investments and risks, it has also recognized that the name of a fund may communicate a great deal to an investor.[2] A fund's name is often the first piece of fund information investors see and, while investors should go beyond the name itself and look closely at a fund's underlying disclosures, a fund's name can have a significant impact on their investment decisions. These considerations provided the policy basis underlying the Commission's adoption of rule 35d–1 under the Act, the ''names rule,'' in 2001.[3]

Congress provided the Commission with rulemaking authority to address materially deceptive or misleading fund names, recognizing the concern that investors may rely inordinately on a fund's name to determine its investments and risks.[4] The names rule, in turn, helps ensure that a fund's name does not misrepresent the fund's investments and risks. Consequently, the rule helps to ensure that investors' assets in funds are invested in accordance with their reasonable expectations based on the fund's name.[5] The role of this rule remains important and distinct from other disclosure requirements, in that fund names are subject to the unique practical constraint of being concise by necessity, but still convey significant information to an investor. However, as the fund industry has developed, and practices regarding names rule compliance have continued to evolve over the past two decades, we believe that improvements to the names rule are appropriate for the rule to continue to meet this purpose.[6] For example, interpretive issues as to when a fund is subject to the names rule have raised questions about the rule's application with respect to particular fund names that could mislead investors about the fund's investment focus, such as when a fund's name suggests investment in companies that meet certain environmental, social, or governance (''ESG'') criteria. Competitive market pressures create incentives for asset managers to include terminology in their funds' names designed to attract investor assets. We believe it is critical that fund names that suggest certain information about a fund's investments and attendant risks do so accurately. Under certain circumstances, the current structure of the rule also may permit funds to depart from the investment focus suggested by their name over time, which can deprive investors of the protections of the rule.

The rule also is not currently well-suited to address ways in which the fund industry has evolved since its adoption, both in terms of funds' increasing use of derivatives to further their investment strategies and investors' increasing election for the electronic delivery of fund documents, such as prospectuses and shareholder reports. We are proposing to amend the names rule to address these and other concerns.

A. Overview of Section 35(d) of the Act and the Names Rule

Section 35(d) of the Act prohibits a registered investment company from adopting as part of its name or title any word or words that the Commission finds are materially deceptive or misleading.[7] This section of the Act further authorizes the Commission to define such names or titles as are materially deceptive or misleading. Congress adopted this provision due to concerns that investors may focus on an investment company's name to determine the company's investment objectives and level of risk, and recognized that investor protection would be improved by giving the Commission rulemaking authority to address potentially misleading fund names.[8]

The names rule generally requires that if a fund's name suggests a focus in a particular type of investment (*e.g.,* ABC Stock Fund, the XYZ Bond Fund, or the QRS U.S. Government Fund), or in investments in a particular industry (*e.g.,* the ABC Utilities Fund or the XYZ Health Care Fund), or geographic focus (*e.g.,* the ABC Japan Fund or XYZ Latin America Fund), the fund must adopt a policy to invest at least 80% of the value of its assets in the type of investment, or in investments in the industry, country, or geographic region, suggested by its name.[9] The names rule imposes a similar 80% investment policy requirement for funds that have names suggesting that a fund's distributions are exempt from federal income tax or from both federal and state income tax (''tax-exempt funds'').[10] Under the rule, a

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[1] This release refers to registered investment companies and BDCs collectively as ''funds.''

[2] *See* Investment Company Names, Investment Company Act Release No. 24828 (Jan. 17, 2001) [66 FR 8509 (Feb. 1, 2001)] (''Names Rule Adopting Release''); *see also* Request for Comments on Fund Names, Investment Company Act Release No. 33809 (Mar. 2, 2020) [85 FR 13221 (Mar. 6, 2020)] (''2020 Request for Comment''), at n.11 and accompanying text. The comment letters on the 2020 Request for Comment (File No. S7–04–20) are available at *https://www.sec.gov/comments/s7-04-20/s70420.htm.* All references to comment letters in this release are available in this comment file.

[3] Names Rule Adopting Release, *supra* footnote 2.

[4] *See id.* at n.3 and accompanying text (''In amending section 35(d), Congress reaffirmed its concern that investors may focus on an investment company's name to determine the company's investments and risks, and recognized that investor protection would be improved by giving the Commission rulemaking authority to address potentially misleading investment company names.'').

[5] *See id.* at text preceding n.48; *see also, e.g.,* Comment Letter of the CFA Institute (May 5, 2020) (''CFA Institute Comment Letter''); Comment Letter of Chris Barnard (Mar. 9, 2020) (''Barnard Comment Letter''); Comment Letter of the University of Miami School of Law Investor Rights Clinic (Apr. 27, 2020) (''IRC Comment Letter''). *But see* ICI Comment Letter I (emphasizing that the Commission noted when it adopted the names rule that investors should not rely on a fund's name as the sole source of information about that fund).

[6] *See* Comment Letter of Allianz Global Investors U.S. Holdings LLC (May 27, 2020) (''AllianzGI Comment Letter''); *see also* Comment Letter of the Consumer Federation of America (May 12, 2020) (''CFA Comment Letter'') (arguing that funds ''clearly understand both how important fund names can be in communicating and advertising to investors and that fund names can influence investor decisions,'' and, as a result, funds ''are very careful to choose names that are appealing to investors'').

[7] 15 U.S.C. 80a–34(d). BDCs, which are not registered investment companies, are subject to the requirements of section 35(d) pursuant to section 59 of the Act [15 U.S.C. 80a–58].

[8] *See* S. Rep. No. 293, 104th Cong., 2d Sess. 8–9 (1996).

[9] ''Assets'' is currently defined in the names rule as net assets, plus the amount of any borrowings for investment purposes; *see also* section 2(a)(41) of the Act [15 U.S.C 80a–2(a)(41)] (defining ''value'').

[10] Such a fund must adopt a fundamental policy: (1) to invest at least 80% of the value of its assets in investments whose income is exempt from federal income tax or from both federal and state

Continued

fund may generally elect to make its 80% investment policy a fundamental policy (*i.e.,* a policy that may not be changed without shareholder approval) or instead provide shareholders notice at least 60 days prior to any change in the 80% investment policy.[11] However, an 80% investment policy relating to a tax-exempt fund name must be a fundamental policy. Further, unit investment trusts (''UITs'') that have made their initial deposit prior to July 31, 2002 are not required to comply with the rule's requirements to adopt an 80% investment policy.[12]

Under the rule, a fund is required to invest in accordance with its 80% investment policy ''under normal circumstances.'' In addition, the rule provides that a fund must apply its 80% investment policy at the time the fund invests its assets. If, subsequent to an investment, the fund's assets are no longer invested in accordance with the policy, the fund's future investments must be made in a manner that will bring it into compliance.

The rule also includes certain requirements for the notices that funds must send prior to a change in an 80% investment policy that is not a fundamental policy. These notices are required to be provided in plain English in a separate written document. A fund must also include a prominent statement reading ''Important Notice Regarding Change in Investment Policy,'' or a similar clear and understandable statement, in bold-face type.

In adopting the names rule, the Commission made clear that it is not intended to be a safe harbor for materially deceptive or misleading names.[13] The prohibitions of section 35(d) and, indeed, the anti-fraud provisions of the federal securities laws regarding disclosures to investors, continue to apply to funds notwithstanding their compliance with the names rule.[14] A name that would lead a reasonable investor to conclude that the fund invests in a manner that is inconsistent with the fund's actual or intended investments or the risks of those investments would be deceptive or misleading even if the fund is in compliance with its 80% investment policy.[15] In addition, a fund must adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the federal securities laws generally, which would include section 35(d) and the names rule.[16] Fund compliance officers are required to include a discussion of any material compliance matter involving the names rule in their required annual reports to the board addressing the operation of funds' compliance policies and procedures.[17]

B. Challenges Regarding Application of the Names Rule and Need for Modernization

The names rule has not been amended following its adoption in 2001, and since that time, the staff, members of the fund industry, and investor advocacy groups have identified a number of challenges regarding the application of the names rule that could have investor protection implications. The Commission published a Request for Comment on Fund Names in March 2020, which sought public comment on the framework for addressing funds' names, particularly in light of market and other developments since the rule's adoption.[18]

Commenters generally agreed that a fund's name is an important piece of information that investors use to select a fund, and that asset managers give considerable thought to the fund names that they choose in light of their goals in communicating to investors.[19] They also agreed that the names rule provides important investor protections and stated that it has been largely effective in regulating misleading and deceptive fund names, but some commenters suggested further improvements.[20] Some provided context as to just how much the investment management industry has changed in the twenty years since the names rule was adopted and suggested updates may be appropriate. For example, commenters stated that registered investment companies manage considerably more assets than they did in 2001 ($22.8 trillion total net assets as of March 2020 compared to $7.2 trillion in 2001) and that the variety of fund types and fund strategies has increased since 2001, with exchange-traded funds (''ETFs'') and funds of funds having grown since then and funds such as emerging market, international, and alternative strategy funds having attracted substantial amounts of investment.[21] The Commission staff have also observed an increase in filings by funds with investment focuses in ESG or ''thematic'' areas such as cybersecurity, blockchain, and artificial intelligence.

income tax, or (2) to invest its assets so that at least 80% of the income that it distributes will be exempt from federal income tax or from both federal and state income tax.

[11] Under the Act, a fund may not depart from a fundamental policy unless it has been authorized by the vote of a majority of its outstanding shareholders. 15 U.S.C. 80a–13(a)(3). In this release, we refer to a policy that a fund must currently adopt under the names rule as an ''80% investment policy'' and the fund's investments invested in accordance with this policy, the fund's ''80% basket.'' We are proposing a parallel definition of ''80% basket'' in the proposed amendments to the names rule, and when referring to the proposed rule, references to a fund's ''80% basket'' refer to the proposed definition of this term. *See* proposed rule 35d–1(g)(1).

[12] July 31, 2002 was the compliance date of the rule. *See* Names Rule Adopting Release, *supra* footnote 2. Based upon a review of Morningstar data as of October 2021, 222 currently-active UIT series were formed before this date.

[13] *See* Names Rule Adopting Release, *supra* footnote 2, at n.16 and accompanying text.

[14] *See, e.g.,* 15 U.S.C. 77q(a) and 17 CFR 240.10b–5(b) (prohibiting untrue statements of material fact or making material omissions to obtain money or property in the offer or sale of securities or in connection with the purchase or sale of a security); 17 CFR 230.156 (prohibiting sales literature that is materially misleading in connection with the offer or sale of securities issued by an investment company); and 17 CFR 275.206(4)–8 (prohibiting investment advisers to pooled investment vehicles from making untrue statements of material fact or making material omissions to an investor or prospective investor in the pooled investment vehicle); *see also* In re Ambassador Capital Management, LLC, and Derek H. Oglesby, Initial Decision Rel. No. 672 (Sep. 19, 2014) (made final in Investment Company Act Release No. 31371 (Dec. 11, 2014)) (determining an adviser caused violations by a fund of sections 34(b) and 35(d) of the Act by causing violations of 17 CFR 270.2a–7 while still holding the fund out as a money market fund); Names Rule Adopting Release, *supra* footnote 2, at n.44 and accompanying text.

[15] Names Rule Adopting Release, *supra* footnote 2, at nn.16 and 44 and accompanying text; *see also* In the Matter of the Private Investment Fund for Governmental Personnel, Inc., Investment Company Act Release No. 2474 (Jan. 18, 1957) (''[The Commission] must take into account the effect which the name may have not only on the sophisticated and informed investor, but also on the unwary and the ignorant. . . . Actual deception of investors need not be shown; it is sufficient that the name of the company or its securities be found to have a tendency or capacity to deceive or mislead. Nor is it necessary that we sample public opinion to determine what the name in question may mean to investors. . .'').

[16] *See* 17 CFR 270.38a–1 (''rule 38a–1'').

[17] *See* rule 38a–1(a)(4)(iii).

[18] 2020 Request for Comment, *supra* footnote 2.

[19] *See, e.g.,* Comment Letter of Aaron Cantrell, Head of Economic Research, Record Currency Management and Isabel Estevez, Ph.D. Candidate, University of Cambridge (May 5, 2020) (''Cantrell and Estevez Comment Letter''); CFA Comment Letter; ICI Comment Letter I; AllianzGI Comment Letter.

[20] *See, e.g.,* Comment Letter of Invesco Ltd. (May 5, 2020) (''Invesco Comment Letter''); Comment Letter of the Public Investors Advocate Bar Association (Apr. 15, 2020) (''PIABA Comment Letter''); CFA Institute Comment Letter.

[21] *See* ICI Comment Letter I; *see also* SIFMA AMG Comment Letter (stating that there have been significant evolution and innovation in the asset management industry since 2001); Comment Letter of T. Rowe Price (May 21, 2020) (''T. Rowe Price Comment Letter'') (stating that since the adoption of the names rule, funds have ''expanded their strategies, increased the use of derivatives and new types of financial instruments, and expanded the diversity of products available to investors''); and Comment Letter of State Street Global Advisors (May 5, 2020) (''SSGA Comment Letter'') (''[t]he investment management industry has changed considerably since the Names Rule was adopted in 2001'').

Further, as highlighted in the 2020 Request for Comment, since the Commission adopted the names rule there has been significant growth in ''passive management'' funds that seek to replicate the return on a particular index.[22]

The current scope of the rule has created interpretive issues. The Commission has previously taken the position that fund names that incorporate terms such as ''growth'' and ''value'' connote an investment objective, strategy, or policy (*i.e.,* ''investment strategies'') and are therefore not within the scope of the 80% investment policy requirement.[23] This has resulted in some fund names being excluded from this requirement because the name contains a term suggesting an investment strategy, even if the name also suggests an investment focus to investors. Certain funds with names that may raise the same types of concerns as those that the rule's current scope directly addresses may therefore not have adopted an 80% investment policy.

The potential investor protection issues that these interpretive scoping considerations raise are particularly evident in the treatment of funds with names that suggest an investment focus in companies that meet certain ESG standards. Investors may reasonably expect funds with these names to invest in companies with policies, practices, or characteristics that are consistent with these standards, particularly when the fund's name contains the term ''ESG'' or similar terminology (such as ''sustainable,'' ''green,'' or ''socially responsible'').[24] As discussed in more detail below, this type of terminology may be particularly powerful in fund names, as funds can attract significant interest and stand out to investors by using these terms in their names.[25] The proposed amendments to the names rule would address fund names with ESG and similar terminology by providing that funds whose names include these terms are subject to the rule's 80% investment policy requirement, and by defining certain uses of ESG terminology in fund names as materially deceptive and misleading. This would help to prevent potential ''greenwashing'' in fund names by requiring a fund's investment activity to support the investment focus its name communicates so that investors will not be deceived or misled by the fund's name. Interpretive positions taken by funds that these kinds of names are not subject to the rule have resulted in investors in these funds not receiving these protections.

The 2020 Request for Comment also asked questions exploring whether the names rule is as effective as it could be at addressing changes to funds' portfolios over time, for example by asking whether compliance with the rule's 80% investment policy requirements should continue to be determined as of the time of investment, as opposed to a fund maintaining the required level of investment at all times. A fund in some circumstances can drift away over time from the type of investment focus that the fund's name suggests.[26] The current names rule may not be as effective as it could be at addressing changes in funds over time, both due to possible ''drift'' and the current rule's allowing a fund to comply with its 80% investment policy only under ''normal circumstances.''

The 2020 Request for Comment also raised the issue that, in the years following the names rule's adoption in 2001, funds have increasingly used derivatives and other financial instruments to execute their strategies.[27] The Commission has interpreted the names rule to permit funds to include synthetic instruments, such as derivatives, in the fund's 80% basket if the instrument has economic characteristics similar to the securities included in the 80% basket.[28] However, the Commission has not specifically addressed how to include a derivatives instrument in that calculation. This, in turn, may have implications for whether a fund's name accurately reflects the economic reality of the fund's sources of returns and risk.

Lastly, the rule's requirements for delivering notices of changes to a fund's investment policy are worded in a way that could suggest that funds must deliver these notices in paper. For example, the rule includes requirements on the envelope in which the notice is delivered. A number of commenters raised this issue given many investors have elected to receive fund materials electronically, stating that the rule should provide funds with more flexibility on delivery method.[29] We believe that we could provide greater specificity about the application of the notice requirement to investors who have elected electronic delivery.[30]

C. Overview of Rule Proposal

After consideration of these issues, we are proposing amendments to the names rule to modernize and enhance the investor protections that it currently provides.

- *Expansion of Scope.* We are proposing to expand the rule's 80% investment policy requirement beyond its current scope, to apply to any fund name with terms suggesting that the fund focuses in investments that have, or investments whose issuers have, particular characteristics. This would include, for example, fund names with terms indicating that the fund's investment decisions incorporate one or more ESG factors.
- *Changes Over Time and Temporary Departures from a Fund's 80% Investment Policy.* To address concerns as to whether the rule effectively addresses changes to fund names and portfolios over time and about when a fund must be in compliance with its 80% investment policy, we are proposing amendments to the current requirement that a fund's policy apply at the time of investment, and ''under normal circumstances.'' Instead, the proposed amendments specify the particular circumstances under which a fund may depart from its 80% investment policy, including specific time frames for getting back into compliance.

[22] 2020 Request for Comment, *supra* footnote 2, at n.22; *see also* Investment Company Institute, 2021 Fact Book: A Review of Trends and Activities in the Investment Company Industry, at 48–49, *available at https://www.ici.org/system/files/2021-05/2021_factbook.pdf* (''2021 ICI Fact Book'') (stating that at the end of 2020, index mutual funds and index ETFs together had $9.9 trillion in total net assets and accounted for 40% of assets in long-term funds, as compared to 19% at the end of 2010).

[23] Names Rule Adopting Release, *supra* footnote 2, at n.43 and accompanying text. (''In addition, the rule does not apply to fund names that incorporate terms such as ''growth'' and ''value'' that connote types of investment strategies as opposed to types of investments.'')

[24] *See Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices,* Investment Company Act Release No. 34594 (May 25, 2022) (''ESG Proposing Release''), published elsewhere in this issue of the **Federal Register**.

[25] *See infra* footnote 124 and accompanying text.

[26] This drift, however, currently may be limited in that any future investment must be made in a manner that will bring the fund into compliance with the 80% investment requirement. *See* rule 35d–1(b).

[27] *See* 2020 Request for Comment, *supra* footnote 2, at 7–8; *see also, e.g.,* Use of Derivatives by Registered Investment Companies and Business Development Companies; Required Due Diligence by Broker-Dealers and Registered Investment Advisers Regarding Retail Customers' Transactions in Certain Leveraged/Inverse Investment Vehicles, Investment Company Act Release No. 33704 (Nov. 25, 2019) [85 FR 446 (Jan. 24, 2020)] and Use of Derivatives by Registered Investment Companies and Business Development Companies, Investment Company Act Release No. 34084 (Nov. 2, 2020) [85 FR 83162 (Dec. 21, 2020)] (''Derivatives Rule Adopting Release'').

[28] Names Rule Adopting Release, *supra* footnote 2, at section II.A.1.

[29] *See, e.g.,* Fidelity Comment Letter; Invesco Comment Letter; ICI Comment Letter I.

[30] *See infra* footnote 136.

• *Derivatives.* To address the rule's application to derivatives investments, we are proposing to amend it to require funds to use a derivatives instrument's notional amount, rather than its market value, for the purpose of determining the fund's compliance with its 80% investment policy. Also, we are proposing to amend the names rule to address the derivatives instruments that a fund may include in its 80% basket.

• *Unlisted Closed-End Funds and BDCs.* We are proposing to require that a registered closed-end fund or BDC, whose shares are not listed on a national securities exchange and that is required to adopt an 80% investment policy, must make its 80% investment policy a fundamental policy in all cases. As a result, these funds would not be permitted to change their 80% investment policies without a shareholder vote. This proposed amendment is meant to address investor protection concerns regarding funds that can change their 80% investment policies without shareholders having the ability to vote on the change or readily exit the fund.

• *Enhanced Prospectus Disclosure.* We also are proposing amendments to funds' prospectus disclosure requirements that would require a fund to define the terms used in its name, including the criteria the fund uses to select the investments that the term describes.

• *Plain English Requirements for Terms Used in Fund Names.* We are proposing effectively to require that any terms used in the fund's name that suggest either an investment focus, or that the fund is a tax-exempt fund, must be consistent with those terms' plain English meaning or established industry use.

• *Materially Deceptive and Misleading Use of ESG Terminology.* The use of ESG or similar terminology in a fund's name would deceive and mislead investors where the identified ESG factors do not play a central role in the fund's strategy. Accordingly, we would define the names of ''integration funds'' as materially deceptive or misleading if the name indicates that the fund's investment decisions incorporate one or more ESG factors. For purposes of this release, an integration fund is a fund that considers one or more ESG factors alongside other, non-ESG factors in its investment decisions, but such ESG factors are generally no more significant than other factors in the investment selection process, such that ESG factors may not be determinative in deciding to include or exclude any particular investment in the portfolio.

• *Modernization of Notice Requirement.* We are further proposing to update the names rule's notice requirement to expressly address funds that use electronic delivery methods to provide information to their shareholders. The proposed amendments also would require notices to describe not only a change in the fund's 80% investment policy, but also a change to the fund's name that accompanies the investment policy change.

• *Form N–PORT Reporting Requirements.* We are proposing amendments to Form N–PORT to require greater transparency on how fund investment selection methods match the investment focus that the fund's name suggests. These proposed amendments would include a new reporting item regarding a fund's names rule compliance. They also would include a new reporting item requiring a fund subject to the 80% investment policy requirement to indicate, with respect to each portfolio investment, whether the investment is included in the fund's 80% basket.

• *Recordkeeping.* The proposed amendments would require funds that must adopt an 80% investment policy to adhere to recordkeeping requirements that are designed to provide the Commission and staff, as well as the fund's compliance personnel, the ability to evaluate the fund's compliance with the rule's requirements.

Funds that do not adopt an 80% investment policy would be required to maintain a written record of their analysis that such a policy is not required under the names rule.

II. Discussion

A. 80% Investment Policy Requirement

1. Names Suggesting an Investment Focus

We are proposing to broaden the scope of the names rule's current 80% investment policy requirement also to apply to fund names that include terms suggesting that the fund focuses in investments that have, or whose issuers have, particular characteristics.[31] The proposed amendments provide as examples fund names with terms such as ''growth'' or ''value,'' or terms indicating that the fund's investment decisions incorporate one or more ESG factors.[32] This would be in addition to fund names that currently require an 80% investment policy, which are funds whose names suggest a focus in a particular type of investments or industry, or in particular countries or geographic regions, or those that suggest certain tax treatment.

This scope expansion is designed to help ensure that fund names that communicate to investors that the fund focuses its investments in a particular way are addressed by the rule. The names rule is designed to ensure that a fund's investment activity supports the investment focus its name communicates and, thus, the investor expectations the name creates.[33] The proposed scope expansion recognizes that even where a fund's name could be construed as referring to an investment strategy, it nevertheless can also connote an investment focus, and we believe this connotation is likely to be materially deceptive and misleading unless supported by an 80% investment policy.[34] That is, a fund name might connote a particular investment focus and result in reasonable investor expectations regardless of whether the fund's name describes a strategy as opposed to a type of investment.[35] Further, as we note below, academic research indicates that a significant number of funds follow an investment strategy that does not align with the investment strategy identified in the fund's name and, thus, we believe that the proposed scope expansion would

[31] We are also proposing to add BDCs to the definition of ''fund'' in the rule. *See* proposed rule 35d–1(g)(5) (defining ''fund'').

[32] Proposed rule 35d–1(a)(2). The term ''ESG'' encompasses terms such as ''socially responsible investing,'' ''sustainable,'' ''green,'' ''ethical,'' ''impact,'' or ''good governance'' to the extent they describe environmental, social, and/or governance factors that may be considered when making an investment decision.

[33] As used in this release, consistent with proposed rule 35d–1(a)(2), ''investment focus'' means a focus in a particular type of investment or investments, a particular industry or group of industries, particular countries or geographic regions, or investments that have, or whose issuers have, particular characteristics. As discussed in more detail below, under the proposed amendments, where a fund's name suggests an investment focus that has multiple elements, the fund's 80% investment policy must address each element.

[34] *See supra* paragraph accompanying footnote 23.

[35] Distinguishing whether a term connotes a ''strategy'' versus a ''type of investment'' can be a subjective determination, prone to second guessing, and the categories of ''strategy'' versus ''type of investments'' are not mutually exclusive. Interpretive questions caused by these issues draw Commission resources to address. For example, the Division of Investment Management's Disclosure Review and Accounting Office staff spends a significant amount of time and attention on names rule compliance issues. We also believe that the proposal would address concerns raised by commenters regarding inconsistent treatment across funds in interpreting ''strategy'' by expanding the rule's coverage, rendering moot the need to determine whether a fund name describes a type of investment versus an investment strategy. *See, e.g.,* SIFMA AMG Comment Letter; T. Rowe Price Comment Letter.

better define and help prevent materially deceptive and misleading fund names in light of the investor protection concerns that this practice raises.[36]

Investors' expectations as to the composition of a fund's portfolio can result even when investment-focus-suggesting terms used in a fund's name may have more than one reasonable definition. For example, terms like ''green'' or ''sustainable'' may be more subjective than a term like ''large cap equity'' and thus not always viewed as referring to a ''type'' of investment. But these terms still communicate to investors that the fund will concentrate in investments that the fund considers ''green'' or ''sustainable.'' Current fund practices are mixed on how funds understand the scope of the names rule, in that some funds consider certain terminology in their names to require an 80% investment policy under the rule, while others do not.[37]

Some commenters responding to the 2020 Request for Comment supported an approach similar to our proposal.[38] Some of these commenters asserted that many investors often rely on fund names, rather than disclosures such as those concerning the fund's objective, strategies, and risks, when making an investment decision and that fund managers purposefully adopt names designed to draw interest in their fund.[39] Some also stated that funds with certain names not currently required to adopt an 80% investment policy can often connote an investment focus to investors and, therefore, can have the effect of misleading or deceiving investors.[40] Commenters similarly said the inclusion of ''buzzwords'' in funds' names can ''give the illusion of safety or preservation of capital as objectives.''[41] One commenter also stated that investors do not make a distinction between ''strategies'' and ''types of investments'' when making an investment decision and, instead, will assume that the fund will invest in the ways suggested by the name.[42]

Other commenters objected to any expansion of the rule to require an 80% investment policy for fund names that suggest an investment strategy.[43] These commenters' concerns generally centered around perceived complexity and subjectivity in determining what assets are appropriate for the 80% basket. Specifically, these commenters argued that investment strategies are too subjective to be quantifiably measured in an asset-based test like the 80% investment policy requirement and that there can often be many investment methods to achieve the same strategy.[44] A number of commenters raised these points specifically in discussing an approach that would require funds with ESG terminology in their names to adopt an 80% investment policy.[45] Some commenters also stated that application of the 80% investment policy requirement to a strategy could lead to standardization in funds' investment portfolios that is not market-driven and limit fund flexibility to change strategies in response to market changes or events.[46] For these reasons, a number of commenters suggested that fund disclosure would be a more appropriate tool for investors to educate themselves about the strategy better, rather than requiring funds whose names describe a strategy to adopt an 80% investment policy.[47]

As discussed above, we believe that fund names included in the proposed expanded scope—such as names with terms like ''growth,'' ''value,'' or ''sustainable'' where a fund may not have adopted an 80% investment policy under the current rule—communicate to investors that the fund will concentrate in investments that the fund believes have those particular characteristics. The proposed amendment also would apply to other fund names that historically may have not required an 80% investment policy (depending on the context), such as names that include terms like ''global,'' ''international,'' ''income,'' or ''intermediate term (or similar) bond.''[48]

Conversely, there would continue to be fund names that would not require the fund to adopt an 80% investment policy because the names would not connote an investment focus under the proposal. For example, these would include names that reference characteristics of a fund's portfolio as a whole, or that reference elements of an investment thesis without specificity as to the particular characteristics of the component portfolio investments. We do not believe that such names suggest that the fund focuses its investments in any of the ways covered under the proposed expanded scope, though such names would continue to be subject to section 35(d)'s prohibition on materially misleading or deceptive names, and funds with these names would continue to be subject to the anti-fraud provisions of the federal securities laws regarding disclosures to investors. These names would include, for instance, names that suggest characteristics of the fund's overall portfolio, such as a name indicating the fund seeks to achieve a certain portfolio ''duration'' or that the fund is ''balanced.''[49] They also include

[36] *See infra* footnote 165 and accompanying text.

[37] *See* ICI Comment Letter I.

[38] *See, e.g.,* Crowley Comment Letter; Silver Comment Letter; CFA Comment Letter.

[39] *See* IRC Comment Letter; Silver Comment Letter; CFA Comment Letter.

[40] *See* PIABA Comment Letter (''PIABA contends that the Names Rule should apply to the investment strategy of a fund, particularly where the investment strategy entails a high degree of risk. The terms ''growth'' and ''value'' should not [be] used to mislead investors as to aggressive, high risk funds.''); CFA Comment Letter; *see also* CFA Institute Comment Letter (stating that the rule is limited in its effectiveness but that it should not be expanded to cover strategies).

[41] *See* Silver Comment Letter; *see also* PIABA Comment Letter (discussing funds—registered funds as well as hedge funds—that have been marketed using language such as ''high-grade'' although the funds employ risky (including leveraged) investment strategies); CFA Comment Letter.

[42] *See* CFA Institute Comment Letter.

[43] *See, e.g.,* SIFMA AMG Comment Letter; Comment Letter of Capital Research and Management Company (May 5, 2020) (''Capital Group Comment Letter''); ICI Comment Letter I. *But see, e.g.,* CFA Comment Letter; Practus Comment Letter; PIABA Comment Letter; MSCI Comment Letter (arguing that names suggesting strategies should be subject to the 80% investment policy requirement).

[44] *See, e.g.,* Nia Impact Capital Comment Letter (stating that the terms ''sustainable'' and ''ESG'' are ''still quite subjective in nature''); SIFMA AMG Comment Letter; T. Rowe Price Comment Letter; *see also* CFA Comment Letter (arguing that while the rule should apply to strategies, a different approach than an 80% investment policy should be taken).

[45] *See, e.g.,* Cantrell & Estevez Comment Letter; Credit Suisse Comment Letter; Invesco Comment Letter. Some commenters also recommended avoiding prescriptive definitions of terms like ''ESG'' and sustainable.'' *See, e.g.,* BlackRock Comment Letter; Cantrell & Estevez Comment Letter; Ceres Comment Letter. *But see, e.g.,* Beirbaum Comment Letter; Global Affairs Associates Comment Letter; Janain Comment Letter (each maintaining that funds that include ESG terms or similar terminology in their names should be subject to the requirement to adopt an 80% investment policy).

[46] *See* Capital Group Comment Letter; ICI Comment Letter I; Invesco Comment Letter; SIFMA AMG Comment Letter.

[47] *See* SIFMA AMG Comment Letter; Capital Group Comment Letter; T. Rowe Price Comment Letter.

[48] *See* Names Rule Adopting Release, *supra* footnote 2, at n.42 and Division of Investment Management, Frequently Asked Questions about Rule 35d–1(Investment Company Names) (*available at https://www.sec.gov/divisions/investment/guidance/rule35d-1faq.htm*) at Questions 8, 9, and 11. These FAQs represent the views of the staff of the Division of Investment Management. They are not a rule, regulation, or statement of the Commission. The Commission has neither approved nor disapproved the FAQs' content. The FAQs, like all staff statements, have no legal force or effect: they do not alter or amend applicable law, and they create no new or additional obligations for any person.

[49] To the extent that a term used in a fund name could reasonably be understood to describe the characteristics of the portfolio as well as, or alternatively, the characteristics of the component portfolio investments—for example, the term ''global''—we believe such a name would suggest an investment focus under the proposed amendments. Nevertheless, as discussed in more detail below, a ''global'' fund could use any reasonable definition

Continued

names that reference a particular investment technique, such as ''long/short.'' We also believe that names that suggest a possible result to be achieved, such as ''real return,'' or a name that references a retirement target date, similarly do not suggest a focus in a particular type of investment or investments that have particular characteristics. In these cases the name indicates the fund's objectives but without specifying the fund's investments or intended investments. Regardless of whether a fund is required to adopt an 80% investment policy under the rule, a fund must, consistent with rule 38a–1, adopt and implement written policies and procedures reasonably designed to prevent violations of the federal securities laws, which include section 35(d) and the names rule.[50]

Where a fund's name suggests an investment focus that has multiple elements, the fund's 80% investment policy must address all of the elements in the name. Take, for example, the fund name ''ABC Wind and Solar Power Fund.'' The fund's investment policy could provide that each security included in the 80% basket must be in both the wind and solar industries, or instead that 80% of the value of the fund's assets will be invested in a mix of investments, with some solar investments, some wind investments, and some investments in both industries. Similarly, the ''XYZ Preferred Securities and Income Fund'' could adopt a policy to invest at least 80% of the value of its assets in preferred securities and securities that meet the fund's standards for being income-producing. A fund's 80% investment policy must address each element in the fund name that suggests an investment focus, but permits the fund to take a reasonable approach in specifying how the fund's investments will incorporate each such element in the name. For example, the ''XYZ Environmental, Social, and Governance Fund'' must adopt an 80% investment policy to address all three of those elements, and we recognize that there are multiple reasonable ways the policy could address these elements. Any fund that has a name that suggests an investment focus would be required to adopt an 80% investment policy even if the fund's name also contains a term that does not suggest an investment focus. For example, the ''XYZ Technology and Real Return Fund'' would be required to adopt an 80% investment policy to invest 80% of the value of its assets in the technology sector despite the phrase ''real return'' also appearing in the name.

In some cases, what would be appropriate to include in the fund's 80% basket would be context-specific. For example, we understand that funds currently do not include the value of short positions, including short-exposure derivatives, related to the investment focus suggested by a fund's name in their 80% baskets, absent some terminology in the fund's name such as ''inverse,'' ''hedged,'' or ''long/short'' that suggests to investors that short activity is or may be part of the fund's investment approach (*e.g.,* the ''XYZ Long/Short Equity Fund'').[51] We request comment below on funds' current practices regarding including or excluding short positions in their 80% baskets and whether any changes in this area would be appropriate.

Consistent with the current names rule, funds would be able to define terms used in their names in a reasonable way, but, in a change from the current rule, would be subject to the proposed requirement that any terms used in the fund's name that suggest an investment focus must be consistent with those terms' plain English meaning or established industry use.[52] What constitutes ''reasonable'' in this context could vary depending on the fund name, but requires a meaningful nexus between the given investment and the focus suggested by the name. For instance, when the investment focus relates to an industry, there are different approaches a fund could take to determine if a given security is tied to the economic fortunes and risks associated with the named industry. For example, we believe it would be reasonable for a fund to define securities in a given industry as securities issued by companies that derive more than 50% of their revenue or income from, or own significant assets in, the industry. In such cases, there may be instances where the percentage could be smaller, such as where a large company is a dominant firm in a given industry (*e.g.,* the firm is an acknowledged leader in the industry). A fund's compliance policies and procedures could address its processes to allocate portfolio companies in its 80% basket, for example, by reference to a specific test based on the source of the companies' revenue.

We understand that some funds also use text analytics to assign issuers to industries based on the frequency of particular terms in an issuer's disclosures. For example, if an issuer's public disclosure documents repeatedly use a term like ''blockchain,'' some funds would assign the issuer to the blockchain or fintech industry without further analysis. Although text analysis may be a helpful component of a fund's analysis, we do not believe it is reasonable to conclude that an issuer is in a given industry solely because the issuer's disclosure documents frequently include words associated with the industry.

Further, we believe it would generally be reasonable for a fund of funds or other acquiring fund to include the entire value of its investment in an appropriate acquired fund when calculating compliance with the 80% investment requirement without looking through to the acquired fund's underlying investments. For example, a fund of funds with the name ''XYZ Industrials Fund'' with an 80% investment policy to invest in the industrials sector could count the entire value of its investments in the ''ABC Automotive Fund'' when calculating compliance with the 80% investment requirement, provided that the ABC Automotive Fund has an 80% investment policy to invest in its subsection of the industrials sector.

We request comment on the proposed requirement for funds with names that suggest an investment focus to adopt and implement an 80% investment policy.

1. Should we expand the requirement for certain funds to adopt an 80% investment policy, as proposed, to cover names that include terms suggesting an investment focus in investments or issuers that have particular characteristics? Is it clear what types of names would subject a fund to the expanded scope of this requirement under the proposed rule? Should we only require certain fund names that suggest an investment focus, such as those that ''reasonably suggest'' an investment focus, to adopt an 80% investment policy? Would the proposed amendments address all types of names that connote an investment focus to investors, or otherwise create investor expectations regarding the composition of the fund's portfolio? Conversely, are there certain names that would be

of ''global'' as we are not proposing to mandate any particular test for what this term means.

[50] *See supra* footnote 16 and accompanying text.

[51] This hypothetical fund would be subject to the 80% investment requirement because of the inclusion of the term ''equity,'' which suggests a type of investment, and not because of the term ''long/short,'' which does not suggest an investment focus.

[52] *Cf.* Names Rule Adopting Release, *supra* footnote 2, at n.43 (''As a general matter, an investment company may use any reasonable definition of the terms used in its name and should define the terms used in its name in discussing its investment objectives and strategies in the prospectus.'').

included under the expanded scope for which investors would not have these types of expectations?

2. Is it appropriate to retain, as proposed, the requirement for fund names that suggest a focus in a particular type of investment or investments, investments in a particular industry or group of industries, or particular countries or geographic regions to adopt an 80% investment policy? Should we eliminate or add to these types of names in the rule text, given the proposed expanded scope of the requirement (*i.e.,* including within the scope names that include terms suggesting a focus in investments or issuers that have particular characteristics)?

3. Should we, as proposed, adopt a scoping requirement that does not distinguish between types of investments and investment strategies? Do investors make a distinction between investment strategies and types of investments when assessing fund names in making an investment decision?

4. Should the names rule's 80% investment policy requirement apply, as proposed, to fund names with terms such as ''ESG'' and ''sustainable'' that reflect certain qualitative characteristics of an investment? Why or why not? Are investors relying on these terms as indications of the kinds of companies in which the fund invests or does not invest? Would this be the case even to the extent that funds with ESG and similar terminology in their names may use disparate means to select their portfolio investments? Should there be any additional requirements for funds that use ESG or similar terminology in their names?

5. As an alternative to basing the calculation of the 80% basket on the fund's assets, should we instead use a different method of calculation? As discussed in more detail below, we considered, as a reasonable alternative to the proposal, whether to require funds' historical returns to exhibit minimum exposures to certain risk factors in lieu of the percentage of assets test. Should we instead adopt this sort of method of calculation that assesses the returns that a fund's investments contribute to the fund's overall performance, or that requires a fund with a name suggesting a particular investment focus to exhibit minimum exposures to certain risk factors that correlate with the investment focus its name suggests?

6. Will funds be able to reasonably determine what investments qualify for their 80% baskets under the proposed rule? What steps and tools will funds use to make these determinations? If not, what steps should we take to clarify this, particularly given the proposed expanded scope of the 80% investment policy requirement? Is it likely that funds with similar names will come to different reasonable determinations as to what investments qualify for inclusion in their 80% baskets? If so, will investors be confused by these names?

7. Should funds with names with multiple elements be required to address all of those elements? Should this be required at all times or, if not, what limits, if any, should there be regarding fund names with multiple elements in light of the prohibition against materially deceptive or misleading names under the Act? Should a fund whose name includes multiple elements be required to invest some specific minimum percentage (*e.g.,* 5%, 10%, 25%) in each element?

8. Is there any particular topic or issue that funds encounter in complying with the 80% investment policy currently, or that they would encounter in complying with the proposed amendments to the 80% investment policy requirement, that should be addressed by Commission guidance? For example, would funds benefit from guidance about what procedures might be reasonable for a fund whose name indicates a focus in a particular industry to select its 80% basket investments?

9. As discussed above, we understand that, absent a term in a fund's name such as ''inverse,'' funds do not currently include short positions in the fund's 80% basket. Should the Commission address by guidance or a provision in the names rule the inclusion of short positions in a fund's 80% basket related to the fund's investment focus, and if so, what practices with respect to the inclusion or exclusion of short positions would be appropriate in light of section 35(d) and the policy goals of the names rule's 80% investment policy requirement? For example, assume a fund with ''equity'' in its name and nothing in the name suggesting that the fund also engages in short sales, such as the phrase ''long/short.'' If the fund had $100 and invested it all in equity securities, then were to sell short equity securities with a value of $50, how should that short sale affect the fund's compliance with its 80% investment policy? Should the short sale reduce the value of the equity investments included in the 80% basket, and are there specific circumstances where a short sale should *not* reduce the value of the fund's 80% basket securities? How should we address short sales where the returns of the assets sold short are correlated with returns of securities (or the asset class) in the fund's 80% basket, but the assets sold short are not identical to any of the securities in the 80% basket (or are not in the same asset class as the securities in the 80% basket)? If the short sale should reduce the value of the equity investment in the 80% basket in the example above, what reduction would be appropriate—*e.g.,* should the reduction be $50, the value of the equity securities sold short? [53]

10. Should we provide a specific provision in the rule requiring funds with ESG (or similar terminology) in their names only to attribute a particular type of investment towards their 80% basket, or guidance that addresses this? Why or why not? Are there other types of guidance regarding ESG investing and the names rule that we should provide?

11. Should we adopt any specific requirements with regards to the portion of the fund's assets not included in the 80% basket? For fund names that suggest an investment focus that has multiple elements, should we adopt any specific requirements, such as a specific minimum percentage (*e.g.,* 20%, 25%, etc.) of assets invested, with regards to how each element must be accounted for in the fund's 80% investment policy?

12. Are there any other particular types of fund names we have not specifically addressed above, for which we should require a specific treatment under the names rule as we propose to amend it? Should those particular names be subject to the requirement to adopt an 80% investment policy or not?

13. Should we codify any of the guidance provided above? For example, should we add an exception to the rule that permits funds of funds, and other acquiring funds, to include the entire value of their investment in an appropriate acquired fund in calculating their 80% basket without looking through to the acquired fund's underlying investments?

14. With respect to certain name terms that could connote both an investment focus and the characteristics of the fund's overall portfolio (*e.g.,* ''global''), should we, as proposed, require funds with names including these terms to adopt an 80% investment policy? If not, how should we differentiate when these terms are being used to suggest an investment focus and when they are not?

15. Consistent with the current names rule, the proposed amendments would

[53] *See infra* section II.A.3 (addressing the valuation of derivatives instruments for the purpose of determining a fund's compliance with its 80% investment policy).

generally apply to money market funds. 17 CFR 270.2a–7 (''rule 2a–7'') also requires funds that use the term ''money market'' in their names to comply with the requirements of that rule. Are the requirements of rule 2a–7 sufficient to prevent materially misleading or deceptive money market funds names, or should we continue to apply the names rule to those funds?

2. Temporary Departures From the 80% Investment Requirement

The proposed amendments would permit a fund to depart temporarily from the requirement to invest at least 80% of the value of its assets in accordance with the investment focus or tax treatment its name suggests (''80% investment requirement'') only under certain specified circumstances.[54] These temporary departures would be permitted only: (1) as a result of market fluctuations, or other circumstances where the temporary departure is not caused by the fund's purchase or sale of a security or the fund's entering into or exiting an investment; (2) to address unusually large cash inflows or unusually large redemptions; (3) to take a position in cash and cash equivalents or government securities to avoid a loss in response to adverse market, economic, political, or other conditions; or (4) to reposition or liquidate a fund's assets in connection with a reorganization, to launch the fund, or when notice of a change in the fund's 80% investment policy has been provided to fund shareholders at least 60 days before the change pursuant to the rule.[55] Under each of these circumstances except fund launches (where accompanying temporary departures could not exceed a period of 180 consecutive days), reorganizations (for which the proposed rule does not specify a required time frame for accompanying temporary departures), or where the 60-day notice has been provided to shareholders, a fund would have to bring its investments back into compliance with the 80% investment requirement within 30 consecutive days.[56] In all cases, a fund would have to come back into compliance as soon as reasonably practicable.[57]

In contrast, the names rule currently provides that a fund's 80% investment policy applies ''under normal circumstances,'' leaving it to funds to determine what constitutes something other than a normal circumstance. This aspect of the current rule was designed to provide funds flexibility to manage their portfolios while requiring that they normally invest 80% of their assets consistent with their 80% investment policy.[58] In addition, under the current rule, compliance with the 80% investment requirement is determined at the time a fund invests its assets. This provision was designed to avoid requiring a fund to rebalance its investments if the fund's portfolio were no longer invested in accordance with the fund's 80% investment policy as a result of, for example, market movements or an influx of cash from new investors.[59] The rule currently requires that if, subsequent to an investment, the 80% investment requirements of the rule are no longer met, the fund's future investments must be made in a manner that will bring the fund into compliance with those requirements.

The new approach we are proposing is designed to permit appropriate flexibility to depart temporarily from the 80% investment requirement in particular, time-limited circumstances when doing so would be beneficial to the fund and its shareholders, while providing additional parameters designed to prevent a fund from investing inconsistently with its 80% investment policy for an extended period of time. The new approach continues to address, for instance, certain circumstances in a fund's life cycle in which it might not be invested fully in its 80% basket, as well as circumstances in which external events could cause the portfolio to ''drift'' in a way that causes the fund to depart temporarily from the 80% investment requirement. For example, a new fund may need a reasonable amount of time after commencing operations to comply with the 80% investment requirement, or a fund with ''small cap'' in its name may see certain of its investments grow such that they are no longer ''small cap'' and need to re-invest in relative short order.[60] An investor choosing to invest in a fund with a name conveying a particular investment focus may expect that the fund will not stray from this investment focus for a protracted period of time in these and similar examples. While the current rule includes a requirement that a fund must make future investments in a manner to bring the fund into compliance with the 80% investment requirement, this provision does not address situations where the fund is not investing its assets in a given period of time.

Moreover, the parameters we are including in the proposal reflect our belief that investors' expectations for funds' investment focuses may not depend on whether market events negatively affect the investment in the fund's portfolio. For example, investors increasingly seek out funds that are structured as passive investment vehicles, such as index-based mutual funds and ETFs, in order to obtain specific types of investment exposure for their portfolios.[61] These investors are specifically seeking a return tied to the investment focus suggested in the fund's name.[62] These investors may expect the fund to invest in a manner that is consistent with its stated investment focus with the understanding that investors may rebalance their own portfolios if desired rather than expecting the fund to do so. As another example, consistency in investment companies' investments with their names and investors' reasonable expectations may be particularly important to retirement plan and other investors who place great emphasis on allocating their investment company holdings in well-defined types of investments, such as stocks, bonds, and

[54] The proposed temporary departure provision would be applicable not only to funds whose names suggest a particular investment focus, but also to tax-exempt funds that are required to invest their assets in accordance with the provisions of proposed rule 35d–1(a)(3)(i).

[55] ''Reorganization'' is defined in section 2(a)(33) of the Act and includes actions such as voluntary liquidations.

[56] Proposed rule 35d–1(b)(1) and (g)(7) (defining ''launch'' as a period, not to exceed 180 consecutive days, starting from the date the fund commences operations).

[57] ''As soon as reasonably practicable'' would not strictly mean ''as soon as possible'' in all cases and is intended to allow for consideration by the adviser of how to return to compliance in a manner that best serves the interest of the fund and its shareholders (but in no case longer than the proposed 30-day limit where applicable). For example, a fund need not return to compliance within 2 days, even if doing so is technically possible, if such an approach would harm the fund or its shareholders by, for instance, causing the fund to purchase illiquid assets at a premium.

[58] *See* Names Rule Adopting Release, *supra* footnote 2, at nn.37–40 and accompanying text.

[59] *See* Investment Company Names, Investment Company Act Release No. 22530 (Feb. 27, 1997) [62 FR 10955 (Mar. 10, 1997)] at n.28 and accompanying text.

[60] *See also* Names Rule Adopting Release, *supra* footnote 2, at n.39 and accompanying text.

[61] Based on data obtained from Morningstar Direct, in 2001 there were approximately 432 mutual fund and ETF index funds. As of the end of 2019, there were approximately 2,311 index funds. 2020 Request for Comment, *supra* footnote 2, at n.22. At the end of 2020, index mutual funds and index ETFs together had $9.9 trillion in total net assets and accounted for 40% of assets in long-term funds, as compared to 19% at the end of 2010. *See* 2021 ICI Fact Book.

[62] *See* CFA Comment Letter (stating that when funds deviate from their 80% investment policy for extended periods of time, this can affect asset allocation programs some investors use to determine which funds to buy or sell by changing the nature of the investment).

money market instruments.[63] As a result, consistency with the investment focus suggested by the fund's name would seem to be a primary concern for these investors.

To address these concerns, the proposed rule amendments specify that a fund departing from the 80% investment requirement must bring its investments back into compliance as soon as reasonably practicable, and that the maximum amount of time for the departure would be 30 consecutive days, other than in the case of a fund launch (which would be limited to 180 consecutive days starting from the day the fund commences operations) or a reorganization (for which the proposed rule does not specify a required time frame for accompanying temporary departures). We are proposing this ''as soon as reasonably practicable'' standard because we anticipate that most temporary departures would last substantially less than 30 days, though this could depend on the specific facts and circumstances. We recognize that some investors may prefer for a fund to be permitted to depart from its investment focus for longer than 30 days to avoid any losses that the fund may incur to come back into compliance within that time period. We believe, however, that, at some point, departures may begin to change the nature of the fund fundamentally, which would undermine investor expectations created by the fund's name.[64] The proposed time limits are designed to prevent such a fundamental change.

A shorter required time period to come back into compliance, for example seven days, would ensure a fund rapidly rebalances its portfolio, but could result in forced sales at depressed prices or in a tax-disadvantaged manner, to the detriment of investors.[65] As another example, purchasing less liquid securities in a compressed timeframe in order to comply with the fund's 80% investment policy could drive up the price for those securities, also potentially adversely affecting investors. While there is still the possibility that these adverse effects could occur with the proposed, longer periods, we believe that it is a lessened concern in those time frames given the increased flexibility that a longer period of time would provide to rebalance the portfolio and for any market-wide issue to resolve.

We are proposing to give fund launches a longer period, 180 consecutive days, in recognition of the likelihood that it can take longer for funds to find investments during their start-up, particularly for funds that invest in securities whose supply is limited.[66] We acknowledge that establishing a set time frame to return to the 80% investment requirement may result in operational changes for some funds, in order to assess the new time limits on temporary departures relative to the current rule's requirement to assess compliance with the 80% investment requirement at the time of investment. However, we anticipate many funds, particularly open-end funds, already assess their names rule compliance daily or intra-daily (for example, those that trade portfolio assets daily). Therefore we anticipate that for many funds, the proposed new approach, which would require compliance with the 80% investment requirement except under the rule's specified limited circumstances, would not result in significant operational changes although we acknowledge that may not be the case for all funds.

While we continue to believe that there are circumstances where a fund's temporary departure from the 80% investment requirement would be appropriate, we believe that specifying these circumstances in the rule, as opposed to a more principles-based approach, would help ensure that these departures are temporary in nature and limited in scope.[67] Thus, in place of the rule's current standard that a fund's 80% investment policy applies ''under normal circumstances,'' we are proposing four specific exceptions that address circumstances where such departures would be limited in time, have investor protection benefits, and/or involve circumstances where an investor is unlikely to be materially misled or deceived.

First, the proposed rule would permit temporary departures that occur as a result of market fluctuations, or other circumstances where the temporary departure is not caused by the fund's purchase or sale of a security or the fund's entering into or exiting an investment. This recognizes that a fund may not be in compliance with the 80% investment requirement for a short period of time while the fund addresses such an event. For example, the investments in a fund's 80% basket may decline in value such that they fall below 80% of the fund's assets. Further, the underlying index of an index fund could rebalance, which may cause the fund to have less than 80% of its assets invested in the reconstituted index until the fund has the opportunity to realign its investments.

The proposed rule also would permit funds experiencing unusually large cash inflows or outflows in response to redemption requests to depart temporarily from the 80% investment requirement. This would provide a fund the opportunity to depart temporarily from the fund's 80% investment requirement in order to invest the incoming cash, or sell investments to meet the outflow, in an orderly way. Similarly, the proposed rule would permit temporary departures for funds to take temporary defensive positions in cash, cash equivalents, or government securities to react to adverse conditions.[68] These generally reflect prior Commission statements regarding some circumstances in which departures from the 80% investment requirement would be appropriate under the current rule.[69]

We are also proposing to permit funds temporarily to invest less than 80% of their assets in the 80% basket to reposition or liquidate assets in connection with a reorganization or to launch the fund. For fund launches, the temporary period would not be permitted to exceed 180 consecutive days starting from the day the fund commences operations. Both reorganizations and launches may result in a fund holding assets in a way that is inconsistent with its 80% investment

[63] *See id.; see also* Names Rule Adopting Release, *supra* footnote 2, at n.8 and accompanying text.

[64] *See* Janain Comment Letter (recommending limiting the amount of time funds can engage in temporary defensive positions as they believe that some funds have taken liberties and that ''[a]t some point, temporary becomes normal''); *see also* CFA Comment Letter (highlighting concerns about ''drift''); Crowley Comment Letter (expressing concerns about extended departures from the 80% investment requirement).

[65] Some commenters highlighted these sorts of challenges while expressing concerns regarding changing the rule to include a maintenance test for the 80% investment requirement. *See, e.g.,* BlackRock Comment Letter; Capital Group Comment Letter; ICI Comment Letter I.

[66] *See also* Names Rule Adopting Release, *supra* footnote 2, at n.39 and accompanying text.

[67] *See, e.g.,* SIFMA AMG Comment Letter; BlackRock Comment Letter; T. Rowe Price Comment Letter.

[68] *See, e.g.,* Registration Form Used by Open-End Management Investment Companies, Investment Company Act Release No. 23064 (Mar. 13, 1998) [63 FR 13916 (Mar. 23, 1998)]. The proposed provision permitting temporary departures to avoid losses in response to adverse market, economic, political, or other conditions in the names rule reflects the formulation of temporary defensive positions from Form N–1A. *See* Form N–1A, Instruction 6 to Item 9(b)(1). As a result, funds should understand this provision as consistent with this disclosure requirement and any related disclosure the fund provides. Further, we believe that context dictates that ''other conditions'' is not all-encompassing, but rather would be other conditions similar to an adverse market, economic, or political condition.

[69] *See* Names Rule Adopting Release, *supra* footnote 2, at section II.A.4 (describing ways in which funds might use the ''under normal circumstances'' standard to engage in temporary departures).

policy in order to complete the action. For example, at start-up it may take time for a new fund to find and purchase available investments consistent with the fund's investment focus and hold cash in the interim. In the case of a merger, a target fund may need to rebalance its portfolio to more closely mirror the investments held by the acquiring fund.

Unlike the other circumstances in which the proposed rule amendments would permit temporary departures, the proposed rule amendments would not limit the time of departures associated with fund reorganizations or where the fund has provided notice it intends to change its 80% investment policy, and additionally the time for departures associated with fund launches could last for 180 consecutive days from the date the fund commences operations. Planned reorganizations may take longer to complete than 30 days or even 180 days. Moreover, the planned action will be disclosed and the reorganization is likely to be a permanent change to the nature of the investor's investment.[70] Similarly, a change to a fund's 80% investment policy is a permanent change to the fund's investments, about which funds notify investors pursuant to the provisions of the rule. Thus, we do not believe that changes in the fund's investment portfolio to support the upcoming reorganization would generally be inconsistent with investors' reasonable expectations. As a result, we do not believe that an express time limit is necessary for departures from the 80% investment requirement made in connection with these actions. Such departures, like all of the proposed departures, would still be required to be resolved as soon as reasonably practicable.

In the case of the launch of a new fund, it may be better for investors if the fund takes additional time to invest in a manner consistent with the fund's 80% investment policy in order to avoid the potential for adverse impacts on the price of a targeted investment, to scale up an investment, or to find a better investment that corresponds to the investment focus relative to what is currently available. Nonetheless, we believe that, consistent with current guidance, such a period should not exceed 180 consecutive days.[71] The proposed amendments therefore would not permit any fund to exceed 180 consecutive days to invest its assets consistent with the 80% investment requirements when launching a fund.[72] Further, in effect, the proposed amendments would generally require open-end funds to be fully invested within a much shorter time than 180 days, consistent with the proposed requirement to do so ''as soon as reasonably practicable.'' These funds should be able to fully invest in their investment focus relatively quickly because they invest in relatively liquid assets and because they receive cash from share purchases on an ongoing basis. Accordingly, if a new open-end fund were to acquire assets at the time of launch that largely mirrored the assets in another pre-existing fund in the fund family, but with a different name that reflects a different set of investment parameters that would be applied to that portfolio in the future, the manager should generally adjust the new fund's portfolio to the new parameters in a much shorter time than 180 days in accordance with an 80% investment policy based on the investment focus the fund's name suggests.

We request comment on the proposed treatment of temporary departures from the 80% investment requirement.

16. To what extent do funds currently ''drift'' away from the investment focus suggested by their name? If they do, to what extent is this attributable to the provisions of the current names rule, such as the time of investment test? In general, how effective is this provision, and the ''under normal circumstances'' provision, at addressing materially deceptive or misleading names over time?

17. Should we limit the exceptions for market fluctuations, unusually large cash flows, and temporary defensive positions to 30 days as proposed or some other amount of time? Does the proposed 30-day limit raise any interpretive questions or potential compliance concerns the Commission should address in the rule text or as guidance? Are we correct in our belief that it will be unusual for funds to need to engage in these activities past that period? At what point can it be reasonably said that the nature of the fund has changed in these circumstances?

18. Should funds be limited, as proposed, to taking positions in cash and cash equivalents or government securities outside of their 80% investment policies in the case of a temporary defensive position? Are there other investments that funds use to protect the fund in the case of adverse market, economic, political, or other conditions? For example, should the rule allow funds to invest in securities that are similar to these investments? What kinds of investments do funds hold currently when taking defensive positions?

19. Is the requirement to bring a fund back into compliance with the 80% investment requirement as soon as reasonably practicable appropriate? Is it sufficient to protect against concerns about portfolio drift?

20. Is ''as soon as reasonably practicable'' readily understood? Would funds benefit from additional guidance on what would (or would not) satisfy this standard? How long would it typically take for a fund to come back into compliance with its 80% investment policy where a fund asset has increased or decreased in value?

21. Under the proposed amendments, the 30-day period runs from the time the fund invests less than 80% of the value of its assets in accordance with its 80% investment policy. Should the rule instead specify that it run from the beginning of one of the precipitating sets of circumstances that the rule describes?

22. Under what circumstances do funds currently depart from the 80% investment requirement? Are there any circumstances not covered by the proposed rule amendments that an investor would expect? For example, should we also exempt departures relating to a name or investment policy change? If so, how long do these actions typically take? Should we limit such departures to 30 days? To what extent do these actions typically fall within the definition of ''reorganization'' under the Act, for example, by resulting in the sale of 75% or more in value of the assets of a fund?

23. Instead of specifying the circumstances in which a fund may depart from the 80% investment requirement, should we retain the current provision that an 80% investment policy applies under normal circumstances but specify that, in any event, departures may not persist for more than 30 days? Would investor expectations be met under these circumstances?

24. Instead of limiting temporary departures (except in the context of fund reorganizations or launches) to 30 days, should the rule instead provide that, if a temporary departure persists past 30 days, the fund's board must approve, or be informed in writing about, the temporary departure? If we

[70] For example, when the board of an open-end fund determines to approve a reorganization, the fund would supplement its prospectus.

[71] *See* Names Rule Adopting Release, *supra* footnote 2, at n.39 and accompanying text.

[72] *Cf. id.* at n.40 (stating that, in very limited circumstances, it may be appropriate for a closed-end fund that invests in securities whose supply is limited to take longer than six months to invest offering proceeds).

were to require board approval, should we require that a majority of the independent directors also approve of the departure? Should the approval or written report be required to be given by, or provided to, the board immediately, or no later than its next regularly scheduled board meeting? To the extent that the rule were to include board reporting, should we also require the report to include a recommendation from the fund's adviser about whether to rebalance the fund's holdings over a longer period of time, or to initiate a name change? Should we include a recordkeeping requirement for the report? Should we also require reporting to the Commission on a non-public basis regarding a departure that lasts longer than 30 days, the reasons for the departure, and the adviser's plan to resolve the departure, with a follow-up report to the Commission once the departure has been resolved? Should we require a fund to notify the board about temporary departures even if they do not persist beyond 30 days? For example, while funds would be required to include a discussion of material compliance matters involving the names rule in their annual reports required under rule 38a–1, should we further require that these reports, or board reports in connection with regularly scheduled board meetings, identify the number of and reason for temporary departures during the period covered by the report? [73]

25. Does the proposed 30-day limitation create any compliance issues with other provisions of the federal securities laws? For example, how would a fund address a situation where, in order to meet the 30-day limit, it had to invest more than 15% of its net assets in illiquid investments, contrary to 17 CFR 270.22e–4 (''rule 22e–4,'' or the ''liquidity rule'')? Should we permit temporary departures to exceed the 30- or 180-day limits where meeting the 80% investment requirement would conflict with the requirements of the liquidity rule, and if so, how should we address any attendant investor protection concerns? Are there any circumstances when the investments suggested by a fund's name become illiquid for more than 30 days?

26. Should we provide a specific time limit on temporary departures relating to fund reorganizations? If so, how long should it be?

27. Similarly, should we provide a specific time limit on the temporary departure where the fund has provided notice to shareholders under the rule? If so, should it be 60 days consistent with the rule's notice requirements or some other time? Should we extend a similar provision to funds with redeemable securities that have suspended redemptions under section 22(e) of the Act, or under analogous circumstances, such as market closures, for funds that do not issue redeemable securities?

28. Is 180 consecutive days the appropriate time to permit temporary departures relating to fund launches? If not, what would be a more appropriate time? Should we generally provide different time frames depending on the type of fund? For example, should we require a shorter period than 180 days for launches of open-end funds, which typically invest in relatively liquid assets and which receive cash from share purchases on an ongoing basis, to avoid harm to early investors in those funds? Is the proposed definition of ''launch'' appropriate, or would a different definition (*e.g.,* the date that a fund's registration statement becomes effective) be more appropriate?

29. To what extent do portfolio managers keep funds close to the 80% investment requirement currently, or do they typically retain some buffer above that amount?

30. How often do different types of funds currently assess compliance with an 80% investment policy? Are we correct in our assessment that many funds already review their names rule compliance daily or on an intraday basis? How does this compliance assessment take into account whether characteristics of an investment may have changed (*e.g.,* changes in market capitalization of equity holdings, or changes with respect to whether a particular holding continues to be an investment in a particular industry)? To the extent that certain funds generally assess compliance at least daily, does the proposed alternative approach to the current time of investment test increase investor protection, both for these funds specifically and across the fund industry?

31. Should we make any changes to the proposed temporary departure provisions to more specifically address tax-exempt funds? For example, should the provisions' 30-day limit specifically address tax-exempt funds that adopt a policy to invest their assets so that at least 80% of the income they distribute is tax-exempt, given that income distributions can be less frequent than monthly? How often do such funds engage in temporary departures under the current rule?

3. Considerations Regarding Derivatives in Assessing Names Rule Compliance

We are proposing to address both the valuation of derivatives instruments for purposes of determining compliance with its 80% investment policy, as well the derivatives that a fund may include in its 80% basket. Specifically, the proposed amendments would require that, in calculating its assets for purposes of names rule compliance, a fund must value each derivatives instrument using its notional amount, with certain adjustments discussed below, and reduce the value of its assets by excluding cash and cash equivalents up to the notional amounts of the derivatives instrument(s).[74] The proposed amendments also would specify that, in addition to any derivatives instrument that a fund includes in its 80% basket because the derivatives instrument provides investment exposure to the investments suggested by the fund's name, the fund may include in its 80% basket a derivatives instrument that provides investment exposure to one or more of the market risk factors associated with the investments suggested by the fund's name.[75] Accordingly, when a fund determines its compliance with its 80% investment policy, all derivatives instruments would be included in the denominator in the calculation, as well as any derivatives in the fund's 80% basket, *i.e.,* the numerator in the calculation. We designed these proposed amendments to reflect the investment exposure derivatives investments create better and to increase comparability, as some funds currently value derivatives instruments using their notional amounts for purposes of determining their compliance with the 80% test while other funds use market values.[76] The amendments are designed both to allow funds to use names that may more effectively communicate their investments and risks to investors and reduce the risk that a fund may use derivatives to invest in a manner inconsistent with the investment focus suggested by the fund's name.

Funds currently are permitted to include synthetic instruments, such as derivatives instruments, in the fund's 80% basket if the synthetic instrument

[73] *See supra* footnote 17.

[74] *See* proposed rule 35d–1(g)(2).

[75] *See* proposed rule 35d–1(b)(2).

[76] *See, e.g.,* Capital Markets Comment Letter (stating that ''[i]n practice, however, funds have been inconsistent in how derivative investments apply towards the 80% investment requirement: while some funds assert that a derivative's notional value is more appropriate than its market value for purposes of complying with the 80% investment policy, many funds employ a derivative's market value for the asset-based test'').

has economic characteristics similar to the securities included in the 80% basket.[77] A fund, therefore, currently could include derivatives with these characteristics along with cash market investments in assessing whether 80% of the value of its assets is invested in accordance with the investment focus that the fund's name suggests. A derivatives instrument's ''value,'' as defined in the Act, however, may bear no relation to the investment exposure created by the derivatives instrument.[78] For example, a total return swap on a market index generally will have a zero market value at inception, and will change in market value based on any appreciation or depreciation in the index, not on the fund's investment exposure. A fund entering into a swap or other derivative referencing a market index with a notional amount of $1 million would achieve the same economic exposure as investing $1 million in the underlying securities directly, but the swap's market value therefore generally would be far smaller than $1 million and would not reflect the swap's investment exposure.

Further, using a derivatives instrument's market value for purposes of assessing names rule compliance could prevent a fund from using a name that effectively communicates its investments. Take, for example, a fund with the term ''emerging market debt'' in its name. While the fund could directly own emerging market debt securities, this could be inefficient due to transaction and custody costs, foreign regulatory requirements, and reduced liquidity. It may be most efficient for the fund to enter into a total return swap that provides economic exposure to the emerging market debt securities. However, the swap's market value may be a small percentage of the fund's net assets such that the fund's emerging market debt investments would not be sufficient to comply with the fund's 80% investment policy.

Moreover, using derivatives instruments' market values for purposes of assessing names rule compliance could result in a fund being in compliance with the fund's 80% investment policy despite the fund having significant exposure to investments that are *not* suggested by the fund's name. For example, a fund with emerging market debt in its name could invest 80% of its assets in emerging market debt, but also could use derivatives to obtain substantial investment exposure to U.S. equities. The fund might satisfy its 80% investment policy using the derivatives' market values for this purpose because the market value of a fund's derivatives investment can be small and unrelated to its investment exposure, as discussed above. But this fund's name could be deceptive and misleading if the performance of U.S. equities and not emerging market debt were the primary driver of the fund's risk and returns.

Use of Derivatives' Notional Amounts

The names rule is designed to ensure that a fund's investment activity supports the investment focus its name communicates, and for funds that use derivatives instruments, the investment exposure of those derivatives instruments is generally better reflected by a derivatives instrument's notional amount than by its market value. For most types of derivatives instruments, the notional amount generally serves as a measure of a fund's investment exposure to the underlying reference asset or metric. A total return swap, for example, can provide a return that is the economic equivalent of a direct investment in the derivative's reference asset. Accordingly, we are proposing that for purposes of determining a fund's compliance with its 80% investment policy, the fund must value a derivatives instrument using its notional amount with certain adjustments.[79]

In calculating notional amounts for these purposes, a fund would be required to convert interest rate derivatives to their 10-year bond equivalents and to delta adjust the notional amounts of options contracts. The proposed requirement to convert interest rate derivatives to 10-year bond equivalents is designed to result in adjusted notional amounts that better represent a fund's exposure to interest rate changes.[80] We believe that, absent this adjustment, short-term interest rate derivatives can produce large unadjusted notional amounts that may not correspond to large exposures to interest rate changes.[81] Further, the proposed requirement to delta adjust options is designed to provide for a more tailored notional amount that better reflects the exposure that an option creates to the underlying reference asset.[82] We believe that requiring these tailoring adjustments is appropriate for purposes of the names rule in order for a fund's 80% investment policy to best reflect the fund's investment exposure, which in turn would help ensure that the investment focus a fund's name communicates is not materially deceptive or misleading. Requiring these adjustments would prevent a fund, for example, from including a deep out-of-the money option in its 80% basket to comply with its 80% investment policy. In that case, the option's unadjusted notional amount would not represent the exposure that the option creates to the underlying reference asset at that time.

Scope of the Proposed Approach

Our proposed approach would apply to all of a fund's derivatives instruments. That is, when assessing compliance with a fund's 80% investment policy, the fund would be required to value all of its derivatives positions using notional amounts. The proposed approach would apply to both the numerator and the denominator in the calculation that the fund would use to determine compliance with its 80% investment policy.[83]

Deduction From Assets of Cash and Cash Equivalents Up to Notional Amounts

Funds that use derivatives instruments to gain exposure to the markets in which they invest may maintain portions of their assets in cash and cash equivalents. For purposes of determining such a fund's compliance with its 80% investment policy, our proposed approach would require the deduction of cash and cash equivalents from assets (*i.e.,* the denominator in the

[77] Names Rule Adopting Release, *supra* footnote 2, at 8511, n.13 (stating that the rule's reference to ''investments,'' rather than ''securities'' as proposed, would permit a fund in appropriate circumstances to include a synthetic instrument in the 80% basket if it has economic characteristics similar to the securities included in that basket).

[78] 15 U.S.C 2(a)(41)(B) (defining ''value,'' in part, as the market value of securities for which market quotations are readily available and, for all other investments, as fair value as determined in good faith by the board of directors).

[79] A fund's use of notional amounts when determining the value of the fund's assets in the 80% basket would not affect the fund's valuation practices under rule 2a–5 under the Act [17 CFR 270.2a–5].

[80] *See* Derivatives Rule Adopting Release, *supra* footnote 27, at section II.E.1.

[81] *Id.*

[82] *Id.*

[83] Our proposed approach to value derivatives instruments using their notional amounts does not distinguish between derivatives instruments that are assets versus derivatives that are liabilities of the fund. For example, assume a fund enters into a total return swap based on an index with a notional amount of $100 million, and that index declines a very small amount. The total return swap would be a liability of the fund until the fund extinguishes that liability through the payment of variation margin. The notional amount of the swap would still reflect the magnitude of the fund's investment exposure notwithstanding the fund's then-current loss on the investment. For this reason, the proposal would require funds, in measuring their assets for purposes of names rule compliance, to include the notional amount of any derivatives instrument, regardless of whether it is an asset or liability of the fund.

80% calculation) up to the notional amounts of the fund's derivatives instruments.[84] This aspect of the proposed approach is designed to remove from the calculation cash and cash equivalents, which do not themselves provide market exposure, where they effectively function as low-risk collateral for the derivatives instruments whose notional amounts already are included in the denominator and thus including this collateral would effectively ''double-count'' the fund's exposure.[85] That is, where a fund holds derivatives and cash and cash equivalents, the fund is obtaining its investment exposure through the derivatives, not the cash and cash equivalents, and including both the derivatives measured at their notional amounts and the value of the cash and cash equivalents would overstate the scale of the fund's market exposure obtained through the derivatives instruments. If a fund held derivatives and cash market securities, like investments in equity securities or bonds, both the notional amounts of the derivatives and the value of the securities would be required to be included because the fund would be obtaining market exposure through both kinds of investments.

Using an example, assume an equity fund enters into an equity swap with a notional amount of $80 and holds $80 in U.S. Treasury bills and $20 in other securities.[86] Assume the swap has a market value of $0. If the equity fund were to include the notional amount of the swap in numerator and in the denominator when determining the fund's compliance with its 80% investment policy without excluding the U.S. Treasury bills, the fund would not be in compliance with the 80% investment requirement ($80 swap notional amount/$180 = 44%). This would be the case even though, economically, the fund is achieving an investment exposure akin to investing $80 in equity securities directly (*i.e.,* the swap could be viewed as a synthetic position in equity securities). If the equity fund were to deduct the $80 in U.S. Treasury bills from the denominator when determining the fund's compliance with its 80% investment policy, the fund would satisfy that requirement ($80 swap notional amount/$100 = 80%). By way of contrast, however, assume that the fund invests the $80 in corporate debt instead. Now, the fund would fail the 80% investment requirement: $80 swap notional amount/$180, composed of $80 swap notional + $80 corporate debt + $20 other investments = 44%. The equity fund would not predominately have the equity exposure that its name would suggest.

Derivatives Instruments Included in the 80% Basket

We recognize that, in addition to using derivatives as direct substitutes for cash market investments, some funds use derivatives instruments to hedge exposures or to obtain exposure to market risk factors associated with the fund's investments (for example, interest rate risk, credit spread risk, and foreign currency risk). Those instruments may have very high notional amounts. For example, a foreign equity or bond fund may hold substantial currency forwards or swaps to hedge foreign currency risk. If the rule did not allow funds to treat the notional amounts of those derivatives instruments as investments that reflect the fund's investment focus, the notional amounts of those derivatives instruments could cause a fund to fall out of compliance with its 80% investment policy. For example, if ABC Foreign Equity Fund invested $100 in foreign equity securities, $100 in currency forwards, and held no other assets, the fund would not satisfy its 80% investment policy if the currency forwards were not included in the fund's 80% basket ($100 in foreign equity securities/$100 in foreign equity securities + $100 currency forwards = 50%).

Thus, in addition to any derivatives instrument that the fund includes in its 80% basket because it provides investment exposure to the investments suggested by the fund's name, our proposed approach would permit a fund to include in its 80% basket a derivatives instrument that provides investment exposure to one or more of the market risk factors associated with the investments suggested by the fund's name. As a result, the derivatives instruments included in a fund's 80% basket would either be functioning as a substitute for direct investments in the securities suggested by the fund's name or used to facilitate the fund's investment in those securities by increasing or decreasing the fund's exposure to risk factors associated with those securities. We believe that our proposed approach would help ensure that the fund's use of derivatives would not be inconsistent with investors' reasonable expectations of the fund's investment activity.

As illustrated in the example above regarding ABC Foreign Equity Fund, a foreign equity fund may hedge currency risks by entering in currency forwards with high notional amounts. If these notional amounts were not included in the fund's 80% basket, the fund might not be able to comply with its 80% investment policy even though the currency forwards relate to the foreign equity securities suggested by the fund's name. Accordingly, we believe it would be reasonable for a fund to include a derivatives instrument in its 80% basket where the derivatives instrument provides investment exposure to one or more of the market risk factors associated with the investments suggested by the fund's name. As another example, the XYZ Corporate Bond Fund, whose portfolio includes corporate bonds as well as interest rate swaps to manage the portfolio's overall duration, could include the interest rate derivatives in its 80% basket.

Comments Received

Several commenters responding to the 2020 Request for Comment addressed the valuation of derivatives in measuring a fund's compliance with its 80% investment policy. Many commenters urged the Commission to permit funds to use notional amounts to value derivatives instruments because a derivatives instrument's market value may bear little relation to the fund's investment exposure to the kinds of investments suggested by the fund's name.[87] Further, one commenter suggested amendments to the names rule that generally would require a fund that includes derivatives in its 80% basket to use the notional value of derivatives instruments, adjusted as this proposal reflects, when measuring its compliance with its 80% investment policy.[88] We agree with commenters

[84] *See* proposed rule 35d–1(g)(2).

[85] *Cf.* Invesco Comment Letter (recommending that a fund electing to include derivatives in its 80% investment policy be required to deduct the value of cash and cash equivalents when determining the denominator for its 80% test).

[86] *See, e.g.,* Derivatives Rule Adopting Release, *supra* footnote 27, at text accompanying n.749 (stating that ''[t]he Commission has also stated that items commonly considered to be cash equivalents include Treasury bills, agency securities, bank deposits, commercial paper, and shares of money market funds'').

[87] *See, e.g.,* BlackRock Comment Letter; Capital Group Comment Letter; ICI Comment Letter I; T. Rowe Price Comment Letter.

[88] *See* Invesco Comment Letter (suggesting that a fund should generally value a derivatives instrument included in its 80% basket using the derivatives instrument's notional value, ''gross up'' the denominator in the 80% test to include these derivatives' notional amounts, and suggesting adjustments for interest rate derivatives and involving the ''delta adjustments'' of the notional value of options positions; also suggesting that the fund deduct the value of cash and cash equivalents when determining the denominator for its compliance with the 80% investment policy requirement); *see also* BlackRock Comment Letter

Continued

that notional amounts better reflect the fund's investment exposure. For the reasons discussed above, our proposed approach would require a fund to use the notional amounts of its derivatives instruments when measuring the fund's compliance with its 80% investment policy.

In contrast, other commenters suggested that a fund's derivatives investments generally should be valued at market value for these purposes.[89] Some commenters stated that this approach better indicates price sensitivity, the risks to a fund's portfolio, and comparability across funds.[90] A derivative's market value reflects profits and losses that the fund has incurred on any given date, and we agree that the concerns that commenters discuss are important for funds to consider as part of their valuation and risk management processes. However, we believe these topics are less relevant to the names rule's policy goal of ensuring that a fund's investments, and the sources of the fund's returns, are in line with the investment focus that the fund's name reflects. This is because, as discussed above, a fund's gains and losses on a derivatives investment do not reflect the investment exposure the derivatives create. We also believe that transparency regarding a fund's compliance with its 80% investment policy and the investments a fund includes in its 80% basket are important. Our proposal would provide transparency, which in turn would permit additional comparability, in the proposed Form N–PORT reporting requirements that would require funds to identify each investment that is included their 80% baskets.[91] Current Form N–PORT reporting requirements would continue to provide transparency regarding the market value of each of these investments.

Another commenter addressed the use of derivatives instruments more generally. This commenter suggested that the Commission ''limit'' an approach that would permit funds to use notional values for purposes of names rule compliance, stating that derivatives instruments have risks that differentiate them from cash market holdings.[92] That commenter also stated that it would be misleading or deceptive for a fund to gain significant exposure through a derivative to a particular asset class but use a name that reflects exposure to a different asset class.[93] Alternatively, a commenter suggested that a fund's name should reflect the use of derivatives when a fund uses derivatives frequently or when the fund uses derivatives for frequent, non-tactical uses and creates exposures equal to or greater than one-third of the total exposures for all investment vehicles in the fund's portfolio.[94]

We agree that funds' use of derivatives presents unique risks. After the compliance date of rule 18f–4 (17 CFR 270.18f–4), funds that enter into derivatives under that rule will be required to satisfy that rule's conditions.[95] We do not believe that a fund's name generally would provide such specific information about fund risks—such as differences in risks between derivatives and cash-market investments—which instead must be disclosed in a fund's prospectus. Particularly where a fund name refers to asset classes like ''equity'' or ''credit,'' investors might not form specific expectations about how the fund would obtain that investment exposure—in contrast to fund names that refer to categories of instruments like ''stock'' that may result in these types of investor expectations.

However, we do agree that it could be misleading or deceptive for a fund to gain significant exposure through a derivatives instrument to a particular asset class but use a name that reflects exposure to a different asset class. Our proposed approach is designed to address this concern, in requiring a fund to value all of its derivatives instruments using their notional amounts for purposes of determining names rule compliance as this would better reflect the investment exposure of all of the fund's derivatives investments.

We request comment on our proposed approach with regard to the valuation of derivatives instruments when assessing the fund's compliance with its 80% investment policy, as well as the derivatives that a fund may include in its 80% basket:

32. Is it appropriate to require a fund to use a derivatives instrument's notional amount, with certain adjustments, and to reduce the value of its assets for this purpose by excluding any cash and cash equivalents up to the notional amount of the derivatives instrument, as proposed? Are there circumstances in which the use of market values would be more appropriate, and if so, what are these circumstances? Should we restrict the use of notional amounts in cases where investors place importance on the fund holding the underlying assets, as opposed to cases where investors place importance on the exposures that the fund's investments create? How would we identify those cases? For example, should we limit the extent to which an ESG-focused fund, or some subset of ESG-focused funds, may use derivatives' notional amounts? Alternatively, rather than focusing on the fund's financial exposure, should we, for example, focus on measures of risk? If so, which risk measures would be most effective for this purpose and why?

33. Is it appropriate to require a fund to convert the notional amounts of interest rate derivatives into 10-year bond equivalents and to delta adjust the notional amounts of options contracts for purposes of determining compliance with the 80% investment policy, as proposed? Are there compliance or other challenges associated with the proposed approach for interest rate derivatives and options contracts? Are there additional adjustments that should be made for purposes of assessing a fund's compliance with its 80% investment policy? Should we permit these adjustments rather than require them? Is it sufficiently clear that funds would eliminate from the calculation closed-out derivatives positions, that is, derivatives that were closed out with the same counterparty and result in no credit or market exposure to the fund, or should the rule address these positions? What positions do funds treat as closed-out currently when determining compliance with the names rule?

34. For purposes of determining a fund's compliance with its 80% investment policy, we are proposing that the fund reduce the value of its assets by excluding any cash and cash equivalents up to the notional amount of the derivatives instruments. Is this reduction appropriate? Does this exclusion of cash and cash equivalents up to the notional amount of the derivatives instruments reduce the value of the fund's assets by too much or too little? Are there other low-risk collateral investments that may be used for cash management, such as short-term bonds, that also should be excluded for this purpose? Should only assets that may be used as collateral for

(requesting clarification that the market value of cash and cash equivalents should be deemed an eligible asset that is included in a fund's 80% basket and considered part of the derivatives exposure in determining compliance with a fund's 80% investment policy).

[89] *See, e.g.,* Council of Institutional Investors Comment Letter; Nuckolls Comment Letter.

[90] *Id.*

[91] *See infra* section II.F; *see also* proposed Item C.2.e of Form N–PORT.

[92] Consumer Federation of America Comment Letter.

[93] *Id.*

[94] CFA Institute Comment Letter.

[95] *See* Derivatives Rule Adopting Release, *supra* footnote 27.

derivatives instruments be excluded for this purpose? If so, how should we determine if those assets may be used as collateral for derivatives instruments? Alternatively, rather than excluding cash and cash equivalents from the value of assets, should we permit a fund to include in its 80% basket cash and cash equivalents used as collateral for derivatives instruments that provide synthetic exposure to the type of investment(s) in which the fund's name suggests a focus?

35. As proposed, the derivatives valuation approach would apply not only to non-tax-exempt funds that are required to adopt an 80% investment policy, but also to funds that have adopted a policy to invest at least 80% of the value of their assets in investments the income from which is exempt, as applicable, from federal income tax or from both federal or state income tax. We are not aware of circumstances in which the returns of a derivatives instrument referencing a tax-free security are themselves tax-free. Are there such circumstances? If not, should we specifically exclude tax-exempt funds from the requirement to use derivative instruments' notional amounts for purposes of determining their assets under the names rule?

36. Should we permit, rather than require as proposed, a fund to use notional amounts of derivatives instruments for purposes of determining the fund's compliance with its 80% investment policy? If so, are there any limits that the rule should include—or guidance the Commission should provide—on funds' ability to use notional amounts for these purposes, or to switch between notional and market values? For example, should a fund that chooses to use notional amounts to value derivatives instruments for purposes of determining names rule compliance, but then later chooses to use their market value for these purposes, be required to provide prior notice to investors, for example, 60 days before the change were effected? Would investors find such information helpful? Should the fund's board be informed of, or approve, such a change?

37. Would permitting the use of notional amounts, rather than requiring this approach, as proposed, result in a fund valuing similar derivatives instruments differently for purposes of complying with the fund's 80% investment policy? Should a fund be permitted to value similar derivatives instruments differently for purposes of complying with the fund's 80% investment policy as long as the fund discloses that difference in its prospectus? Would an investor find that disclosure helpful?

38. Are there operational or interpretive challenges associated with the proposed approach to addressing derivatives instruments in the names rule, and if so, what are these and how should the Commission's rules and/or guidance address those challenges?

39. If a fund were to use derivatives instruments to obtain exposure to short positions in one or more reference assets, the proposed amendments would require a fund to use these derivatives instruments' notional amounts for purposes of determining compliance with its 80% investment policy. These investments therefore would be valued at their notional amounts in the denominator in all cases, and at their notional amounts in the numerator where the fund includes investments that provide short exposure in the numerator. Is this treatment appropriate, or would the use of market values for short positions in the context of assessing names rule compliance be more appropriate? If funds currently subject to the 80% investment policy requirement include short positions in their 80% baskets, how are these positions valued for these purposes (*e.g.,* using the value of the short position, the value of the asset sold short, or if the fund obtains short exposure using derivatives, the derivatives' notional amounts)? Should the names rule address the valuation of physical short sales, and if so, how should these be valued for purposes of assessing names rule compliance? Should we provide in the rule that, for purpose of the names rule, a short sale's value is the value of the security or other asset sold short? Would that provide reasonably comparable treatment for physical short sales and derivatives that provide short investment exposure? Should the rule prohibit a fund from including derivatives instruments in its 80% basket when those instruments provide inverse exposure to the investments suggested by the fund's name?

40. In addition to any derivatives instrument that the fund includes in its 80% basket because it provides investment exposure to the investments suggested by the fund's name, we are proposing to permit a fund to include in its 80% basket derivatives instruments that provide investment exposure to one or more of the market risk factors associated with the investments suggested by the fund's name. What types of funds, and derivatives use, would be implicated by our proposed approach? Would this proposed approach raise investor protection issues? Alternatively, should we require, rather than permit, a fund to include in its 80% basket derivatives instruments that provide investment exposure to one or more of the market risk factors associated with those investments? Are there circumstances in which exposure to associated risk factors provided by the derivatives instruments may be contrary to, or otherwise different from, the investments suggested by the fund's name and should not be permitted?

41. Are there limits to the derivatives instruments that a fund should be permitted to include in its 80% basket because they provide investment exposure to one or more of the market risk factors associated with the investments suggested by a fund's name? For example, should the rule permit a fund only to include derivatives instruments in its 80% basket when they hedge currency or interest rate risks associated with one or more specific investments that the fund holds in its 80% basket?

42. A fund's name generally does not provide investors with specific information about fund risks, such as differences in risks between derivatives and cash-market investments—which instead must be disclosed in a fund's prospectus. However, where a fund's name refers to certain asset classes, for example ''stocks'' and ''bonds,'' do investors form specific expectations about how the fund would obtain that investment exposure? In those cases, should we prohibit a fund from including derivatives in its 80% basket on the basis that investors expect the fund to invest directly in those kinds of securities in the cash markets? Alternatively, should we require a fund that includes derivatives instruments in the fund's 80% basket to include ''derivatives'' (or similar terminology) in its name? Are there other cases where we should require a fund that includes derivatives instruments in the fund's 80% basket to include this type of terminology in its name?

43. In addition to derivatives, are there other asset types or instruments that would benefit from more clarification about how they should be valued for purposes of determining compliance with the fund's 80% investment policy?

4. Unlisted Closed-End Funds and BDCs

We are proposing to require that a fund's 80% investment policy must always be a fundamental investment policy if the fund is a registered closed-end investment company or BDC that does not have shares that are listed on a national securities exchange (together, ''unlisted closed-end funds and BDCs'').[96] A ''fundamental investment policy'' under the proposed rule amendments would be a policy adopted under section 8(b)(3) of the Act or, if the fund is a BDC, a policy that is changeable only if authorized by the vote of a majority of the outstanding voting securities of the fund.[97] As a result, unlisted closed-end funds and BDCs would not be permitted to change their 80% investment policies without shareholder approval.

Under the current rule, unless a fund's name suggests that it is a tax-exempt fund, an unlisted closed-end fund's or BDC's 80% investment policy must either be a fundamental policy or subject to a requirement in the rule to provide shareholders 60-days' advance notice of any change in the policy. The Commission permitted funds to provide shareholders advance notice, in lieu of adopting a fundamental policy, because the advance notice would provide shareholders sufficient time to decide whether to redeem their shares in the event that the investment company decides to pursue a strategy involving a different investment focus.[98] Unlisted closed-end funds and BDCs, however, do not issue redeemable shares or list their shares on a national securities exchange. A shareholder in an unlisted closed-end fund or BDC generally will have no ready recourse, such as the ability to redeem or quickly sell their shares, if the fund were to change its investment policy and the investment focus that the fund's name indicates.[99] We therefore do not believe that advance notice is effective in the case of unlisted closed-end funds and BDCs because their shareholders generally cannot use the time provided by the notice to exit their investments if they do not wish to remain invested after the change in the fund's investment policy. For example, absent this proposed change, these funds could launch with one name and corresponding 80% investment policy but then change that policy with little to no recourse for their shareholders. The proposal would address this by ensuring that investors in unlisted closed-end funds and BDCs would be able to vote on a change in investment policy in light of their limited options to exit their investments if the change were made.

We request comment on the proposed requirement for unlisted closed-end funds and BDCs that any 80% investment policy they adopt in compliance with the names rule must be a fundamental investment policy.

44. Should we expand this requirement to any other type of fund? For example, secondary-market liquidity for some listed closed-end funds and BDCs may not be sufficient for shareholders to exit their investments within the 60-day notice period without needing to sell at a price that represents a significant discount from net asset value either because of the introduction of significant new sell-side interest or because of an existing discount in the market. Should we require that any 80% investment policy that these funds adopt also be a fundamental investment policy?

45. Are there any unlisted closed-end funds or BDCs for which our proposed approach may be less necessary to address investor protection considerations? For example, are there any unlisted closed-end funds or BDCs that offer shareholders liquidity through discretionary repurchase programs sufficient to allow shareholders to tender all of their shares within the 60-day notice period?

46. As an alternative to this requirement, should we require longer advance notice than 60 days for these funds? If so, what length of time would be necessary for shareholders to exit their investments? Further, should we not require fundamental policies of unlisted interval funds that provide advance notice and make a discretionary repurchase offer under 17 CFR 270.23c–3(c) for their outstanding shares? Would the current regulatory limits on interval funds' repurchases affect the investor protection considerations of this alternative approach?

47. Should potential barriers to exit be the primary consideration underlying whether we require funds' names rule investment policies to be fundamental investment policies? For example, should we only require unlisted closed-end funds or BDCs to adopt their names rule investment policies as fundamental investment policies, and remove the current requirement for tax-exempt funds' names rule investment policies to be fundamental investment policies?

48. Should we require any other protections for investors in unlisted closed-end funds and BDCs? For example, should we mandate that these funds must make an issuer tender offer or a repurchase offer when they change an 80% investment policy and are not already required to redeem their shares? Should we offer this as an alternative in the names rule to the proposed fundamental policy requirement? If so, how much should we require these funds to offer to repurchase, for example, 100% or some other percentage?

5. Effect of Compliance With an 80% Investment Policy

We are proposing a new provision in the names rule providing that a fund's name may be materially deceptive or misleading under section 35(d) even if the fund adopts an 80% investment policy and otherwise complies with the rule's requirement to adopt and implement the policy.[100] The Commission has previously stated that the names rule's 80% investment policy requirement is not intended to create a safe harbor for fund names, and we are proposing to codify this view to make clear that a fund name may be materially deceptive or misleading even where the fund complies with its 80% investment policy.[101]

The rule requires, and proposed rule amendments would continue to require, a fund to invest at least 80% of its assets consistent with its name, but do not prescribe how the fund invests the remaining 20%. A fund's name could be materially deceptive or misleading for purposes of section 35(d) if, for example, a fund complies with its 80% investment policy but makes a substantial investment that is antithetical to the fund's investment focus (*e.g.,* a ''fossil fuel-free'' fund making a substantial investment in an issuer with fossil fuel reserves). Similarly, a fund's name could be materially deceptive or misleading for purposes of section 35(d) if the fund invests in a way such that the source of

[96] *See* proposed rule 35d–1(a)(2)(ii).

[97] Proposed rule 35d–1(g)(6). Section 8(b)(3) of the Act requires a registered investment company to recite all of its policies that it deems matters of fundamental policy in its registration statement. For a registered investment company, section 13(a)(1) of the Act requires a vote of a majority of its outstanding voting securities for changes to policies adopted under section 8(b)(3). The proposed amendments would only permit BDCs to change such policies if authorized by the vote of a majority of the outstanding voting securities of the BDC.

[98] Names Rule Adopting Release, *supra* footnote 2, at n.19 and accompanying text.

[99] While unlisted closed-end funds and BDCs often offer a periodic issuer repurchase tender offer, these can be discretionary on behalf of the issuer or adviser, only offered at specific intervals (*e.g.,* quarterly), and limited to a certain percentage or amount to repurchase, such as participation in the issuer's dividend re-investment program. *See, e.g.,* FS Energy and Power Fund, SEC Staff No-Action Letter (Jan. 10, 2012), *available at https://www.sec.gov/divisions/marketreg/mr-noaction/2012/fsenergy-011012.pdf* (discussing one such BDC's repurchase program). These share repurchases can take an extended period of time, and shareholders may be unable to fully divest their shares.

[100] Proposed rule 35d–1(c).

[101] Names Rule Adopting Release, *supra* footnote 2 (''We note, however, that the 80% investment requirement is not intended to create a safe harbor for investment company names. A name may be materially deceptive and misleading even if the investment company meets the 80% requirement.'').

a substantial portion of the fund's risk or returns is different from that which an investor reasonably would expect based on the fund's name, regardless of the fund's compliance with the requirements of the names rule (*e.g.,* a short-term bond fund using the 20% basket to invest in highly volatile equity securities that introduce significant volatility into a fund that investors would expect to have lower levels of volatility associated with short-term bonds). In discussing fund names that may be materially deceptive and misleading notwithstanding the fund's compliance with its 80% investment policy, the Commission previously stated that index funds generally would be expected to invest more than 80% of the value of their assets in investments connoted by the applicable index.[102] As noted in the 2020 Request for Comment, a fund may be invested 80% or more in an index included in the fund's name, but that underlying index may have components that are contradictory to the index's name. In such circumstances, even though the fund meets the names rule requirements by its investments in the index, the name could still be materially misleading or deceptive.[103] As a final example, a fund that is perpetually out of compliance with the 80% investment requirement on account of temporary departures may have a name that is materially deceptive or misleading under section 35(d) even if each temporary departure is permissible under the rule.

We request comment on the proposed provision stating that technical compliance with an 80% investment policy does not cure a fund name that is otherwise materially deceptive or misleading.

49. Should we codify in the rule, as proposed, the position that the names rule's 80% investment policy requirement is not intended to create a safe harbor for fund names? Is the proposed provision clear?

50. Under what circumstances would a fund's name be misleading or deceptive under section 35(d) even where the fund complies with its 80% investment policy? Should we identify any of these circumstances in the rule? For example, when a fund uses terminology such as ''XYX-free'' in its name, or any similar terminology suggesting exclusionary screens in its investment selection process, would the fund's name be materially deceptive or misleading if the fund's portfolio were to include investments, in any amount, that contradict this terminology? As another example, should the rule define a fund's name as materially deceptive or misleading if the name includes the term ''XYX Index,'' where the fund's 80% basket investments include components of the XYZ Index, but those component securities themselves are not closely tied to the type of investments suggested by the ''XYZ'' term in the fund's name? Conversely, should the rule specify that a fund's 80% investment policy meets the requirements of the rule if the fund invests 80% or more of the value of its assets in the components of the underlying index, regardless of whether that index has components that are not closely tied to the type of investments suggested by the ''XYZ'' term in the fund's name?

51. Should the rule require certain funds, such as index funds, to invest a greater percentage of their assets in the investments suggested by the fund's name (*e.g.,* 95%)? As another example, should ESG-focused funds be subject to a greater percentage (*e.g.,* 95%) than the proposed 80%? Why or why not?

B. Prospectus Disclosure Defining Terms Used in Fund Name

We are proposing amendments to funds' registration forms—specifically, Form N–1A, Form N–2, Form N–8B–2, and Form S–6—that would require each fund that is required to adopt and implement an 80% investment policy to include disclosure in its prospectus that defines the terms used in its name, including the specific criteria the fund uses to select the investments that the term describes, if any.[104] We are also proposing a requirement that funds must tag new information that would be included using a structured data language (specifically Inline eXtensible Business Reporting Language or ''Inline XBRL'').[105] For purposes of the proposed disclosure requirements, ''terms'' would mean any word or phrase used in a fund's name, other than any trade name of the fund or its adviser, related to the fund's investment focus or strategies. However, words like ''fund'' or ''portfolio'' in a fund's name do not describe an investment focus or strategy and would not need to be defined. The proposed amendments are designed to help investors better understand how the fund's investment strategies correspond with the investment focus that the fund's name suggests, as well as to provide additional information about how the fund's management seeks to achieve the fund's objective.

Neither the names rule nor funds' registration forms currently incorporate a general requirement for a fund that is subject to the names rule to include disclosure in its prospectus defining the terms used in the fund's name. However, the names rule does currently include this requirement for funds with names suggesting investment in particular countries or geographic regions.[106] These funds must disclose in their prospectuses the specific criteria used by the fund to select these investments.

Similarly, in adopting the names rule, the Commission stated that a fund that is subject to the rule's 80% investment policy requirement should disclose this policy as one of its principal investment strategies in its prospectus.[107] Further, the Commission also stated that, generally, a fund may use any reasonable definition of the terms used in its name and should define the terms used in its name in discussing its investment objectives and strategies in the prospectus.[108] Therefore, although there is not currently a general requirement for funds to define the terms used in their names, we understand that it is currently common practice for funds to include prospectus disclosure that describes their 80% investment policies and that defines any terms that their names include. The amendments we are proposing would codify certain best practices of some funds that currently provide disclosure defining terms used in a fund's name.[109]

[102] *See* Names Rule Adopting Release, *supra* footnote 2, at section II.A.1 (also stating that a UIT with a name indicating that its distributions are tax-exempt may have a misleading name even if it invests 80% of its assets in tax-exempt investments).

[103] *See also, e.g.,* IRC Comment Letter; Silent Majority Comment Letter; PIABA Comment Letter (recommending treating names of indexes used in fund names the same as fund names themselves). *But see* BlackRock Comment Letter; Invesco Comment Letter; SIFMA AMG Comment Letter (recommending the Commission clarify that index funds can meet their 80% investment policies if they invest 80% of the value of their assets in the constituents of the underlying index).

[104] *See* proposed instruction to Item 4(a)(1) of Form N–1A; proposed instruction to Item 8(2) of Form N–2; and proposed instruction to Item 11 of Form N–8B–2.

[105] *See* General Instruction C.3.(g) of Form N–1A; General Instruction I of Form N–2; proposed General Instruction 2.(*l*) of Form N–8B–2; and proposed General Instruction 5 of Form S–6; *see also infra* footnote 114.

[106] *See* rule 35d–1(a)(3)(ii).

[107] *See* Names Rule Adopting Release, *supra* footnote 2, at n.15.

[108] *See id.* at n.43; *see also* section 8(b) of the Act (requiring a registered investment company's registration statement to contain certain information, including a recital of its investment policies).

[109] Codifying these practices might especially be helpful for a fund that relies on rule 498 under the Securities Act of 1933 to send a summary prospectus, since such a fund would include only content that the form requirements specifically

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The proposed disclosure requirement would not, however, otherwise alter or address disclosure that funds currently provide, for example in response to prospectus disclosure requirements regarding the fund's investment policies.

Understanding how terms used in a fund's name are understood by the fund's investment manager is key information that an investor needs to make an investment decision, as this will help the investor understand whether the investment focus the name suggests is consistent with the investor's investment goals and risk tolerance. There are many types of fund names for which understanding additional detail about how these terms are defined would provide greater clarity to an investor about the investment focus that the name suggests. We are therefore proposing to replace the specific disclosure requirement for fund names focusing on particular countries or geographic regions with the general requirement to define terms used in the fund's name whenever the fund's name suggests an investment focus requiring an 80% investment policy.

Funds have flexibility to use reasonable definitions of the terms that their names use. A fund's use of reasonable definitions of the terms used in the fund's name may not, however, under the proposed rule otherwise change the meaning of these terms to be inconsistent with their plain English meaning or established industry use.[110] As discussed above, definitions should have a meaningful nexus between the term used in the fund's name and the fund's investment focus.[111] However, there could be multiple reasonable definitions of the same term that multiple funds use in their names, so understanding additional detail about these definitions would help investors better distinguish among funds.[112] For example, multiple funds may include the term ''large-cap'' in their name to indicate that they invest in ''large-capitalization'' stock. There could be multiple reasonable definitions of the term ''large cap,'' however, because these funds may have different ways of analyzing pertinent references (including, for example, common indices, classifications used by rating organizations, and definitions used in financial publications).

We are proposing to require that all funds that would be subject to the proposed new prospectus disclosure requirements would have to tag the information we are proposing to require funds disclose on their registration forms in a structured, machine-readable data language.[113] The proposed requirements would include block text tagging of narrative information about a fund's 80% investment policy and the terms used in its name, including the specific criteria the fund uses to select the investments that the term describes, if any. Specifically, we are proposing to require funds to tag the disclosures in Inline XBRL in accordance with Rule 405 of Regulation S–T (17 CFR 232.405) and the EDGAR Filer Manual.[114]

Many funds are already required to tag certain registration statement disclosure items using Inline XBRL.[115] Requiring Inline XBRL tagging of names rule disclosure for all funds that would be subject to this disclosure requirement would benefit investors, other market participants, and the Commission by making the disclosures more readily available and easily accessible for aggregation, comparison, filtering, and other analysis, as compared to requiring a non-machine-readable data language such as ASCII or HTML. This would enable automated extraction and analysis of granular data about how funds are defining the terms used in their names, allowing investors and other market participants to more efficiently perform large-scale analysis and comparison across funds and time periods. An Inline XBRL requirement would facilitate other analytical benefits, such as more easily extracting and searching disclosures about funds' names and their 80% investment policies (rather than having to manually run searches for these disclosures through entire documents), and automatically comparing these disclosures against prior periods. We believe requiring structured data for the new names-related disclosure for all funds that would be subject to these disclosure requirements would make this disclosure more readily available, accessible, and comparable for investors, other market participants, and the Commission.

We request comment on the proposed amendments to prospectus disclosure requirements regarding funds' definition of the terms used in their names.

52. Are the proposed new instructions in the applicable fund registration forms requiring funds to define the terms used in their names appropriate and clear? Would the proposed amendments help meet the needs of investors to better understand how the fund's investment strategies correspond with the investment focus that the fund's name suggests as well as provide additional information about how the fund's

require or permit to be included in the summary prospectus. The proposal would amend Item 4 of Form N–1A, which is one of the items that is required to be included in a summary prospectus that an open-end fund uses. *See* rule 498(b)(2) under the Securities Act of 1933 [17 CFR 230.498(b)(2)]; *see also* Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, Investment Company Act Release No. 28584 (Jan. 13, 2009) [74 FR 4546 (Jan. 26, 2009)] (permitting the use of a summary prospectus by registered open-end management investment companies).

[110] *See* proposed rule 35d–1(a)(2)(iii) and 35d–1(a)(3)(ii); *see also infra* section II.C (discussion of the proposed requirement that terms used in a fund's name be consistent with those terms' plain English meaning or established industry use).

[111] *See supra* discussion accompanying footnote 52. Commission staff could request information from the fund regarding the fund's basis for determining that the fund name is sufficiently consistent with the definitions provided, just as staff currently may request information from a fund to support its disclosure reflecting the fund's compliance with various provisions of the Act and rules thereunder.

[112] *See supra* section II.A.1 discussing how a fund may make determinations for what investments are appropriate for the 80% basket.

[113] Many funds are already required to tag certain registration statement disclosure items using Inline XBRL. *See infra* footnote 115. However, UITs that register on Form N–8B–2 and file post-effective amendments on Form S–6 are not currently subject to any tagging requirements. The costs of these requirements for funds that are currently subject to tagging requirements and those that newly would be required to tag certain disclosure items are discussed in the Economic Analysis and the Paperwork Reduction Act Analysis sections below. *See infra* discussion in sections III.D.2 and IV.E.

[114] This proposed tagging requirement would be implemented by including cross-references to rule 405 of Regulation S–T in each applicable fund registration form (and, as applicable, updating references to those fund registration forms in rule 11 and rule 405 in those fund registration forms that currently require certain information to be tagged in Inline XBRL—that is, Form N–1A and Form N–2), by revising rule 405(b) of Regulation S–T to include the proposed names rule disclosures, and by proposing conforming amendments to rule 485 and rule 497 under the Securities Act. Pursuant to rule 301 of Regulation S–T, the EDGAR Filer Manual is incorporated by reference into the Commission's rules. In conjunction with the EDGAR Filer Manual, Regulation S–T governs the electronic submission of documents filed with the Commission. Rule 405 of Regulation S–T specifically governs the scope and manner of disclosure tagging requirements for operating companies and investment companies, including the requirement in rule 405(a)(3) to use Inline XBRL as the specific structured data language to use for tagging the disclosures.

[115] The Commission has adopted rules requiring funds registering on Forms N–1A and N–2 to submit certain information using Inline XBRL format. *See, e.g.,* Interactive Data to Improve Financial Reporting, Release No. 33–9002 (Jan. 30, 2009) [74 FR 6776 (Feb. 10, 2009)] as corrected by Release No. 33–9002A (Apr. 1, 2009) [74 FR 15666 (Apr. 7, 2009)] (requiring, among other things, open-end funds to provide risk/return summary information from their prospectuses in XBRL format); Inline XBRL Filing of Tagged Data, Release No. 33–10514 (June 28, 2018) [83 FR 40846 (Aug. 16, 2018)]; Securities Offering Reform for Closed-End Investment Companies, Release No. 33–10771 (Apr. 8, 2020) [85 FR 33290 (Jun. 1, 2020)]; Filing Fee Disclosure and Payment Methods Modernization, Release No. 33–10997 (Oct. 13, 2021) [86 FR 70166 (Dec. 9, 2021)].

management seeks to achieve the fund's objective?

53. Should the proposed prospectus disclosure requirements be applicable, as proposed, to registrants on Form N–1A, Form N–2, Form N–8B–2, and Form S–6? If some types of funds should be exempt, have different disclosure requirements, or not be subject to the proposed structured data requirement, which and why?

54. Would it be helpful and appropriate to revise the proposed instruction to expressly provide that a fund must use a reasonable definition of the terms used in its name?

55. Is the definition of ''terms'' in the proposed instructions sufficiently clear? Should these proposed instructions use another word instead of ''terms'' or define the word ''terms'' differently? If so, what should this alternate definition be and how should we define it?

56. Should we require all funds that would be subject to the proposed new prospectus disclosure requirements to tag the newly-required information in Inline XBRL, as proposed? Why or why not?

57. Should we require funds to use a different structured data language to tag the proposed disclosure on fund names? Why or why not? If so, what structured data language should we require?

C. Plain English/Established Industry Use Requirement

For funds that are required to adopt an 80% investment policy, we are proposing to require that any terms used in the fund's name that suggest either an investment focus, or that such fund is a tax-exempt fund, must be consistent with those terms' plain English meaning or established industry use.[116] This requirement is designed to provide investors with a better understanding of the fund and its investment objectives by effectively requiring a fund's name to be consistent with a reasonable investor's likely understanding of the investment focus or tax status that the fund's name suggests.

The proposed plain English or established industry use requirement would address concerns that a fund sponsor may subvert an investor's reasonable expectations of a fund's investment focus by using terminology in the fund's name in a manner that is inconsistent with the plain English or established industry use. The proposed amendments similarly reflect our belief that a name's meaning should not be permitted to be materially altered by fund disclosure. For example a fund that calls itself a ''solar energy fund'' would not be able to use disclosure to qualify the name in the prospectus by stating that the fund's 80% basket includes investments in the securities of any type of alternative energy company. While we understand that certain terms may be defined in multiple reasonable ways, we believe that defining a given term in a fund's name in a way that is inconsistent with those terms' plain English meaning or established industry use is misleading for investors. The proposed amendments would define these names as materially deceptive or misleading even if the fund's prospectus disclosure defines a given term in the name to match the fund's investments.

We received comments on the 2020 Request for Comment that identified this issue and stated that funds should not be able to use disclosure to ''cure'' misleading names.[117] Under the proposed amendments, disclosure would not be permitted to ''fix'' or ''remedy'' a misleading name that uses terms in a way that is inconsistent with their plain English meaning or established industry use, and therefore contrary to reasonable expectations. This is consistent with section 35(d), which addresses fund names specifically and without regard to other disclosure. It also is consistent with the Commission's belief that a fund's name may communicate a great deal to an investor, even though investors should not rely on the name as the sole source of information about the fund's investments and risks.

We seek comment on the proposed plain English and established industry use requirement:

58. Should the names rule include the proposed requirement that terms used in a fund's name must be consistent with the terms' plain English meaning or established industry use?

59. Is the proposed requirement clear? Is Commission guidance needed to clarify the requirement? If so, what guidance would be helpful? Are there standards that should be considered with respect to what is plain English and/or established industry use?

60. Are there any terms that could be consistent with established industry use that would not be consistent with those terms' plain English meaning or the understanding of a reasonable investor? If so, what terms, and how should we address these?

61. Would current funds be required to change their names or disclosure if the plain English/established industry use requirement is adopted as proposed?

62. Would the proposed plain English requirement encourage funds to select names (or cause them to have to change their names to new names) that could be less informative to investors? For example, would the proposed requirement result in overly-broad or neutral names that may be less helpful to investors?

D. Materially Deceptive and Misleading Use of ESG Terminology in Certain Fund Names

As approaches to ESG investing vary, and investment products that incorporate one or more ESG factors vary in the extent to which ESG factors are considered versus other factors, the use of ESG or similar terminology in fund names would deceive and mislead investors where the identified ESG factors do not play a central role in the fund's strategy. Accordingly, our proposed amendments would address what we refer to in this release as ''integration funds,'' and would define the names of ''integration funds'' as materially deceptive and misleading if the name includes terms suggesting that the fund's investment decisions incorporate one or more ESG factors.

As used in this release, integration funds are funds that consider one or more ESG factors alongside other, non-ESG factors in the fund's investment decisions but those ESG factors are generally no more significant than other factors in the investment selection process, such that ESG factors may not be determinative in deciding to include or exclude any particular investment in the portfolio.[118] Such funds may select investments because those investments met other criteria applied by the fund's adviser (*e.g.,* investments selected on the basis of macroeconomic trends or company-specific factors like a price-to-earnings ratio). The proposed approach to integration funds targets misleading

[116] *See* proposed rule 35d–1(a)(2)(iii) and 35d–1(a)(3)(ii).

[117] *See, e.g.,* Consumer Federation Comment Letter; Duffy Comment Letter; McPhee, Jason K. Comment Letter.

[118] *See* proposed rule 35d–1(d); *see also* ESG Proposing Release, *supra* footnote 24; ''Funds' Use of ESG Integration and Sustainable Investing Strategies: An Introduction,'' Investment Company Institute (July 2020) at 4 (discussing integration strategies as funds that ''integrate ESG factors into their traditional investment process as a way to seek financial returns'') *available at https://www.ici.org/system/files/attachments/20_ppr_esg_integration.pdf;* Morningstar Comment Letter (stating that Morningstar draws a distinction between ''sustainable investment'' and ''ESG Consideration'' funds where ESG Consideration funds are ''otherwise conventional, actively managed funds that have added environmental, social, and governance criteria to their prospectuses but do not make the claim that they invest only in full-fledged sustainable investments (meaning they do not meet the criteria for any of the [sustainable investment categories of focus, impact, and sustainable sector])'').

fund names; and relatedly it is designed to promote ''truth in advertising'' in fund names by making clear that we believe it would be misleading for a fund for which ESG factors are generally no more significant than other factors in the investment selection process to include ESG terminology in its name, as this has the potential to overstate the importance of the ESG factors in the fund's selection of its portfolio investments.

Many commenters responding to our 2020 Request for Comment discussed the role of the names rule in addressing concerns about funds whose names include ESG terms or similar terminology.[119] A number of commenters noted the growth of funds with ESG terminology in their names and expressed concerns about ''greenwashing.''[120] Some commenters, in particular, urged that a fund should not be permitted to use ''ESG'' or ''sustainable'' in its name if ESG inputs are merely one factor among many driving an investment decision, as this could mislead investors.[121]

We agree. Where a fund considers one or more ESG factors alongside other, non-ESG factors in its investment decisions but ESG factors are generally no more significant than other factors in the investment selection process, such that those ESG factors may not be determinative in deciding to include or exclude any particular investment in the portfolio, including ESG terminology in the fund's name would mislead investors by suggesting that the ESG factors play a more prominent role.[122] For example, consider a fund with ''sustainable'' in its name that selects investments based on the adviser's holistic analysis of a company, including conventional financial metrics as well as the extent to which the company has good labor and environmental practices. No one factor, including sustainability considerations, is more significant than other factors in the investment selection process. As a result, the fund may invest in companies that do not meet the adviser's own criteria for labor or environmental practices, if the adviser determines to make the investment on the basis of other, non-sustainability considerations. The fund's name would be materially deceptive and misleading because the use of the term ''sustainable'' in its name connotes an emphasis on ''sustainability'' considerations that is not consistent with the fund's investment strategy.

While the 80% investment policy requirement is an effective way of generally addressing the consistency of a fund's investment portfolio with the investment focus its name suggests, adopting an 80% investment policy would not address the specific concern that the use of ESG terms in an integration fund's name overstates the emphasis of ESG considerations in selecting that fund's portfolio investments. Adopting an 80% investment policy where the 80% investment basket investments were selected considering ESG factors as one factor among many would not address the overemphasis concern. In the ''sustainable'' fund example above, if the fund's investments may be selected without regard to their satisfaction of the adviser's sustainability criteria—and may score poorly on such criteria because they are only one factor—this would be misleading under section 35(d) regardless of whether the investments were consistent with any 80% investment policy under the rule. Because funds' names necessitate brevity, the inclusion of ESG terminology in their names would be materially deceptive and misleading unless a fund prioritizes those ESG considerations that their names suggest, as contrasted to funds that analyze ESG factors only as part of a broader investment selection process.[123] While we understand that many integration fund managers thoughtfully consider ESG factors as one of multiple components of their investment processes, we believe it would be materially deceptive or misleading for the names of those funds to indicate to investors that consideration of ESG factors is a central part of their investment processes, particularly in light of information suggesting that the use of ESG terminology in fund names is effective in attracting inflows.[124]

We request comment on our proposed amendments to address integration funds with ESG terminology in their names:

63. Should we, as proposed, define a fund name as materially deceptive and misleading when the fund is an integration fund that uses ESG terms in its name? Are there circumstances in which an integration fund's use of an ESG term in its name would not be materially deceptive and misleading?

64. Should a fund be able to use an ESG term in its name as long as the fund also identifies itself in its name as an integration fund (*e.g.,* ''XYZ ESG Integration Fund''), and the fund meets the definition of ''integration fund'' that this release describes?[125] Is the term ''integration'' sufficiently understood by investors such that its inclusion in a fund name would not make the name materially deceptive and misleading? Are there other, similar terms or phrasing that generally would be better understood than the term ''integration?'' Could there be a benefit to permitting a fund to use ''ESG integration'' or similar terms in its name? Would an integration fund that uses these terms in its name be able to satisfy the 80% investment policy requirement, and would adopting an 80% investment policy address the consistency of an integration fund's investment portfolio with the investment focus its name suggests? If not, is there a way to adapt the 80% investment policy requirement for integration funds to address the investor protection concerns about the potential overstatement of the consideration of ESG factors that our proposed approach addresses? Alternatively, should an integration fund be exempt from the 80% investment policy requirement?

[119] Over 35 comment letters addressed these issues, including: BlackRock Comment Letter; Consumer Federation of America Comment Letter; Comment Letter of Federated Hermes (May 6, 2020) (''Federated Hermes I Comment Letter''); Morningstar Comment Letter; Principles for Responsible Investing Comment Letter; SIFMA AMG Comment Letter.

[120] *See, e.g.,* Capital Group Comment Letter (noting that the 2020 Request for Comment includes an estimate that, as of December 31, 2019, nearly 300 funds included the terms ''ESG,'' ''clean,'' ''environmental,'' ''impact,'' ''responsible,'' ''social'' or ''sustainable'' in their names); Morningstar Comment Letter (discussing the growth of ESG); Practus Comment Letter (noting that ''some observers predict that the style could command half of all assets under management in 2025'' and expressing concerns about ''greenwashing''); Principles for Responsible Investment Comment Letter; SIFMA AMG Comment Letter; Sustainable Research and Analysis Comment Letter (discussing the growth of ESG).

[121] *See* Abdullah Comment Letter.

[122] *See, e.g.,* Consumer Federation of America Comment Letter (quoting George Serafeim, a Harvard Business School professor, who has stated that there are ''now stronger incentives for asset managers to greenwash,'' and that ''there is a false sense of security or satisfaction if an investor buys an ESG product that might not be what the investor thinks it is'').

[123] *See, e.g.,* Practus Comment Letter; Principles for Responsible Investment Comment Letter.

[124] *See, e.g.,* Letter from Morningstar to Chair Gary Gensler (Jun. 9, 2021) attaching ''Sustainable Funds U.S. Landscape Report—More funds, more flows, and impressive returns in 2020,'' Morningstar Manager Research (Feb. 10, 2021) *available at https://www.sec.gov/comments/climate-disclosure/cll12-8899329-241650.pdf; see also* ''ESG in 2021 So Far: An Update,'' M. Gerber, G. Norman, and S. Toms, Harvard Law School Forum on Corporate Governance (Sept. 18, 2021) *available at http://corpgov.law.harvard.edu/2021/09/18/esg-in-2021-so-far-an-update/;* ''*ESG assets may hit $53 trillion by 2025, a third of global AUM,*'' *Bloomberg Intelligence (Feb. 23, 2021) available at https://www.bloomberg.com/professional/blog/esg-assets-may-hit-53-trillion-by-2025-a-third-of-global-aum/.*

[125] *See supra* footnote 118 and accompanying text.

Would such an exemption raise investor protection issues?

65. Should we further limit the extent to which funds may use specific ESG-related terms in their names, for example permitting the use of certain terms only if a fund has a certain investment focus? For example, notwithstanding the principle that a fund may use any reasonable definition of the terms used in its name, should we require that a fund with the terms ''zero'' carbon in its name to have an investment policy that requires investments in companies with no or low carbon emissions, or should we permit the fund's investment policy to include investments in companies that are transitioning away from certain practices while they are still involved in that activity? If so, what terms should we mandate for what types of investment focus?

E. Modernizing the Rule's Notice Requirement

The proposed amendments to the names rule, like the current rule, would require that unless the 80% investment policy is a fundamental policy of the fund, notice must be provided to fund shareholders of any change in the fund's 80% investment policy.[126] The proposed amendments would incorporate some modifications to the current notice requirement that are designed to better address the needs of shareholders who have elected electronic delivery and to incorporate additional specificity about the content and delivery of the notice. The Commission has historically acted to modernize the manner in which information is disclosed to the public and provided to investors in order to keep up with changes in the industry and technology. As an additional modification, the proposed amendments would require notices to describe not only a change in the fund's 80% investment policy, but also a change to the fund's name that accompanies the investment policy change.

As discussed above, the names rule currently requires funds that are subject to the 80% investment policy requirement, other than tax-exempt funds, either to adopt and implement a fundamental investment policy, or to adopt an 80% investment policy that is not a fundamental policy if they also provide shareholders notice of a change to the policy at least 60 days before the change occurs.[127] The notice alternative requires that the notice be separate from other fund-related communications and identified as involving a change in the fund's investment policy. These requirements are designed to focus investors' attention on the upcoming change so that they can determine whether to redeem or otherwise exit their investments before the change occurs. A number of commenters who addressed the notice alternative in response to the 2020 Request for Comment suggested allowing funds to post notification of a change to the policy on their websites.[128] Delivery of the notices directly to shareholders, rather than permitting funds to post these notices to a website or a similar alternative in which shareholders do not directly receive notices, increases the likelihood that investors would see and read it, and this goal is particularly important given the strong link between a fund's name and a shareholder's expectations about the fund's investment focus, its portfolio holdings, and its risks and returns.

We are proposing to retain the notice alternative to provide eligible funds flexibility to respond efficiently to market events or new regulatory requirements, and we believe that this flexibility is appropriate where there are not significant barriers for shareholders to exit the fund if they decide to do so upon receiving the required notice.[129] For example, if the Commission were to adopt final rule amendments defining the names of certain ESG integration funds as materially deceptive and misleading as discussed above, the proposed notice alternative would allow affected funds to respond to the requirement—by changing their name or investment policy—after sending appropriate notice to shareholders. Most commenters who addressed this aspect of the current rule in response to the 2020 Request for Comment generally supported the fact that the names rule includes a notice alternative, but many commenters requested modernization of the notice requirement, given advancements in technology and changes in shareholder preferences since the names rule was adopted.[130] In light of these comments and our experience administering the current rule, we are proposing amendments to the current notice requirement to provide greater clarity and facilitate compliance.

Like the current rule, the proposed amendments would require that the notice be provided at least 60 days prior to the change the notice describes. We believe that 60 days is sufficient time for shareholders to decide whether to redeem their shares. The proposed amendments, like the current rule, also would require the notice to be provided in plain English and separately from any other documents.[131] While the proposed requirement that the notice be provided ''separately from any other document'' is worded differently than in the current rule, it is functionally the same as the current rule's requirement.[132] This proposed rewording is designed to provide clarity regarding what it means for the notice to be provided separately from any other documents (*i.e.,* the notice cannot be built into the fund's prospectus or into other required shareholder communications). Further, the proposed amendments would specifically state that if the notice is delivered in paper form, it may be provided in the same envelope as other written documents. This proposed amendment is designed to clarify the current rule's provisions that address when and how the notice can be provided with other written documents, but not to alter these current provisions substantively. We understand that staff have often received questions about the meaning of the current requirement to provide the notice ''in a separate written document.'' We believe the clarification would help facilitate compliance with the notice requirement.

Similar in part to the current notice requirement, the proposed amendments would require that the notice contain the following prominent statement or similar clear and understandable statement, in bold-face type: ''Important Notice Regarding Change in Investment Policy [and Name].'' [133] The prominent statement would alert shareholders that the notice contains information about the change in the fund's investment policy. In a change from the current requirement, however, the required prominent statement would have to reference the fact of the name change, as applicable.[134] This requirement is

[126] Proposed rule 35d–1(e).

[127] The staff has observed that most funds choose the 60-day notice requirement alternative as opposed to adopting an 80% investment policy that is a fundamental policy. *See* 2020 Request for Comment, *supra* footnote 2 at n.8.

[128] *See e.g.,* Fidelity Comment Letter; Comment Letter of T. Rowe Price (May 21, 2020).

[129] *See* Names Rule Adopting Release, *supra* footnote 2 at II.A.(1); *see also supra* section II.A.4 (discussing shareholders of unlisted closed-end funds and BDCs having higher barriers to exit these types of funds).

[130] *See e.g.,* Invesco Comment Letter; Fidelity Comment Letter.

[131] Proposed rule 35d–1(e)(1).

[132] *See* rule 35d–1(c)(1) (''the notice will be provided in plain English in a separate written document'').

[133] Proposed rule 35d–1(e)(2).

[134] The current prominent statement requirement does not include a reference to the fund's name. *See* rule 35d–1(c)(2). We are proposing a conforming

Continued

designed to put investors on alert that, going forward, the fund that is described in various regulatory materials and other fund and intermediary communications is the same fund in which they are currently invested.

The proposed amendments incorporate changes to provide specificity with respect to notices that may be delivered electronically. Under the current notice requirement, the mandated statement is required to appear on the envelope in which the notice is delivered, or if the notice is delivered separately from other communications to investors, the statement must appear either on the notice or on the envelope.[135] The Commission's current guidance regarding electronic delivery does not prohibit names rule notices from being delivered electronically.[136] Some commenters who addressed this aspect of the current rule in response to the 2020 Request for Comment questioned the relevance of the requirement that the notice appear on the envelope in light of funds' increasing use of electronic delivery methods for regulatory materials.[137] Under the proposed amendments, for *any* notice that is provided in paper form, the required statement also would appear on the envelope in which the notice is delivered.[138] This proposed expansion of the current requirement (which only requires the statement to appear on the envelope when the envelope includes other materials) is designed to help draw shareholders' attention to an important document that provides them information about the change in the fund's investment policy. This could help shareholders decide whether to redeem their shares or remain invested in the fund.

If the notice is provided electronically, the proposed amendments would require the statement to appear on the subject line of the email communication that includes the notice.[139] This new requirement is designed to highlight the purpose of the electronic notice to shareholders, in the same way that the current requirement for a statement to appear on the delivery envelope highlights the purpose of the included paper notice. This proposed amendment is designed to clarify the application of the rule's requirements to electronic notices, which in turn will help ensure that investors who have opted into electronic delivery will receive the notices the names rule requires in the format that they prefer.

Finally, the proposed amendments would require additional specificity with respect to the content that the notices include. The proposed amendments would require that the notice describe, as applicable, the fund's 80% investment policy, the nature of the change to the 80% investment policy, the fund's old and new names, and the effective date of any investment policy and/or name changes.[140] These proposed requirements are designed to codify certain best practices of some funds, help facilitate funds' compliance with the notice requirement, and increase consistency in the content that notices include in order to provide the information that fund shareholders need to decide whether to stay invested in a fund whose investment policy is changing.

We request comment on the proposed amendments to the names rule's notice requirement, including the following items:

66. Are the proposed amendments to the current notice requirement appropriate? Is it appropriate to require notices to describe not only a change in the fund's 80% investment policy, but also a change to the fund's name that accompanies the investment policy change?

67. The proposed amendments, consistent with the current rule, would require that the notice be provided at least 60 days prior to the change the notice describes. Does 60 days remain a sufficient time period for shareholders who purchased shares in a fund to decide to redeem their shares? Should the rule allow for shorter or a longer period?

68. Should we continue to require that the notice be provided separately from other documents? Are there instances in which shareholders would benefit from the notice being built into any other shareholder communications? For example, would there be a shareholder benefit—or conversely a detriment to shareholder understanding—if the notice were built into the fund's prospectus?

69. Should we continue to require the notice to include a prominent statement regarding the purpose of the notice? Should we allow funds some flexibility to determine a similar alternate statement that would inform shareholders of a change to a fund's 80% investment policy (and related change to the fund's name), as proposed? Should there be additional content in the notice regarding instances when a fund substantially changes it strategy without a shareholder vote? Should the notice include any factors that the board considered, such as whether the change is likely to be consistent with reasonable investor expectations, whether it would result in cost savings that would benefit existing shareholders, whether it would have tax implications to the fund and shareholders, and/or whether the fund's shares are freely redeemable or have limitations attached to redemptions? Would an explanation of material factors that the board considered in approving the 80% policy be useful to shareholders? What information would be helpful to investors to consider whether to hold or sell their shares in a fund when a fund substantially changes its investment strategy?

70. Should we require this prominent statement also to appear on the envelope in which the notice is delivered? The proposed rule would expand the current requirement for the statement to appear on the envelope, which applies only where the notice is delivered in the same envelope as other communications to investors. Is this proposed expansion appropriate? Why or why not?

71. For funds that deliver the notice electronically, the proposed rule would include a new requirement that the

change to the reference to the notice requirement in paragraph (a)(2)(ii) of the names rule, which as proposed would require notice of ''any change in the policy described in paragraph (a)(2)(i) of this section, *and any change in the fund's name that accompanies the change*'' (emphasis added).

[135] Rule 35d–1(c)(3).

[136] *See* Use of Electronic Media for Delivery Purposes, Investment Company Act Release No. 21399 (Oct. 6, 1995) [60 FR 53458 (Oct. 13, 1995)] (providing Commission views on the use of electronic media to deliver information to investors, with a focus on electronic delivery of prospectuses, annual reports, and proxy solicitation materials); Use of Electronic Media, Investment Company Act Release No. 24426 (Apr. 28, 2000) [65 FR 25843 (May 4, 2000)] (providing updated interpretive guidance on the use of electronic media to deliver documents on matters such as telephonic and global consent, issuer liability for website content, and legal principles that should be considered in conducting online offerings). Although paper is the default format for delivery of prospectuses and certain other required disclosures such as the proposed notice, the Commission has provided guidance noting that electronic delivery may be used to satisfy prospectus and certain other required disclosure delivery requirements if: (1) the investor has notice of the availability of the information; (2) the use of the medium is not so burdensome that intended recipients cannot effectively access the information being provided; and (3) the issuer has evidence of delivery.

[137] *See e.g.,* ICI Comment Letter; T. Rowe Price Comment Letter.

[138] Proposed rule 35d–1(e)(2)(i).

[139] Proposed rule 35d–1(e)(2)(ii). The proposed amendments specifying that the statement must appear on the subject line of the email notice also would permit ''an equivalent indication of the subject of the communication in other forms of electronic media.'' This is designed to help the proposed requirement remain evergreen in the face of evolving technology and methods of communication.

[140] Proposed rule 35d–1(e)(3).

statement appear in the email subject line. Is this new requirement appropriate? The proposed rule would permit funds that deliver the notice electronically to include an equivalent indication of the subject of the communication in other forms of electronic media. Would this flexibility help the proposed requirement to remain evergreen in the face of evolving technology and methods of communication? Why or why not? Are there any further requirements that would be appropriate to facilitate the accessibility of electronic notices, such as stating that the required statement in the subject line must appear in all capital letters, or a required font size for electronic notices?

72. The proposed rule would allow investors who have opted into electronic delivery to receive the notices electronically. Should we also allow funds to satisfy this requirement by making the notices accessible on a website? What potential benefits for shareholders could this website-based approach to notices entail? Conversely, would shareholders not receive adequate notice of investment policy changes if the Commission were to adopt such a website-based approach?

73. Are the proposed requirements for additional specificity, with respect to the content that the notices include, appropriate? Would prescribing the minimum disclosure required in the notice help funds understand how to comply with the notice alternative? Should we require funds to include in the notice definitions of the terms used in the new name? Would prescribing the minimum disclosure required in the notice help investors receive the information that they need to make an informed decision about whether to remain invested in a fund whose investment policy is changing? Should we prescribe any additional or different content in the notices? If so, what content?

F. N–PORT Reports

1. Investment Company Act Names Rule Investment Policy

We are proposing to amend Form N–PORT to include a new reporting item for registered investment companies, other than money market funds, regarding the 80% investment policy that a fund would adopt in compliance with the names rule.[141] Such registered investment companies, other than money market funds, that are required to adopt an 80% investment policy would be required to report on Form N–PORT: (1) the value of the fund's 80% basket, as a percentage of the value of the fund's assets, and (2) if applicable, the number of days that the value of the fund's 80% basket fell below 80% of the value of the fund's assets during the reporting period.[142] Such a fund would be required to provide the names rule compliance information as of the end of the reporting period.[143] We believe it is appropriate that this information be made available publicly. This information would be publicly available for the third month of each fund's quarter. We believe that the proposed amendments to Form N–PORT would provide market-wide insight with respect to those registered investment companies, other than money market funds, that are subject to the 80% investment policy requirements for the Commission, its staff, and market participants.

This proposed reporting requirement would provide information to the Commission, as well as to market participants, about the percentage of such a fund's assets that are invested in the 80% basket.[144] We believe that the proposed reporting requirement would increase the effectiveness of the Commission's oversight of such funds' compliance with the names rule. This information also may allow investors in such funds to make investment choices that are more consistent with their investment preferences. For example, multiple funds could have similar names indicating each fund focuses its investments in the same type of asset. One of these funds may invest 81% of the fund's assets in investments consistent with the fund's investment focus, whereas another fund may invest 95%. Both of these funds would be in compliance with the 80% investment policy requirement.[145] Some investors may prefer a fund that invests as high a percentage of the fund's assets consistent with the fund's investment focus as possible, whereas others may prefer that the fund's manager exercise more discretion in investing assets beyond the 80% investment policy. This proposed reporting requirement would allow investors to compare and consider potential distinctions among such funds with similar names.

The proposed amendments to Form N–PORT would also require that a fund indicate, if applicable, the number of days that the value of the fund's 80% basket fell below 80% of the value of the fund's total assets during the reporting period. As discussed above, a fund's investments may fall below this 80% threshold for a number of reasons, and permitted temporary departures under the proposal may occur under a variety of circumstances, including because of market fluctuations or other reasons beyond the fund's direct control. Information about these temporary departures is important to the Commission and its staff to assess overall compliance with the names rule. This proposed reporting requirement may also be helpful to investors. Some investors may prefer to invest in a fund that does not often invest below the 80% threshold, and this information may ultimately affect their investment choices. The proposed requirement is designed to provide the Commission and its staff, as well as investors, with important insight into the frequency and extent to which such a fund's 80% basket investments fall below 80% of the fund's total assets.

The Commission is not proposing a new reporting requirement for money market funds or BDCs, and we are requesting comment on this approach. BDCs are required to submit financial

[141] *See* proposed Item B.9 of Form N–PORT; *see also* proposed new instruction to Item B.9 of Form N–PORT clarifying that when responding to proposed Item B.9, the percentages that the fund reports in response to Item B.9.a and assesses for purposes of reporting in response to Item B.9.b must reflect the notional amounts of funds' derivatives investments with certain adjustments (because the proposed amendments to the names rule would require that, for purposes of determining compliance with the 80% investment policy, funds must value each derivatives instrument using its notional amount, with certain adjustments). All registered management investment companies, other than registered money market funds and small business investment companies, are required to electronically file with the Commission, on a quarterly basis, monthly portfolio investment information on Form N–PORT, as of the end of each month. *See* Investment Company Reporting Modernization, Investment Company Act Release No. 32314 (Oct. 13, 2016) [81 FR 81870 (Nov. 18, 2016)]. As BDCs are not subject to Form N–PORT reporting requirements, they would not be subject to the proposed amendments to Form N–PORT.

[142] Tax-exempt funds would have to report the number of days that the value of the fund's investments as described in proposed rule 35d–1(a)(3)(i)(A) fell below 80% of the value of the fund's assets during the reporting period (or, if the fund has adopted a policy as described in proposed rule 35d–1(a)(3)(i)(B), the number of days that less than 80% of the income that the fund distributed was exempt, as applicable, from federal income tax or from both federal and state income tax).

[143] *See* proposed Item B.9 of Form N–PORT. This timing reflects the form's requirement to report information about funds' portfolio holdings as of the last business day, or last calendar day, of each month. *See* General Instruction A to Form N–PORT.

[144] To the extent a fund's name suggests an investment focus that has multiple elements, and therefore must adopt an 80% investment policy that addresses each element of that investment focus, the fund would report a single percentage that reflects its multi-element investment focus. *See supra* paragraph following footnote 49.

[145] *See also* proposed rule 35d–1(c) (a fund's name may be materially deceptive or misleading notwithstanding the fund's technical compliance with its 80% investment policy); *supra* section II.A.5.

statement information using Inline XBRL data language, and money market funds report portfolio information on Form N–MFP. These respective reporting requirements provide tools to analyze these funds' portfolio holdings and could be used to assess their portfolios in light of any requirement for these funds to adopt 80% investment policies under the names rule. For example, the requirement in Form N–MFP Item C.6 to indicate the category of investment for each portfolio security that a money market fund holds would provide transparency that would permit analysis of the percentage of the money market fund's holdings that are invested in accordance with the investment focus that the fund's name suggests. In addition, our rules subject money market funds and BDCs to certain portfolio composition requirements.[146] BDCs, for example, are required to invest 70% of their assets in ''eligible portfolio companies,'' as defined in Commission rules.[147] These portfolio composition requirements provide an additional layer of Commission regulation over the portfolios of money market funds and BDCs. We do not currently believe additional reporting requirements, similar to the proposed Form N–PORT amendments, are necessary for money market funds and BDCs given the current reporting and portfolio composition requirements for these funds.

We seek comment on the proposed amendments to Form N–PORT requiring registered investment companies, other than money market funds, to report certain information regarding their compliance with the names rule:

74. Is the proposed requirement that funds report the value of the fund's 80% basket, as a percentage of the value of the fund's assets, appropriate? Should we modify the proposed reporting requirement in any way? If so, how?

75. Is the proposed requirement that funds report the number of days that the value of the fund's 80% basket have dropped below the 80% threshold during the reporting period reasonable? Should the look-back period for this reporting requirement be three months instead of the proposed one-month reporting period? Would this proposed requirement be appropriate for tax-exempt funds, for example those that distribute income only quarterly or annually, and if not, how should we modify the proposed requirement? Should we modify the proposed reporting requirement in any other way? If so, how?

76. Our proposal would make this new Form N–PORT item public. Is there any reason why this information should not be publicly available?

77. In addition to or as a substitute for this proposed Form N–PORT reporting requirement, should we require funds to report confidentially to the Commission, for example on Form N–RN, if the value of the fund's 80% basket falls below 80% of the fund's total assets? If so, why would that information be necessary to provide to the Commission? If not, why not?

78. Would any of the proposed Form N–PORT reporting requirements be more appropriately structured as annual Form N–CEN reporting requirements?

79. Should we require BDCs to report any or all of the information that we are proposing to require registered investment companies to report on Form N–PORT, for example in their annual reports or on Form 8–K?

80. Should we require money market funds to report the information that we are proposing to require other registered investment companies to report on Form N–PORT, for example on Form N–MFP?

2. Investments To Be Included in a Fund's 80% Basket

We are proposing a new Form N–PORT reporting item requiring a registered investment company, other than a money market fund, subject to the 80% investment policy requirement to indicate, with respect to each portfolio investment, whether the investment is included in the fund's 80% basket.[148] A fund would be required to provide this information, along with the information it reports for each of its portfolio investments on Form N–PORT, as of the end of the reporting period. This information would be publicly available for the third month of each fund's quarter. We believe that this information would enhance the Commission's ability effectively to oversee and assess the activities of registered investment companies, other than money market funds, in order to better carry out its regulatory functions, and also to provide investors as well as the Commission and its staff insight into the types of investments the fund includes in the 80% basket.

The proposed requirement for a fund to report whether each investment is included in the 80% basket would help the Commission evaluate compliance with the proposed amendments. We believe that the proposed amendments to Form N–PORT would provide information that would increase investor understanding of a particular fund's investment focus, which would assist investors in making investment choices that better match their investment preferences. We recognize that funds with similar names and investment focuses may reasonably make different determinations regarding whether an investment is appropriately within the 80% basket. To the extent that investors expect a fund to invest with a particular investment focus that is consistent with the fund's name, the proposed Form N–PORT reporting requirement would provide investors with important information regarding how the fund implements that investment focus. For example, for some investors, there may be important investment distinctions among similarly named funds, or in how a given fund implements its investment focus over time.

Some funds may have an investment focus where the selection of 80% basket investments involves some degree of subjectivity. The proposed reporting requirement provides transparency that would help investors and other market participants, as well as Commission staff, understand what qualities a fund's advisory personnel may consider a specific portfolio investment to demonstrate consistent with the fund's 80% investment policy. Market participants would also better be able to view, across funds with similar investment focuses, whether these funds may be characterizing particular investments similarly. For example, investors interested in funds with an ESG investment focus would better be able to compare across funds with similar names to determine whether specific investments are characterized similarly or differently, and therefore better be able to invest according to their specific preferences.

We seek comment on the proposed amendments to Form N–PORT requiring funds to report, for each portfolio investment, whether that investment is included in the fund's 80% basket:

81. Is this proposed requirement appropriate? Should we modify the proposed reporting requirement in any way? If so, how?

82. Should we expand the proposed requirement to require a fund to indicate on Form N–PORT, for derivatives instruments that the fund includes in its 80% basket, whether these derivatives are included because they provide investment exposure to one or more of the market risk factors

[146] *See* rule 2a–7 under the Act (specifying the portfolio composition requirements for money market funds).

[147] *See* section 55(a) of the Act; rule 2a–46 under the Act (17 CFR 270.2a–46); rule 55a–1 under the Act (17 CFR 270.55a–1).

[148] *See* proposed Item C.2 of Form N–PORT.

associated with the investments suggested by the fund's name?

83. Our proposal would make public the information that a fund would report in response to this new Form N–PORT item for the third month of each fund's quarter. Is there any reason why this information should not be publicly available?

G. Recordkeeping

The proposed amendments would require funds to maintain certain records depending on whether the fund would be required to adopt an 80% investment policy.[149] Funds subject to that requirement would be required to maintain certain records documenting their compliance with the rule. Conversely, funds that do not adopt an 80% investment policy would be required to maintain a written record of their analysis that the 80% investment policy is not required under the rule.

1. Funds Required To Adopt an 80% Investment Policy

The proposed recordkeeping requirements for funds that are required to adopt an 80% investment policy are designed to provide our staff, and a fund's compliance personnel, the ability to evaluate the fund's compliance with the proposed amendments.[150] These would be new requirements, as neither the current rule nor the general recordkeeping rule under the Act includes a recordkeeping provision specific to the names rule compliance-related topics the proposed amendments would address.[151]

The proposed amendments would require a fund that is required to adopt an 80% investment policy to maintain written records documenting its compliance under the 80% investment policy provisions of the rule. Specifically, the written records documenting the fund's compliance that these funds would be required to maintain would include:

- The fund's record of which investments are included in the fund's 80% basket (generally defined as investments that are invested in accordance with the investment focus the fund's name suggests or, as applicable, consistent with the tax treatment suggested by a tax-exempt fund's name) and the basis for including each such investment in the 80% basket;
- The value of the fund's 80% basket, as a percentage of the value of the fund's assets;
- The reasons for any departures from the 80% investment policy;
- The dates of any departures from the 80% investment policy; and
- Any notice sent to the fund's shareholders pursuant to the rule.[152]

These records must be maintained for at least six years following the creation of each required record (or, in the case of notices, following the date the notice was sent), the first two years in an easily accessible place.[153] We believe that the frequency with which these records would be made would vary based on the specific activities and compliance needs of the fund. We believe that many funds would make certain of these records daily in order to reflect ongoing investment activity. We anticipate that the vast majority of records would be automated. Some records, however, would not lend themselves to automation—for example, records documenting the reasons for any departures from the 80% investment policy—and would need to be created on an as-needed basis.[154]

These records would allow our staff to understand and evaluate a fund's operation of its investment policy better and whether the fund is adhering to the proposed amendments. These records also would allow our staff to better identify and assess violations. We also believe that this recordkeeping requirement would increase the effectiveness of the Commission's oversight of the fund industry, which will, in turn, benefit investors.

The proposed amendment would not prescribe the particular form of documentation required to be maintained but would instead provide flexibility in how a fund documents the information delineated in the recordkeeping requirement. The fund should, however, generally maintain appropriate documentation that would be sufficient for a third party to verify the matter covered by each record.

The proposed six-year retention period is designed to be generally consistent with other recordkeeping retention periods provided in rules under the Act.[155] We believe general consistency with other retention periods would lessen the compliance burden of the proposed new requirement for funds required to maintain these records. However, we believe the compliance burden of the new recordkeeping requirements would be incremental for a fund that is currently required to adopt an 80% investment policy. Funds that are subject to the current names rule likely keep such records, even absent the proposed requirement to do so, in order to support their ongoing compliance with the rule's requirements.

We request comment on the proposed recordkeeping provision for funds that are required to adopt an 80% investment policy.

84. Is the proposed recordkeeping requirement appropriate? Why or why not? Is the accompanying Commission guidance regarding the required written records appropriate and understandable? If not, what additional guidance should we give?

85. Are there additional types of records that we should require for funds that are required to adopt an 80% investment policy? If so, which records and why?

86. Should the proposed rule prescribe the particular form of documentation required to be maintained under this new requirement? Why or why not?

87. Are the proposed retention periods sufficient to evidence compliance? Why or why not? Should we require a longer (*e.g.,* eight years) or shorter (*e.g.,* four years) retention period?

88. Should the proposed recordkeeping requirement also include a requirement that the fund document an assessment(s) of any continued or ongoing departures from the 80% policy, beyond the proposed requirement (for example, if the departure were to persist beyond a particular time period, a requirement to document the continued need for the departure)? Would requiring such assessment(s) of a fund's departure from the 80% policy help ensure that the fund comes back into compliance quickly, consistent with the proposed ''as soon as reasonably practicable'' standard?

89. For those funds that are currently subject to the names rule's 80% investment policy requirement, what records do those funds generally keep regarding their compliance with the rule

[149] Proposed rule 35d–1(b)(3).

[150] *See* proposed rule 35d–1(b)(3).

[151] *See* rule 31a–1 under the Act (17 CFR 31a–1) (''rule 31a–1'').

[152] Proposed rule 35d–1(e); *see also* proposed rule 35d–1(g)(1) (defining ''80% basket''). The proposed new Form N–PORT reporting requirements would not satisfy the record-keeping requirements of proposed rule 35d–1(b)(3). Form N–PORT would reflects a snapshot of the fund's investments at the end of the reporting period. The proposed recordkeeping requirement, however, reflects the fund's ongoing names rule compliance activity.

[153] *See supra* paragraph accompanying footnote 66 discussing the time period in which the 80% policy must be assessed.

[154] Records of the fund's analysis that such a policy is not required under the names rule, as described in section II.G.2 *infra,* similarly would need to be created on an as-needed basis.

[155] *See* rule 31a–1; *see also e.g.,* rule 38a–1(d) and rule 22e–4 (both rules incorporating retention periods of five years).

and the 80% investment policy they adopted under the rule? Who at the fund currently creates and/or maintains these records? How do these records differ from those being proposed? When creating and maintaining the records that would be required by the proposed amendments, what personnel do funds believe would be necessary?

2. Funds That Do Not Adopt an 80% Investment Policy

The proposed amendments would require a fund that does not adopt an 80% investment policy to maintain a written record of the fund's analysis that such a policy is not required under the names rule. Such funds must maintain this record, in an easily accessible place, for a period of not less than six years following the fund's last use of its name. The investor protection that the rule's investment policy requirement provides is critical to help ensure that funds' investments correspond with the investment focus that their names suggest to investors.[156] As we stated above, however, we recognize that certain names do not suggest an investment focus and therefore would not require the fund to adopt an 80% investment policy under the proposed amendments. At the same time, there can be incentives for asset managers to determine that certain funds are not subject to the names rule's 80% investment policy requirement in order to preserve management flexibility, even where the fund's name may suggest a particular investment focus.

Accordingly, we are proposing to require funds that do not adopt an 80% investment policy under the rule to maintain a written record of the fund's analysis that an 80% investment policy is not required.[157] This proposed provision is designed to prevent materially misleading or deceptive names by assisting our staff and fund compliance personnel in their oversight of the application of the names rule by providing our staff, and a fund's compliance personnel, the ability to evaluate the fund's analysis. This provision also would assist in funds' compliance practices, as fund boards generally should consider names rule compliance, including the requirement for certain funds to adopt an 80% investment policy, in approving their funds' policies and procedures under rule 38a–1(a)(2).[158]

We request comment on the proposed recordkeeping requirement for funds that do not adopt an 80% investment policy.

90. Is the proposed recordkeeping requirement for funds that do not adopt an 80% investment policy likely to provide meaningful protection to investors? Are there any other records we should require of these funds?

91. What information do commenters anticipate would be included in the proposed written record? Is there any specific information that we should require in the written record, or is the proposed general written record requirement appropriate in light of the breadth of fund strategies and names?

92. Is six years from the fund's last use of its name the appropriate period to retain this record? Should we instead require that this record be kept for six years from the first use of the name, or for some other period? Should we require such records be kept in an easily accessible place indefinitely or for a limited time and, if the latter, for how long?

93. Should we require that funds not required to adopt an 80% investment policy make a finding or determination to that effect prior to first use of the fund's name and require a designated party, such as the fund's board or chief compliance officer, to make this finding or determination? Should we require the fund's board to approve that finding or determination if the board is not making it in the first instance? If we were to take this approach, should we require funds with names currently in use to engage in this activity as well?

H. Unit Investment Trusts

The proposed rule amendments would include certain exceptions for unit investment trusts (''UITs'') that have made their initial deposit of securities prior to the effective date of any final rule amendments the Commission adopts. Specifically, these UITs would be excepted from the requirements to adopt an 80% investment policy and the recordkeeping requirements, including recordkeeping for funds which do not adopt an 80% investment policy, unless the UIT has already adopted—or was required to adopt at the time of the initial deposit—an 80% investment policy under the current rule.[159]

The proposed approach is generally consistent with the treatment of UITs under the current rule. UITs are passively managed vehicles that operate pursuant to a trust indenture or a similar document and have fixed portfolios that would make it difficult to adjust their portfolios to comply with the rule's portfolio composition requirements.[160] Changes to an UIT's operational documents can be expensive and time-consuming.[161] The proposed amendment is designed to retain the existing exception from the 80% investment policy requirements for UITs that pre-date the original rule. Any such UIT would be included in the set of UITs that the proposed exception would include—those that have not adopted, and not been required to adopt, an 80% investment policy prior to the effective date of the proposed amendments. We believe the same reasoning also supports excepting UITs that pre-date the effective date of the proposed rule amendments, to the extent that they would be required to adopt an 80% investment policy for the first time or make a written record of their analysis that such a policy is not required under the rule as a result of the proposed amendments. Further, the lack of active management for UITs would make these proposed requirements operationally difficult.[162]

In addition, all UITs would be subject to the rule's other requirements under the proposed amendments, as well as those of the federal securities laws generally, including section 35(d) of the Act. For example, we are not proposing to except UITs from the prohibition on names that suggest a guarantee by the U.S. government regardless of the date of initial deposit.[163] Further, the ability to provide prospectus disclosure is not precluded by the fixed nature of a UIT's portfolio. As a result, UITs would be subject to the proposed plain English requirements, and as discussed above we would also require all UITs to make the prospectus disclosures that would be mandated under the proposed rule and to tag newly-required information in the prospectus using Inline XBRL.

We request comment on the proposed exception for certain UITs from the requirements to adopt an 80% investment policy and make certain records.

[156] *See generally, e.g.,* PIABA Comment Letter; CFA Comment Letter; Crowley Comment Letter.

[157] Proposed rule 35d–1(b)(3).

[158] *See also supra* footnotes 16 and 50 and accompanying text.

[159] Proposed rule 35d–1(f).

[160] Names Rule Adopting Release, *supra* footnote 2, at n.33 and accompanying text.

[161] *See, e.g.,* Good Faith Determinations of Fair Value, Investment Company Act Release No. 34128 (Dec. 3, 2020) [86 FR 748 (Jan. 6, 2021)] at nn.170–180 and accompanying text.

[162] As these UITs would not be subject to the requirement to adopt an 80% investment policy, they would not be subject to the rule's other requirements that only apply when a fund is required to adopt an 80% investment policy, such as the proposed temporary departure and notice requirements. *See, e.g.,* proposed rule 35d–1(b)(1) and (e).

[163] *See* proposed rule 35d–1(f) (not excepting applicable UITs from paragraph (a)(1) of the rule).

94. Is it necessary to except the UITs that the proposed rule amendments describe from these provisions? Would UITs that have made an initial deposit of securities prior to the adoption of any rule amendments be able to make the appropriate name or portfolio adjustments necessary to conform to the 80% investment policy and related requirements? In general, what would be the impact on UITs currently in existence of the proposed changes to the scope of the 80% investment policy requirement?

95. What would be the extent of the impact on UITs if we were not to include either of the sets of UITs in the proposed rule amendments' exceptions for UITs—that is, either UITs that have made an initial deposit of securities prior to July 31, 2002, or UITs that have made an initial deposit of securities prior to the effective date of any final rules the Commission adopts?

96. Should these or other UITs be excepted from any other provisions? How would we ensure that investors are protected in those cases?

I. Transition Period and Compliance Date

Staff in the Division of Investment Management is reviewing its no-action letters and other statements addressing compliance with the names rule to determine which letters and other staff statements, or portions thereof, should be withdrawn in connection with any adoption of this proposal. Upon the adoption of any final rule amendments, some of these letters and other staff statements, or portions thereof, would be moot, superseded, or otherwise inconsistent with the final rule amendments and, therefore, would be withdrawn. If interested parties believe that additional staff letters or other staff statements should be withdrawn, they should identify the letter or other statement, state why it is relevant in light of the proposed rule amendments, how it or any specific portion thereof should be treated, and the reason therefor. The staff review would include, but would not necessarily be limited to, all of the staff no-action letters and other staff statements listed below.

- Frequently Asked Questions about Rule 35d–1;
- Disclosure by Funds Investing in Government Sponsored Enterprises (staff letter to the ICI, Oct. 17, 2003);
- IM Guidance Update, No. 2013–12, Fund Names Suggesting Protection from Loss (Nov. 2013).

Following a one-year transition period to provide time for funds to prepare to come into compliance with the proposed rule amendments, if adopted, funds would be required to comply with the requirements of the proposed names rule amendments, the proposed new prospectus disclosure requirements, and the proposed new Form N–PORT reporting requirements. At that time, as determined appropriate in connection with the staff's review of no-action letters and staff statements described in this release, staff no-action letters and other staff statements, or portions thereof, may be withdrawn.

We propose to provide a one-year compliance period for the proposed names rule amendments, if adopted, to provide time for funds to bring their fund names and disclosures into conformity with the amendments. We propose that the transition period discussed in this section would run from the date of the publication of any final rule amendments in the **Federal Register**.

We request comment on the proposed transition period.

97. Do commenters agree that a one-year transition period provides time for funds to come into compliance with the proposed names rule? Should the period be shorter or longer?

98. Should the transition period be the same for all funds that rely on the proposed names rule?

99. Would our proposal to rescind the current staff statements discussed above provide sufficient time for funds to comply with the proposed names rule?

100. Is it clear what statements would be withdrawn or rescinded? Are there additional letters or other statements, or portions thereof, that should be withdrawn or rescinded? If so, commenters should identify the letter or statements, state why it is relevant to the proposed rule, how it or any specific portion thereof should be treated, and the reason therefor.

III. Economic Analysis

A. Introduction

We are mindful of the costs imposed by, and the benefits obtained from, our rules. Section 2(c) of the Investment Company Act provides that when the Commission is engaging in rulemaking under the Act and is required to consider or determine whether an action is consistent with the public interest, the Commission shall also consider whether the action will promote efficiency, competition, and capital formation, in addition to the protection of investors. The following analysis considers, in detail, the likely significant economic effects that may result from the proposed rule amendments, including the benefits and costs to investors and other market participants as well as the broader implications of the proposed rule amendments for efficiency, competition, and capital formation.

Many of the benefits and costs discussed below are difficult to quantify. For example, the Commission cannot quantify how investors may change their investments in funds in response to the proposed rule amendments. Also, in some cases, data needed to quantify these economic effects are not currently available and the Commission does not have information or data that would allow such quantification. For example, monitoring and search costs may depend on investors' opportunity cost of time, which could differ across investors. While the Commission has attempted to quantify economic effects where possible, much of the discussion of economic effects is qualitative in nature. The Commission seeks comment on all aspects of the economic analysis, especially any data or information that would enable a quantification of the proposal's economic effects.

B. Broad Economic Considerations

As discussed in section I.B above, we believe that a fund's name is an important piece of information that investors use to select a fund, and that asset managers give considerable thought to the fund names that they choose in light of their goals in communicating to investors. To the extent that holding investments inconsistent with the investment focus that a fund's name suggests could lead to increased assets under management and increased fees, however, the adviser may have an incentive for the fund to hold investments different from those suggested by the fund's name. For example, a fund may deviate from the investment focus suggested by its name in an attempt to outperform its peers and attract greater inflows. The potential for funds to hold investments that are not consistent with the investment focus that a fund's name suggests exists to the extent that there are costs for investors to monitor fund investments, either directly by reviewing fund disclosures or indirectly through third parties. Because there are costs for investors to monitor fund investments, fund advisers may be able to engage in activities that benefit themselves, rather than investors, through increased assets under management and fees without those activities invariably being detected by investors. Holding investments not consistent with the investment focus that a fund's name suggests could, in turn, lead to investors holding investments that are inconsistent with their goals and risk tolerances.

Research on fund names focuses on the relation between investment styles identified by fund names and the risks and returns generated by fund holdings.[164] Academic research has found that funds may not follow an investment style that aligns with the investment style identified in a fund's name.[165] Researchers have also found that certain funds have changed names in such a way as to suggest changes in style, but the funds do not subsequently change styles.[166]

That same research suggests that gaps between the investment style implied by a fund's name and the actual style of the fund are consistent with self-interest of the fund's adviser. For example, research findings suggest that funds' investment styles may be altered during the last part of a year, without changing their names to reflect a new style, in an effort to outperform their peers and attract greater inflows over the remainder of the year.[167] Research findings also suggest that funds' name changes that do not also involve a style change may be intentional, in order to attract fund flows.[168] In particular, these fund name changes tend to suggest fund styles that have performed well recently and that have received a disproportionate amount of fund flows (so-called ''hot'' fund styles).[169] Also, the ''hotter'' the style implied by a name change, the more flows funds attract from investors.[170]

C. Economic Baseline

The baseline against which the costs, benefits, and the effects on efficiency, competition, and capital formation of the final rule are measured consists of the current state of the fund market, current practice as it relates to fund names and investment policies, and the current regulatory framework.

1. Fund Industry Overview

The fund industry has grown and evolved substantially in past decades in response to various factors, including investor demand, technological developments, and an increase in domestic and international investment opportunities, both retail and institutional. As of July 2021, there were 10,223 mutual funds (excluding money market funds) with approximately $18,588 billion in total net assets, 2,320 ETFs organized as an open-end fund or as a share-class of an open-end fund with approximately $6,447 billion in total net assets, 736 registered closed-end funds with approximately $314 billion in total net assets, and 49 UITs with approximately $598 billion in total net assets.[171] There also were 432 money market funds with approximately $5,534 billion in total net assets.[172] Finally, as of July 2021, there were 99 BDCs with approximately $79 billion in total net assets.[173]

The proposed rule amendments would also affect current and prospective individual investors who invest in funds. According to an association representing regulated funds, as of December 2020, 60.9 million (47.4%) U.S. households and 106.3 million individuals owned U.S. registered investment companies.[174] Median mutual fund assets of mutual fund–owning households were $126,700 with the median number of mutual funds held being four.[175] Moreover, registered funds play an important role in individuals' retirement savings. 64% of households had tax-advantaged retirement savings with $11.1 trillion invested in mutual funds either through defined contribution plans or IRAs.[176]

(a) Market Practice

Fund names are an important mechanism in marketing funds to investors. Although investors have access to the entirety of a fund's disclosures, a fund's name is often the first piece of fund information investors see and can have a significant impact on their investment decision. Fund names commonly include words that describe the fund's investment focus—for example, the asset class(es) in which the fund invests, as well as the fund's

[164] Academic research generally distinguishes between the asset classes identified in fund names (*e.g.,* ''equity'' or ''debt'') versus ''investment style'' descriptions in fund names (*e.g.,* value/growth, or small/mid/large-cap), and generally does not examine the relation between asset classes identified in fund names (*e.g.,* ''equity'' or ''debt'') and portfolio holdings for funds currently subject to the 80% requirement.

[165] For example, *See* Anne-Florence Allard, Jonathan Krakow, and Kristien Smedts, ''When Mutual Fund Names Misinform,'' 2020, working paper, *available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3628293* (''Allard et al''). The authors examine 2,126 US equity funds, 1,339 of which have ''small,'' ''large,'' ''growth,'' or ''value'' in their names. The authors conclude that ''that a significant fraction of US equity mutual funds provides inaccurate naming information: 33% of US equity mutual funds have, at least once in their life-cycle, an inaccurate name.'' *See* also *E.* Ghoul, and A. Karoui, What's in a (Green) Name? The Consequences Of Greening Fund Names On Fund Flows, Turnover, And Performance, 39 *Finance Research Letters* 101620 (2021). The authors find a statistically insignificant change in fund exposure to socially responsible investment following a fund name change suggesting socially responsible investment. B. Candelon, J. B. Hasse, J.-Q. Lajaunie, ESG-Washing in the Mutual Funds Industry? From Information Asymmetry to Regulation, *Risks,* 9, 199 (2021). The authors provide empirical evidence that some asset managers portray themselves as socially responsible yet do not make tangible investment decisions consistent with that portrayal.

[166] *See* Michael J. Cooper, Huseyin Gulen, and P. Raghavendra Rau, ''Changing Names with Style: Mutual Fund Name Changes and Their Effects on Fund Flows,'' Journal of Finance (2005, vol. 60, pp. 2825–2858) (''Cooper Paper''). The authors identify 296 equity mutual funds that make a style name change over the period April 1994 to July 2001. They find that 63% of style-related name changes are 'misleading' in that they are not accompanied by corresponding changes in investment style to reflect the investment style suggested by the new name. *See also* Susanne Espenlaub, Imtiaz ul Haq, and Arif Khurshed, ''It's all in the name: Mutual fund name changes after SEC Rule 35d–1,'' Journal of Banking and Finance (2017, vol. 84, pp. 123–134) (''Espenlaub Paper''). The authors examine 2,677 fund name changes among 2,110 funds from the fourth quarter of 2001 through the fourth quarter of 2011. The authors find 435 ''misleading'' name changes in their sample.

[167] *See* Allard et al. The researchers find that funds that perform poorly over the first three quarters of a year, and funds that have experienced poor fund flows over the first three quarters of a year, are more likely to change to an investment style that is inconsistent with the style implied by the fund's name. These results suggest that funds that have performed poorly over the first three quarters of a year, and funds that have experienced poor fund flows over the first three quarters of a year, would bear an opportunity cost if they continued to follow the investment style consistent with the strategy implied by the funds' names.

[168] *See* Cooper Paper. The researchers find that funds that change their names: (1) experience negative flows, relative to their peers, prior to changing their names, (2) have performed poorly on a risk-adjusted basis, and (3) are in a style, irrespective of a fund's individual performance, that has recent poor performance. *See also* Espenlaub Paper. The researchers do not find a relation between prior fund flows and prior performance, but they do find a negative relation between management fees and the likelihood of a misleading name change. The researchers argue that because management fees are tied to assets under management, fund managers feel greater pressure to increase fund size in order to maintain personal incentives.

[169] *See* Cooper Paper.

[170] *Id.*

[171] Estimates of the number of registered investment companies and their total net assets are based on a staff analysis of Form N–CEN filings as of July 31, 2021. For open-end management funds, closed–end funds, and management company separate accounts, total net assets is the sum of monthly average net assets across all funds in the sample during the reporting period (see Item C.19.a in Form N–CEN). For UITs, we only count N–CEN UIT filers that indicated registration on Form S–6 or Form N–8B–2. Furthermore, we use the total assets as of the end of the reporting period (see Item F.11 in Form N–CEN), and for UITs with missing total assets information, we use the aggregated contract value for the reporting period instead (see Item F.14.c in Form N–CEN).

[172] Estimates of the number of money market mutual funds and their total net assets are based on a staff analysis of Form N–MFP filings as of July 31, 2021.

[173] Estimates of the number of BDCs and their net assets are based on a staff analysis of Form 10–K and Form 10–Q filings as of June 30, 2021. Our estimate includes BDCs that may be delinquent or have filed extensions for their filings, and it excludes 4 wholly-owned subsidiaries of other BDCs.

[174] *See* 2021 ICI Fact Book.

[175] *Id.*

[176] *Id.*

investment strategy. For example, the words ''equity'' or ''stock'' appear in 9.6% of fund names. The words ''growth'' and ''income'' appear in 8.2% and 10.4% of fund names, respectively.[177]

Preliminary review of fund filings suggests that approximately 84% of funds have investment policies specifying a minimum percentage of investments consistent with a certain fund focus.[178] Of those funds, approximately 82% have an investment policy requiring at least 80% of fund investments be consistent with a certain fund focus.[179] Certain funds also specify investment maximums as a percentage of fund assets.[180]

(b) Current Regulatory Framework

As discussed above, section 35(d) the Act authorizes the Commission to define such fund names or titles as are materially deceptive or misleading.[181] The names rule generally requires that if a fund's name suggests a particular type of investment, industry, or geographic focus, the fund must invest at least 80% of its assets in the type of investment, industry, country, or geographic region suggested by its name. The names rule also provides that a fund's 80% investment policy applies ''under normal circumstances''—giving funds flexibility to take cash or other defensive positions during market crises. The names rule also imposes an 80% investment policy requirement for tax-exempt funds.[182] Under the rule, a fund may generally elect to make its 80% investment policy a fundamental policy (*i.e.,* a policy that may not be changed without shareholder approval) or instead provide shareholders notice at least 60 days prior to any change in the 80% investment policy.[183] A preliminary review of fund names suggests that approximately 62% of funds have names that implicate the 80% investment policy requirement.[184]

Staff generally reviews initial fund registration statements, certain post-effective amendments, and proxy statements. Staff may provide comments, and these comments may address the fund's name in light of the names rule's requirements.[185] Registration statements for most new mutual funds and ETFs organized as corporations, as well as material changes to these funds, automatically go effective after a period of time, typically 75 days for new funds and 60 days for funds with material changes. For new mutual funds and ETFs organized as trusts and many closed-end funds, filings typically become effective pursuant to Commission action that has been delegated to the staff.[186]

In addition, no less frequently than once every three years, staff reviews the annual report of all management investment companies, including their financial statements (''SOX Reviews''). As part of that review, staff may provide comments to funds to the extent staff observes fund holdings that are inconsistent with its disclosure. All registered management investment companies (other than money market funds and small business investment companies), as well as UITs operating as ETFs, file Form N–PORT with the Commission on a monthly basis. Form N–PORT requires reporting of a fund's complete portfolio holdings in a structured data language, with every third month available to the public 60 days after the end of the fund's fiscal quarter.

D. Benefits, Costs, and Effects on Efficiency, Competition and Capital Formation

The proposed amendments are designed to modernize and enhance the investor protections that the names rule currently provides. The proposed amendments would improve and clarify the requirement for certain funds to adopt a policy to invest at least 80% of their assets in accordance with the investment focus that the fund's name suggests. These amendments are designed to ensure that fund names that communicate to investors that the fund focuses its investments in a particular way are addressed by the rule, and to address investors' reasonable expectations regarding the focus that the fund's name communicates. The proposed amendments also would update the rule's notice requirements, establish recordkeeping requirements, and require enhanced prospectus disclosure and reporting on Form N–PORT.

1. Benefits

The investor protections provided by the names rule benefit investors by helping to ensure investors' assets in funds are invested in accordance with their investment goals and risk tolerances.[187] For example, the current scope of the rule has created interpretive issues, including about whether certain fund names are subject to the names rule, which in turn has raised questions about the rule's application with respect to particular fund names that could mislead investors about the fund's investment focus. Also, under certain circumstances, the current structure of the rule may not protect investors from funds departing from the investment focus suggested by their name over time. Additionally, the investor protections provided by the names rule are not designed to address funds' increasing use of derivatives.

The benefits associated with the proposed amendments may vary based on funds' current practices. Our understanding is that certain funds, even those that are not currently within the scope of the names rule, currently have in place practices related to investing a certain percentage of their assets in a particular type of assets or assets that have certain characteristics. Depending on the extent to which those practices differ across funds or differ from the proposed rule's requirements, the benefits realized by fund investors, as detailed below, may vary across fund investors.

[177] Certain word pairs are also common in fund names. For example, the word pair ''small cap'' appears in 3.6% of fund names. Other common word pairs include ''large cap'' (2.1% of funds), ''high yield'' (1.7% of funds), and ''emerging markets'' (3.4% of funds). We are not aware of any funds with the word pairs ''ESG Integration'' or ''ESG Integrated'' in their names.

[178] This estimate is based on a random stratified sample of 100 fund names, which is a representative sample based on fund size randomly selected from the population of N–CEN filings as of December 31, 2020. Specifically, 497 and 485BPOS fund prospectuses filed in 2019 or 2020 that match to the sample of 100 funds are parsed both programmatically and manually for keywords and phrases indicative of minimum investment commitment policies. 485BPOS refers to any post-effective amendments to the initial registration statement or prospectus filed pursuant to Securities Act Rule 485(b). The investment policies for six funds could not be identified in the 497 and 485BPOS fund prospectuses filed in 2019 or 2020. Therefore, these six funds are excluded for this estimate. The random sample of 100 funds referenced here is the same sample of funds as that used to estimate the percentage of funds whose names implicate the 80% requirement. *See infra* section III.C.3

[179] 18% of funds that have investment policies specifying a minimum percentage of investments consistent with a certain fund focus specify a percentage less than 80%. We note that while 69% of funds have an investment policy requiring at least 80% of fund investments be consistent with a certain investment strategy, we estimate that 62% of funds have names that trigger the 80% requirement (discussed below). These results suggest that funds may adopt 80% investment policies even if they are not currently within the scope of the names rule's current requirement to adopt an 80% investment policy.

[180] For example, a fund may specify that it invests no more than a given percentage of fund assets in a given country or geographic region.

[181] *See supra* section I.A.

[182] *See supra* footnote 10.

[183] *See supra* footnote 11

[184] This estimate is based on a random stratified sample of 100 fund names. *See supra* footnote 178.

[185] *See* discussion at *supra* footnote 35. Staff do not approve any fund or its disclosure.

[186] *See, e.g.,* 17 CFR 200.30–5(b).

[187] *See supra* footnote 5.

Names Suggesting an Investment Focus. To the extent fund names are not representative of funds' investment focuses, existing and potential investors may hold, or invest in, funds with risk and return characteristics that differ from investors' reasonable expectations. Absent investor protections with respect to fund holdings, existing investors may expend resources they otherwise would not expend to confirm fund investments, or they may choose to reduce or eliminate their investments in funds. Similarly, uncertainty about fund holdings could cause potential investors to expend greater resources to confirm fund investments prior to investment or, could lead potential investors to invest less or forgo investment altogether. The proposed amendments would extend the provisions of the names rule to a broader set of fund names. We believe that investors would benefit to the extent that the scope expansion helps ensure that a fund's investment activity supports the investment focus its name communicates and, thus, the investor expectations the name creates.

Temporary Departures. The proposed amendments would permit a fund to depart temporarily from the requirement to invest at least 80% of the value of its assets in accordance with the investment focus its name suggests only: (1) as a result of market fluctuations, or other circumstances where the temporary departure is not caused by the fund's purchase or sale of a security or the fund's entering into or exiting an investment; (2) to address unusually large cash inflows or unusually large redemptions; (3) to take a position in cash and cash equivalents or government securities to avoid a loss in response to adverse market, economic, political, or other conditions; (4) to reposition or liquidate a fund's assets in connection with a reorganization, to launch the fund, or when notice of a change in the fund's 80% investment policy has been provided to fund shareholders pursuant to the rule.[188] Unlike the more principles-based approach of the current rule, the proposed rule would specify the circumstances where a fund's temporary departure from the 80% investment requirement would be permitted. We believe that funds and their shareholders would benefit from the degree of flexibility that the proposed approach would provide, as it would allow fund managers to depart temporarily from the 80% investment requirement in particular, time-limited circumstances when doing so would be beneficial to the fund and its shareholders, while providing additional parameters designed to prevent a fund from investing inconsistently with its 80% investment policy for an extended period of time.

Considerations Regarding Derivatives in Assessing Names Rule Compliance. The proposed amendments would also address the valuation of derivatives instruments for purposes of determining a fund's compliance with its 80% investment policy, as well as the derivatives that a fund may include in its 80% basket. The proposed amendments would require that, in calculating its assets for purposes of names rule compliance, a fund must value each derivatives instrument using its notional amount, with certain adjustments, and reduce the value of its assets by excluding cash and cash equivalents up to the notional amount of the derivatives instrument(s).[189] The proposed amendments also would specify that, in addition to any derivatives instrument that a fund includes in its 80% basket because the derivatives instrument provides investment exposure to the investments suggested by the fund's name, the fund also may include in its 80% basket a derivatives instrument that provides investment exposure to one or more of the market risk factors associated with investments suggested by a fund's name. As discussed above, a derivatives instrument's ''value,'' as defined in the Act, may bear no relation to the investment exposure created by the derivatives instrument.[190] We believe the notional amount generally serves as a better measure (than market value) of the fund's investment exposure to the underlying reference asset or metric. Also, as discussed in section II.A.3 above, using derivatives instruments' market values for purposes of assessing names rule compliance could result in a fund being in compliance with the fund's 80% investment policy despite the fund having significant exposure to investments that are *not* suggested by the fund's name.[191] Our proposed amendments would benefit investors by allowing funds that use derivatives to use names that may more effectively communicate their investments and risks and reduce the risk that a fund may use derivatives to invest in a manner inconsistent with the investment focus suggested by the fund's name.

Unlisted Closed-End Funds and BDCs. Under the proposed rule amendments, unlisted closed–end funds and BDCs would not be permitted to change their 80% investment policies without shareholder approval. Unlisted closed–end funds and BDCs do not issue redeemable shares or list their shares on a national securities exchange. Shareholders in an unlisted closed–end fund or BDC generally would have no ready recourse, such as the ability to redeem or quickly sell their shares, if the fund were to change its investment policy and the investment focus that the fund's name indicates. The absence of recourse would tend to reduce investor protections with respect to fund investments. The proposed amendments would increase investor protections by requiring that a fund's 80% investment policy be a fundamental investment policy, and this would, in turn, require unlisted closed–end funds and BDCs to secure investor approval before changing their 80% investment policies.

Effect of Compliance with an 80% Investment Policy. We are proposing a new provision in the names rule providing that a fund's name may be materially deceptive or misleading under section 35(d) even if the fund adopts an 80% investment policy and otherwise complies with the rule's requirement to adopt and implement the policy.[192] The Commission has previously stated that the names rule's 80% investment policy requirement is not intended to create a safe harbor for fund names.[193] We believe that investors will benefit from the enhanced protections created by the codification of the view that a fund name may be materially deceptive or misleading even where the fund complies with its 80% investment policy.

Materially Deceptive and Misleading Use of ESG Terminology in Certain Fund Names. The proposed amendments would define the names of ''integration funds'' as materially deceptive and misleading if the name includes terms indicating that the fund's investment decisions incorporate one or more ESG factors. We believe that the proposed amendments would benefit those investors who prefer to invest in funds for which ESG factors are determinative in deciding whether to include or exclude any portfolio investment, because the proposed amendments would make it easier for these investors to select funds that meet these criteria and distinguish them from integration funds. For those investors, we anticipate that this benefit would

[188] *See supra* footnote 54.

[189] *See* proposed rule 35d–1(g)(2).

[190] *See* discussion in section II.A.3.

[191] We request comment above on funds' current practices regarding including or excluding short positions in their 80% basket and whether any changes in this area would be appropriate.

[192] Proposed rule 35d–1(c).

[193] *See supra* footnote 101.

result from the way that the proposed amendments address names that have the potential to overstate the importance of ESG factors in a fund's selection of its portfolio investments, in that the proposed amendments effectively define this practice to be materially deceptive and misleading.

Prospectus Disclosure. We are also proposing amendments to funds' registration forms that would require each fund that is required to adopt and implement an 80% investment policy to include disclosure in its prospectus that defines the terms used in its name, including the specific criteria the fund uses to select the investments that the term describes, if any.[194] We believe that these provision would help the investor understand whether the investment focus the name suggests is consistent with the investor's investment goals and risk tolerance. The proposed amendments would also reduce costs for investors to search for funds that match their investment preferences and facilitate monitoring by investors or third parties as well as facilitate oversight by the Commission.[195]

The proposed amendments would require funds to tag the new prospectus disclosure in Inline XBRL, a structured, machine-readable data language.[196] This requirement is designed to make the proposed disclosures more readily accessible for aggregation, comparison, filtering, and other analysis. As a point of comparison, XBRL requirements for public operating company financial statement disclosures have been observed to improve investor understanding of the disclosed information.[197] While those observations are specific to operating company financial statement disclosures (including footnotes), and not to disclosures from funds outside the financial statements, they indicate that the proposed Inline XBRL requirements could provide fund investors with increased insight into term definitions and investment selection criteria at specific funds and across funds, asset managers, and time periods.[198] Additionally, while Forms N–8B–2 and S–6 would be structured only for this proposed disclosure requirement, we do not expect this to negatively impact investors' ability to understand the disclosures on these Forms. An Inline XBRL requirement would ensure that all disclosures on these forms—including both structured and unstructured disclosures—would be human-readable, because Inline XBRL enables a single document to include both human-readable and machine-readable disclosure.

We are also proposing to require that any terms used in the fund's name that suggest either an investment focus, or that the fund is a tax-exempt fund, must be consistent with those terms' plain English meaning or established industry use. This requirement is designed to provide investors with a better understanding of the fund and its investment objectives by effectively requiring a fund's name to be consistent with a reasonable investor's likely understanding of the investment focus or tax status that the fund's name suggests.

New Form N–PORT Reporting Requirements. We are also proposing to amend Form N–PORT to include a new reporting requirement regarding a registered investment companies' names rule compliance.[199] Registered investment companies, other than money market funds, required to adopt an 80% investment policy would be required to report on Form N–PORT: (1) the value of the fund's 80% basket, as a percentage of the value of the fund's assets, and (2) if applicable, the number of days that the value of the fund's 80% basket fell below 80% of the value of the fund's assets during the reporting period. There would also be a proposed new Form N–PORT reporting item requiring a fund that is a Form N–PORT filer and that is subject to the 80% investment policy requirement to indicate, with respect to each portfolio investment, whether the investment is included in the fund's 80% basket. We believe that the new information that funds would be required to report on Form N–PORT filings would facilitate the Commission's oversight of funds' names rule compliance and assist Commission staff in examination, enforcement, and monitoring with respect to the consistency between funds' portfolio investments and the investment focus that the fund's name suggests. In addition to assisting the Commission in its regulatory functions, we believe that investors and other potential users would benefit from the periodic public disclosure of the information reported on Form N–PORT. Although Form N–PORT is not primarily designed for disclosing information directly to individual investors, we believe that entities providing services to investors, such as investment advisers, broker-dealers, and entities that provide information and analysis for fund investors, would also utilize and analyze the new information that will be required by the proposed amendments to Form N–PORT to monitor fund investments for consistency with investment focuses suggested by fund names. Accordingly, whether directly or through third parties, we believe that the proposed new disclosure on Form N–PORT will benefit all fund investors.

Recordkeeping. The proposed amendments would require funds to maintain certain records depending on whether the fund would be required to

[194] *See supra* footnote 104.

[195] *See* section II.B, section II.C, section II.F and section II.G for discussions of how the proposed prospectus disclosure requirements, plain English requirements, N–PORT reporting requirements, and recordkeeping requirements, respectively, facilitate monitoring of fund investments by investors or third parties as well facilitate oversight by the Commission.

[196] *See* section II.B.

[197] *See, e.g.,* Birt, J., Muthusamy, K. & P. Bir, *XBRL and the Qualitative Characteristics of Useful Financial Information,* 30 Account. Res. J. 107 (2017) (finding ''financial information presented with XBRL tagging is significantly more relevant, understandable and comparable to non-professional investors''); Cahan, S.F., Chang, S., Siqueira, W.Z. & K. Tam, *The roles of XBRL and processed XBRL in 10–K readability, J. Bus. Fin. Account.* (2021) (finding 10–K file size reduces readability before XBRL's adoption since 2012, but increases readability after XBRL adoption, indicating ''more XBRL data improves users' understanding of the financial statements''); Efendi, J., Park, J.D. & C. Subramaniam, *Does the XBRL Reporting Format Provide Incremental Information Value? A Study Using XBRL Disclosures During the Voluntary Filing Program,* 52 Abacus 259 (2016) (finding XBRL filings have larger relative informational value than HTML filings).

[198] Investors could benefit from their direct use of the Inline XBRL data, or through indirect use of the indirect data (*i.e.,* through information intermediaries such as financial media, data aggregators, academic researchers, *et al.*). *See, e.g.,* Trentmann, N., *Companies Adjust Earnings for Covid–19 Costs, but Are They Still a One-Time Expense?* The Wall Street Journal (2020) (citing an XBRL research software provider as a source for the analysis described in the article); *Bloomberg Lists BSE XBRL Data,* XBRL.org (2018); Hoitash, R & U. Hoitash, *Measuring accounting reporting complexity with XBRL.* 93 Account. Rev. 259–287 (2018). Also, in contrast to XBRL financial statements (including footnotes), which consist of tagged quantitative and narrative disclosures, the proposed disclosures here do not expressly require the disclosure of any quantitative values (if a fund were to include any quantitative values as nested within the required discussion, for example by disclosing a specific upper limit of greenhouse gas emissions as a selection criterion, those values would also be individually detail tagged, in addition to the block text tagging of the narrative discussion). Tagging narrative disclosures can facilitate analytical benefits such as automatic comparison/redlining of these disclosures against prior periods and the performance of targeted artificial intelligence/machine learning (''AI/ML'') assessments (tonality, sentiment, risk words, etc.) of specific definition and selection criteria disclosures rather than the entire unstructured document.

[199] As discussed above, the proposed amendments to Form N–PORT, like all Form N–PORT reporting requirements, apply to registered investment companies other than money market funds. BDCs are not subject to any Form N–PORT reporting requirements and thus would not be subject to the proposed amendments to Form N–PORT. *See supra* footnote 141.

adopt an 80% investment policy.[200] While the amendments would not prescribe the particular form of documentation required to be maintained, funds generally should maintain appropriate documentation that would be sufficient for a third party to verify the matter covered by each record. These proposed requirements would provide our staff, and a fund's compliance personnel, the ability to evaluate the fund's compliance with the proposed amendments and thereby would benefit investors.

Notice Requirement. The proposed amendments would also protect investors by modifying the current notice requirements when a fund chooses to change its investment policy. The proposed amendments are designed to draw investor attention to the upcoming change that the notice documents describe, clarify the requirements for the notice, and provide investors with more consistent information. The proposed amendments also incorporate changes to the notice requirement to provide specificity with respect to notices that may be delivered electronically. These changes would help ensure that investors who have opted into electronic delivery will receive the notices the names rule requires in the format that they prefer.

Unit Investment Trusts. The proposed rule amendments would except UITs that have made their initial deposit of securities prior to the effective date of any final rule amendments the Commission adopts from the requirements to adopt an 80% investment policy and the recordkeeping requirements, including recordkeeping for funds which do not adopt an 80% investment policy, unless the UIT has already adopted—or was required to adopt at the time of the initial deposit—an 80% investment policy under the current rule.[201] UITs are passively managed vehicles that operate pursuant to a trust indenture or a similar document and have fixed portfolios that would make it difficult to adjust their portfolios to comply with the rule's portfolio composition requirements.[202] The proposed exception would benefit investors in UITs that meet the requirements of the exception by allowing those UITs to avoid changes to an UIT's operational documents that are potentially expensive and time-consuming, and could result in inconvenience to extant investors.

Effects on Efficiency, Competition and Capital Formation. To the extent the proposed amendments would ensure that fund names are more appropriately representative of a fund's investment focus, we predict that investors will benefit. Developing a dollar figure for this predicted benefit is complex, however. We do not observe investors' decision-making and resources expended in the management of their investment portfolio, nor do we observe the cost to investors from being invested in a fund that does not match their preferences. To the extent fund names would be more appropriately representative of the fund investment focus under the proposed amendments and to the extent those more appropriately representative fund names would allow investors to more easily select funds that better matched their preferences, however, we would expect the efficiency of investment to increase.

To the extent the proposed amendments increase efficiency of investment in the funds market, then we may observe a change in investment in funds. For example, if there are investors who currently do not invest in certain funds (or invest less than they would have) because it is too costly to search for funds that match their investment preferences, or if investors lack confidence that funds' names accurately convey funds' investment focuses, then to the extent the proposed amendments lower those costs and enhance investor protections, we would expect to observe more investors entering the funds market.[203] To the extent that competition in a market is related to the size of the market, the effect of this potential increase in investor demand for funds could increase competition in the funds market.

The proposed amendments could affect competition through an additional channel. Certain funds may have established reputations for making investments consistent with the fund's investment focus. Investors wishing to invest in funds with specific investment focuses may have greater confidence investing in funds with established reputations for investing in a way consistent with the fund's investment focus.[204] There may be investors who do not invest in funds lacking established reputations for making investments consistent with fund focuses (or invest less than they would have) because those investors are less confident that such funds will make investments consistent with funds' investment focuses. We would expect the investor protections offered by the proposed amendments to lead to greater investor confidence that funds' names accurately convey funds' investment focuses which could, in turn, enhance the ability of funds without established reputations to compete with those funds with established reputations which could, in turn, lead to increased investment for funds without established reputations.[205]

If the proposed amendments increase the efficiency of investment in the funds market, then we may observe an increase in investment in funds. Greater investment in funds could lead to increased demand for securities held by funds. The increased demand for securities could, in turn, facilitate capital formation. We note, however, that to the extent increased investment in funds reflects substitution from other investments, the effect on capital formation would be attenuated.

2. Costs

We believe that compliance costs associated with the proposed amendments, particularly those that expand the current scope of the names rule, would vary based on a fund's current practices with respect to adopting policies to invest a particular percentage of fund assets in investments that have, or whose issuers have, particular characteristics. We also believe that certain funds' current investment policies may already be in line with many of the proposed rule's requirements or could be readily conformed without material change. For example, as discussed in section III.C.1 above, preliminary review of fund filings suggests that more funds have minimum investment policies than are required to do so under the current names rule.[206]

We expect that funds would incur costs to review the proposed rule's requirements and modify, as necessary, their investing practices, policies and procedures, and recordkeeping to comply with the proposed rule. Even

[200] *See* proposed rule 35d–1(b)(3).

[201] Proposed rule 35d–1(f).

[202] *See supra* footnote 160.

[203] For example, by decreasing potential greenwashing concerns, the proposed amendments, in turn, may increase investor confidence in selecting funds with names implying an ESG strategy and increase capital formation among ESG issuers.

[204] Investors may believe that these funds have an incentive to protect the value of their reputations by continuing to invest in ways consistent with their names. *See* Klein, Benjamin and Keith B. Leffler, The Role of Market Forces in Assuring Contractual Performance. *Journal of Political Economy* 89, 615–641 (1981) (''Klein Paper'').

[205] This argument assumes that fund reputation and investor protections provided by regulatory requirements are substitute mechanisms for providing assurances to investors.

[206] *See supra* footnote 179.

though we understand that many funds, even those that are not currently within the scope of the names rule, currently have in place practices related to investing a certain percentage of their assets in a particular type of assets or assets that have certain characteristics, those practices may differ across funds and also may differ from the proposed rule's requirements.

Certain costs may be fixed, while other costs may vary with the size of the fund and its investment focus. For instance, certain funds may determine that, in furtherance of the 80% investment policy that the rule requires, they will need to create or purchase certain data used in selecting investments consistent with the fund's investment focus. Costs associated with either creating or purchasing certain data used in selecting investments may not vary much across funds. For example, growth funds may rely on financial data when selecting fund portfolio investments. Generally Accepted Accounting Principles promote consistency and comparability in reported financial information. The consistency and comparability of reported financial information leads to similar costs across funds, regardless of investment focus. On the other hand, the cost of certain data may vary across funds based on investment focus. For example, funds with an ESG focus may face a lack of consistent and comparable ESG information. The lack of consistent and comparable information could increase the cost, relative to funds with other investment focuses, of determining whether an investment is consistent with a fund's investment focus.

Also, larger funds or funds that are part of a large fund complex may incur higher costs in absolute terms but find it less costly, per dollar managed, to meet the requirements of the proposed amendments. For example, larger funds may have to allocate a smaller portion of existing resources, and fund complexes may realize economies of scale in complying with the proposed amendment's requirements for several funds.

Names Suggesting an Investment Focus. The proposed amendments would broaden the scope of the names rule's current 80% investment policy requirement to also apply to fund names that include terms suggesting that the fund focuses in investments that have, or whose issuers have, particular characteristics.[207] We estimate that approximately 8,250 (62%) funds are currently subject to this names rule requirement and that our proposed rule amendments would increase this estimate to approximately 10,000 (75%) funds.[208] Fund registration forms currently require each fund to include disclosure in its prospectus that describes its principal investment strategies (including the type or types of securities in which the fund invests or will invest principally).[209] We believe funds with names that would be newly scoped into the names rule's 80% investment policy requirement under the proposed amendments already have systems in place for monitoring compliance with existing principal investment strategy disclosure requirements. As a result, we believe funds with names that would be newly scoped in already have internal systems that could be used to assess compliance with the proposed rule. Funds would need to develop new, or revise existing, recordkeeping processes as discussed below. Funds with names that are newly scoped into the 80% investment policy requirement may also face an indirect cost in the need to calculate whether a specific asset would qualify as part of a fund's 80% basket.

Temporary Departures. The proposed amendments would retain a fund's ability to depart temporarily from the 80% investment requirement, but eliminate advisers' ability to define the circumstances. The proposed amendments would also require that a fund departing from the 80% investment requirement must bring its investments back into compliance as soon as reasonably practicable, and that the maximum amount of time for the departure would be 30 consecutive days, other than in the case of a fund launch (which would be limited to 180 consecutive days starting from the day the fund commences operations), a reorganization, or when notice of a change in a fund's policy has been provided to fund shareholders under the rule. This change could create a cost for investors if there exist circumstances where departing from the 80% investment requirement would be beneficial to the fund and its shareholders, the proposed amendments would not allow a departure, and absent the proposed amendments, an adviser would have characterized the circumstance as allowing a departure. For example, investors may experience lower returns if funds are forced to sell assets at depressed prices, or in a tax-disadvantaged manner, or if funds are forced to purchase less liquid securities in a compressed timeframe which could drive up the price for those securities. Also, to the extent that funds' assets become less liquid during a market crisis, funds' ability to manage liquidity risk may be affected as well as funds' ability to meet redemptions. Conversely, a departure for longer than 30 days to address a market disruption might frustrate the expectation of investors who may expect the fund to invest consistent with its stated investment focus even during market disruptions, and therefore may choose to rebalance investments on their own rather than relying upon the fund to do so. To the extent that they do not already have systems in place for doing so, funds would have to set up systems to monitor departures from the 80% investment requirement, the reasons for departures, and the time limits for returning to the 80% investment requirement.

Considerations Regarding Derivatives in Assessing Names Rule Compliance. The proposed rule would address the valuation of derivatives instruments for purposes of determining the fund's compliance with its 80% investment policy requirement. The proposed amendments would require that, in calculating its assets for purposes of names rule compliance, a fund must use the notional amount of each derivatives instrument, with certain adjustments as discussed above, and reduce the value of its assets by excluding cash and cash equivalents up to the notional amounts of the derivatives instrument(s).[210] The proposed amendments also would specify that a fund may include in its 80% basket derivatives that provide investment exposure to one or more of the market risk factors associated with investments suggested by the fund's name.[211] Our understanding is that funds that use derivatives typically calculate notional amounts for purposes other than names rule compliance.[212]

[207] *See* section II.A.1 and *supra* footnote 31.

[208] *See* note 3 of Table 6.

[209] *See, e.g.,* Item 9(b)(1) of Form N–1A. Instruction 2 to Item 9(b)(1) of Form N–1A states that a fund shall, in determining whether a strategy is a principal investment strategy, consider, among other things, the amount of the fund's assets expected to be committed to the strategy, the amount of the fund's assets expected to be placed at risk by the strategy, and the likelihood of the fund's losing some or all of those assets from implementing the strategy. *See also* Item 8(2)(b) of Form N–2. Item 8(2)(b) requires the registrant to disclose the investment objectives and policies of the registrant that will constitute its principal portfolio emphasis as well as how it proposes to meet its objectives, including: (1) the types of securities in which the registrant invests or will invest principally, and (2) the identity of any particular industry or group of industries in which the registrant proposes to concentrate.

[210] *See* proposed rule 35d–1(g)(2).

[211] *See* proposed rule 35d–1(b)(2).

[212] For example, rule 18f–4 includes an exception from certain of the rule's requirements that requires

Continued

As such, we do not believe there would be additional costs associated with calculating notional values. We understand, however, that meeting the requirements of the proposed amendments could require reprogramming of internal systems for funds not currently subject to the names rule, and reprogramming of existing systems used for monitoring names rule compliance by funds currently subject to the names rule.

Commenters suggest that certain investors care about more than the expected returns and exposures their investments create.[213] For example, certain investors may care about the environmental or social impact of their investments (*e.g.,* investors in ESG funds, or funds whose strategies involve the application of moral parameters).[214] Those investors may value funds investing directly in the securities of certain issuers, rather than simply having an indirect exposer to those securities through fund derivatives positions—*e.g.,* direct equity investments typically include voting rights and an ability, under certain conditions, to make shareholder proposals, whereas equity derivatives do not. To the extent investors value direct investment in issuer securities rather than simply having an indirect exposure to them through derivatives, investors may expend greater resources to monitor whether funds are making direct investments rather than using derivatives to meet the proposed amendments' 80% investment requirement.[215]

Unlisted Closed-End Funds and BDCs. Under the proposed rule amendments, unlisted closed-end funds and BDCs would not be permitted to change their 80% investment policies without shareholder approval. Rather than adopting a policy to notify investors 60 days prior to any change in its 80% investment policy, unlisted closed-end funds and BDCs would be required to obtain shareholder approval. The costs of obtaining shareholder approval would include legal and accounting fees incurred in connection with preparing proxy materials, the costs of printing and mailing the proxy materials, the cost of an external proxy solicitor, if one is used, and the cost of holding an annual or special meeting of the shareholders.[216]

Effect of Compliance with an 80% Investment Policy. The proposed amendments would state that a fund's name may be materially deceptive or misleading under section 35(d) even if the fund adopts an 80% investment policy and otherwise complies with the rule's requirement to adopt and implement the policy.[217] The Commission has previously stated that the names rule's 80% investment policy requirement is not intended to create a safe harbor for fund names, and the proposed amendments would codify this view to make it clear.[218] Because the proposed provision would codify an existing Commission position that that 80% investment policy is not intended to create a safe harbor for fund names and restate the existing scope and effect of section 35(d), we do not believe the proposed provision creates new costs.

Materially Deceptive and Misleading Use of ESG Terminology in Certain Fund Names. The proposed rule amendments would define the names of what this release refers to as ''integration funds'' as materially deceptive or misleading if the name includes terms indicating that the fund's investment decisions incorporate one or more ESG factors. To the extent ESG integration fund sponsors use fund names to facilitate investors' search for funds that use ESG factors as one of multiple components of their investment process, the loss of the ability to facilitate investors' search would represent a cost for integration funds and their investors.[219] We are unable to quantify this cost as we do not have data indicating the extent to which ESG integration funds use their names to facilitate investors' search for funds that consider ESG factors as one of multiple components of their investment process, or the value ESG integration funds place on the ability to use their fund names in such a way. We are also unable to quantify this cost from an investor's perspective. We do not observe the extent to which investors in integration funds rely on fund names in the management of their investment portfolio. Additionally, integration funds that change their names in order to comply with the rule may incur costs of revising various fund communications and documents (*e.g.,* organizational documents, registration statements, shareholder reports, etc.).[220] A fund may also face costs to determine

the calculation of notional amounts. More generally, however, we believe that funds that use derivatives typically consider notional amounts when entering into derivatives contracts or when considering the economic effects of a derivatives contract within an existing portfolio.

[213] *See* AllianzGI Comment Letter, Cantrell and Estevez Comment Letter, IRC Comment Letter, Federated Hermes Comment Letter, Hull Comment Letter, PRI Comment Letter, and Schanzenbach Comment Letter.

[214] *See, e.g.,* Nia Impact Capital Comment Letter (stating ''. . . our core objective is to generate a competitive rate of return for our clients, while creating a positive impact for investors, for society and for our planet''); Allianz Letter (stating ''ESG strategies seek to meet a common non-investment objective without detracting from return relative to capweighted benchmarks'').

[215] As discussed in section II.A.3 above, costs such as transaction and custody costs can be lower for indirect investments via derivatives than they are for direct investments. *See also, e.g.,* Daniel N. Deli and Raj Varma, ''Contracting in the investment management industry: Evidence from mutual funds,'' Journal of Financial Economics (2002, vol. 63, pp. 79–98) (''Deli and Varma Paper''). The authors argue that derivatives can provide transaction-cost benefits relative to direct investment. Also as discussed in section II.A.3 above, a derivatives instrument's ''value,'' as defined in the Act, may bear no relation to the financial exposure created by the derivatives instrument. For example, a fund entering into a swap or other derivative referencing a market index with a notional amount of $1 million would achieve the same investment exposure as investing $1 million in the underlying securities directly, but the swap's market value therefore generally would be far smaller than $1 million and would not reflect the swap's market exposure. The swap's market value may be a small percentage of the fund's net assets. Under the current rule, then, fund advisers may forgo the potential transaction-cost benefits associated with the use of derivatives, or use them to a lesser degree, because using derivatives may not allow a fund to meet the rule's 80% requirements. Under the proposed amendments, however, using derivatives may allow a fund to both realize the transaction-costs benefits associated with derivatives and meet the 80% requirements of the names rule.

[216] In 2019, the ICI surveyed its member firms with respect to the costs of obtaining shareholder approval for proposals requiring funds to obtain a quorum of greater than 50% to approve. The ICI reports that 64 member firms with over $18 trillion of US-registered fund assets responded. Cost estimates for 145 separate campaigns totaled $373 million. The ICI also reports that: (1) 22 campaigns had costs greater than, or equal to, $1 million, (2) eight had costs greater than or equal to $10 million, and (3) the most expensive campaign was $107 million. The ICI report does not disaggregate data on the cost of obtaining shareholder approval for changes to a fund's fundamental investment policies. *See* Comment Letter of the Investment Company Institute regarding the SEC Roundtable on the Proxy Process (File No. 4–725) (December 23, 2019) *available at https://www.sec.gov/comments/4-725/4725-6580709-201124.pdf.* In a 2002 rulemaking related to fund mergers, we estimated the cost of obtaining shareholder approval to be $75,000. We did not received any comments on that estimate. *See* Investment Company Mergers, Investment Company Act Release No. 25666 (July 18, 2002). Adjusting for inflation, $75,000 at the beginning of 2002 would imply a cost of approximately $118,000 as of the end of 2021. *See* Bureau of Labor Statistics CPI Inflation Calculator *available at https://www.bls.gov/data/inflation_calculator.htm.*

[217] Proposed rule 35d–1(c).

[218] *See supra* footnote 101.

[219] Integration funds and their investors could also bear costs of revising various fund communications to reflect the name change, as well as costs for revising marketing materials to describe the integration approach, to the extent that those materials do not already do so.

[220] When adopting the current names rule, the Commission estimated the funds would bear a cost of $7,000 to change a fund's name. We did not received any comments on that estimate. Adjusting for inflation, $7,000 at the beginning of 2009 would imply a cost of approximately $9,243 as of the end of 2021. *See* Bureau of Labor Statistics CPI Inflation Calculator *available at https://www.bls.gov/data/inflation_calculator.htm.*

whether it qualifies as an integration fund under the proposed rule, particularly whether ESG factors are generally no more significant than other factors in the fund's investment selection process, and thus whether including ESG terminology in the fund's name would be materially deceptive and misleading under the proposal.[221]

Prospectus Disclosure. The proposed amendments to funds' registration forms—specifically, Form N–1A, Form N–2, Form N–8B–2, and Form S–6—would also require each fund that is required to adopt and implement an 80% investment policy to include disclosure in its prospectus that defines the terms used in its name, including the specific criteria the fund uses to select the investments that the term describes, if any.[222] The proposed amendments would require funds to tag this disclosure in Inline XBRL.[223]

For funds that are required to adopt an 80% investment policy, the proposed amendments would require that any terms used in the fund's name that suggest either an investment focus, or that the fund is a tax-exempt fund, must be consistent with those terms' plain English meaning or established industry use.[224]

New Form N–PORT Reporting Requirements. The proposed amendments include a new Form N–PORT reporting item regarding the 80% investment policy that a fund would adopt in compliance with the names rule.[225] There would also be a proposed new Form N–PORT reporting item requiring a fund that is a Form N–PORT filer and that is subject to the 80% investment policy requirement to indicate, with respect to each portfolio investment, whether the investment is included in the fund's 80% basket.[226] Although the proposed amendments would not increase the frequency of public disclosure, it would increase the amount of information available about certain funds' portfolio investments. The increased information could lead, indirectly, to increased costs for investors. For example, one commenter argued that funds might have innovative ways in which they apply factors, such as those indicating growth or value, to categorizing issuers or securities and that disclosing which securities are included in a fund's calculation of assets that are included in the fund's 80% basket could reduce the value of the fund's proprietary security selection process.[227] We note, however, that Form N–PORT data is only made public for the third month of each quarter, and on a 60-day delayed basis. We do not believe that quarterly public disclosure with a 60-day lag will have a significant, additional competitive impact.

Recordkeeping. The proposed amendments would require funds to maintain certain records depending on whether the fund would be required to adopt an 80% investment policy. The proposed amendments would not prescribe the particular form of documentation required to be maintained but would instead provide flexibility in how a fund documents the information delineated in the recordkeeping requirements. However, a fund that would be subject to the requirement to adopt an 80% investment policy generally should maintain appropriate documentation that would be sufficient for a third party to verify the matter covered by each record.[228]

Notice Requirement. The proposed amendments would require that unless the 80% investment policy is a fundamental policy of the fund, notice must be provided to fund shareholders of any change in the fund's 80% investment policy.[229] The proposed amendments would incorporate some modifications to the current notice requirement that are designed to better address the needs of shareholders who have elected electronic delivery and to incorporate additional specificity about the content and delivery of the notice. We do not believe that these proposed alterations would increase the cost to prepare the notice.[230]

Unit Investment Trusts. The proposed rule amendments except UITs that have made their initial deposit of securities prior to the effective date of any final rule amendments the Commission adopts from the requirements to adopt an 80% investment policy and the recordkeeping requirements, including recordkeeping for funds which do not adopt an 80% investment policy, unless the UIT has already adopted—or was required to adopt at the time of the initial deposit—an 80% investment policy under the current rule.[231] The proposed amendment largely retains the existing exception from the 80% investment policy requirements for UITs that pre-date the original rule.

Overall Costs. We estimate that the costs to establish and implement practices designed to meet the requirements of the proposed amendments as described above will range from $50,000 to $500,000 per fund, depending on the particular facts and circumstances of the fund.[232] These estimated costs are broadly attributable to the following activities: (1) reviewing the proposed rule's requirements; (2) developing new (or modifying existing) practices, reporting, and recordkeeping requirements to align with the requirements of the proposed rule; (3) integrating and implementing those practices, reporting, and recordkeeping requirements to the rest of the funds' activities; and (4) preparing new training materials and administering training sessions for staff in affected areas. We believe the costs would be closer to the lower end of the range for

[221] *See supra* discussion in section II.D; *see also supra* section II.A.1 (discussing fund names suggesting an investment focus with multiple elements, where a fund would have to adopt an 80% investment policy addressing each of the elements that the investment focus in its name suggests).

[222] *See* proposed instruction to Item 4(a)(1) of Form N–1A; proposed instruction to Item 8(2) of Form N–2; and proposed instruction to Item 11 of Form N–8B–2. Based on the results of the PRA analysis provided in Tables 2, 3, and 4 *infra* it is estimated that the annual costs attributable to information collection requirements associated with this aspect of the proposed amendments would be $3,560 per fund. However, as we understand that including the prospectus disclosure that the proposed amendments would require is currently a common practice, the PRA estimates likely overestimate the costs associated with the proposed amendments for those funds whose disclosure is currently in line with the disclosure the amendments would require. *See infra* section IV.C.

[223] *See supra* footnote 105. Based on the results of the PRA analysis provided in Table 7 *infra* it is estimated that the costs attributable to Inline XBRL tagging requirements would be $2,324 per fund for Form N–8B–2 filers, who are not subject to any current Inline XBRL requirements (or Inline XBRL requirements with compliance dates in the future) and would thus incur initial implementation costs associated with structuring disclosures in Inline XBRL (such as the cost of training in-house staff to prepare filings in Inline XBRL, and the cost to license Inline XBRL filing preparation software from vendors). For Form N–1A and Form N–2 filers, who are subject to current Inline XBRL requirements, the PRA estimate does not incorporate any such implementation costs.

[224] *See supra* footnote 116.

[225] Based on the results of the PRA analysis provided in Table 5, it is estimated that the costs attributable to information collection requirements would be $3,204 per fund.

[226] Based on the results of the PRA analysis provided in Table 5, it is estimated that the annual costs attributable to information collection requirements for investments to be included in a fund's 80% basket would be $3,560 per fund.

[227] *See* Allianz Letter.

[228] Based on the results of the PRA analysis provided in Table 1, it is estimated that the annual costs attributable to recordkeeping requirements would be $17,800 per fund.

[229] Proposed rule 35d–1(e).

[230] Like the current rule, based on the results of the PRA analysis provided in Table 1, it is estimated that the costs attributable to notice requirements would be $8,500 per fund, for those funds providing notices.

[231] *See supra* footnote 159.

[232] We believe that the low end of this range is reflective of a fund that already has practices in place that could be readily adapted to meet the proposed rule's requirements. Such a fund would nevertheless incur costs associated with analyzing its current practices relative to the final rule's requirements.

funds whose current practices are more similar to the requirements of the proposed amendments.[233] In addition, under certain specified circumstances funds, and thus shareholders, may incur costs related to the proposed amendment's limits on temporary departures from the 80% requirement. Further, integration funds could incur costs associated with changing fund names.

The proposed rule amendments would result in new ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[234] There will be costs associated with the new collection of information requirements related to: (1) the notice provision and the new recordkeeping requirements under the proposed amendments to the names rule, (2) prospectus disclosure, and (3) Form N–PORT disclosure.[235] Those costs are discussed in section IV below.

E. Reasonable Alternatives Considered

1. Returns-Based Requirement

The proposed rule amendments, like the current rule, rely on a percentage-of-assets-based test to determine if fund names are misleading. Alternatively, we could require that funds' historical returns exhibit minimum exposures to certain risk factors. For example, we could require funds that use the term ''small cap'' in their name to have a certain minimum exposure to a historical firm-size risk factor. Such a returns-based standard would eliminate the need to specify how funds must value their derivatives holdings. Further, a returns-based standard could result in more risk information being available for investors concerned with risk-adjusted fund performance. For example, a returns-based standard would allow investors to evaluate exposure to certain risk factors over the entire measurement period rather than as of the end of the reporting period.

One commenter suggested several disadvantages associated with a returns-based standard.[236] First, a returns-based standard would require the specification of some arbitrary time over which fund returns are compared to a risk factor. Second, a returns-based standard would be inherently backward looking, detracting from a manager's ability and purpose to focus on future performance. Finally, a returns-based standard would require the identification of appropriate benchmarks against which to evaluate funds' exposures. The same commenter also argued that an asset-based standard offers certain advantages. For example, assessing compliance with an asset-based standard is facilitated by the calculation of funds' daily net asset values. Also, compliance with an asset-based standard is easily measured, easily understood, and easily corrected should a fund drop below its asset-based threshold.[237] Taking these considerations into account, we are proposing to continue requiring compliance with an asset-based standard, rather than a returns-based standard. We believe an asset-based standard is more easily understood and can be assessed contemporaneously with investment decisions. A returns-based standard can be assessed only after the fact and over time and is not necessarily more consistent or easily measured.

2. Permit the Use of Derivatives' Notional Values for Purposes of Names Rule Compliance

As an alternative, we considered permitting, but not requiring, funds to value derivatives (or a subset of derivatives, such as derivatives that provide synthetic exposure to the investment focus that the fund's name suggests) using notional values for purposes of assessing names rule compliance. As discussed in section II.A.3 above, allowing a fund to use notional values for these purposes could allow a fund to use a name that effectively communicates its investments where it would not be able to do so under the current rule. However, allowing a fund to use using derivatives instruments' market values for purposes of assessing names rule compliance could result in a fund being in compliance with the fund's 80% investment policy despite the fund having significant exposure to investments that are not suggested by the fund's name. Because we believe the use of notional values better reflects the investment exposure of derivatives investments than market values for purposes of assessing names rule compliance, we are proposing to require, rather than permit, the use of notional values.

3. Modify Requirements for Tagging Prospectus Disclosure

Under the proposed amendments, the new prospectus disclosure of term definitions and investment selection criteria submitted on Form N–1A, Form N–2, Form N–8B–2, and Form S–6 would be tagged in Inline XBRL. Alternatively, we could have changed the scope of the proposed tagging requirement for the proposed new prospectus disclosures, such as by limiting this requirement to a subset of funds.

For example, the tagging requirements could have excluded UITs, which are not currently required to tag any filings in Inline XBRL. Under such an alternative, UITs would submit their prospectus disclosures in unstructured HTML or ASCII, and forgo the initial Inline XBRL implementation costs (such as the cost of training in-house staff to prepare filings in Inline XBRL, and the cost to license Inline XBRL filing preparation software from vendors) and ongoing Inline XBRL compliance burdens that would result from the proposed tagging requirement.[238] However, narrowing the scope of tagging requirements, whether based on fund structure, fund size, or other criteria, would diminish the extent of informational benefits that would accrue as a result of the proposed disclosure requirements by making the excluded funds' disclosures comparatively costlier to process and analyze. As such, we are not proposing to exclude any funds or otherwise narrow the scope of Inline XBRL tagging requirements.

4. Board Approval or Notification of Temporary Departures

The proposed amendments would permit a fund to depart temporarily from the 80% investment requirement only under certain specified circumstances and, in most such circumstances, for a limited 30-day time

[233] We believe the costs would be closer to the lower end of the range for funds that belong to fund families because certain aspects of the costs are fixed costs that could be spread across multiple funds.

[234] 44 U.S.C. 3501–3520.

[235] For items (2) and (3), the costs will include the cost of adding new data tags for the new disclosures on Form N–1A, Form N–2, and Form N–PORT, but will not include any initial implementation costs associated with structuring data, because those forms are already subject to structuring requirements. By contrast, the cost of adding new Inline XBRL tags for the new disclosures on Form N–8B–2 and Form S–6 is more likely to entail initial implementation costs for UITs and their sponsors, because UITs are not currently subject to Inline XBRL requirements. *See infra* footnote 241.

[236] *See* Fidelity Comment Letter.

[237] *See* Fidelity Comment Letter.

[238] *See* section IV.E. Funds file registration statements and amendments using the Commission's EDGAR electronic filing system, which generally requires filers to use ASCII or HTML for their document submissions, subject to certain exceptions. EDGAR Filer Manual (Volume II) version 60 (December 2021), at 5–1; *see* 17 CFR 232.301 (incorporating EDGAR Filer Manual into Regulation S–T). To the extent unit investment trusts are part of the same fund family as other types of funds that are subject to Inline XBRL requirements, they may be able to leverage those other funds' existing Inline XBRL tagging experience and software, which would mitigate the initial Inline XBRL implementation costs that unit investment trusts would incur under the proposal.

period. As an alternative, we considered whether to require instead that, if a temporary departure persists past 30 days, the fund's board must approve, or be informed in writing about, the temporary departure. In the context of requiring board approval, we also considered requiring a majority of the independent directors to approve the departure. In the context of requiring board notification, we considered requiring a written report or notification that includes a recommendation from the fund's adviser to be provided to the board immediately or at the next regularly scheduled board meeting. Had we proposed either such alternative, these alternatives could have accompanied the retention of the current rule's ''under normal circumstances'' standard with either of these additional alternative requirements as a supplementary element designed to prevent a fund from investing inconsistently with its 80% investment policy for an extended period of time.

Collectively, these alternatives may provide more flexibility for funds to address the conditions that necessitate temporary departures than the proposed amendments in that they would not limit the types of circumstances in which a fund could engage in a temporary departure, and allow longer departures, provided that the board either approves or is notified of the departure. This approach could also provide funds with more flexibility to reduce loss during market crises and manage liquidity risk, which could, in turn, reduce any adverse effects that a fund's trading activity may have on the markets for the investments in its portfolio. Conversely, these alternatives may have been less effective than the proposed amendments at addressing the concerns highlighted above regarding portfolio ''drift'' and could be more likely to frustrate investors' expectations for the fund's portfolio investments in light of the investment focus the fund's name suggests to the extent that investors might expect a fund manager to be fully invested in designated investments rather than expect the manager to use its judgment to mitigate losses. For example, a fund board could determine to engage in a departure for longer than 30 days to address a market disruption, but this action might frustrate the expectation of investors who may expect the fund to invest consistent with its stated investment focus even during market disruptions, and therefore may choose to rebalance investments on their own rather than relying upon the fund to do so. We also believe that this alternative would increase burdens on fund boards, particularly if we were to require the approval or notification be immediate. Alternatively, if we were to require the approval or notification be made at the next regularly scheduled board meeting, the conditions that gave rise to the need for the departure may have resolved without the input of the board, given that most fund boards meet on a quarterly basis. Lastly, this approach would not be suitable for UITs, which have neither active management nor boards.

5. Require a Higher Percentage of Assets Invested in Accordance with the Investment Focus

The 80% investment policy requirement under the proposed amendments would not change the percentage of assets in which a policy adopted under the names rule would require funds to invest in accordance with the investment focus that the fund's name suggests, in relation to the current rule's requirements. However, we considered whether to proposed requiring a higher percentage than 80% for certain fund names—for example, index funds and funds whose names suggest an investment focus involving consideration of ESG factors—to the extent that reasonable investor expectations could make a higher percentage appropriate. For example, investors in an index fund may expect the fund to be invested at or near 100% in the named index given that these investors would likely be purchasing the fund to obtain exposure to that index.

We ultimately determined not to propose this alternative, given the ways in which the other aspects of the proposed amendments address reasonable investor expectations and materially deceptive and misleading fund names. These include, for example, the provision that a fund's name may be materially deceptive or misleading even if the fund adopts an 80% investment policy and otherwise complies with the rule's requirement to adopt and implement the policy, the proposed new prospectus disclosure requirements, and the proposed Form N–PORT reporting requirements. As discussed above, the Commission has previously stated that index funds generally would be expected to invest more than 80% of their assets in investments connoted by the applicable index. To the extent that investors expect and prefer index funds that invest a significantly higher percentage of their assets in their 80% baskets, information would be available to help them make investment decisions that reflect this preference. Additionally, we believe that proposing to raise the threshold in the required investment policy is less necessary to address investors' expectations, in light of the proposal to narrow the circumstances and limit the time period during which a fund may engage in temporary departures from the 80% investment requirement, which similarly addresses investors' expectations that a fund's investments reflect the investment focus that the fund's name suggests.

6. Unlisted Closed-End Funds and BDCs

We are proposing to require that a fund's 80% investment policy must always be a fundamental investment policy if the fund is an unlisted closed-end fund or a BDC. As an alternative, we considered requiring instead that such funds either adopt the 80% investment policy as a fundamental policy or both provide shareholders 60 days' prior notice of a change *and* conduct an issuer tender offer or a repurchase offer to provide shareholders the opportunity to redeem their shares. This alternative would provide affected funds the opportunity to avoid the costs of a shareholder vote while also providing investors with some recourse if the fund were to change its investment policy and the investment focus that the fund's name indicates.

However, this alternative approach raised concerns regarding the percentage of fund shares we should require these funds to offer to repurchase, and therefore the proposal incorporates a shareholder vote requirement for unlisted closed-end funds and BDCs that seek to change their 80% investment policy, instead of this alternative. As noted above, while unlisted closed-end funds and BDCs generally offer a periodic repurchase tender offer, these offers are limited and unlikely to provide recourse to investors in the case where a large number of investors are dissatisfied with the change. Even discretionary repurchases as permitted under 17 CFR 270.23c–3(c) are generally limited to 25% of the common stock outstanding.[239] This amount could be too low to address the investor protection concerns that the proposed approach for unlisted closed-end funds and BDCs is designed to address. As a result, we considered some larger percentage. However, a large tender offer for all or substantially all of the outstanding shares could prove even more costly to these funds

[239] *See* 17 CFR 270.23c–3(a)(3), (b)(5), and (c).

than a shareholder vote and could result in the fund's liquidation.

F. General Request for Comment

The Commission requests comment on all aspects of this initial economic analysis, including whether the analysis has: (1) identified all benefits and costs, including all effects on efficiency, competition, and capital formation; (2) given due consideration to each benefit and cost, including each effect on efficiency, competition, and capital formation; and (3) identified and considered reasonable alternatives to the proposed regulations. We request and encourage any interested person to submit comments regarding the proposed regulations, our analysis of the potential effects of the proposed regulations, and other matters that may have an effect on the proposed regulations. We request that commenters identify sources of data and information as well as provide data and information to assist us in analyzing the economic consequences of the proposed regulations. We also are interested in comments on the qualitative benefits and costs we have identified and any benefits and costs we may not have discussed.

In addition to our general request for comment on the economic analysis associated with the proposed amendments, we request specific comment on certain aspects of the proposal:

1. Have we correctly identified the benefits and costs of the proposed rule amendments? Are there additional benefits and costs that we should include in our analysis?

2. We encourage commenters to identify, discuss, analyze, and supply relevant data, information, or statistics related to the benefits and costs associated the proposed rule amendments.

3. Are there costs to, or effect on, parties other than those we have identified? What are the costs and/or effects?

4. The proposed amendments would permit some flexibility to depart temporarily from the 80% investment requirement in particular, time-limited circumstances when doing so would be beneficial to the fund and its shareholders. Are there circumstances where the proposed amendments would not allow a fund to temporarily depart from the 80% requirement, that would be allowed under the current rule? Please provide specific examples, if possible.

5. How costly would the proposed provision regarding the use of ESG terminology in their names be for ESG integration funds?

6. Do investors in certain types of funds (*e.g.,* ESG funds, or funds whose strategies involve the application of moral parameters) care if a fund's 80% investment policy includes derivatives that provide synthetic exposure to the investment focus that the name suggests, rather than cash market holdings in that investment focus? Would the use of notional values cause investors to be less likely to invest in those types of funds, or if they continue to invest in those funds, cause investors to expend greater resources to monitor how a fund complies with the 80% investment requirement?

IV. Paperwork Reduction Act Analysis

A. Introduction

Certain provisions of the proposed rules and form amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[240] We are submitting the proposed collections of information to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[241] The title for the collection of information is: (1) ''Rule 35d–1 under the Investment Company Act of 1940, Investment Company Names'' (OMB Control No. 3235–0548); (2) ''Form N–1A under the Investment Company Act of 1940 and Securities Act of 1933, registration statement of Open-End Management Investment Companies'' (OMB Control No. 3235–0307); (3) ''Form N–2 under the Investment Company Act of 1940 and Securities Act of 1933, Registration Statement of Closed-End Management Companies'' (OMB Control No. 3235–0026); (4) ''Form N–8B–2, Registration Statement of Unite Investment Trusts Which Are Currently Issuing Securities'' (OMB Control No. 3235–0186); (5) ''Form S–6, Registration Under the Securities Act of 1933 of Unit Investment Trusts Registered on Form N–8B–2'' (OMB Control No. 3235–0184); (6) ''Form N–PORT under the Investment Company Act of 1940'' (OMB Control No. 3235–730); and (7) ''Investment Company Interactive Data'' (OMB Control No. 3235–0642).

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 OMB control number.

We discuss below the collection of information burdens associated with proposed amendments to rule 35d–1, Form N–1A, Form N–2, Form N–8B–2, Form S–6, Form N–PORT; and the proposed interactive data requirements.

B. Rule 35d–1

Rule 35d–1 is designed to address certain broad categories of investment company names that, in the Commission's view, are likely to mislead an investor about a company's investments and risks. Under our proposal, the scope of funds covered by the 80% investment policy requirement of rule 35d–1 would be expanded. In addition to those fund names currently subject to the rule, the proposal would specify that any fund with a name suggesting that the fund focuses its investments in investments that have, or whose issuers have, characteristics suggested by the fund's name would have to adopt an 80% investment policy.

We are further proposing to update the names rule's notice requirement expressly to address funds that use electronic delivery methods to provide information to their shareholders. The proposed amendments also would require notices not only to describe a change in the fund's 80% investment policy, but also a change to the fund's name that accompanies the investment policy change.

The proposed amendments would also include certain new recordkeeping requirements. The amendments would newly require a fund that is required to adopt an 80% investment policy to maintain a written record documenting its compliance with the rule, including the fund's record of which assets are invested in the fund's 80% basket, the basis for including each such asset in the fund's 80% basket, as well as the operation of its 80% investment policy. Funds that do not adopt an 80% policy must would be required to maintain a written record of the fund's analysis that an 80% policy is not required under the names rule. A fund also would be required to keep records of any notice sent to the fund's shareholders pursuant to the rule.

Rule 35d–1, including the proposed amendments, contains collection of information requirements. These collection of information requirements include, as detailed in the chart below, the proposed notice requirement and recordkeeping requirements (those for funds that are required to adopt an 80% investment policy, and those for funds that do not adopt an 80% investment policy). Compliance with these requirements of the proposed rule would be mandatory. Responses to these

[240] 44 U.S.C. 3501 *et seq.*

[241] 44 U.S.C. 3507(d); 5 CFR 1320.11.

requirements would not be kept confidential.

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TABLE 1: PRA ESTIMATES FOR PROPOSED RULE 35d-1 AMENDMENTS

	Initial hours	Annual hours[1]	Wage rate[2]	Internal time costs	Annual external cost burden
CURRENTLY APROVED BURDENS					
Notice Requirement	0	20 hours[3]	$425 (estimate of wage rate in most recently approved supporting statement)	$8,500	
Number of Funds		X 38 funds[4]		X 38 funds	
Current Burden Estimates		**760 hours**		**$323,000**	**$0**
PROPOSED BURDENS					
Notice Requirement	0 hours	20 hours[5]	$425 (blended rate for attorneys)	$8,500	**$496[9]**
Number of Funds		X 34 funds[6]		X 34 funds	
Total New Burden for Notice Requirement (I)		**680 hours**		**$289,000**	**$16,864**
Recordkeeping for Funds with an 80% Policy[7]	9 hours[8]	50 hours	$356 (1:1 blend for compliance attorney and senior programmer)	$17,800	**$496**
Number of Funds		X 10,394 funds		X 10,394 funds	
Total New Burden for Recordkeeping (II)		**519,700 hours**		**$185,013,200**	**$5,155,424**
Recordkeeping For Funds Not Required to Adopt 80% Policy	0 hours	1 hour X 3,465 funds[10]	$425 (blended rate for attorneys)	$425 X 3,465 funds	**$496**
Total New Burden for Finding (III)		**3,465 hours**		**$1,472,625**	**$1,718,640**
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS					
Total New Annual Burden (I + II + III)		**523,845 hours**		**$186,774,825**	**$6,890,910**

Notes:

1. Includes initial burden estimates annualized over a 3-year period.

2. The estimated wage figure is based on published rates for the professionals described in this chart, modified to account for an 1800-hour work-year and inflation. The estimates for the proposed burdens were multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. *See* Securities Industry and Financial Markets Association's Report on Management & Professional Earnings in the Securities Industry 2013.

3. The Commission estimates that these notices are typically short, one-page documents that are sent to shareholders with other written materials. The Commission anticipates each respondent would only incur these burden hours once.

4. The currently-approved burden takes into account previous Commission estimate, across approximately 13,182 open-end funds and 676 closed-end funds then registered with the Commission, that there are approximately 11,502 funds that have names covered by the rule or 83% of funds covered by the rule (13,858 funds x 83% = 11,502). The Commission estimated that 1% of these funds, or 115 funds, would, within the next three years, provide a notice to shareholders pursuant to rule 35d-1. Therefore, over the course of 3 years, the Commission estimated that, on average approximately 38 funds per year would provide a notice to shareholders under rule 35d-1.

5. Funds are currently required to provide notice to fund shareholders when a fund makes any change to its 80% investment policy. The proposed amendments would make some changes to the current notice requirement, but we do not believe that these proposed alterations would increase the burden hours needed to prepare the notice.

6. The currently-approved PRA burden for rule 35d-1 was based on the Commission's estimate that 83% of funds were covered by rule 35d-1. We now estimate that 75% of funds will have names subject to the 80% investment policy. The prior PRA burden was based on an estimate using a different analytical approach than we are now employing, based on our most up to date economic analysis. Based on our current analysis, we estimate that 62% of funds are currently subject to rule 35d-1 and that our proposed rule amendments would

increase this estimate to 75% of funds. The Commission estimates, across approximately 14,532 open-end and closed-end funds registered with the Commission, that there are approximately 10,394 funds that have names that would be covered by the proposed rule amendments, or 75% of funds covered by the rule amendments (10,223 mutual funds (other than money market funds) + 2,320 non-UIT ETFs + 432 money market funds = 12,975 open end funds + 736 registered closed-end funds + 99 BDCs + 49 UITs = 13,859 funds x 75% = 10,394 funds). The estimate of 49 UITs covered by the rule amendments may be an overestimation, as UITs that have made their initial deposit of securities prior to the effective date of any final rule amendments the Commission adopts would be excepted from the requirements to adopt an 80% investment policy and to provide notices consistent with the rule, unless the UIT has already adopted—or was required to adopt at the time of the initial deposit—an 80% investment policy under the current rule. The Commission estimates that 1% of these 10,394 funds, or 103 funds, would within the next three years provide a notice to shareholders pursuant to the proposed rule amendments. Therefore, over the course of 3 years, the Commission estimates that, on average approximately 34 funds per year would provide a notice to shareholders under the proposed rule amendments.

7. For funds that adopt an 80% investment policy under the proposed rule, the recordkeeping requirements under proposed rule 35d-1(b)(3) would require records documenting the fund's compliance under paragraphs (a) and (b) of proposed rule 35d-1. Written records documenting the fund's compliance include: the fund's record of which assets are invested in the 80% basket and the basis for including each such asset in the fund's 80% basket; the percentage of the value of the fund's assets that are invested in the 80% basket; the reasons for any departures from the fund's 80% investment policy; the dates of any departures from the 80% investment policy; and any notice sent to the fund's shareholders pursuant to proposed rule 35d-1(e). We estimate that these records would generally need to be made daily, but that the vast majority of records would be automated. We understand, however, that some records, specifically, records documenting the reasons for any departures from the 80% investment policy, may not be automated and may require a fund to spend more time to make. Our PRA estimates take these considerations into account.

8. The initial burden for the proposed recordkeeping requirement accounts for the time we estimate that fund will need to establish recordkeeping procedures for the records that must be kept. Once these processes are established, we believe that much of the required recordkeeping, as discussed above, would be largely automated.

9. This estimated burden is based on the estimated wage rate of $496, for 1 hour of outside legal services. The Commission's estimate of the relevant wage rates for external time costs, such as outside legal services, takes into account staff experience, a variety of sources including general information websites, and adjustments for inflation.

10. The Commission estimates across approximately 14,532 open-end and closed-end funds registered with the Commission, that there are approximately 3,465 funds that have names that would be not covered by the proposed rule amendments, or 25% of funds covered by the rule amendments (10,223 mutual funds (other than money market funds) + 2,320 non-UIT ETFs + 432 money market funds = 12,975 open end funds + 736 registered closed-end funds + 99 BDCs + 49 UITs = 13,859 funds x 25% = 3,465 funds).

C. Prospectus Disclosure

We are proposing amendments to funds' registration forms'—specifically, Form N–1A, Form N–2, Form N–8B–2, and Form S–6—that would require each fund that is required to adopt and implement an 80% investment policy to include disclosure in its prospectus that defines the terms used in its name, including the specific criteria the fund uses to select the investments that the term describes, if any. These amendments are designed to help investors better understand how the fund's investment strategies correspond with the investment focus that the fund's name suggests as well as to provide additional information about how the fund's management seeks to achieve the fund's objective. While the proposed new disclosure is not currently required in a fund's prospectus, we understand that including similar disclosure is currently common practice and that this proposal would codify this practice. Based on our understanding of current disclosure practices, we believe that any changes to current practices that the proposed amendments would create would generally be minor. Therefore, the PRA estimates associated with the proposed amendments likely overestimate the costs associated with the proposed amendments for those funds whose disclosure is currently in line with the disclosure the amendments would require.

The proposed amendments to Form N–1A, Form N–2, Form N–8B–2, and Form S–6 all contain collection of information requirements. Compliance with the disclosure requirements of each form is mandatory. Responses to these disclosure requirements will not be kept confidential.

1. Form N–1A

TABLE 2: ESTIMATES FOR PROPOSED AMENDMENTS TO FORM N-1A

	Initial hours	Annual hours[1]		Wage rate[2]	Internal time costs	Annual external cost burden
CURRENTLY APROVED BURDENS						
Preparing and Filing Reports on Form N-1A Generally		278	x	$284 (estimate of wage rate in most recently approved supporting statement)	$78,952	**$21,849**
Number of Responses		6,002[3]			6,002	**6,002**
Current Burden Requirement		**1,672,077 hours**			**$474,392,078**	**$132,940,008**
PROPOSED BURDENS						
Proposed New Names Rule Disclosure	7 hours	10 hours	×	$356 (1:1 blend of attorney and senior programmer)	$3,560	**$992**[5]
Number of funds		× 9,731 funds[4]			× 9,731 funds	× 9,731 funds
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS						
Total New Annual Burden		**97,310 hours**			**$34,643,250**	**$9,653,152**

Notes:

1. Includes initial burden estimates annualized over a 3-year period.

2. The estimated wage figure is based on published rates for the professionals described in this chart, modified to account for an 1800-hour work-year and inflation. The estimates for the proposed burdens were multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. *See* Securities Industry and Financial Markets Association's Report on Management & Professional Earnings in the Securities Industry 2013.

3. The currently-approved burden was based on the Commission's estimate that included all open-end funds, including ETFs, then registered on Form N-1A.

4. The currently-approved PRA burden for rule 35d-1 was based on the Commission's estimate that 83% of funds were covered by rule 35d-1. We now estimate that 75% of funds would be covered by our proposed rule amendments. The prior PRA burden was based on an estimate using a different analytical approach than we are now employing. Based on our current analysis, we estimate that 62% of funds are currently subject to rule 35d-1 and that our proposed rule amendments would increase this estimate to 75% of funds. The Commission estimates, across approximately 12,975 open-end funds including ETFs registered with the Commission, that there are approximately 9,731 open-end funds that have names that would be covered by the proposed rule amendments, or 75% of open-end funds covered by the rule amendments (10,223 mutual funds (other than money market funds) + 2,320 non-UIT ETFs + 432 money market funds = 12,975 open end funds x 75% = 9,731 open-end funds).

5. The estimated burden is based on the estimated wage rate of $496/hour, for 2 hours, for outside legal services. The Commission's estimates of the relevant wage rate for external time costs, such as outside legal services, take into account staff experience, a variety of sources including general information websites, and adjustments for inflation.

2. Form N–2

TABLE 3: ESTIMATES FOR PROPOSED AMENDMENTS TO FORM N-2

	Initial hours	Annual hours[1]		Wage rate[2]	Internal time costs	Annual external cost burden
CURRENTLY APROVED BURDENS						
Preparing and Filing Reports on Form N-2 Generally		2,426	x	$400 (estimate of wage rate in most recently approved supporting statement)	$970,533	**$160,523**
Number of Responses		298			298	**298**
Current Burden Requirement		**722,948 hours**			**$289,218,834**	**$47,835,854**
PROPOSED BURDENS						
Proposed New Names Rule Disclosure	7 hours	10 hours	×	$356 (1:1 blend of attorney and senior programmer)	$3,560	**$992**[4]
Number of Funds		× 626 funds[3]			× 626 funds	x 626
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS						
Total New Annual Burden		**6,260 hours**			**$2,228,560**	**$620,992**

Notes:
1. Includes initial burden estimates annualized over a 3-year period.
2. The estimated wage figure is based on published rates for the professionals described in this chart, modified to account for an 1800-hour work-year and inflation. The estimates for the proposed burdens were multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. *See* Securities Industry and Financial Markets Association's Report on Management & Professional Earnings in the Securities Industry 2013.
3. The currently-approved PRA burden for rule 35d-1 was based on the Commission's estimate that 83% of funds were covered by rule 35d-1. We now estimate that 75% of funds would be covered by our proposed rule amendments. The prior PRA burden was based on an estimate using a different analytical approach than we are now employing. Based on our current analysis, we estimate that 62% of funds are currently subject to rule 35d-1 and that our proposed rule amendments would increase this estimate to 75% of funds. The Commission estimates, across approximately 835 closed-end funds registered with the Commission, that there are approximately 626 closed-end funds that have names that would be covered by the proposed rule amendments, or 75% of closed-end funds covered by the rule amendments (736 registered closed-end funds +99 BDCs = 835 Form N-2 registrants x 75% = 626 Form N-2 registrants).
4. The estimated burden is based on the estimated wage rate of $496/hour, for 2 hours, for outside legal services. The Commission's estimates of the relevant wage rate for external time costs, such as outside legal services, take into account staff experience, a variety of sources including general information websites, and adjustments for inflation.

3. Form N–8B–2

TABLE 4: ESTIMATES FOR PROPOSED AMENDMENTS TO FORM N-8B-2

		Annual hours[1]		Wage rate[2]	Cost of Internal Burden per Portfolio	Annual Cost Burden per Portfolio
CURRENTLY APROVED BURDENS						
Preparing and Filing Reports on Form N-8B-2 Generally	UITs	10 hours	x	$351 (estimate of wage rate in most recently approved supporting statement)	$3,510	**$10,000**
	UIT ETFs	18 hours	x	$351 (estimate of wage rate in most recently approved supporting statement)	$6,318	**$0**
Number of Responses		1[3]			1	**1**
Current Burden Requirement		**28 hours**			**$9,828**	**$10,000**
PROPOSED BURDENS						
Proposed New Names Rule Disclosure	7	10 hours	×	$356 (1:1 blend of compliance attorney and senior programmer)	$3,560	**$992**
Number of Responses		× 1 UIT[4]			× 1 UIT	X1 UIT[5]
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS						
Total New Annual Burden		**10 hours**			**$3,560**	**$992**

Notes:

1. Includes initial burden estimates annualized over a 3-year period.
2. The estimated wage figure is based on published rates for the professionals described in this chart, modified to account for an 1800-hour work-year and inflation. The estimates for the proposed burdens were multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. *See* Securities Industry and Financial Markets Association's Report on Management & Professional Earnings in the Securities Industry 2013.
3. Based on Commission records, in 2016, 2017, 2018, and 2019, during that four-year period, the Commission received 1 filing, submitted in 2019, on Form N-8B-2. The cumulative 4-year average is, therefore, 0.25 filings per year.
4. For purposes of this PRA we continue to assume 1 filing annually.
5. The estimated burden is based on the estimated wage rate of $496/hour, for 2 hours, for outside legal services. The Commission's estimates of the relevant wage rate for external time costs, such as outside legal services, take into account staff experience, a variety of sources including general information websites, and adjustments for inflation.

4. Form S–6

TABLE 5: ESTIMATES FOR PROPOSED AMENDMENTS TO FORM S-6

	Initial Hours	Annual hours[1]		Wage rate[2]	Internal Costs	Annual External Costs
CURRENTLY APROVED BURDENS						
Draft and Update Disclosures on Form S-6[3]	24 hours	18 hours	x	$356 (1:1 blend of compliance attorney and senior programmer)	$6,408	**$27,265**
Number of Responses		2,498			2,498	**2,498**
Current Burden Requirement		107,359			$16,007,184	**$68,107,970**
PROPOSED BURDENS						
Proposed New Names Rule Disclosure	7 hours	10 hours	×	$356 (1:1 blend of compliance attorney and senior programmer)	$3,560	**$992**
Number of Responses		× 785 filings[4]			× 785 filings	785 filings[5]
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS						
Total New Annual Burden		7,850 hours			$2,794,600	$778,720

Notes:

1. Includes initial burden estimates annualized over a 3-year period.
2. The estimated wage figure is based on published rates for the professionals described in this chart, modified to account for an 1800-hour work-year and inflation. The estimates for the proposed burdens were multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. *See* Securities Industry and Financial Markets Association's Report on Management & Professional Earnings in the Securities Industry 2013.
3. Form S-6 incorporates the disclosure requirements of Form N-8B-2 for UITs on an ongoing basis. We are not proposing amendments to Form S-6. However, because Form S-6 incorporates the requirements of Form N-8B-2, the amendments would indirectly affect these entities. UITs that have made their initial deposit of securities prior to the effective date of any final rule would be required to update their disclosure on Form S-6 to comply with the amended requirements of Form N-8B-2. As discussed above, UITs formed after the adoption of any final rules would be required to comply with the proposed disclosure requirements upon formation when those UITs file Form N-8B-2 with the Commission.
4. The currently-approved PRA burden for rule 35d-1 was based on the Commission's estimate that 83% of funds were covered by rule 35d-1. We now estimate that 75% of funds would be covered by our proposed rule amendments, based on this proposal's economic analysis above. The prior PRA burden was based on an estimate using a different analytical approach than we are now employing. Based on our current analysis, we estimate that 62% of funds are currently subject to rule 35d-1 and that our proposed rule amendments would increase this estimate to 75% of funds. The Commission estimates 49 non-separate account and non-ETF UITs registered with the Commission. However, we believe using the number of filings instead of registrants would form a more accurate estimate of annual disclosure burdens. We estimate 1,047 filings based on the average number of filings made on Form S-6 from 2018 to 2020. We therefore estimate that there are approximately 785 filings for funds that have names that would be covered by the proposed rule amendments, or 75% of the filings for UITs covered by the rule amendments (1,047 filings x 75% = 785 filings).
5. The estimated burden is based on the estimated wage rate of $496/hour, for 2 hours, for outside legal services. The Commission's estimates of the relevant wage rate for external time costs, such as outside legal services, take into account staff experience, a variety of sources including general information websites, and adjustments for inflation.

D. N–PORT Reporting Requirements

We are proposing to amend Form N–PORT to include a new reporting item regarding the 80% investment policy that a fund would adopt in compliance with the names rule. There would also be a proposed new Form N–PORT reporting item requiring a fund subject to the 80% investment policy requirement to indicate, with respect to each portfolio investment, whether the investment is included in the fund's calculation of assets in the fund's 80% basket.

Form N–PORT, including the proposed amendments, contains collection of information requirements. Compliance with the requirements of the form is mandatory. Responses to these reporting requirements will be kept confidential, subject to the provisions of applicable law, for reports filed with respect to the first two months of each quarter. Responses to the new Form N–PORT reporting requirements for the third month of the quarter will not be kept confidential, but made public sixty days after the quarter end.

TABLE 6: PRA ESTIMATES FOR PROPOSED AMENDMENTS TO FORM N-PORT

	Initial hours	Annual hours[1]		Wage rate[2]	Internal time costs	Annual external cost burden
CURRENTLY APROVED BURDENS						
Preparing and Filing Reports on Form N-PORT Generally		44,500	x	$344.19 (estimate of wage rate in most recently approved supporting statement)	$15,316,455	**$4,684,296**
Number of Responses		2,696			2,696	**2,696**
Current Burden Requirement		108,457,536 hours			**$41,293,162,680**	**$12,628,862,016**
PROPOSED BURDENS						
New Reporting About 80% Investment Policy	4 hours	9 hours	×	$356 (blend of compliance attorney and senior programmer)	$3,204	**$992**[4]
Number of Funds		x 9,996 funds[3]			x 9,996 funds	x 9,996 funds
Total New Burden for New Reporting About 80% Investment Policy (I)		**89,964 hours**			**$32,027,184**	**$9,916,032**
Investments to be Included in a Fund's 80% Basket	4 hours	10 hours		$356 (rate for compliance attorney and senior programmer)	$3,560	$992[6]
Number of Funds		X 9,996 funds[4]			X 9,996 funds	x 9,996 funds
Total New Burden for Investments to be Included in a Fund's 80% Basket (II)		**99,960 hours**			**$35,585,760**	$**9,916,032**
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS						
Total New Annual Burden (I + II)		**189,924 hours**			**$67,612,944**	**$19,832,064**

Notes:

1. Includes initial burden estimates annualized over a 3-year period.
2. The estimated wage figure is based on published rates for the professionals described in this chart, modified to account for an 1800-hour work-year and inflation. The estimates for the proposed burdens were multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. *See* Securities Industry and Financial Markets Association's Report on Management & Professional Earnings in the Securities Industry 2013.
3. The currently-approved PRA burden for rule 35d-1 was based on the Commission's estimate that 83% of funds were covered by rule 35d-1. We now estimate that 75% of funds would be covered by our proposed rule amendments. The prior PRA burden was based on an estimate using a different analytical approach than we are now employing. Based on our current analysis, we estimate that 62% of funds are currently subject to rule 35d-1 and that our proposed rule amendments would increase this estimate to 75% of funds. The Commission estimates, across approximately 14,001 open-end and closed-end funds registered with the Commission, not including money market funds, that there are approximately 10,394 funds that have names that would be covered by the proposed rule amendments, or 75% of funds covered by the rule amendments (10,223 mutual funds (other than money market funds) + 2,320 non-UIT ETFs = 12,543 open end funds + 736 registered closed-end funds + 49 UITs = 13,328 funds x 75% = 9,996 funds).
4. *See id.*
5. The estimated burden is based on the estimated wage rate of $496/hour, for 2 hours, for outside legal services. The Commission's estimates of the relevant wage rate for external time costs, such as outside legal services, take into account staff experience, a variety of sources including general information websites, and adjustments for inflation.6. *Id.*

E. Investment Company Interactive Data

We are proposing to amend Form N–2, Form N–8B–2, and Form S–6, as well as rules 485 and 497 under the Securities Act and rule 11 and 405 of Regulation S–T, to require certain new structured data reporting requirements for funds.[242] Specifically, the proposed amendments would include new structured data requirements that would require funds to tag the information that the proposal would require funds to include in their registration statements about their fund name using Inline XBRL.[243] The purpose of these information collections is to make information regarding fund names easier for investors to analyze and to help automate regulatory filings and business information processing, and to improve consistency across all types of funds with respect to the accessibility of fund name information they provide to the market.

Funds filing registration statements on Form N–2 already submit certain information using Inline XBRL format. Based on filing data as of December 30, 2020, we estimate that 626 funds filing registration statements on these forms would be subject to the proposed interactive data amendments. UITs filing initial registration statements on Form N–8B–2 and post-effective amendments on Form S–6 are not currently subject to requirements to submit information in structured form. Because these UITs have not previously been subject to Inline XBRL requirements, we assume that these funds would experience additional burdens related to one-time costs associated with becoming familiarized with Inline XBRL reporting. These costs would include, for example, the acquisition of new software or the services of consultants, and the training of staff. Based on filing data as of December 30, 2020, we estimate that 785 filings would be subject to these proposed amendments. In our most recent Paperwork Reduction Act submission for Investment Company Interactive Data, we estimated a total aggregate annual hour burden of 252,602 hours, and a total aggregate annual external cost burden of $15,350,750.[244] Compliance with the interactive data requirements is mandatory, and the responses will not be kept confidential.

The table below summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to Form N–1A, Form N–2, Form N–8B–2, and Form S–6, as well as Regulation S–T.

[242] The Investment Company Interactive Data collection of information do not impose any separate burden aside from that described in our discussion of the burden estimates for this collection of information. The amendments we are proposing to rule 485 and 497 are conforming amendments that have no associated PRA burden. While the new names-related information that open-end funds would be required to disclose under our proposed amendments to Form N–1A also would be required to be tagged using Inline XBRL, the proposed amendments to Form N–1A would create no additional PRA burden. Our proposal would amend Item 4 of Form N–1A; Form N–1A registrants are already required to submit the information that they provide in response to Item 4 using Inline XBRL. *See supra* footnote 115. Therefore, the burdens associated with tagging Item 4 disclosure are already accounted for under the current Investment Company Interactive Data collection of information.

[243] *See supra* section II.B; *see also* proposed instruction to Item 4(a)(1) of Form N–1A; proposed instruction to Item 8(2) of Form N–2; proposed and proposed instruction to Item 11 of Form N–8B–2.

[244] On November 9, 2020, the Office of Management and Budget approved without change a revision of the currently approved information collection estimate for Registered Investment Company Interactive Data.

TABLE 7: INVESTMENT COMPANY INTERACTIVE DATA

	Internal initial burden hours	Internal annual burden hours[1]	Wage rate[2]	Internal time costs	Annual external cost burden
Names rule information for current XBRL filers[3]	1 hour	1 hour[4]	$356 (blended rate for compliance attorney and senior programmer)	$356	**$50[5]**
Number of funds		× 626 funds[6]		× 626 funds	× 626 funds
Names rule information for new XBRL filers[7]	9 hours	4 hours[8]	$356 (blended rate for compliance attorney and senior programmer)	$1,424	**$900[9]**
Number of filings		× 785 filings[10]		× 785 filings	x 785 filings
Total new aggregate annual burden		3,766 hours[11]		$1,340,696[12]	$737,800 [13]
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS					
Current aggregate annual burden estimates		+ 252,602 hours			+ $15,350,750
Revised aggregate annual burden estimates		256,368 hours			$16,088,550

Notes:
1. Includes initial burden estimates annualized over a 3-year period.
2. See supra table 1 regarding estimated wage rates.
3. This estimate represents the average burden for a filer on Form N-2 that is currently subject to interactive data requirements.
4. Includes initial burden estimates annualized over a three-year period, plus 0.67 hour of ongoing annual burden hours. The estimate of 1 hour is based on the following calculation: ((1 initial hour /3) + 0.67 hour of additional ongoing burden hours) = 1 hour.
5. We estimate an incremental external cost for filers on Form N-2, as they already submit certain information using Inline XBRL.
6. Based on filing data as of December 30, 2020, we estimate 626 funds, including BDCs, filing on Form N-2.
7. This estimate represents the average burden for a filer on Form N-8B-2 and Form S-6 that is not currently subject to interactive data requirements.
8. Includes initial burden estimates annualized over a three-year period, plus 1 hour of ongoing annual burden hours. The estimate of 10 hours is based on the following calculation: ((27 initial hours /3) + 1 hour of additional ongoing burden hours) = 10 hours.
9. We estimate an external cost for filers on Form N-8B-2 and Form S-6 of $900 to reflect one-time compliance and initial set-up costs. Because these filers have not been previously been subject to Inline XBRL requirements, we estimate that these funds would experience additional burdens related to one time-costs associated with becoming familiar with Inline XBRL reporting. These costs would include, for example, the acquisition of new software or the services of consultants, or the training of staff.
10. The Commission estimates 49 non-separate account and non-ETF UITs registered with the Commission. However, we believe using the number of filings instead of registrants would form a more accurate estimate of annual burdens. We estimate 1,047 filings based on the average number of filings made on Form S-6 from 2018 to 2020. We therefore estimate that there are approximately 785 filings for funds that have names that would be covered by the proposed rule amendments, or 75% of the filings for UITs covered by the rule amendments (1,047 filings x 75% = 785 filings).
11. 3,766 hours = (626 funds x 1 hour = $626) + (785 filings x 4 hours = $3,140).
12. $1,340,696 internal time cost = (626 funds x $356 = $222,856) + (785 filings x $1,424 = $1,117,840).
13. $737,800 annual external cost = (626 funds x $50 = $31,300) + (785 filings x $900 = $706,500).

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F. Request for Comments

We request comment on whether these estimates are reasonable. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments in order to: (1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information; (3) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (4) determine whether there are ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons wishing to submit comments on the collection of information requirements of the proposed amendments should direct them to the OMB Desk Officer for the Securities and Exchange Commission, *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov,* and should send a copy to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090, with reference to File No. S7–16–22. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication of this release; therefore a comment to OMB is best assured of having its full effect if OMB receives it within 30 days after publication of this release. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–16–22, and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

V. Initial Regulatory Flexibility Analysis

The Commission has prepared the following Initial Regulatory Flexibility Analysis (''IRFA'') in accordance with section 3(a) of the Regulatory Flexibility Act (''RFA'').[245] It relates to proposed amendments to rule 35d–1 and Forms N–1A, N–2, N–8B–2, S–6, and N–PORT, as well as proposed conforming amendments to rules 11 and 405 of Regulation S–T and rules 485 and 497 under the Securities Act (collectively, ''proposed amendments'').

A. Reasons for and Objectives of the Proposed Actions

Section 35(d) of the Act prohibits a registered investment company from adopting as part of its name or title any word or words that the Commission finds are materially deceptive or misleading. Rule 35d–1 addresses certain broad categories of investment company names that are likely to mislead an investor about a company's investments and risks. We are proposing amendments designed to increase investor protection by improving and clarifying the requirement for certain funds to adopt a policy to invest at least 80% of their assets in accordance with the investment focus that the fund's name suggests, updating the rule's notice requirements, and establishing recordkeeping requirements. The Commission also is proposing enhanced prospectus disclosure requirements for terminology used in fund names and additional requirements for funds to report information regarding their compliance with rule 35d-1 on Form N–PORT.

B. Legal Basis

The Commission is proposing the amendments to rule 35d–1 under the authority set forth in sections 8, 30, 31, 34, 35, 38, 59, and 64 of the Investment Company Act of 1940 [15 U.S.C. 80a–8, 80a–29, 80a–30, 80a–33, 80a–34, 80a–37, 80a–58, and 80a–63]. The Commission is proposing amendments to Form N–1A, Form N–2, Form N–8B–2, Form S–6, and Form N–PORT under the authority set forth in sections 8, 30, 35, and 38 of the Investment Company Act of 1940 [15 U.S.C. 80a–8, 80a–18, 80a–34, and 80a–37], sections 5, 6, 7(a), 8, 10, and 19(a) of the Securities Act of 1933 [15 U.S.C. 77e, 77f, 77g(a), 77h, 77j, 77s(a)], and sections 10, 13, 15, 23, and 35A of the Exchange Act [15 U.S.C. 78j, 78m, 78o, 78w, and 78*ll*]. The Commission is proposing amendments to Rules 11 and 405 of Regulation S–T under the authority set forth in section 23 of the Exchange Act [15 U.S.C. 78w]. The Commission is proposing amendments to rules 485 and 497 under the authority set forth in sections 10 and 19 of the Securities Act [15 U.S.C. 77j and 77s].

C. Small Entities Subject to Proposed Rule Amendments

For purposes of Commission rulemaking in connection with the Regulatory Flexibility Act, an investment company is a small entity if, together with other investment companies in the same group of related investment companies, it has net assets of $50 million or less as of the end of its most recent fiscal year (a ''small fund'').[246] Commission staff estimates that, as of June 2021, approximately 27 registered open-end mutual funds (including one money market fund), 6 registered ETFs, 23 registered closed-end funds, 5 UITs, and 9 BDCs (collectively, 70 funds) are small entities.[247]

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

The proposed amendments contain compliance requirements regarding reporting, recordkeeping, and other compliance requirements. First, the proposed amendments would expand the types of fund names subject to the names rule's 80% investment policy requirement, and any fund that has or adopts a newly-covered name would need to adopt an 80% investment policy.[248] The proposed amendments would also include other changes to the current names rule, such as only permitting a fund to engage in temporary departures from an 80% investment requirement under particular circumstances, which would also necessitate an update to funds' existing practices regarding names rule compliance. The proposed amendments would further specify that a fund's name may be materially deceptive or misleading under section 35(d) even if the fund adopts an 80% investment policy and otherwise complies with the rule's requirement to adopt and implement the policy. The proposed amendments would further require a fund that is required to adopt an 80% investment policy to maintain certain records documenting its compliance with the rule, including, among other things, the fund's record of which assets are invested in accordance with the investment focus that the fund's name suggests (or consistent with the tax-exempt treatment its name suggests). Conversely, funds that do not adopt an 80% investment policy would be required to maintain a record documenting their analysis that the 80% investment policy is not required under the rule.

The proposed amendments would also require disclosure in the fund's prospectus regarding the definitions of terms used in the fund's name, including a requirement that funds must tag new information that would be included using Inline XBRL. Under the proposal, funds (other than money market funds and BDCs) that would be required to adopt an 80% investment policy also would newly have to report certain information on Form N–PORT regarding names rule matters. The proposed amendments would define the names of ''integration funds'' as materially deceptive and misleading if the name includes terms indicating that the fund's investment decisions incorporate one or more ESG factors, which would necessitate that such funds either change their names or adjust their investment strategies, and thus potentially their portfolio investments, to ensure compliance. Lastly, the proposed amendments would include exceptions for certain UITs.

1. 80% Investment Policy Requirements—Proposed Scope Expansion and Other Proposed Amendments

Funds, including small funds, which have names that include terms suggesting that the fund focuses its investments in investments that have, or whose issuers have, particular characteristics would be required to adopt an 80% investment policy under the proposed amendments. Further, in order to comply with this element of the proposed amendments, a fund may have to engage in a name change or change its portfolio investments so that the fund's name reflects its 80% basket or vice-versa. Funds that have an existing 80% investment policy would need to

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[245] 5 U.S.C. 603(a).

[246] *See* rule 0–10(a) under the Act [17 CFR 270.0–10(a)].

[247] This estimate is derived from an analysis of data obtained from Morningstar Direct as well as data reported to the Commission for the period ending June 2021.

[248] While the proposed rule amendments would add BDCs to the definition of ''fund'' under the rule, we do not anticipate that this addition will have a significant impact on small entities. BDCs are currently subject to the requirements of section 35(d) pursuant to section 59 of the Act. We understand that BDCs currently comply with the names rule because they are subject to the requirements of section 35(d). *See also supra* footnote 7.

change their practices to comply with the names rule to address other aspects of the proposal: (1) changes to how the rule addresses temporary departures from the 80% investment requirement, (2) changes to address derivatives in calculating compliance with the 80% investment policy requirement, (3) the plain English/established industry use requirement, and (4) updates to the rule's notice requirement. Lastly, a fund that is an unlisted closed-end fund or BDC may be required to amend its existing 80% investment policy so that it is a fundamental policy and, on a going-forward basis, engage in shareholder votes to change its 80% investment policy.

These requirements are designed to help ensure that a fund's investment activity supports the investment focus its name communicates and, thus, the investor expectations the name creates. These requirements will impose burdens on all funds, including those that are small entities. We discuss the specifics of these burdens in the Economic Analysis and Paperwork Reduction Act sections above. These sections also discuss the professional skills that we believe compliance with the proposed amendments would require.

While we would expect larger funds or funds that are part of a large fund complex to incur higher costs related to these requirements in absolute terms relative to a smaller fund or a fund that is part of a smaller fund complex, we would expect a smaller fund to find it more costly, per dollar managed, to comply with the proposed requirements because it would not be able to benefit from a larger fund complex's economies of scale. In particular, a larger fund complex may be able to develop a process with outside counsel or utilize existing systems to make these changes more efficiently across all of their funds that a smaller fund with less resources may find too costly. For example, a larger unlisted BDC or closed-end fund may be able to use existing procedures to develop a method of soliciting shareholder votes regarding name changes that smaller unlisted BDCs or closed-end funds do not have. Notwithstanding the economies of scale experienced by larger versus smaller funds, we would not expect the costs of compliance associated with the new requirements to be meaningfully different for smaller versus larger funds. The costs of compliance would vary only based on fund characteristics tied to their name. That is, whether a fund would now need to adopt, or change, its 80% investment policy, or its practices to comply with the names rule, would be as a consequence of that fund having a name that suggests an investment focus under the proposed amendments, not based upon the size of the fund.

2. Effect of Compliance With an 80% Investment Policy

We are proposing a new provision in the names rule providing that a fund's name may be materially deceptive or misleading under section 35(d) even if the fund adopts an 80% investment policy and otherwise complies with the rule's requirement to adopt and implement the policy. The proposed provision would make clear that a fund name may be materially deceptive or misleading even where the fund complies with its 80% investment policy, for example, potentially where a fund complies with its 80% investment policy but makes a substantial investment that is the antithesis of the fund's investment focus. This proposed new provision is consistent with prior Commission statements noting that the 80% investment requirement under the names rule is not intended to create a safe harbor for investment company names.

This provision would apply to funds, including those that are small entities. However, because this provision restates section 35(d), we believe that it would not result in any additional costs beyond those already attendant on compliance with the Act itself.

3. Recordkeeping Requirements

The proposed recordkeeping requirements are designed to help ensure compliance with the rule's requirements and aid in oversight. A fund that would be required to adopt an 80% investment policy under the proposed amendments would be required to maintain a written record documenting its compliance under the 80% investment policy provisions of the rule. Specifically, the written records documenting the fund's compliance that these funds would be required to maintain would include: (1) the fund's record of which assets are invested in accordance with the fund's investment focus (or, as applicable, consistent with the tax treatment suggested by a tax-exempt fund's name) and any basis for determining that each such asset is invested in accordance with the investment focus that the name suggests (or the tax treatment the name suggests); (2) the percentage of the value of the fund's assets that are invested in accordance with the investment focus that the fund's name suggests (or consistent with the tax treatment suggested by a tax-exempt fund's name); (3) the reasons for any departures from the 80% investment policy; (4) the dates of any departures from the 80% investment policy; and (5) any notice sent to the fund's shareholders pursuant to the rule. If a fund does not adopt an 80% investment policy, it must maintain a written record of the fund's analysis that such a policy is not required under the names rule. Funds must maintain records relating to the fund's compliance with its 80% investment policy for at least six years following the creation of each record (or, in the case of notices, following the date the notice was sent), the first two years in an easily accessible place. A fund that does not adopt a policy under the rule must maintain written records of its analysis for a period of not less than six years following the fund's last use of its name in an easily accessible place.

These proposed requirements would impose burdens on all funds, including those that are small entities. We discuss the specifics of these burdens in the Economic Analysis and Paperwork Reduction Act sections above. These sections also discuss the professional skills that we believe compliance with this aspect of the proposal would require. We would expect that smaller funds—and more specifically, smaller funds that are not part of a fund complex—may not have recordkeeping systems that would meet all the elements that would be required under the proposed amendments. Also, while we would expect larger funds or funds that are part of a large fund complex to incur higher costs related to the requirements in absolute terms relative to a smaller fund or a fund that is part of a smaller fund complex, we would expect a smaller fund to find it more costly, per dollar managed, to comply with the proposed requirements because it would not be able to benefit from a larger fund complex's economies of scale.

4. Disclosure and Reporting Requirements

The proposed requirement for a fund that is subject to the 80% investment policy requirement to define the terms used in the fund's name, including the specific criteria the fund uses to select the investments the term describes, if any, in the fund's prospectus is designed to help investors better understand how the fund's investment strategies correspond with the investment focus that the fund's name suggests as well as to provide additional information about how the fund's management seeks to achieve the fund's objective. The proposed amendments would require funds to tag this disclosure in Inline XBRL.

The proposed amendments would also require funds (other than money market funds and BDCs) that would be required to adopt an 80% investment policy to report certain new information on Form N–PORT: (1) the percentage of the value of the fund's assets that are invested in accordance with the investment focus that the fund's name suggests (or consistent with the tax treatment suggested by a tax-exempt fund's name); (2) if applicable, the number of days that the value of the fund's investments that are invested in accordance with its investment focus fell below 80% of the value of the fund's assets during the reporting period; and (3) with respect to each portfolio investment, whether the investment is included in the fund's calculation of assets in the fund's 80% basket. These Form N–PORT reporting requirements are designed to provide investors with information that may allow them to make better investment choices consistent with their investment preferences as well as increase the effectiveness of the Commission's oversight of a fund's compliance with the names rule.

These requirements will impose burdens on all funds, including those that are small entities. The specifics of these burdens are discussed in the Economic Analysis and Paperwork Reduction Act sections above. These sections also discuss the professional skills that we believe compliance with this aspect of the proposal would require. While we would expect larger funds or funds that are part of a large fund complex to incur higher costs related to these requirements in absolute terms relative to a smaller fund or a fund that is part of a smaller fund complex, we would expect a smaller fund to find it more costly, per dollar managed, to comply with the proposed requirements because it would not be able to benefit from a larger fund complex's economies of scale. Notwithstanding the economies of scale experienced by larger versus smaller funds, we would not expect the costs of compliance associated with the new Form N–PORT requirements to be meaningfully different for smaller versus larger funds. The costs of compliance would vary only based on fund characteristics tied to their name. For example, a fund that frequently departs from the 80% investment requirement would need to provide more information than those that do not, regardless of size. Furthermore, based on our experience implementing tagging requirements that use the XBRL, we recognize that some funds that would be affected by the proposed requirement, particularly filers with no Inline XBRL tagging experience, likely would incur initial costs to acquire the necessary expertise and/or software as well as ongoing costs of tagging required information in Inline XBRL. The incremental effect of any fixed costs, including ongoing fixed costs, of complying with the proposed Inline XBRL requirement may be greater for smaller filers. However, we believe that smaller funds in particular may benefit more from any enhanced exposure to investors that could result from these proposed requirements. If reporting the disclosures in a structured format increases the availability of, or reduces the cost of collecting and analyzing, key information about funds, smaller funds may benefit from improved coverage by third-party information providers and data aggregators.

5. Materially Deceptive and Misleading Use of ESG Terminology in Certain Fund Names

We are proposing to define the names of what this release refers to as ''integration funds'' as materially deceptive and misleading if the name includes terms indicating that the fund's investment decisions incorporate one or more ESG factors. This provision addresses funds that consider one or more ESG factors alongside other, non-ESG factors in the fund's investment decisions, but ESG factors are generally no more significant than other factors in the investment selection process, such that ESG factors may not be determinative in deciding to include or exclude any particular investment in the portfolio. This proposed approach to integration funds targets misleading fund names, and relatedly it is designed to promote ''truth in advertising'' in fund names by making clear that we believe it would be misleading for a fund for which ESG factors are generally no more significant than other factors in the investment selection process to include ESG terminology in its name, as this has the potential to overstate the importance of the ESG factors in the fund's selection of its portfolio investments. This proposed new provision could result in an integration fund needing to change its name or change its investment strategies, policies, or investments themselves in order to comply with it.

This requirement would impose burdens on all funds, including those that are small entities. The specifics of these burdens are discussed in the Economic Analysis section above. There are different factors that would affect whether and to what extent a smaller fund incurs costs related to this requirement. For example while we would expect larger funds or funds that are part of a large fund complex to incur higher costs related to this requirement in absolute terms relative to a smaller fund or a fund that is part of a smaller fund complex, we would expect a smaller fund to find it more costly, per dollar managed, to comply with the proposed requirement because it would not be able to benefit from a larger fund complex's economies of scale to absorb these costs. In particular, a large fund complex that includes an integration fund could more easily bear the costs—if necessary under the proposed provision addressing integration funds—of changing that fund's name, its investment strategies and portfolio, or even a liquidation of that fund more readily than a small fund where the integration fund may be a larger portion of the assets under management. We also believe that small funds may need to use professional skills, particularly retaining counsel to assist in understanding and assisting in compliance with this requirement, should we adopt this provision.

6. Exceptions for Certain UITs

The proposed rule amendments would include certain exceptions for UITs that have made their initial deposit of securities prior to the effective date of any final rule amendments the Commission adopts. Specifically, these UITs would be excepted from the requirements to adopt an 80% investment policy and the recordkeeping requirements, including that for funds which do not adopt an 80% investment policy, unless the UIT has already adopted—or was required to adopt at the time of the initial deposit—an 80% investment policy under the current rule. These exceptions are generally consistent with the treatment of UITs under the current rule, and are designed to address the issues that a UIT's fixed portfolio and lack of active management cause in making portfolio changes to address the proposed amendments. However, UITs, regardless of the date of their initial deposit, would be subject to the rule's other requirements under the proposed amendments, such as the amended notice and recordkeeping requirements discussed above, as well as those of the federal securities laws generally. This exception would be available to UITs of all sizes that meet the criteria that the proposed amendments specify, including the five smaller UITs as applicable.

E. Duplicative, Overlapping, or Conflicting Federal Rules

We do not believe that the proposed amendments would duplicate, overlap, or conflict with other existing federal rules. Additionally, we do not believe that the proposed recordkeeping requirements are duplicative with the proposed requirement to make reports on Form N–PORT. The purpose of the recordkeeping requirements is to provide our staff, and a fund's compliance personnel, the ability to evaluate the fund's compliance with the proposed amendments, whereas the Form N–PORT reporting requirement would provide information to investors and other market participants. Further, while rule 2a–7 contains a provision applying to money market fund names, it only addresses the use of the term ''money market'' and related terms, not the names and terminology that the proposed amendments would.[249] For example, a fund with the name ''Treasury money market fund'' would suggest a money market fund that has an investment focus in Treasury securities or a fund with the name ''Tax-free money market fund'' would suggest a money market fund that is also a tax-exempt fund. In both of these cases, such fund names can be misleading if they do not invest consistent with the investment focus or tax-exempt status suggested by the name even if they follow the requirements of rule 2a–7.

F. Significant Alternatives

The Regulatory Flexibility Act directs the Commission to consider significant alternatives that would accomplish our stated objective, while minimizing any significant economic impact on small entities. We considered the following alternatives for small entities in relation to our proposal: (1) exempting funds that are small entities from the proposed reporting, recordkeeping, and other compliance requirements, to account for resources available to small entities; (2) establishing different reporting, recordkeeping, and other compliance requirements or frequency, to account for resources available to small entities; (3) clarifying, consolidating, or simplifying the compliance requirements under the proposal for small entities; and (4) using performance rather than design standards.

We do not believe that exempting small funds from the provisions of the proposed amendments would permit us to achieve our stated objectives. Only those investment companies that have certain names, such as those suggesting an investment focus or particular tax treatment, would be required to comply with much of the proposal. Further, consistent with the current rule, the 80% investment requirement of the proposed amendments would allow a fund to maintain up to 20% of its assets in other investments. A fund seeking maximum flexibility with respect to its investments would continue be free to use a name that does not require the fund to adopt an 80% investment policy. While such funds would still be subject to a requirement to make a particular record, we believe that such a record creates a minimal burden on funds and helps ensure that investors are receiving the benefits of the names rule where appropriate.

We estimate that 84% of funds have investment policies specifying a minimum percentage of investments consistent with a certain investment focus and, of these, approximately 82% have an investment policy requiring at least 80% of fund investments be consistent with a certain investment focus.[250] This estimate indicates that some funds, including some small funds, would not bear the costs of adopting a new 80% investment policy, though such funds would likely need to update existing policies to account for elements of the proposed amendments. However, for small funds that would be more significantly affected by the proposed amendments, providing an exemption for them could subject investors in small funds to a higher degree of risk than investors to large funds that would be required to comply with the proposed elements of the rule.

We also do not believe that it would be appropriate to subject small funds to different reporting, recordkeeping, and other compliance requirements or frequency. Similar to the concerns discussed above, if the proposal included different requirements for small funds, it could raise investor protection concerns for investors in small funds in that a small fund would not be subject to requirements addressing materially deceptive and misleading fund names that are as robust as those requirements on a large fund. Also, the Commission and other market participants would have less transparency and insight with respect to those smaller funds' 80% investment policies and related investments.

We do not believe that clarifying, consolidating, or simplifying the compliance requirements under the proposal for small funds, beyond that already proposed for all funds, would permit us to achieve our stated objectives. Again, this approach would raise investor protection concerns for investors in small funds and, as discussed above, the proposed amendments would only apply most of the rule's requirements—and corresponding compliance burdens—to certain fund names which are required to adopt an 80% investment policy.

The costs associated with the proposed amendments would vary depending on the fund's particular circumstances, and thus the amendments could result in different burdens on funds' resources. In particular, we expect that a fund that has a name that would be required to adopt an 80% investment policy under the proposed amendments would have higher costs than those that do not even though those funds that do not adopt an 80% investment policy would be required to keep records of their analysis. Thus, to the extent a fund that is a small entity has a name that would not require the fund to adopt an 80% investment policy under the proposed amendments, we believe it would incur relatively low costs to comply with it. Further, some funds with names that would be newly subject to the 80% investment policy requirement may already have adopted an investment policy that requires them to invest 80% or more of the value of their assets in investments consistent with the name, or otherwise may already have investments that reflect the name's focus totaling 80% or more of the value of the fund's assets. These funds would not have to bear the burden of adjusting their portfolios or changing their name, and the burden of adopting an investment policy consistent with the names rule's requirements also could be relatively lower for these funds. However, we believe that it is appropriate for the costs associated with the proposed amendments to correlate with the costs of ensuring that the fund's name reflects its investments (and thus the expectations fostered with investors), as opposed to adjusting these costs to account for a fund's size, in light of how the proposed amendments are designed to further our investor protection objectives.

Finally, with respect to the use of performance rather than design standards, the proposed amendments generally use performance standards for all funds subject to the amendments, regardless of size. We believe that providing funds with the flexibility permitted in the proposal with respect to designing 80% investment policies is

[249] *See* 17 CFR 270.2a–7(b)(2).

[250] *See supra* footnotes 178 and 179 and accompanying text.

appropriate because of the fact-specific nature of the investment focus of funds.

G. Request for Comment

The Commission requests comments regarding this analysis. We request comment on the number of small entities that would be subject to our proposal and whether our proposal would have any effects that have not been discussed. We request that commenters describe the nature of any effects on small entities subject to our proposal and provide empirical data to support the nature and extent of such effects. We also request comment on the estimated compliance burdens of our proposal and how they would affect small entities.

VI. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''), the Commission must advise OMB whether a proposed regulation constitutes a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results in or is likely to result in:

• An annual effect on the economy of $100 million or more;

• A major increase in costs or prices for consumers or individual industries; or

• Significant adverse effects on competition, investment, or innovation.

We request comment on whether our proposal would be a ''major rule'' for purposes of SBREFA. We solicit comment and empirical data on:

• The potential effect on the U.S. economy on an annual basis;

• Any potential increase in costs or prices for consumers or individual industries; and

• Any potential effect on competition, investment, or innovation.

Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

VII. Statutory Authority

The Commission is proposing the amendments to rule 35d–1 under the authority set forth in sections 8, 30, 31, 34, 35, 38, 59, and 64 of the Investment Company Act of 1940 [15 U.S.C. 80a–8, 80a–29, 80a–30, 80a–33, 80a–34, 80a–37, 80a–58, and 80a–63]. The Commission is proposing amendments to Form N–1A, Form N–2, Form N–8B–2, Form S–6, and Form N–PORT under the authority set forth in sections 8, 30, 35, and 38 of the Investment Company Act of 1940 [15 U.S.C. 80a–8, 80a–18, 80a–34, and 80a–37], sections 5, 6, 7(a), 8, 10, and 19(a) of the Securities Act of 1933 [15 U.S.C. 77e, 77f, 77g(a), 77h, 77j, and 77s(a)], and sections 10, 13, 15, 23, and 35A of the Exchange Act [15 U.S.C. 78j, 78m, 78o, 78w, and 78*ll*]. The Commission is proposing amendments to rules 11 and 405 of Regulation S–T under the authority set forth in section 23 of the Exchange Act [15 U.S.C. 78w]. The Commission is proposing amendments to rules 485 and 497 under the authority set forth in sections 10 and 19 of the Securities Act [15 U.S.C. 77j and 77s].

List of Subjects

17 CFR Part 230

Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 232

Administrative practice and procedure, Reporting and recordkeeping requirements, Securities.

17 CFR Part 239

Reporting and recordkeeping requirements, Securities.

17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Proposed Rules and Rule and Form Amendments

For the reasons set out in the preamble, title 17, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 1. The general authority citation for part 230 continues to read as follows:

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78l, 78m, 78n, 78o, 78o–7 note, 78t, 78w, 78ll(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, and Pub. L. 112–106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

* * * * *

Sections 230.400 to 230.499 issued under secs. 6, 8, 10, 19, 48 Stat. 78, 79, 81, and 85, as amended (15 U.S.C. 77f, 77h, 77j, 77s).

* * * * *

■ 2. Amend § 230.485 by revising paragraph (c)(3) to read as follows:

§ 230.485 Effective date of post-effective amendments filed by certain registered investment companies.

* * * * *

(c) * * *

(3) A registrant's ability to file a post-effective amendment, other than an amendment filed solely for purposes of submitting an Interactive Data File, under paragraph (b) of this section is automatically suspended if a registrant fails to submit any Interactive Data File (as defined in § 232.11 of this chapter) required by the Form on which the registrant is filing the post-effective amendment. A suspension under this paragraph (c)(3) shall become effective at such time as the registrant fails to submit an Interactive Data File as required by the relevant Form. Any such suspension, so long as it is in effect, shall apply to any post-effective amendment that is filed after the suspension becomes effective, but shall not apply to any post-effective amendment that was filed before the suspension became effective. Any suspension shall apply only to the ability to file a post-effective amendment pursuant to paragraph (b) of this section and shall not otherwise affect any post-effective amendment. Any suspension under this paragraph (c)(3) shall terminate as soon as a registrant has submitted the Interactive Data File required by the relevant Form.

* * * * *

■ 3. Amend § 230.497 by revising paragraphs (c) and (e) to read as follows:

§ 230.497 Filing of investment company prospectuses—number of copies.

* * * * *

(c) For investment companies filing on §§ 239.15A and 274.11A of this chapter (Form N–1A), §§ 239.17a and 274.11b of this chapter (Form N–3), §§ 239.17b and 274.11c of this chapter (Form N–4), or §§ 239.17c and 274.11d of this chapter (Form N–6), within five days after the effective date of a registration statement or the commencement of a public offering after the effective date of a registration statement, whichever occurs later, 10 copies of each form of prospectus and form of Statement of Additional Information used after the effective date in connection with such offering shall be filed with the Commission in the exact form in which it was used. Investment companies filing on Forms N–1A, N–3, N–4, or N–6 must submit an Interactive Data File (as defined in § 232.11 of this chapter) if required by the Form on which the registrant files its registration statement.

* * * * *

(e) For investment companies filing on §§ 239.15A and 274.11A of this chapter (Form N–1A), §§ 239.17a and 274.11b of this chapter (Form N–3), §§ 239.17b and 274.11c of this chapter (Form N–4), or §§ 239.17c and 274.11d of this chapter (Form N–6), after the effective date of a registration statement, no prospectus that purports to comply with Section 10 of the Act (15 U.S.C. 77j) or Statement of Additional Information that varies from any form of prospectus or form of Statement of Additional Information filed pursuant to paragraph (c) of this section shall be used until five copies thereof have been filed with, or mailed for filing to the Commission. Investment companies filing on Forms N–1A, N–3, N–4, or N–6 must submit an Interactive Data File (as defined in § 232.11 of this chapter) if required by the Form on which the registrant files its registration statement.

* * * * *

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 4. The general authority citation for part 232 continues to read as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*, 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 5. Amend § 232.11 by revising the definition of ''Related Official Filing'' to read as follows:

§ 232.11 Definition of terms used in this part.

* * * * *

Related Official Filing. The term *Related Official Filing* means the ASCII or HTML format part of the official filing with which all or part of an Interactive Data File appears as an exhibit or, in the case of a filing on Form N–1A (§§ 239.15A and 274.11A of this chapter), Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), Form N–3 (§§ 239.17a and 274.11b of this chapter), Form N–4 (§§ 239.17b and 274.11c of this chapter), Form N–6 (§§ 239.17c and 274.11d of this chapter), Form N–8B–2 (§ 274.12 of this chapter), Form S–6 (§ 239.16 of this chapter), and Form N–CSR (§ 274.128 of this chapter), and, to the extent required by § 232.405 [Rule 405 of Regulation S–T] for a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(48)), Form 10–K (§ 249.310 of this chapter), Form 10–Q (§ 249.308a of this chapter), and Form 8–K (§ 249.308 of this chapter), the ASCII or HTML format part of an official filing that contains the information to which an Interactive Data File corresponds.

* * * * *

■ 6. Amend § 232.405 by revising:

■ a. The introductory text, paragraphs (a)(2), (a)(3) introductory text, (a)(3)(i) introductory text, (a)(3)(ii), and (a)(4);

■ b. Paragraphs (b)(1) introductory text, (b)(2), and (b)(3)(iii); and

■ c. Note 1 to § 232.405.

The revisions read as follows:

§ 232.405 Interactive Data File submissions.

This section applies to electronic filers that submit Interactive Data Files. Section 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S–K), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), General Instruction C.3.(h) of Form N–3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N–4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N–6 (§§ 239.17c and 274.11d of this chapter), General Instruction 2.(*l*) of Form N–8B–2 (§ 274.12 of this chapter), General Instruction 5 of Form S–6 (§ 239.16 of this chapter), and General Instruction C.4 of Form N–CSR (§§ 249.331 and 274.128 of this chapter) specify when electronic filers are required or permitted to submit an Interactive Data File (§ 232.11), as further described in note 1 to this section. This section imposes content, format, and submission requirements for an Interactive Data File, but does not change the substantive content requirements for the financial and other disclosures in the Related Official Filing (§ 232.11).

(a) * * *

(2) Be submitted only by an electronic filer either required or permitted to submit an Interactive Data File as specified by § 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S–K), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), General Instruction C.3.(h) of Form N–3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N–4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N–6 (§§ 239.17c and 274.11d of this chapter), General Instruction 2.(*l*) of Form N–8B–2 (§ 274.12 of this chapter), General Instruction 5 of Form S–6 (§ 239.16 of this chapter), or General Instruction C.4 of Form N–CSR (§§ 249.331 and 274.128 of this chapter), as applicable;

(3) Be submitted using Inline XBRL:

(i) If the electronic filer is not a management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), a separate account as defined in Section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940, a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(48)), or a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–4), and is not within one of the categories specified in paragraph (f)(1)(i) of this section, as partly embedded into a filing with the remainder simultaneously submitted as an exhibit to:

* * * * *

(ii) If the electronic filer is a management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), a separate account (as defined in Section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940, a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(48)), or a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–4) and is not within one of the categories specified in paragraph (f)(1)(ii) of this section, as partly embedded into a filing with the remainder simultaneously submitted as an exhibit to a filing that contains the disclosure this section requires to be tagged; and

(4) Be submitted in accordance with the EDGAR Filer Manual and, as applicable, either Item 601(b)(101) of Regulation S–K (§ 229.601(b)(101) of this chapter), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), General Instruction C.3.(g) of Form N–1A

(§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), General Instruction C.3.(h) of Form N–3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N–4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N–6 (§§ 239.17c and 274.11d of this chapter); Instruction 2.(*l*) of Form N–8B–2 (§ 274.12 of this chapter; General Instruction 5 of Form S–6 (§ 239.16 of this chapter); or General Instruction C.4 of Form N–CSR (§§ 249.331 and 274.128 of this chapter).

(b) * * *

(1) If the electronic filer is not a management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), a separate account (as defined in Section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940, a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(48)), or a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–4), an Interactive Data File must consist of only a complete set of information for all periods required to be presented in the corresponding data in the Related Official Filing, no more and no less, from all of the following categories:

* * * * *

(2) If the electronic filer is an open-end management investment company registered under the Investment Company Act of 1940, a separate account (as defined in section 2(a)(14) of the Securities Act) registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), or a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–4), an Interactive Data File must consist of only a complete set of information for all periods required to be presented in the corresponding data in the Related Official Filing, no more and no less, from the information set forth in:

(i) Items 2, 3, 4, and 10(a)(4) of §§ 239.15A and 274.11A of this chapter (Form N–1A);

(ii) Items 2, 4, 5, 11, 18 and 19 of §§ 239.17a and 274.11b of this chapter (Form N–3);

(iii) Items 2, 4, 5, 10, and 17 of §§ 239.17b and 274.11c of this chapter (Form N–4); or

(iv) Items 2, 4, 5, 10, 11, and 18 of §§ 239.17c and 274.11d of this chapter (Form N–6); or

(v) Item 11 of § 274.12 of this chapter (Form N–8B–2), including to the extent required by § 239.16 of this chapter (Form S–6); as applicable.

(3) * * *

(iii) As applicable, all of the information provided in response to Items 3.1, 4.3, 8.2.b, 8.2.d, 8.3.a, 8.3.b, 8.5.b, 8.5.c, 8.5.e, 10.1.a–d, 10.2.a–c, 10.2.e, 10.3, and 10.5 of Form N–2 in any registration statement or post-effective amendment thereto filed on Form N–2; or any form of prospectus filed pursuant to § 230.424 of this chapter (Rule 424 under the Securities Act); or, if a Registrant is filing a registration statement pursuant to General Instruction A.2 of Form N–2, any filing on Form N–CSR, Form 10–K, Form 10–Q, or Form 8–K to the extent such information appears therein.

* * * * *

Note 1 to § 232.405: Section 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S–K) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to § 239.11 of this chapter (Form S–1), § 239.13 of this chapter (Form S–3), § 239.25 of this chapter (Form S–4), § 239.18 of this chapter (Form S–11), § 239.31 of this chapter (Form F–1), § 239.33 of this chapter (Form F–3), § 239.34 of this chapter (Form F–4), § 249.310 of this chapter (Form 10–K), § 249.308a of this chapter (Form 10–Q), and § 249.308 of this chapter (Form 8–K). Paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of § 239.40 of this chapter (Form F–10) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to Form F–10. Paragraph 101 of the Instructions as to Exhibits of § 249.220f of this chapter (Form 20–F) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to Form 20–F. Paragraph B.(15) of the General Instructions to § 249.240f of this chapter (Form 40–F) and Paragraph C.(6) of the General Instructions to § 249.306 of this chapter (Form 6–K) specify the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to § 249.240f of this chapter (Form 40–F) and § 249.306 of this chapter (Form 6–K). Section 229.601(b)(101) (Item 601(b)(101) of Regulation S–K), paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of Form F–10, paragraph 101 of the Instructions as to Exhibits of Form 20–F, paragraph B.(15) of the General Instructions to Form 40–F, and paragraph C.(6) of the General Instructions to Form 6–K all prohibit submission of an Interactive Data File by an issuer that prepares its financial statements in accordance with 17 CFR 210.6–01 through 210.6–10 (Article 6 of Regulation S–X). For an issuer that is a management investment company or separate account registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(48)), or a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–4), General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), General Instruction C.3.(h) of Form N–3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N–4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N–6 (§§ 239.17c and 274.11d of this chapter), General Instruction 2.(*l*) of Form N–8B–2 (§ 274.12 of this chapter), General Instruction 5 of Form S–6 (§ 239.16 of this chapter), and General Instruction C.4 of Form N–CSR (§§ 249.331 and 274.128 of this chapter), as applicable, specifies the circumstances under which an Interactive Data File must be submitted.

PART 239 — FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 7. The general authority citation for part 239 continues to read as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78o–7 note, 78u–5, 78w(a), 78ll, 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a13, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37; and sec. 107, Pub. L. 112–106, 126 Stat. 312, unless otherwise noted.

* * * * *

■ 8. Amend Form S–6 (referenced in §§ 239.16) by adding General Instruction 5 as follows:

Note: The text of Form S–6 does not, and these amendments will not, appear in the *Code of Federal Regulations.*

Form S–6

* * * * *

Instruction 5. Interactive Data

(a) An Interactive Data File as defined in rule 11 of Regulation S–T [17 CFR 232.11] is required to be submitted to the Commission in the manner provided by rule 405 of Regulation S–T [17 CFR 232.405] for any registration statement or post-effective amendment thereto on Form S–6 that includes or amends information provided in response to Item 11 of Form N–8B–2 (as provided pursuant to Instruction 1.(a) of the Instructions as to the Prospectus of this Form).

(1) Except as required by paragraph (a)(2), the Interactive Data File must be submitted as an amendment to the registration statement to which the Interactive Data File relates. The amendment must be submitted on or

before the date the registration statement or post-effective amendment that contains the related information becomes effective.

(2) In the case of a post-effective amendment to a registration statement filed pursuant to paragraphs (b)(1)(i), (ii), (v), or (vii) of rule 485 under the Securities Act [17 CFR 230.485(b)], the Interactive Data File must be submitted either with the filing, or as an amendment to the registration statement to which the Interactive Data Filing relates that is submitted on or before the date the post-effective amendment that contains the related information becomes effective. (b) All interactive data must be submitted in accordance with the specifications in the EDGAR Filer Manual.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

■ 9. The general authority citation for part 270 continues to read as follows:

Authority: 15 U.S.C. 80a–1 *et seq.,* 80a–34(d), 80a–37, 80a–39, and Pub. L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

■ 10. Section 270.35d–1 is revised to read as follows:

§ 270.35d–1 Investment company names.

(a) *Materially deceptive and misleading fund names.* For purposes of section 35(d) of the Act (15 U.S.C. 80a–34(d)), a materially deceptive and misleading name of a fund includes:

(1) *Names suggesting guarantee or approval by the United States government.* A name suggesting that the fund or the securities issued by it are guaranteed, sponsored, recommended, or approved by the United States government or any United States government agency or instrumentality, including any name that uses the words ‘‘guaranteed’’ or ‘‘insured’’ or similar terms in conjunction with the words ‘‘United States’’ or ‘‘U.S. government.’’

(2) *Names suggesting an investment focus.* A name that includes terms suggesting that the fund focuses its investments in: a particular type of investment or investments; a particular industry or group of industries; particular countries or geographic regions; or investments that have, or whose issuers have, particular characteristics (*e.g.,* a name with terms such as ‘‘growth’’ or ‘‘value,’’ or terms indicating that the fund's investment decisions incorporate one or more ESG factors), unless:

(i) The fund has adopted a policy to invest, except under the circumstances provided in paragraph (b)(1) of this section, at least 80% of the value of its assets in investments in accordance with the investment focus that the fund's name suggests. For a name suggesting that the fund focuses its investments in a particular country or geographic region, investments that are in accordance with the investment focus that the fund's name suggests are investments that are tied economically to the particular country or geographic region suggested by its name;

(ii) The policy described in paragraph (a)(2)(i) of this section is a fundamental policy, or the fund has adopted a policy to provide the fund's shareholders with at least 60 days prior notice of any change in the policy described in paragraph (a)(2)(i) of this section, and any change in the fund's name that accompanies the change, that meets the provisions of paragraph (e) of this section. If the fund is a closed–end company or business development company, and the fund does not have shares that are listed on a national securities exchange, the fund's policy is a fundamental policy; and

(iii) Any terms used in the fund's name that suggest that the fund focuses its investments as described in paragraph (a)(2)(i) of this section are consistent with those terms' plain English meaning or established industry use.

(3) *Tax-exempt funds.* A name suggesting that the fund's distributions are exempt from federal income tax or from both federal and state income tax, unless:

(i) The fund has adopted a fundamental policy:

(A) To invest, except under the circumstances provided in paragraph (b)(1) of this section, at least 80% of the value of its assets in investments the income from which is exempt, as applicable, from federal income tax or from both federal and state income tax; or

(B) To invest, except under the circumstances provided in paragraph (b)(1) of this section, its assets so that at least 80% of the income that it distributes will be exempt, as applicable, from federal income tax or from both federal and state income tax; and

(ii) Any terms used in the fund's name that suggest that the fund invests its assets as described in paragraph (a)(3)(i) of this section are consistent with those terms' plain English meaning or established industry use.

(b) *Operation of policies and related recordkeeping.* (1) A fund may temporarily invest less than 80% of the value of its assets in accordance with the fund's investment focus as otherwise required by paragraph (a)(2)(i) or (a)(3)(i) of this section in the circumstances described in paragraphs (b)(1)(i) through (iv) of this section, provided the fund brings its investments into compliance with paragraph (a)(2)(i) or (a)(3)(i) as soon as reasonably practicable:

(i) As a result of market fluctuations, or other circumstances where the temporary departure is not caused by the fund's purchase or sale of a security or the fund's entering into or exiting an investment, for no more than 30 consecutive days;

(ii) To address unusually large cash inflows or unusually large redemptions, for no more than 30 consecutive days;

(iii) To take a position in cash and cash equivalents, or government securities as defined in section 2(a)(16) of the Act, to avoid losses in response to adverse market, economic, political, or other conditions, for no more than 30 consecutive days; or

(iv) To reposition or liquidate the fund's assets in connection with a reorganization, to launch the fund, or when notice of a change in a fund's policy as described in paragraph (a)(2)(ii) of this section has been provided to fund shareholders.

(2) For the purpose of determining the fund's compliance with an investment policy adopted under paragraph (a)(2)(i) or (a)(3)(i)(A) of this section, in addition to any derivatives instrument that the fund includes in its 80% basket because the derivatives instrument provides investment exposure to investments suggested by the fund's name, a fund may include in its 80% basket a derivatives instrument that provides investment exposure to one or more of the market risk factors associated with investments suggested by the fund's name.

(3) A fund must maintain written records documenting either its compliance under paragraphs (a) and (b) of this section or, if the fund does not adopt a policy under paragraphs (a)(2)(i) and (a)(3)(i) of this section, a written record of the fund's analysis that such a policy is not required under these paragraphs. Written records documenting the fund's compliance under paragraphs (a) and (b) of this section include: the fund's record of which investments are included in the fund's 80% basket and the basis for including each such investment in the fund's 80% basket; the value of the fund's 80% basket, as a percentage of the value of the fund's assets; the reasons, pursuant to paragraphs (b)(1)

and (2) of this section, for any departures from the policies described in paragraphs (a)(2)(i) and (a)(3)(i); the dates of any departures from the policies described in paragraphs (a)(2)(i) and (a)(3)(i); and any notice sent to the fund's shareholders pursuant to paragraph (e) of this section. Written records documenting the fund's compliance under paragraphs (a) and (b) must be maintained for a period of not less than six years following the creation of each required record (or, in the case of notices, following the date the notice was sent), the first two years in an easily accessible place. The written record made by a fund that does not adopt a policy under paragraphs (a)(2)(i) and (a)(3)(i) must be maintained in an easily accessible place for a period of not less than six years following the fund's last use of its name.

(c) *Effect of compliance with policy adopted under paragraph (a)(2)(i) or (a)(3)(i) of this section.* A fund name may be materially deceptive or misleading under section 35(d) of the Act even if the fund adopts and implements a policy under paragraph (a)(2)(i) or (a)(3)(i) of this section and otherwise complies with the requirements of paragraph (a)(2) or (3) of this section, as applicable.

(d) *Use of ESG terms in fund names.* If a fund considers one or more ESG factors alongside other, non-ESG factors in its investment decisions, but those ESG factors are generally no more significant than other factors in the investment selection process, such that ESG factors may not be determinative in deciding to include or exclude any particular investment in the portfolio, the use of terms in the fund's name indicating that the fund's investment decisions incorporate one or more ESG factors is materially deceptive and misleading.

(e) *Notice.* A policy to provide a fund's shareholders with notice of a change in a fund's policy as described in paragraph (a)(2)(ii) of this section must provide that:

(1) The notice will be provided in plain English separately from any other documents (provided, however, that if the notice is delivered in paper form, it may be provided in the same envelope as other written documents);

(2) The notice will contain the following prominent statement, or similar clear and understandable statement, in bold–face type: ''Important Notice Regarding Change in Investment Policy [and Name]'', provided that

(i) If the notice is provided in paper form, the statement also will appear on the envelope in which the notice is delivered; and

(ii) If the notice is provided electronically, the statement also will appear on the subject line of the email communication that includes the notice or an equivalent indication of the subject of the communication in other forms of electronic media; and

(3) The notice must describe, as applicable, the fund's policy adopted under paragraph (a)(2)(i), the nature of the change to the policy, the fund's old and new names, and the effective date of any policy and/or name changes.

(f) *Unit Investment Trusts.* The requirements of paragraphs (a)(2)(i), (a)(3)(i), and (b)(3) of this section shall not apply to any unit investment trust (as defined in section 4(2) of the Act (15 U.S.C. 80a–4(2)) that has made an initial deposit of securities prior to [EFFECTIVE DATE OF FINAL RULE] unless the unit investment trust has already adopted a policy under paragraph (a)(2) or (3) of this section or was required to adopt such a policy at the time of the initial deposit.

(g) *Definitions.* For purposes of this section:

(1) *80% basket* means investments that are invested in accordance with the investment focus that the fund's name suggests (or as described in paragraph (a)(3)(i) of this section).

(2) *Assets* means net assets, plus the amount of any borrowings for investment purposes. In determining the value of a fund's assets for purposes of this section, a fund must value each derivatives instrument using the instrument's notional amount (which must be converted to 10-year bond equivalents for interest rate derivatives and delta adjusted for options contracts) and reduce the value of its assets by excluding any cash and cash equivalents up to the notional amount of the derivatives instrument(s).

(3) *Derivatives instrument* means any swap, security-based swap, futures contract, forward contract, option, any combination of the foregoing, or any similar instrument.

(4) *ESG* means environmental, social, and/or governance.

(5) *Fund* means a registered investment company or a business development company, including any separate series thereof.

(6) *Fundamental policy* means a policy that a fund adopts under section 8(b)(3) of the Act (15 U.S.C. 80a–8(b)(3)) or, in the case of a business development company, a policy that is changeable only if authorized by the vote of a majority of the outstanding voting securities of the fund.

(7) *Launch* means a period, not to exceed 180 consecutive days, starting from the date the fund commences operations.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 11. The general authority for part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, 80a–29, and 80a–37 unless otherwise noted.

* * * * *

■ 12. Amend Form N–1A (referenced in §§ 239.15A and 274.11A) by revising Item 4 to read as follows:

Note: The text of Form N–1A does not, and these amendments will not, appear in the *Code of Federal Regulations.*

* * * * *

Item 4. Risk/Return Summary: Investments, Risks, and Performance

Include the following information, in plain English under rule 421(d) under the Securities Act, in the order and subject matter indicated:

(a) Principal Investment Strategies of the Fund.

(1) Based on the information given in response to Item 9(b), summarize how the Fund intends to achieve its investment objectives by identifying the Fund's principal investment strategies (including the type or types of securities in which the Fund invests or will invest principally) and any policy to concentrate in securities of issuers in a particular industry or group of industries.

Instruction: If the Fund is subject to paragraph (a)(2)(i) or (a)(3)(i) of rule 35d–1 [17 CFR 270.35d–1], the Fund's disclosure provided in response to Item 4(a)(1) must include definitions of the terms used in its name, including the specific criteria the Fund uses to select the investments the term describes, if any. For purposes of this instruction, ''terms'' means any word or phrase used in a Fund's name, other than any trade name of the Fund or its adviser, related to the Fund's investment focus or strategies.

* * * * *

■ 13. Amend Form N–2 (referenced in §§ 239.14 and 274.11a–1) by revising Item 8 to read as follows:

Note: The text of Form N–2 does not, and these amendments will not, appear in the *Code of Federal Regulations.*

Form N–2

* * * * *

Part A—Information Required in a Prospectus

* * * * *

Item 8. General Description of the Registrant.

* * * * *

2. * * *

b. * * *

Instructions

1. Concentration, for purposes of this Item, is deemed 25 percent or more of the value of the Registrant's total assets invested or proposed to be invested in a particular industry or group of industries. The policy on concentration should not be inconsistent with the Registrant's name.

2. If the Fund is subject to paragraph (a)(2)(i) or (a)(3)(i) of rule 35d–1 [17 CFR 270.35d–1], the Fund's disclosure provided in response to Item 8(2)(b)(2) must include definitions of the terms used in its name, including the specific criteria the Fund uses to select the investments the term describes, if any. For purposes of this instruction, ''terms'' means any word or phrase used in a Fund's name, other than any trade name of the Fund or its adviser, related to the Fund's investment focus or strategies.

* * * * *

■ 14. Amend Form N–8B–2 (referenced in § 274.12) by adding new General Instruction 2.(*l*) and by revising Item 11 to read as follows:

Note: The text of Form N–8B–2 does not, and these amendments will not, appear in the *Code of Federal Regulations.*

Form N–8B–2

* * * * *

GENERAL INSTRUCTIONS FOR FORM N–8B–2

* * * * *

2. Preparation and Filing of Registration Statement

Interactive Data

(1) An Interactive Data File as defined in Rule 11 of Regulation S–T [17 CFR 232.11] is required to be submitted to the Commission in the manner provided by rule 405 of Regulation S–T [17 CFR 232.405] for any registration statement on Form N–8B–2 that includes information provided in response to Item 11 pursuant to Instruction 2. The Interactive Data File must be submitted with the filing to which it relates on the date such filing becomes effective.

(2) All interactive data must be submitted in accordance with the specifications in the EDGAR Filer Manual.

* * * * *

II. General Description of the Trust and Securities of the Trust

* * * * *

Information Concerning the Securities Underlying the Trust's Securities

11. Describe briefly the kind or type of securities comprising the unit of specified securities in which security holders have an interest. (If the unit consists of a single security issued by an investment company, name such investment company and furnish a description of the type of securities comprising the portfolio of such investment company.) (Note: Do not furnish a list of portfolio securities in answer to this item. Describe portfolio securities as ''bonds of railroad companies,'' ''preferred stock of public utility holding companies,'' ''common stock of industrial companies,'' etc., indicating the approximate proportion of each group in terms of value as of a recent date.) If the trust owns or will own any securities of its regular brokers or dealers as defined in rule 10b–l under the Act [17 CFR 270. 10b–1], or their parents, identify those brokers or dealers and state the value of the registrant's aggregate holdings of the securities of each subject issuer as of the close of the registrant's most recent fiscal year.

Instruction:

(1). The registrant need only disclose information with respect to an issuer that derived more than 15% of its gross revenues from the business of a broker, a dealer, an underwriter, or an investment adviser during its most recent fiscal year. If the registrant has issued more than one class or series of securities, the requested information must be disclosed for the class or series that has securities that are being registered.

(2). If the trust is subject to paragraph (a)(2)(i) or (a)(3)(i) of rule 35d–1 [17 CFR 270.35d–1], the trust's disclosure provided in response to item 11 must include definitions of the terms used in its name, including the specific criteria used to select the investments the term describes, if any. For purposes of this instruction, ''terms'' means any word or phrase used in a trust's name, other than any trade name of the trust or its depositor, related to the trust's investment focus.

* * * * *

■ 15. Amend Form N–PORT (referenced in § 274.150) by revising parts B and C to read as follows:

Note: The text of Form N–PORT does not, and these amendments will not, appear in the *Code of Federal Regulations.*

* * * * *

Part B: Information About the Fund

* * * * *

Item B.9 Investment Company Act Names Rule Investment Policy. If the Fund is required to adopt a policy as described in rule 35d–1(a)(2)(i) or (a)(3)(i) [17 CFR 270.35d–1(a)(2)–(3)], provide the following:

a. The value of the Fund's 80% basket, as defined in rule 35d–1(g)(1), as a percentage of the value of the Fund's assets; and

b. If applicable, the number of days that the value of the Fund's 80% basket, as defined in rule 35d–1(g)(1), fell below 80% of the value of the Fund's assets during the reporting period (or, if the Fund has adopted a policy as described in rule 35d–1(a)(3)(i)(B), the number of days that less than 80% of the income that the Fund distributed was exempt, as applicable, from federal income tax or from both federal and state income tax).

Instruction: Because in accordance with rule 35d–1(b)(3) the Fund must use a derivatives instrument's notional amount (which must be converted to 10-year bond equivalents for interest rate derivatives and delta adjusted for options contracts) for purposes of determining the fund's compliance with an investment policy adopted under rule 35d–1(a)(2)(i), the percentages that the Fund reports in response to Item B.9.a and assesses for purposes of reporting in response to Item B.9.b similarly must reflect the use of notional amounts with certain adjustments as set forth above.

* * * * *

Part C: Schedule of Portfolio Investments

* * * * *

Item C.2. Amount of each investment

* * * * *

e. If the Fund is required to adopt a policy as described in rule 35d–1(a)(2)(i) or (a)(3)(i) [17 CFR 270.35d–1(a)(2)(i), (3)(i)], is the investment included in the Fund's 80% basket, as defined in rule 35d–1(g), as applicable? [Y/N]

* * * * *

By the Commission.

Dated: May 25, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–11742 Filed 6–16–22; 8:45 am]

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FEDERAL REGISTER

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Part III

Securities and Exchange Commission

17 CFR Parts 200, 230, 232, et al.
Enhanced Disclosures by Certain Investment Advisers and Investment Companies About Environmental, Social, and Governance Investment Practices; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 230, 232, 239, 249, 274, and 279

[Release No. 33–11068; 34–94985; IA–6034; IC–34594; File No. S7–17–22]

RIN 3235–AM96

Enhanced Disclosures by Certain Investment Advisers and Investment Companies About Environmental, Social, and Governance Investment Practices

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission (''Commission'') is proposing to amend rules and forms under both the Investment Advisers Act of 1940 (''Advisers Act'') and the Investment Company Act of 1940 (''Investment Company Act'') to require registered investment advisers, certain advisers that are exempt from registration, registered investment companies, and business development companies, to provide additional information regarding their environmental, social, and governance (''ESG'') investment practices. The proposed amendments to these forms and associated rules seek to facilitate enhanced disclosure of ESG issues to clients and shareholders. The proposed rules and form amendments are designed to create a consistent, comparable, and decision-useful regulatory framework for ESG advisory services and investment companies to inform and protect investors while facilitating further innovation in this evolving area of the asset management industry. In addition, we are proposing an amendment to Form N–CEN applicable to all Index Funds, as defined in Form N–CEN, to provide identifying information about the index.

DATES: Comments should be received on or before August 16, 2022.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/submitcomments.htm*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–17–22 on the subject line.

Paper Comments

- Send paper comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–17–22. 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 of submission. The Commission will post all comments on the Commission's website (*https://www.sec.gov/rules/proposed.shtml*). Comments also are available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Operating conditions may limit access to the Commission's Public Reference Room. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission's website. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at *www.sec.gov* to receive notifications by email.

FOR FURTHER INFORMATION CONTACT: Robert Holowka, Emily Rowland, or Samuel Thomas, Senior Counsels; or Christopher Staley, Branch Chief, at (202) 551–6787 or *IArules@sec.gov,* Investment Adviser Regulation Office, Division of Investment Management; or Zeena Abdul-Rahman, Pamela K. Ellis, Amy Miller, or Nathan R. Schuur, Senior Counsels; Sara Cortes, Senior Special Counsel; or Brian McLaughlin Johnson, Assistant Director, at (202) 551–6792, Investment Company Regulation Office, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Commission is proposing for public comment amendments to the information displayed at 17 CFR 200.800; 17 CFR 230.497 (''rule 497'') under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] (''Securities Act''); 17 CFR 232.11 (''rule 11 of Regulation S–T'') and 17 CFR 232.405 (''rule 405 of Regulation S–T'') under the Securities Exchange Act of 1934 (''Exchange Act'') [15 U.S.C. 78a *et seq.*]; amendments to Form N–1A [17 CFR 239.15A and 274.11A], Form N–2 [17 CFR 239.14 and 274.11a–1], Form S–6 [17 CFR 239.19], Form N–8B–2 [17 CFR 274.12], Form N–CEN [17 CFR 249.330 and 274.101], and Form N–CSR [17 CFR 249.331 and 274.128] under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] (''Investment Company Act''); and amendments to Form ADV [17 CFR 279.1] under the Advisers Act of 1940 [15 U.S.C. 80b–1 *et seq.*] (''Advisers Act'').

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I. Introduction

Many registered funds and investment advisers to institutional and retail clients consider environmental, social, and governance (''ESG'') factors in their investment strategies.[1] Investor interest in ESG strategies has rapidly increased in recent years with significant inflows of capital to ESG-related services and investment products.[2] Asset managers, as key conduits for these investments, have responded to this increase in investor demand by creating and marketing funds and strategies that consider ESG factors in their selection process.[3]

Investors looking to participate in ESG investing face a lack of consistent, comparable, and reliable information among investment products and advisers that claim to consider one or more ESG factors. This lack of consistent, comparable, and reliable information can create a risk that a fund or adviser's actual consideration of ESG does not match investor expectations, particularly given that funds and advisers implement ESG strategies in a variety of ways.[4] The lack of specific disclosure requirements tailored to ESG investing creates the risk that funds and advisers marketing such strategies may exaggerate their ESG practices or the extent to which their investment products or services take into account ESG factors. With respect to environmental and sustainability factors, this practice often is referred to as ''greenwashing.'' The absence of a common disclosure framework also makes it difficult for investors to find the disclosures and to determine whether a fund's or adviser's ESG marketing statements translate into concrete and specific measures taken to address ESG goals and portfolio allocation. It also makes it difficult for investors to understand how effectively the strategy is implemented over time, and can frustrate investors' attempts to compare different ESG strategies across funds or advisers.

The Commission's commitment to improving the information provided to investors in disclosures is longstanding. For example, the Commission has long required funds to provide key information about a fund's fundamental characteristics, while requiring advisers to provide clear information about their advisory businesses and the investment strategies they utilize or recommend to clients.[5] Consistent with this goal, standardized disclosure of a fund's principal investment strategies and other key attributes, along with information about advisory practices, is integral to investors' understanding the specific types of investments or investment policies underlying certain strategies when making informed decisions about funds and advisers. As discussed below, the range of matters that different funds and advisers consider in implementing ESG strategies, in addition to the increased investor demand for investments in these strategies, requires strategy-specific disclosures. That will improve information available to investors by providing investors with an interest in ESG investing with key information that is material to their investment decisions.

Accordingly, we are proposing various disclosure and reporting requirements to provide shareholders and clients improved information from funds and advisers that consider one or

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[1] *See* Carlson, Debbie, ''ESG Investing Now Accounts for One-Third of Total U.S. Assets Under Management'', Market Watch (Nov. 17, 2020), *available at https://www.marketwatch.com/story/esg-investing-now-accounts-for-one-third-of-total-u-s-assets-under-management-11605626611. See also* Letter from Morningstar to Chair Gensler (June 9, 2021) attaching Sustainable Funds U.S. Landscape Report—More funds, more flows, and impressive returns in 2020, Morningstar Manager Research (Feb. 19, 2021), *available at https://www.sec.gov/comments/climate-disclosure/cll12-8899329-241650.pdf.*

[2] U.S. sustainable investments increased from $639 billion in assets under management (''AUM'') in 1995 to $17.1 trillion by 2020. The end of the last decade in particular saw extensive growth as the total U.S.-domiciled assets integrating ESG strategies grew from $12.0 trillion in 2018 to $17.1 trillion by 2020. This represented a 42% increase that brought the total amount of assets considering ESG strategies to 33%, or 1 in 3 dollars of total U.S. assets that are professionally managed. *See,* U.S. Sustainable Investing Forum, The Report on U.S. Sustainable and Impact Investing Trends (Nov. 16, 2020), *available at: https://www.ussif.org/files/Trends/2020_Trends_Highlights_OnePager.pdf.* For purposes of this Release, when discussing investors in funds and clients of investment advisers, we generally use the term ''investors'' unless otherwise required by the context.

[3] *See* U.S. Government Accountability Office (''GAO''), GAO–20–530, Public Companies: Disclosure of Environmental, Social, and Governance Factors and Options to Enhance Them (July 2020), *available at https://www.gao.gov/assets/gao-20-530.pdf* (stating that institutional investors seek ESG information to understand risks that could affect company performance, to inform proxy voting, or to enhance decision-making in portfolio management). *See also,* Boffo, Riccardo and Patalano, Robert, ''ESG Investing: Practices, Progress and Challenges'', Organization for Economic Co-operation and Development (''OECD''), (2020), *available at https://www.oecd.org/finance/ESG-Investing-Practices-Progress-Challenges.pdf* (noting that ESG investing has evolved in recent years to meet the demands of institutional and retail investors, as well as certain public sector authorities, that wish to better incorporate long-term financial risks and opportunities into their investment decision-making processes to generate long-term value).

[4] When referring to a ''fund'' in this release, we variously mean management investment companies registered on Form N–1A [17 CFR 274.11A] or Form N–2 [17 CFR 274 11a–1], unit investment trusts registered on Form S–6 [17 CFR 239.16], and BDCs, but not private funds as defined under the Advisers Act.

[5] *See* Investment Company Act Release No. 23064 (Mar. 13, 1998) [63 FR 13916 (Mar. 23, 1998)] (amending Form N–1A to focus prospectus disclosure on key information to assist in investment decisions) and Investment Company Act Release No. 13436 (Aug. 12, 1983) [48 FR 37928 (Aug. 22, 1983)] (adopting Form N–1A and its two-part disclosure format permitting funds to provide investors with a simplified prospectus containing essential information along with a companion document called the ''Statement of Additional Information'' (''SAI'') with more detailed information). *See also* Investment Company Act Release No. 28584 (Jan. 13, 2009) [74 FR 4546 (Jan. 26, 2009)] (adopting enhanced disclosure and new prospectus delivery option for registered open-end management investment companies including a plain English requirement and providing the statutory prospectus on an internet website) and Investment Adviser Act Release No. 3060 (July 29, 2010) [75 FR 49233 (Aug. 12, 2010)] (amending the Form ADV Part 2 ''brochure'' to require advisers to provide meaningful information in a clearer format, noting ''[t]o allow clients and prospective clients to evaluate the risks associated with a particular investment adviser, its business practices, and its investment strategies, it is essential that clients and prospective clients have clear disclosure that they are likely to read and understand'').

more ESG factors. These enhancements are designed to help investors, and those who provide advice to investors, make more informed choices regarding ESG investing and better compare funds and investment strategies. The proposed amendments create a framework for disclosures about a fund or adviser's ESG-related strategies. We are also proposing to enhance the quantitative data for environmentally focused fund strategies, where methodologies for reporting emissions metrics are becoming more standardized. In addition to these investor- and client-facing disclosures, we are also proposing that funds and advisers report census type information on their ESG investment practices in regulatory reporting to the Commission, which would inform our regulatory, enforcement, examination, disclosure review, and policymaking roles, and help us track trends in this evolving area of asset management. In addition to the ESG-specific disclosure, the Commission is proposing an amendment to Form N–CEN that would require all index funds, regardless of whether the fund tracks an ESG-related index, to report identifying information about the index. Finally, we are proposing to require funds to submit the ESG-related disclosures in a structured data language to make it easier for investors and others to analyze this data.

A. Background

1. Development and Growth of ESG Investing

''ESG'' is a term commonly used to incorporate three broad categories of interest for investors: Environmental, Social, and Governance.[6] Investor demand for ESG funds and advisory services has increased over the last decade, but consideration of ESG issues in investment decision making has deep roots. In the 1970s and 1980s, some asset managers began to integrate ESG factors into funds with social and environmental investment objectives, while the early 1990s saw the launch of the first ''socially responsible'' indexes.[7] Since the mid-2000s, many financial institutions have signed on to climate and sustainability-related investment frameworks.[8] In addition, a number of organizations have formed to promulgate disclosure reporting frameworks that incorporate environmental measures including: the Climate Disclosure Standards Board, Global Reporting Initiative, Sustainability Accounting Standards Board, and International Sustainability Standards Board.[9] These trends have accelerated in recent years as the asset management industry has increasingly focused on issues such as financing the transition from fossil fuels and mitigating risks associated with climate change, and additional voluntary [10] and regulatory [11] frameworks have developed.

Statistics measuring fund flows and assets under management reflect the increasing prevalence of ESG investing in recent years. The size and scope of the asset management industry's ESG investing landscape varies significantly depending, for example, on the focus of the analysis, the assumptions made, and how much of this evolving area is measured. For example, the U.S. Forum for Sustainable and Responsible Investment (''US SIF'') states that since 1995, the ''U.S. sustainable investment universe'' has increased more than 25 times from $639 billion to $17.1 trillion.[12] Morningstar found that at the close of 2020 the number of ''sustainable'' open-end funds and exchange-traded funds (''ETFs'') available to U.S. investors had experienced a nearly fourfold increase over the past decade with a significant acceleration beginning in 2015.[13] In the same report, Morningstar states that sustainable funds have set records for inflows in each of the past 5 years with more significant increases in 2019 and 2020.

Investors and other market participants increasingly demand access to ESG-related investment services, products, and data, as, according to one survey, 42% of institutional investors say they consider ESG factors when making an investment decision.[14] Another survey of professional fund

[6] For the purposes of this release and the proposed rules, the Commission uses the term ''ESG'' to encompass terms such as ''socially responsible investing,'' ''sustainable,'' ''green,'' ''ethical,'' ''impact,'' or ''good governance'' to the extent they describe environmental, social, and/or governance factors that may be considered when making an investment decision. These terms, however, are not defined in the Advisers Act, the Investment Company Act, or the rules or forms adopted thereunder.

[7] *See* Liu, Jess, ''ESG Investing Comes of Age, Morningstar'' (Feb 11, 2021) *available at: https://www.morningstar.com/features/esg-investing-history* (noting that the first sustainable mutual fund, ''Pax World,'' was launched in 1971 and the Domini 400 Social Index was launched in 1990).

[8] The United Nations Principles for Responsible Investment (''UN PRI'') launched in 2006 and called upon institutional investors to commit to six principles to integrate ESG issues into investment analysis and decision-making. *See* About the PRI, Principles for Responsible Investment, *https://www.unpri.org/pri/about-the-pri* (last visited Dec. 8 2021). The Forum for Sustainable and Responsible Investment and Ceres are two other notable institutional and investor-led initiatives.

[9] *See* Murray, Sarah, ''Measuring What Matters: the Scramble to Set Standards for Sustainable Business'' (May 13, 2021) *available at: https://www.ft.com/content/92915630-c110-4364-86ee-0f6f018cba90. See also* IFRS Foundation Announces International Sustainability Standards Board, IFRS (Nov. 3, 2021), *available at: https://www.ifrs.org/news-and-events/news/2021/11/ifrs-foundation-announces-issb-consolidation-with-cdsb-vrf-publication-of-prototypes/.*

[10] Several of these frameworks have relied on the Greenhouse Gas Protocol: A Corporate Accounting and Reporting Standard (''GHG Protocol'') that established measurable standards around reporting Scopes 1 and 2 GHG emissions that allow investors to more readily compare the emissions impacts of companies in their portfolios and conduct scenario analyses. *See* The Greenhouse Gas Protocol, A Corporate Accounting and Reporting Standard, Revised Edition, *available at: https://ghgprotocol.org/sites/default/files/standards/ghg-protocol-revised.pdf.* In addition, the Financial Stability Board (''FSB'') established the Task Force on Climate–Related Financial Disclosures (''TCFD'') in 2015 to develop a framework to foster consistent climate-related financial disclosures that could be utilized by organizations across sectors and industries, including advisers and funds. *See* Task Force on Climate-related Financial Disclosures, 2021 Status Report (Oct. 14, 2021) *available at https://www.fsb.org/wp-content/uploads/P141021-1.pdf.* In 2020, an international group of asset managers launched the Net Zero Asset Managers Initiative committing hundreds of signatories to the goal of achieving net zero gas emissions by 2050 or sooner. *See* Net Zero Asset Managers Initiative Progress Report (Nov. 1, 2021) *available at https://www.netzeroassetmanagers.org/media/2021/12/NZAM-Progress-Report.pdf.*

[11] In 2019, the European Commission adopted the Sustainable Finance Disclosure Regulation (''SFDR''), a sustainability disclosure framework for providers of certain financial products and financial market participants including asset managers. *See* Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 Nov. 2019 on sustainability-related disclosures in the financial services sector and Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 PE/20/2020/INIT (''Taxonomy Regulation'') (implementing a classification framework to help determine to what extent economic activities are environmentally sustainable by reference to six environmental objectives).

[12] US SIF Comment Letter (June 14, 2021). Our proposal takes into account the comments we received in response to Acting Chair Allison Herren Lee's requested public input on climate change disclosure from investors, registrants, and other market participants. *See* Acting Chair Allison Herren Lee Public Statement, *Public Input Welcomed on Climate Change Disclosures* (Mar. 15, 2021), *available at https://www.sec.gov/news/public-statement/lee-climate-change-disclosures* (''Climate RFI''). The comment letters are available at *https://www.sec.gov/comments/climate-disclosure/cll12.htm.* Except as otherwise noted, references to comments in this release pertain to these comments.

[13] *See* Letter from Morningstar to Chair Gensler (June 9, 2021) attaching Sustainable Funds U.S. Landscape Report: More Funds, More Flows, and Impressive Returns in 2020, Morningstar Manager Research (Feb. 10, 2021), *available at https://www.sec.gov/comments/climate-disclosure/cll12-8899329-241650.pdf.*

[14] *See* Whyte, Amy, ''More Institutions than Ever are Considering ESG. Will they Follow Through?'', Institutional Investor (Oct. 6, 2020), *available at https://www.institutionalinvestor.com/article/b1npm5yq50b024/More-Institutions-Than-Ever-Are-Considering-ESG-Will-They-Follow-Through.*

selectors and institutional investors indicated that 75% and 77% respectively believe that the consideration of ESG factors is integral to investment decision making.[15] Moreover, funds are increasingly selecting fund names to signal ESG considerations or converting existing funds into ESG or ''sustainable'' funds.[16] An analysis of Form N–PORT data indicates that 2.4 percent of all funds had names containing ''Sustainable,'' ''Responsible,'' ''ESG,'' ''Climate,'' ''Carbon,'' or ''Green'' as of September 2021.[17] The Forum for Sustainable and Responsible Investment has also documented continued growth in ESG funds, expanding from 55 funds in 1995, to 1,002 in 2016, and to 1,741 in 2020.[18]

2. Characteristics of ESG-Related Investment Products and Services

Approaches to ESG investing vary, which can pose challenges for investors choosing among investment products and services.[19] First, ESG is an expansive term that incorporates three broad categories of interest for investors and asset managers: environmental issues, social issues, and governance issues.[20] Some funds and advisers will consider only one issue under the ESG umbrella when making investment decisions, while others will apply the factors more broadly and implement measures across each of the ESG categories. Even those focusing on all three categories will have differing perspectives on what attributes of an issuer or investment fit within ESG.

Second, investment products that incorporate one or more ESG factors vary in the extent to which ESG factors are considered relative to other factors. This generally falls along a three-part spectrum: integration, ESG-Focused, and impact investing. We are incorporating these terms into our proposed rules.

Generally, ''ESG Integration'' strategies consider one or more ESG factors alongside other, non-ESG factors in investment decisions such as macroeconomic trends or company-specific factors like a price-to-earnings ratio.[21] In such strategies, ESG factors may be considered in the investment selection process but are generally not dispositive compared to other factors when selecting or excluding a particular investment.

''ESG-Focused'' strategies focus on one or more ESG factors by using them as a significant or main consideration in selecting investments or in engaging with portfolio companies.[22] For example, such ESG-Focused strategies might exclude or include certain investments based on particular ESG criteria. These factors could include, for example, screens for carbon emissions, board or workforce diversity and inclusion, or industry-specific issues. ESG-Focused strategies could also include engagement with management of the issuers in which the fund or adviser invests through proxy voting or direct engagement.

Finally, ''ESG Impact'' strategies have a stated goal that seeks to achieve a specific ESG impact or impacts that generate specific ESG-related benefits.[23] Impact strategies generally seek to target portfolio investments that drive specific and measurable environmental, social, or governance outcomes.[24]

Funds and advisers also vary in how they analyze, select, and manage investments to achieve their ESG objectives. Third-party service providers and ESG consultants (hereafter referred to as ''ESG providers'') have emerged that provide data to evaluate ESG factors, including issuer-specific ratings or scores. Some advisers and funds rely on these analyses and ratings, while others use them in combination with internal analyses. Other funds and advisers track indexes designed to select investments based on various ESG factors. Index providers are playing a large role in driving the flow of assets towards issuers that meet the indexes' ESG methodology.[25]

Funds and advisers also take differing approaches regarding how they engage on ESG issues with the issuers in which they invest, such as through proxy voting or manager engagement.[26] ESG-Focused Funds and advisers often use proxy voting and other engagement with issuers in their portfolios as a more deliberate piece of their strategy than other investment products.[27] As institutional investors increasingly integrate ESG into their engagement with portfolio companies and comply with their own internal ESG policies or investor mandates, proxy voting advice

[15] *See* Goodsell, Dave, 2021 ESG Investor Insight Report ESG Investing: Everyone's on the bandwagon, Natixis Investment Managers (2021), *available at https://www.im.natixis.com/us/research/esg-investing-survey-insight-report.*

[16] *See* Ghoul, El-Sadouk and Karoui, Aymen. ''What's in a (green) name? The consequences of greening fund names on fund flows, turnover, and performance.'' Finance Research Letters 39: 101620 (2021).

[17] *See infra* text accompanying note 249.

[18] *See* US SIF, Report on U.S. Sustainable, Responsible and Impact Investing Trends (2016), *available at https://www.ussif.org/files/SIF_Trends_16_Executive_Summary(1).pdf* and US SIF, Sustainable Investing Basics (2020), *available at https://www.ussif.org/sribasics.*

[19] *See infra* section III.B.3.

[20] *See* Asset Management Advisory Committee Recommendations for ESG (July 7, 2021) p. 4 (''AMAC Recommendations''), *available at https://www.sec.gov/files/spotlight/amac/recommendations-esg.pdf.*

[21] *See* Funds' Use of ESG Integration and Sustainable Investing Strategies: An Introduction, Investment Company Institute, p. 4 (July 2020), *available at https://www.ici.org/system/files/attachments/pdf/20_ppr_esg_integration.pdf.* Some market participants and commentators refer to funds that consider ESG factors as just one among many factors as ''ESG consideration'' funds. *See* Jon Hale, A Taxonomy of Sustainable Funds, Morningstar, (Mar. 7, 2019) *available at: https://www.morningstar.com/articles/918263/a-taxonomy-of-sustainable-funds. See also infra* at section II.A.1.a. for the Commission's proposed definition of ESG Integration.

[22] Unlike the terms ''integration'' and ''impact,'' which are currently used within this market, ''ESG-Focused'' is not currently a commonly used term and can encompass a number of ESG-related strategies and labels used in the market. *See infra* at Section II. *See also, e.g.,* Funds' Use of ESG Integration and Sustainable Investing Strategies: An Introduction, Investment Company Institute, p. 5 (July 2020), *available at https://www.ici.org/system/files/attachments/pdf/20_ppr_esg_integration.pdf.* (discussing how sustainable investing strategies are distinct from ESG integration in that they use ESG analysis as a significant part of the fund's investment thesis) [hereinafter ICI White Paper]; A Practical Guide to ESG Integration for Equity Investing, Principles for Responsible Investment, *available at: https://www.unpri.org/listed-equity/esg-integration-techniques-for-equity-investing/11.article.*

[23] *See* Burton, M. Diane, Chadha, Gurveen, Cole, Shawn A., Dev, Abhishek, Jarymowycz, Christina, Jeng, Leslie, Kelley, Laura, Lerner, Josh, Palacios, Jaime R. Diaz, Xu, Yue (Cynthia), and Zochowski, Robert. ''Studying the U.S.-Based Portfolio Companies of U.S. Impact Investors,'' Harvard Business School Working Paper, No. 21–130, (May 28, 2021), *available at https://www.hbs.edu/ris/Publication%20Files/21-130_1fd65a3f-c144-4338-b319-7aa205339968.pdf* (stating that impact investing is characterized by seeking both financial returns and a non-financial, social or environmental impact). For purposes of the proposed rule, we define Impact Funds as a subset of ESG-Focused Funds. *See infra* at II.A.1.b.

[24] ICI White Paper, at p. 8.

[25] *See* Fourth Annual IIA Benchmark Survey Reveals Significant Growth in ESG, Continued Multi-Asset Innovation & Heightened Competition (Oct. 28 2020), *available at http://www.indexindustry.org/2020/10/28/fourth-annual-iia-benchmark-survey-reveals-significant-growth-in-esg-amid-continued-multi-asset-innovation-heightened-competition/.*

[26] In 2021, the Commission proposed amendments to Form N–PX to enhance the information mutual funds, exchange-traded funds, and certain other funds report about their proxy votes including votes on ESG issues. *See* Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers (Sept. 29, 2021) [86 FR 57478(Oct. 15, 2021)] *available at: https://www.sec.gov/rules/proposed/2021/34-93169.pdf.*

[27] *See* AMAC Recommendations, *supra* footnote 20 at 9–10 (''experts consulted by the subcommittee . . . noted that ESG investment products engage in share ownership activities as a more deliberate piece of their strategy than many, but not all, other investment products . . . Investors in these ESG products, and other investment products, would benefit from clear, consistent statement [*sic*] regarding how ownership responsibilities are carried out by the product'').

businesses have sought to meet this demand by offering proxy voting recommendations that consider ESG factors.[28] While funds are required to report information about how they vote proxies, less is disclosed regarding other engagements they may have with issuers in their capacity as a shareholder.[29]

3. The Need for Specific ESG Disclosure Requirements

Currently, funds and registered advisers are subject to disclosure requirements concerning their investment strategies. Funds must provide disclosures concerning material information on investment objectives, strategies, risks, and governance, and management must provide a discussion of fund performance in the fund's shareholder report. Registered advisers are required to provide information about their advisory services in narrative format on Form ADV Part 2—often referred to as a brochure—describing their firm's methods of analysis and investment strategies, fees, conflicts, and personnel. General disclosures about ESG-related investment strategies fall under these disclosure requirements, and failure to adhere to current disclosure requirements violates Federal securities laws, but there are no specific requirements about what a fund or adviser following an ESG strategy must include in its disclosures.[30]

While the Commission has not generally prescribed specific disclosures for particular investment strategies, ESG strategies differ in certain respects that we believe necessitate specific requirements and mandatory content to assist investors in understanding the fundamental characteristics of an ESG fund or an adviser's ESG strategy in order to make a more informed investment decision. First, the variation discussed above concerning ESG investing, combined with the lack of a more specific disclosure framework, increases the risk of funds and advisers marketing or labelling themselves as ''ESG,'' ''green,'' or ''sustainable'' in an effort to attract investors or clients, when the ESG-related features of their investment strategies may be limited. Such exaggerations can impede informed decision-making as the labels may cause investors to believe they are investing in—and potentially are paying higher fees for—a ''sustainable'' strategy that may actually vary little from ones without such a label.[31] Ultimately, this can frustrate investor expectations in the market for ESG investing, with some investors and market participants questioning whether and to what degree certain ESG funds are appreciably different than other types of funds.[32] Requiring comparable, consistent, and reliable information from all funds and advisers that use an ESG label would reduce the risk of exaggerated claims of the role of ESG factors in investing, thereby increasing the efficiency and reliability with which investors seeking an ESG strategy can find a fund or adviser that meets their investing preferences, better protecting and serving investors in the market for ESG-related investing as a whole.

In addition to the risk of exaggerated labels or claims, funds and advisers incorporating or focusing on ESG factors currently present inconsistent information concerning how they consider ESG factors in their investment strategies to investors, other market participants, and the Commission. We believe that a major reason for such inconsistency is the variety of perspectives concerning what ESG investing means, the issues or objectives it encompasses, and the ways to implement an ESG strategy. ''ESG investing,'' ''sustainable investing,'' or other terms can reasonably connote different investing approaches to different investors. Even when investors focus on the same ESG issue, such as climate change or labor practices, there are debates about how to address such issues, resulting in different, and sometimes opposing, assessments of whether a particular investment meets the investors' goals in furthering that issue.[33] We believe that requiring funds and advisers to disclose with specificity their ESG investing approach can help investors and clients understand the investing approach the fund or adviser uses. It can also help investors compare the variety of emerging approaches, such as employment of an inclusionary or exclusionary screen, focus on a specific impact, or engagement with issuers to achieve ESG goals. The proposed rules would help draw out these distinctions and better inform investors by providing them with decision-useful information to compare, for example, two funds that both refer to their strategy as ''sustainable'' but employ different approaches and areas of focus to implement their sustainable strategy.

Further, ESG investment products can have risk/return objectives that reflect a longer time horizon and have objectives that extend beyond risk/return goals.[34] Funds and advisers with ESG-related investing objectives can consider factors and measures in addition to those often used to measure financial return to manage the portfolio. They may also use additional key performance indicators specific to ESG objectives to assess the fund's or adviser's effectiveness in meeting these goals. Additionally, for ESG investing, investors might be more likely to have an interest in knowing

[28] Investors are increasingly interested in proxy voting practices that consider ESG factors to influence company behavior. *See, e.g.,* Peter Reali, Jennifer Grzech, and Anthony Garcia, ESG: Investors Increasingly Seek Accountability and Outcomes, Harvard Law School Forum on Corporate Governance, (Apr. 25, 2021), *available at https://corpgov.law.harvard.edu/2021/04/25/esg-investors-increasingly-seek-accountability-and-outcomes/; see also* Comment Letter of Gary Retelny, President and CEO, Institutional Shareholder Services Inc., *available at https://www.sec.gov/comments/climate-disclosure/cll12-8914286-244666.pdf.*

[29] *See* AMAC Recommendations, *supra* footnote 20 at 10 (''while the AMAC believes that the reporting of proxy voting is already well regulated, other ownership responsibilities, if significant to the product's strategy, should be noted'').

[30] *See, e.g.,* In the Matter of Pax World Management Corp., Investment Advisers Act Release No. 2761 (July 30, 2008) (settled action) (alleging that despite investment restrictions disclosed in its prospectus, statement of additional information, and other published materials that it complied with certain socially responsible investing restrictions the fund purchased securities contrary to those representations and failed to follow its own policies and procedures requiring internal screening to ensure compliance with those restriction).

[31] *See* Wursthorn, Michael, ''Tidal Wave of ESG Funds Brings Profit to Wall Street'', The Wall Street Journal (Mar. 16, 2021), *available at https://www.wsj.com/articles/tidal-wave-of-esg-funds-brings-profit-to-wall-street-11615887004* (noting that ETFs with strategies that focus on socially responsible investments have higher fees than ''standard ETFs'').

[32] Mackintosh, James, ''ESG Funds Mostly Track the Market'', The Wall Street Journal (Feb. 23, 2020), *available at https://www.wsj.com/articles/esg-funds-mostly-track-the-market-11582462980* (noting that an analysis found that ESG funds have inconsistent approaches, but on average hold slightly more technology stocks and fewer energy stocks than the S&P 500 index).

[33] Some have noted that the ''fluidity of the ESG rubric'' can lead to subjective application of ESG factors when applied to certain assets. For example, a recent journal article notes that one provider of ESG data and ratings found that about half of the ESG mutual funds it assessed scored as ''average or worse'' than non-ESG funds using the provider's own ESG scoring methodology, showing that managers often disagree on the ESG attributes of particular investments. In another example, the article posits that an issuer that investors may assess to be ''environmentally sound'' or ''beneficial'' could have what it perceives to be weak corporate governance controls or mistreat its workforce leaving an investor with subjective judgments in weighting E versus S versus G factors. Lastly, the article notes that there is substantial debate around how to assess the climate impacts of issuers that rely on certain types of energy production and the relative environmental impacts and risks of coal, oil, natural gas, and nuclear energy. *See* Schanzenbach, Max and Sitkoff, Robert ''Reconciling Fiduciary Duty and Social Conscience: The Law and Economics of ESG Investing by a Trustee,'' 72 Stan. L. Rev. 381 (Feb. 2020), *available at: https://ssrn.com/abstract=3244665.*

[34] *See* AMAC Recommendations, *supra* footnote 20 at p. 6.

more about the investment selection and engagement process to ensure that the process aligns with the ESG-related values or priorities of the investor, rather than simply as a means for gauging effectiveness of the end result of financial return.[35] Accordingly, we believe that specific ESG-related disclosures would enable an investor to understand and analyze funds' and advisers' ability to meet any ESG-related objectives and would complement existing disclosures regarding objectives related to financial returns by helping the investor understand the relationship between ESG-related objectives and financial return objectives.[36]

B. Overview of the Proposal

In light of these observations, we are proposing to require additional specific disclosure requirements regarding ESG strategies to investors in fund registration statements, the management discussion of fund performance in fund annual reports, and adviser brochures.[37] We believe that these disclosures would promote consistent, comparable, reliable—and therefore decision-useful—information for investors. These changes also would allow investors to identify funds more readily and advisers that do or do not consider ESG factors, differentiate how they consider ESG factors, and help inform their analysis of whether they should invest. To address exaggerated claims about ESG strategies, we are proposing minimum disclosure requirements for any fund that markets itself as an ESG-Focused Fund, and requiring streamlined disclosure for Integration Funds that consider ESG factors as one of many factors in investment selections. We also propose that funds tag their ESG disclosures using the Inline eXtensible Business Reporting Language (''Inline XBRL'') structured data language to provide machine-readable data that investors and other market participants could use to more efficiently access and evaluate ESG funds. We believe that these requirements would provide improved transparency and decision-useful information to investors assisting them in making an informed choice based on their preferences for ESG investing.

To complement the disclosure in the prospectus, we are proposing to require that certain ESG-Focused Funds provide disclosures in their annual reports. Specifically, we are proposing that an Impact Fund summarize its progress on achieving its specific impact(s) in both qualitative and quantitative terms, and the key factors that materially affected the fund's ability to achieve the impact(s), on an annual basis. We also are proposing amendments to fund annual reports to require a fund for which proxy voting or other engagement with issuers is a significant means of implementing its strategy to disclose information regarding how it voted proxies relating to portfolio securities on particular ESG-related voting matters and information regarding its ESG engagement meetings.

Finally, the Commission is proposing a requirement for ESG-Focused Funds that consider environmental factors. Specifically, we are proposing to require disclosure of two greenhouse gas (''GHG'') emissions metrics for the portfolio in such funds' annual reports. We believe the proposed information would provide quantitative metrics related to climate for investors focused on climate risk while also providing verifiable data from which to evaluate environmental claims. This information also would benefit those investors that have made net zero or similar commitments by helping them determine whether a particular investment is consistent with the commitment they have made.[38] Disclosure of GHG metrics could better prevent exaggerated claims in this space by providing consistent, comparable, and reliable data that investors can use when reviewing funds that market themselves as focusing on climate factors in their investment processes. With access to GHG metrics, fund investors and market participants could review the relative carbon footprints and carbon intensity of ESG-Focused Funds against comparable funds and determine whether a fund's climate or sustainability disclosures align with its actual GHG metrics.

To complement the proposed ESG disclosures in fund registration statements and annual reports and adviser brochures, we are proposing to require certain ESG reporting on Forms N–CEN and ADV Part 1A, which are XML-structured forms on which funds and advisers, respectively, report census-type data. This reporting would provide the Commission, investors, and other market participants with structured data that can be used to understand industry trends in the market for ESG investment products and services.

II. Discussion

A. Proposed Fund Disclosures to Investors

1. Proposed Prospectus ESG Disclosure Enhancements

We are proposing to require a fund engaging in ESG investing to provide additional information about the fund's implementation of ESG factors in the fund's principal investment strategies. The proposed amendments are designed to provide investors clear and comparable information about how a fund considers ESG factors.[39] They also address the significant variability in the ways different funds approach the incorporation of ESG factors in their investment decisions by contemplating a range of strategies that funds use. The level of detail required by this enhanced disclosure would depend on the extent to which a fund considers ESG factors in its investment process. Additionally, because the information necessary to understand fully a fund's ESG methodology could lead to a large amount of disclosure, our proposed requirements contemplate layered disclosure. For example, open-end funds would provide an overview of their ESG strategy in the summary section of the prospectus, and would provide more details about the strategy in the statutory prospectus.[40] We designed this layered disclosure approach to highlight key information for investors to help them make better informed investment decisions as well as to promote disclosure that is inviting and usable to a broad spectrum of investors. This approach is designed so

[35] For example, investors often have differing priorities when it comes to ESG investment. Studies have shown that certain investors in socially responsible investments may be less sensitive to financial performance compared to other investors, perhaps because SRI investors derive utility from non-pecuniary attributes as well. *See infra* at text accompanying note 288.

[36] AMAC Recommendations, *supra* footnote 20, at 6–7.

[37] More specifically, we propose to amend Forms N–1A, N–2, N–CSR, N–8B–2, S–6, N–CEN, and ADV Part 2A.

[38] *See* Net Zero Asset Managers Initiative, *Net Zero Asset Managers initiative announces 41 new signatories, with sector seeing 'net zero tipping point'* (July 6, 2021) *available at: https://www.netzeroassetmanagers.org/net-zero-asset-managers-initiative-announces-41-new-signatories-with-sector-seeing-net-zero-tipping-point. See also* Glasgow Financial Alliance for Net Zero: ''Our Progress and Plan Towards a Net-Zero Global Economy'' (Nov. 2021) *available at: https://www.gfanzero.com/progress-report/.*

[39] This approach would complement existing requirements that funds use plain English and disclose essential information in a concise and straightforward manner to help investors make informed investment decisions about the fund. *See, e.g.,* General Instructions B.4.(c) and C.1–3(c) of Form N–1A [17 CFR 274.11A]; General Instruction for Part A and General Instructions for Parts A and B of Form N–2 [17 CFR 274.11a–1].

[40] While Closed-End Funds do not utilize a summary section in their prospectuses, our proposed requirements for closed-end funds still utilize principles of layered disclosure by requiring certain items to appear earlier in the prospectus.

the additional information that may be interest to some investors is available through layered disclosure.[41]

Specifically, and as discussed further below, funds that meet the proposed definition of ''Integration Fund'' would provide more limited disclosures. ''ESG-Focused'' Funds, which would include, for example, funds that apply inclusionary or exclusionary screens, funds that focus on ESG-related engagement with the issuers in which they invest, and funds that seek to achieve a particular ESG impact, would be required to provide more detailed information in a tabular format.[42] The proposed amendments would apply to open-end funds (including ETFs) and closed-end funds (including business development companies (''BDCs'')) that incorporate one or more ESG factors into their investment selection process.[43]

1. We are not proposing to define ''ESG'' or similar terms and, instead, we are proposing to require funds to disclose to investors (1) how they incorporate ESG factors into their investment selection processes and (2) how they incorporate ESG factors in their investment strategies. Is this approach appropriate? Should we seek to define ''ESG'' or any of its subparts in the forms? Should we provide a non-exhaustive list of examples of ESG factors in the forms? Should we define certain types of factors as being ESG but allow funds to add additional factors to that concept if they choose? Are there any other approaches that we should take in providing guidance to funds as to what constitutes ESG?

2. Should these disclosure requirements apply to registered open-end funds, registered closed-end funds, and BDCs, as proposed? Are there other substantive disclosure requirements that should differ based on the type of fund? Should our proposed disclosure requirements apply to insurance company separate accounts registered as management investment companies?

(a) Proposed Integration Fund Disclosure

We are proposing to require an Integration Fund to summarize in a few sentences how the fund incorporates ESG factors into its investment selection process, including what ESG factors the fund considers. For example, an Integration Fund might provide a brief narrative of how it incorporates factors, or provide an example to illustrate how it considers ESG factors with other factors.[44] This disclosure would be in addition to the information funds currently are required to provide in their prospectuses about their investments, risks, and performance. Open-end funds would provide this information in the summary section of the fund's prospectus, while closed-end funds, which do not use summary prospectuses, would disclose the information as part of the prospectus's general description of the fund.[45]

An Integration Fund, for this purpose, would be a fund that considers one or more ESG factors along with other, non-ESG factors in its investment decisions, but those ESG factors are generally no more significant than other factors in the investment selection process, such that ESG factors may not be determinative in deciding to include or exclude any particular investment in the portfolio. Such funds may select investments because those investments met other criteria applied by the fund's adviser (*e.g.,* investments selected on the basis of macroeconomic trends or company-specific factors like a price-to-earnings ratio).

We are proposing to require an Integration Fund to describe how it incorporates ESG factors into its investment selection process because we believe this is important information for investors that should be available for them to review in the same location in different funds' prospectuses.[46] At the same time, we are not proposing more extensive disclosure requirements in the summary prospectus. Requiring a more detailed discussion of ESG factors could cause an Integration Fund to overemphasize the role ESG factors play in the fund's investment selection process by adding ESG disclosure requirements that could result in a more detailed description of ESG factors than other factors. This overemphasis could impede informed investment decisions because ESG factors discussed at length would not play a central role in the fund's strategy.[47] For these reasons, we are proposing a layered disclosure approach for Integration Funds. Specifically, we are proposing to complement the concise description discussed above with a more detailed description of how an Integration Fund

[41] The Commission has taken multiple steps that recognize investors' preferences for concise and engaging disclosure of key information as well ensure that additional information that may be of interest to some investors is available through layered disclosure. *See, e.g., New Disclosure Option for Open-End Management Investment Companies,* Investment Company Act Release No. 23065 (Mar. 13, 1998) [63 FR 13968 (Mar. 23, 1998)]; *Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies,* Investment Company Act Release No. 28584 (Jan. 13, 2009) [74 FR 4546 (Jan. 26, 2009)]; *Updated Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts,* Investment Company Act Release No. 33814 (Mar. 11, 2020) [85 FR 25964 (May 1, 2020)]; *see also Tailored Shareholder Reports, Treatment of Annual Prospectus Updates for Existing Investors, and Improved Fee and Risk Disclosure for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements,* Investment Company Act Rel. No. 33963 (Aug. 5, 2020) [85 FR 70716, 70720–21 (Nov. 5, 2020)] (stating that the ''vast majority of individual investors responding to questions in the Fund Investor Experience RFC about summary disclosure expressed a preference for summary disclosure . . . . [and that] Commenters' overall preference for summary disclosure is generally consistent with other information the Commission has received—through investor testing, surveys, and other information gathering—that similarly indicates that investors strongly prefer concise, layered disclosure'').

[42] Because we are proposing requirements specific to funds that seek to achieve a particular ESG impact, we are also proposing a distinct definition for this subset of ESG-Focused Funds. *See infra* at Section II.A.1.ii.

[43] For a BDC, certain proposed disclosure would be included in the management discussion and analysis, in the BDC's annual report on Form 10–K [17 CFR 249.310]. Also, a unit investment trust (''UIT'') would not be subject to the proposed annual report to shareholders requirements because a UIT is not required to provide management's discussion of fund performance (''MDFP'') disclosure in their annual reports.

[44] For example, an Integration Fund might disclose that it invests in companies consistent with its objective of risk-adjusted return; that it considers ESG factors alongside financial, industry-related and macroeconomic factors; that the specific ESG factors it evaluates are the impact and risk around climate change, environmental performance, labor standards, and corporate governance; and that its consideration of these factors would not necessarily result in a company being included or excluded from the evaluation process but rather would contribute to the overall evaluation of that company. Proposed Item 4(a)(2)(ii)(A) of Form N–1A [17 CFR 274.11A]; proposed Item 8.(2)(e)(2)(A) of Form N–2 [17 CFR 274.11a–1]. For purposes of section II.A.1., the term ''funds'' includes all management investment companies, including BDCs, but not unit investment trusts; *see also* General Instructions B.4.(c) and C.1.(a) of Form N–1A [17 CFR 274.11A]; General Instructions Part A: The Prospectus of Form N–2 [17 CFR 274.11a–1].

[45] *Id. See* 17 CFR 230.498 [Rule 498 under the Securities Act of 1933]. We estimate that as of Dec. 31, 2020, approximately 95% of mutual funds and ETFs use summary prospectuses. This estimate is based on data on the number of mutual funds and ETFs that filed a summary prospectus in 2020 in the Commission's Electronic Data, Gathering, Analysis, and Retrieval system (''EDGAR'') (10,739) and the Investment Company Institute's estimated number of mutual funds and ETFs as of Dec. 31, 2020 (11,323). *See* Investment Company Institute, 2021 Investment Company Fact Book, at 40, available at *https://www.ici.org/system/files/2021-05/2021_factbook.pdf.*

[46] For purposes of our proposed rule, investment selection encompasses the decision to invest in a particular security as well as the size or weighting of the particular security investment.

[47] Further, in a separate proposal, we are proposing to define the names of ''integration funds'' as materially deceptive and misleading if the name includes terms indicating that the fund's investment decisions incorporate one or more ESG factors. *See* 17 CFR 270.35d–1 [rule 35d–1 under the Investment Company Act] (the ''names rule''); *Investment Company Names,* Investment Company Act Release No. 34593 (May 25, 2022) (''Names Rule Proposing Release''), published elsewhere in this issue of the **Federal Register**.

incorporates ESG factors into its investment selection process in an open-end fund's statutory prospectus or later in a closed-end fund's prospectus.[48] This more detailed description would provide information about the fund's integration of ESG factors in its investment strategy to facilitate informed decision making by providing investors more detail about the extent to which the fund considers those ESG factors as compared to other factors in the fund's investment selection process.[49]

In addition to this general requirement, which would apply to all ESG factors that a fund considers, we are proposing a specific requirement for Integration Funds that consider GHG emissions to provide more detailed information in the fund's statutory prospectus or later in a closed-end fund's prospectus. Specifically, if an Integration Fund considers the GHG emissions of portfolio holdings as one ESG factor in the fund's investment selection process, we are proposing to require such a fund to describe how the fund considers the GHG emissions of its portfolio holdings.[50] This disclosure must include a description of the methodology that the fund uses as part of its consideration of portfolio company GHG emissions. For example, an Integration Fund that considers GHG emissions might disclose that it considers the GHG emissions of portfolio companies within only certain ''high emitting'' market sectors, such as the energy sector. The fund in this example would also be required to describe the methodology it uses to determine which sectors would be considered ''high emitting,'' as well as the sources of GHG emissions data the fund relied on as part of its investment selection process.

As discussed in more detail below, some investors have expressed particular demand for information on the ways in which funds consider GHG emissions as a factor in the investment selection process so that they can make better informed investment decisions, which can create an incentive for funds to overstate the extent to which portfolio company emissions play a role in the fund's strategy and therefore warrants specific disclosure requirements regarding the process for integrating this data. Moreover, as discussed below, there has been increasing acceptance and convergence around particular methodologies for calculating certain GHG emissions metrics,[51] but Integration Funds might vary substantially in how they utilize GHG emissions metrics data or otherwise consider portfolio company GHG emissions, which can impede informed decision-making if investors believe Integration Funds that consider GHG emissions do so in the same way or by reference to the same framework. We believe requiring more specific disclosure for Integration Funds that consider portfolio company GHG emissions, including the methodology the fund used for this purpose, will assist investors in better understanding how the fund integrates GHG emissions in its investment selection process and compare that process to that of other Integration Funds.

We are proposing to require funds to place this information outside of an open-end fund's summary prospectus and later in a closed-end fund's prospectus where more detailed information is available on a range of topics to balance the need for investors to have access to this information while mitigating the risk of overemphasis of ESG factors by an Integration Fund as discussed above.

We request comment on all aspects of our proposed approach to Integration Fund disclosure, including the following items:

3. Is the proposed definition of an Integration Fund appropriate and clear? Are there other alternative definitions we should consider? For example, is the aspect of the definition specifying that ESG factors ''may not be determinative in deciding to include or exclude any particular investment in the portfolio'' sufficiently clear? Would it be clearer to provide that ESG factors are ''not necessarily'' determinative, or would that imply a greater role of ESG factors than may be the case for many integration funds? Is the proposed definition over- or under- inclusive? For example, are there funds that do not currently consider themselves to integrate ESG factors but would fall under this definition and be required to provide disclosures? Conversely, are there funds that do not meet the proposed definition that do consider themselves to integrate ESG factors?

4. Will funds that engage in fundamental-oriented analysis, *i.e.,* funds that analyze a portfolio company's value by examining related economic and financial factors about their portfolio companies generally, consider themselves to be Integration Funds? Should such funds be Integration Funds because of their long-standing considerations of governance factors in their investment selection processes? For ESG disclosure requirements, should there be an Integration Fund category, as proposed, or should we limit disclosure requirements to ESG-Focused Funds? Alternatively, should there be additional categories of funds other than Integration Funds, ESG-Focused Funds, and Impact Funds, as proposed?

5. Should we, as proposed, require an Integration Fund to provide a brief description of how the fund incorporates any ESG factors into its investment selection process, including what ESG factors the fund incorporates? Should we require a fund to include example(s)? Should we require a specific type of example? What additional disclosure about an Integration Fund would be helpful for an investor? Where should that additional disclosure be located?

6. Should we, as proposed, require an Integration Fund that considers the GHG emissions of its portfolio holdings as an ESG factor in its investment selection process, to disclose how it considers the GHG emissions of its portfolio holdings? Should the description, as proposed, include a description of the methodology such a fund uses for this purpose? Would investors find this narrative disclosure useful to make better informed investment decisions? Should we require Integration Funds to disclose quantitative information or other GHG metrics, in addition to or in lieu of, the narrative disclosure? If so, what type of quantitative information of GHG metrics should be disclosed? For instance, should we require Integration Funds that consider GHG emissions as a part of their investment selection process to disclose the same standardized GHG metrics we are requiring of certain ESG-Focused Funds? Would such quantitative data be useful to investors?

7. Should Integration Funds provide the tabular disclosure we are proposing for ESG-Focused Funds, as discussed below? Would that disclosure overemphasize the role ESG factors play in an Integration Fund's portfolio or,

[48] *See* Proposed Instruction 1(a) to Item 9(b)(2) of Form N–1A [17 CFR 274.11A]; Proposed Instruction 9.a(1) to proposed Item 8.2.e(2)(B) of Form N–2 [17 CFR 274.11a–1].

[49] *See supra* Section II.A.1.3. (''The Need for Specific ESG-Disclosure Requirements'') (discussing why additional detail about the fund's integration of ESG factors in its investment selection process is important and necessary as the lack of a more specific ESG-disclosure framework may result in a fund marketing or labelling itself as ''ESG,'' ''green,'' or ''sustainable'' to attract investors even though the fund's consideration of ESG-related features in its investment strategy is limited).

[50] *See* Proposed Instruction 1(b) to Item 9(b)(2) of Form N–1A [17 CFR 274.11A]; Proposed Instruction 9.a(2) to proposed Item 8.2.e(2)(B) of Form N–2 [17 CFR 274.11a–1].

[51] *See infra* at text accompanying footnote 119.

conversely, would investors find the disclosure informative?

8. Is the placement of the proposed disclosure appropriate for funds? If not, is there a different place that would be more appropriate?

9. We are proposing to require an Integration Fund to provide a brief disclosure in the summary section of an open-end fund's prospectus and in the general description of the fund for a closed-end fund. The brevity of this disclosure is designed to avoid giving investors the impression that Integration Funds incorporate ESG factors more than they actually do as a result of lengthy ESG disclosure. Is it feasible for funds to meet the elements of the proposed disclosure requirement with a brief description or example? If not, should we modify any aspects of the disclosure requirements to promote brevity? Should we impose a word limit or use another method to ensure brevity, beyond including the general requirement that the disclosure be brief? Are there other ways to ensure balanced disclosure that would not overemphasize the role of ESG factors while also fostering meaningful disclosure about ESG factors? Conversely, should we delete the requirement that the disclosures be brief?

10. A fund is permitted to add a statement of its investment objectives, a brief description of its operations, or any additional information on its front cover page. That other information may include a text or design feature. Should we address a fund's use of a text or design feature on its front cover page? For example, should we provide that it would be materially deceptive and misleading for an Integration Fund to use a text or design feature on its front cover page that implies a focus on one or more ESG factors? Should we place limitations on the ability of an Integration Fund to use a text or design feature on its front cover page to indicate that the fund's investment decisions incorporate one or more ESG factors on the basis that such features might be misleading? Conversely, are there other formatting requirements that would help improve the salience and prominence, such as font size and bolding, that we should address?

11. Should we, as proposed, require an Integration Fund to provide a more detailed description of how the fund incorporates ESG factors into its investment selection process in an open-end fund's statutory prospectus or later in a closed-end fund's statutory prospectus? Would investors find this information useful for understanding the ESG integration process? Would this information overemphasize the extent to which an Integration Fund considers ESG factors in its investment selection process? Would the layered disclosure format that we are proposing be appropriate for Integration Funds? Should all or more information about the fund's ESG integration process be in the summary section of the prospectus? Conversely, should we require Integration Funds to put most or all of the information about their ESG integration process in the statutory prospectus (or, for closed-end funds, later in the prospectus), as proposed?

(b) Proposed ESG-Focused Fund Prospectus Disclosure

We are proposing to require an ESG-Focused Fund, which would include an ESG Impact Fund, to provide specific disclosure about how the fund focuses on ESG factors in its investment process. An ''ESG-Focused Fund'' would mean a fund that focuses on one or more ESG factors by using them as a significant or main consideration (1) in selecting investments or (2) in its engagement strategy with the companies in which it invests.[52] Thus, ESG-Focused Funds under this proposed definition would include, for example, funds that track an ESG-focused index or that apply a screen to include or exclude investments in particular industries based on ESG factors.[53] The category would likewise include a fund that has a policy of voting its proxies and engaging with the management of its portfolio companies to encourage ESG practices or outcomes.[54]

Additionally, to help ensure that any fund that markets itself as ESG provides sufficient information to investors to support the claim, the proposed definition of an ESG-Focused Fund explicitly includes (i) any fund that has a name including terms indicating that the fund's investment decisions incorporate one or more ESG factors and (ii) any fund whose advertisements or sales literature indicates that the fund's investment decisions incorporate one or more ESG factors by using them as a significant or main consideration in selecting investments.[55] Accordingly, any fund that markets itself, whether through its name or marketing materials as having an ESG focus, would be required to provide the proposed ESG Strategy Overview Table discussed below.[56] We believe this aspect of the proposed definition can help deter funds from making exaggerated claims by requiring funds that market themselves as, for example, ''ESG,'' ''green,'' ''sustainable,'' or ''socially conscious'' to provide specific information in their prospectuses to substantiate such claims.

A fund's use of advertisements or sales literature that mention ESG factors, but not as a ''significant or main consideration'' in the fund's investment or engagement strategy, would not alone cause the fund to be an ESG-Focused Fund. This aspect of the proposed definition of an ESG-Focused Fund would permit Integration Funds to discuss the role of ESG factors in their advertisements or sales literature—including the relationship between ESG factors and other investment factors and that ESG factors might not be dispositive—while deterring marketing materials that imply that ESG factors are a significant or the main consideration of a fund.

We also propose to define an ''Impact Fund'' as an ESG-Focused Fund that seeks to achieve a specific ESG impact or impacts.[57] For example, a fund that invests with the goal of seeking current income while also furthering the fund's disclosed goal of financing the construction of affordable housing units would be an Impact Fund under the

[52] *See* Proposed Item 4(a)(2)(i)(B) of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(1)(B) of Form N–2 [17 CFR 274.11a–1].

[53] While we are not suggesting any ESG-related minimum characteristics that such index or screen would have, an ESG-Focused Fund that uses the index or screen to focus on one or more ESG factors by using them as a significant or main consideration in selecting investments would be required, as discussed below, to provide disclosure about the index or screen under our proposed amendments.

[54] *See infra* at section II.A.1.b.3 for the discussion of what we propose constitutes engagement for these purposes.

[55] For purposes of the proposed definition of an ESG-Focused Fund, the term ''advertisements'' is defined pursuant to 17 CFR 230.482 under the Securities Act of 1933, and the term ''sales literature'' is defined pursuant to 17 CFR 270.34b–1 under the Investment Company Act of 1940.

[56] For example, ABC Solar Energy ETF invests in the securities that comprise the XYZ solar index. Because the fund has a name that indicates it considers ESG factors based on the industry in which the fund invests, the fund would be required to provide the proposed ESG-Focused Fund disclosure. As another example, DEF Growth Fund has sales materials that state it focuses on companies that ''provide solutions to sustainability challenges.'' DEF Growth Fund would be required to provide the ESG-Focused Fund disclosure because its marketing materials indicate that ''sustainability'' is a significant consideration in selecting investments. Providing the proposed disclosure for ESG-Focused Funds would not provide assurance or a safe harbor that such name or marketing materials are not materially deceptive or misleading. Funds must continue to consider the application of the Federal securities laws including, but not limited to, the general antifraud provisions and the names rule to their name or other marketing materials. *See* Names Rule Proposing Release, *supra* footnote 47.

[57] Proposed Item 4(a)(2)(i)(C) of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(1)(C) of Form N–2 [17 CFR 274.11a–1].

proposal. A fund that invests with the goal of seeking to advance the availability of clean water by investing in industrial water treatment and conservation portfolio companies is another example of an Impact Fund under the proposal. As these examples illustrate, an Impact Fund's stated goal of pursuing a specific impact is what would distinguish Impact Funds under the proposal from other ESG-Focused Funds. An Impact Fund would be required to provide the disclosures proposed for all ESG-Focused Funds. Additionally, and as discussed further below, an Impact Fund would have additional disclosure requirements, including how the fund measures progress towards the stated impact; the time horizon used to measure that progress; and the relationship between the impact the fund is seeking to achieve and the fund's financial returns.[58] We believe additional disclosure requirements are appropriate for these funds to clarify the impact the fund is seeking to achieve as well as to allow investors to evaluate the fund's progress in achieving that impact.

ESG-Focused Funds would provide key information about their consideration of ESG factors in a tabular format—an ESG Strategy Overview table—in the fund's prospectus. An open-end fund would be required to provide the disclosure at the beginning of its ''risk/return summary,'' the section of the prospectus that summarizes key information about the fund's investments, risk and performance, while a closed-end fund would provide the table at the beginning of the discussion of the fund's organization and operation.[59] The disclosure would be in the following tabular format:

[ESG] Strategy Overview

<table>
<tr><td rowspan="2">Overview of the Fund's [ESG] strategy</td><td></td></tr>
<tr><td>The Fund engages in the following to implement its [ESG] Strategy:
☐ Tracks an index
☐ Applies an inclusionary screen
☐ Applies an exclusionary screen
☐ Seeks to achieve a specific impact
☐ Proxy voting
☐ Engagement with issuers
☐ Other</td></tr>
<tr><td>How the Fund incorporates [ESG] factors in its investment decisions</td><td></td></tr>
<tr><td>How the Fund votes proxies and/or engages with companies about [ESG] issues</td><td></td></tr>
</table>

Requiring all ESG-Focused Funds to provide concise disclosure, in the same format and same location in the prospectus, is designed to provide investors a clear, comparable, and succinct summary of the salient features of a fund's implementation of ESG factors. This information would help an investor determine if a given ESG-Focused Fund's approach aligns with the investor's goals. We are proposing consistent titles in the rows of the table to help investors to compare and analyze different ESG-Focused Funds

[58] *See infra* at Section II.A.1.b.(2).

[59] Proposed Item 4(a)(2)(ii)(B), Instruction 1 of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(2)(B), Instruction 1 of Form N–2 [17 CFR 274.11a–1] (providing that the ESG Strategy Overview table would precede the risk/return summary (for open-end funds) or discussion of the fund's organization and operation (for closed-end funds), and disclosure in the table need not be repeated in the narrative disclosure that will follow the table in the risk/return summary of discussion of the fund's organization and operation).

more easily as they make investment decisions.[60]

To facilitate a layered disclosure approach, the amendments would require an ESG-Focused Fund to complete each row with the brief disclosure required by that row—and only the information required by the relevant form instructions—with lengthier disclosure or other available information required elsewhere in the prospectus.[61] In an electronic version of the prospectus, that is, a prospectus posted on the fund's website, electronically delivered to an investor, or filed on EDGAR with the Commission, the fund also would be required to provide hyperlinks in the table to the related, more detailed disclosure later in the prospectus to help investors easily access the information.[62] We discuss the disclosure that would be required by each row of the table further below.

We request comment on all aspects on the proposed definitions of ESG-Focused Fund and Impact Fund, the general approach to layered disclosure and the design of the ESG Strategy Overview Table, including the following items:

12. Are there additional distinctions that the disclosure rules should make besides the proposed distinctions between Integration Funds and ESG-Focused Funds, as proposed, for the level of detail required in prospectus disclosures?

13. Should we, as proposed, define an ESG-Focused Fund as a fund that focuses on one or more ESG factors by using them as a significant or main consideration in selecting its investment or its engagement strategy with issuers of its investments?

14. As discussed above, a fund that applies a screen to include or exclude investments based on ESG factors would meet the proposed definition of an ESG-Focused Fund. Should our definition of an ESG-Focused Fund specifically reference a fund that follows an ESG-related index or a screen based on ESG factors to include or exclude investments? Should our definition take into account whether a fund's use of an ESG-related index or screen is to promote ESG goals? Should the reference to engagement be a means of identifying Impact Funds, rather than ESG-Focused Funds generally?

15. Should we include the proposed elements in the definition of ESG-Focused Fund related to the use of ESG-related names or advertising or other materials? In particular, does the proposed definition provide appropriate flexibility to allow an Integration Fund to describe its integration process accurately in advertising or other materials, while assuring that funds that market themselves as having an ESG focus provide sufficient information to support such claim?

16. An Integration Fund may be categorized by a third-party marketer or a third-party rater as an ESG-Focused Fund. Are there circumstances where we should attribute the third party characterization to the fund and require the fund to report as an ESG-Focused Fund? For example, should we require such reporting if the fund's adviser has explicitly or implicitly endorsed or approved the information after its publication (such as by including it in the fund's marketing materials), or has involved itself in the preparation of the information?

17. Would the ESG Strategy Overview table's layered disclosure approach provide a concise presentation for investors who want a comprehensive summary of ESG-related aspects of the fund in one place, with more detailed information available later in the prospectus? Are there alternatives that would be more helpful to investors?

18. Should we, as proposed, limit the disclosure in the ESG Strategy Overview Table to the information required by the instructions? Is there any information we should permit but not require?

19. Should we, as proposed, require that the ESG Strategy Overview table precede the other disclosure required in the section of the prospectus to which we propose to add the table (*i.e.,* Item 4(a)(2)(ii)(B) of Form N–1A or proposed Item 8.2.e.(2)(B) of Form N–2)?

20. Since closed-end funds do not have a summary section of the prospectus, we have proposed an alternative approach by requiring the ESG Strategy Overview Table to precede other disclosures in that Item 8.2.e.(2) of the prospectus, while permitting the more detailed ESG information to be disclosed later in the same item. Is this approach appropriate for closed-end funds? Are there alternatives we should consider?

21. Should we require a fund to provide a cross-reference or hyperlink in the prospectus to other parts of the registration statement, as proposed? Are there other sections of the registration statement where we should permit an ESG-Focused Fund to provide a cross-reference or hyperlink? If so, to what sections should we permit an ESG-Focused Fund to provide that cross-reference or hyperlink in the registration statement?

22. Should we, as proposed, permit a fund to replace the term ''ESG'' in the ESG Strategy Overview table with another term or phrase that more accurately describes the ESG factors that the fund considers? Should a fund be required to replace ESG with a different term in certain circumstances, such as when it focuses on a particular issue or set of issues? Should we mandate that funds choose from a list of alternative terms to improve comparability, and, if so, what terms should those be?

23. Should we allow flexibility in how funds label each row in the table beyond the flexibility provided regarding the term ESG and the pronouns used?

24. Should ESG-Focused Funds disclose information other than what we have proposed about their ESG strategy? By contrast, is there any of the proposed disclosures that an ESG-Focused Fund would make that should not be adopted by the Commission?

Overview of the Fund's ESG Strategy

First, in the row ''Overview of [the Fund's] [ESG] strategy,'' we are proposing that an ESG-Focused Fund provide a concise description in a few sentences of the factor or factors that are the focus of the fund's strategy.[63] For example, a fund might disclose that it focuses on environmental factors, and in particular, on greenhouse gas emissions. Further, the fund would be required to include a list of common ESG strategies as indicated in the ESG Strategy Overview table and, in a ''check the box'' style, indicate all strategies in that list that apply.[64] These check boxes would identify common ESG strategies, namely, the tracking of an index, the application of an exclusionary or inclusionary screen, impact investing, proxy voting, and engagement with issuers. An ESG-Focused Fund would not be required to check any of the boxes if none of the common ESG strategies applied to the fund, and instead, would check the ''other'' box.

[60] Proposed Item 4(a)(2)(ii)(B), Instruction 3 of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(2)(B), Instruction 3 of Form N–2 [17 CFR 274.11a–1]. A fund would be allowed to replace ''ESG'' in each row with another term that more accurately describes the applicable ESG factors the fund considers. Similarly, a fund would be permitted to replace the term ''the Fund'' in each row with an appropriate pronoun, such as ''we'' or ''our.'' *Id.*

[61] Proposed Item 9(b)(2), Instruction 2 of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(2)(B). Instruction 9.b of Form N–2 [17 CFR 274.11a–1].

[62] Proposed Item 4(a)(2)(ii)(B), Instruction 3 of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(2)(B), Instruction 3 of Form N–2 [17 CFR 274.11a–1].

[63] Proposed Item 4(a)(2)(ii)(B), Instruction 4 of Form N–1A [17 CFR 274.11A]; proposed Item 8.2.e.(2)(B) Instruction 4 of Form N–2 [17 CFR 274.11a–1].

[64] *Id.*

This ''check the box'' presentation is designed to allow an investor immediately to identify the ESG strategies a fund employs. Together, the disclosure in this row is designed to help investors quickly compare different funds' area of focus and approaches to ESG investing and to provide context for the more specific disclosure in the rows that follow.

25. Should we, as proposed, require an ESG-Focused Fund to provide a concise description in a few sentences of the ESG factor or factors that are the focus of the fund's strategy? Is beginning the table with an overview helpful? Would it give investors a way to quickly discern the particular ESG-focus of the fund?

26. Should we, as proposed, require funds to include the types of common ESG strategies in a ''check box'' format? Is this format useful to an investor so that the investor can quickly and easily understand the fund's ESG strategy and compare it with the ESG strategies used by other funds? Alternatively, as opposed to listing all the strategies and checking the ones that apply, should funds list only the ESG strategies that apply to them?

27. Should the instructions include definitions or descriptions for each common strategy on the list, or are they sufficiently self-explanatory?

28. Would there be instances where a fund might face ambiguity as to whether a strategy on the list accurately describes a technique the fund utilizes? For example, are there instances where it might be ambiguous whether a fund applies an inclusionary or exclusionary screen? If so, is there alternative disclosure a fund should provide?

29. Are there any common ESG strategies that should be included on the list, or any that we proposed that should be excluded? Would the ''other'' box, as proposed, be helpful in allowing funds to identify that they pursue a strategy other than those specified in the other check boxes or, conversely, would that result in funds tending to select ''other'' and making the check-box disclosure less informative to investors?

30. The ESG Strategy Overview table provides a number of check boxes for common ESG strategies. Does the number of those check boxes present the possibility that a fund could overstate and/or present the appearance to an investor of overstating the fund's ESG strategy because of the number of those check boxes? Should certain of those check boxes be combined? If so, which ones? Are there other alternatives to the check boxes that would be consistent with the disclosure goals of the check boxes?

(1) Description of the Fund's Incorporation of Any ESG Factors in Investment Decisions

Second, in the row ''How the Fund incorporates [ESG] factors in its investment decisions,'' we are proposing that an ESG-Focused Fund summarize how it incorporates ESG factors into its process for evaluating, selecting, or excluding investments.[65] Funds would be required to provide specific information in this row and supplement the overview in this row with a more detailed description later in the prospectus.[66] The fund would provide specific information, in a disaggregated manner, with respect to each of the common ESG strategies applicable to the fund as identified by the ''check the box'' disclosure.[67] For example, a fund would have to explain an inclusionary screen distinctly from an exclusionary screen. To help ensure this information would be presented in a clear format, a fund would be permitted to use multiple rows in the table or other text features to clearly identify the disclosure related to each applicable common ESG strategy.[68] We discuss below each of the disclosures that would be required in this row, if applicable.

First, if the fund applies an inclusionary or exclusionary screen to select or exclude investments, the fund's summary must briefly explain the factors the screen applies, such as particular industries or business activities it seeks to include or exclude, and if applicable, what exceptions apply to inclusionary or exclusionary screen.[69] In addition, such fund would be required to state the percentage of the portfolio, in terms of net asset value, to which the screen applies, if less than 100%, excluding cash and cash equivalents held for cash management and to explain briefly why the screen applies to less than 100% of the portfolio.

We understand that many ESG-Focused Funds commonly apply inclusionary or exclusionary screens to select investments based on ESG criteria. A fund applying an inclusionary screen would use the screen to select investments based on the fund's ESG criteria. This includes, for example, funds that select companies that perform well relative to their industry peers based on ESG factors, such as greenhouse gas emissions or workforce diversity. Conversely, a fund applying an exclusionary screen would start with a given universe of investments and then exclude investments based on ESG criteria, such as by excluding investments in companies that operate in certain industries or that engage in certain activities.

Requiring funds that apply inclusionary or exclusionary screens to explain briefly the factors the screen applies, as well as the percentage of the portfolio covered by the screen if applicable, is designed to help investors understand how ESG factors guide the fund's investment decisions. A fund applying an inclusionary screen to select investments based on a company's performance on certain ESG factors relative to peers in its sector might disclose an overview of this process and the primary ESG factors it considers to select investments. A fund applying an exclusionary screen might disclose, for example, that it invests in the securities of a given index, excluding companies in the index that derive significant revenue from the extraction or refinement of fossil fuels or sale of alcohol. This would allow an investor to understand the kinds of investments a fund was focusing on or avoiding and determine if the fund's approach aligned with the investor's own view of ESG investing. Finally, we are proposing to require a fund to state the percentage of the portfolio, in terms of net asset value, to which the screen is applied, if less than 100%, excluding cash and cash equivalents held for cash management, and to explain briefly why the screen applies to less than 100% of the portfolio. We believe that knowing that a portion of the portfolio is selected without regard to a particular screen would be important to an investor so that the investor would understand the extent to which the fund considers ESG factors. We propose to provide an exception for cash management to make clear that funds that generally apply the screen to their entire portfolio do not have to include disclosure in this row regarding small portions held for

[65] Proposed Item 4(a)(2)(ii)(B), Instruction 5 of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(2)(B), Instruction 5 of Form N–2 [17 CFR 274.11a–1].

[66] Open-end funds would provide the additional information in response to Item 9 of Form N–1A, as we propose to amend it, which covers a fund's investment objectives, principal investment strategies, related risks, and portfolio holdings. Closed-end funds would provide the additional information in response to Item 8 of Form N–2, as we propose to amend it, which requires a general description of the fund, including its investment objectives and policies and other matters. Proposed Item 9(b)(2), Instruction 2 of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(2)(B), Instruction 9 of Form N–2 [17 CFR 274.11a–1].

[67] Proposed Item 4(a)(2)(ii)(B), Instruction 4 of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(2)(B), Instruction 4 of Form N–2 [17 CFR 274.11a–1].

[68] *Id.*

[69] *Id.*

operational purposes, such as meeting redemptions.

As with other items discussed in this row, the fund also would be required to provide a more detailed description of any inclusionary or exclusionary screen later in the prospectus. That disclosure would cover the factors applied by any inclusionary or exclusionary screen, including any quantitative thresholds or qualitative factors used to determine a company's industry classification or whether a company is engaged in a particular activity.[70] This disclosure would allow an investor that is interested in the additional detail to understand how a fund applies the inclusionary or exclusionary screen. To build on the examples above, the fund might disclose in the prospectus how it analyzes whether a company derives significant revenue from the extraction or refinement of fossil fuels or sale of alcohol, including how a fund defines ''significant'' for this purpose, such as a specific percentage of a company's revenue derived from fossil fuels or alcohol.

Second, if the fund uses an internal methodology, a third-party data provider, or a combination of both, in evaluating, selecting, or excluding investments, the fund's disclosure in this row must describe how the fund uses the methodology, third-party data provider, or combination of both, as applicable.[71] We understand that some ESG-Focused Funds evaluate, select, or exclude investments using internal methodologies, and/or base their investment decisions, at least in part, on the data or analysis of a third-party data provider, such as scoring or ratings provider, that evaluates or scores portfolio companies based on the provider's ESG criteria. This disclosure, if applicable, would help an investor understand how these methodologies and/or providers guide the fund's investment decisions. Specifically, we understand that different advisers or third-party data providers conducting internal analyses can disagree on how to analyze how companies fare on various ESG factors.[72] Accordingly, funds that have a similar ESG strategy and focus could have different, sometimes even contradicting, views on an investment depending on the analysis the funds conduct or the third-party data provider they use.[73] The required disclosures protect investors by providing them detailed information to help determine whether the fund's process for analyzing investments aligns with the ESG-related priorities of the investor.

In addition, because the description of an internal methodology or third-party data provider's methodology can be lengthy, the summary in the table would be complemented by a more detailed description later in the prospectus.[74] There, the fund would provide, if applicable, a more detailed description of any internal methodology used and how that methodology incorporates ESG factors. If the fund used a third-party data provider, the fund would provide a more detailed description of the scoring or ratings system used by the third-party data provider. We believe the placement of information about additional third-party data providers later in the prospectus balances the benefits of the information to investors regarding the use of third-party data providers generally, while encouraging brevity in the ESG Strategy Overview Table and limiting disclosure to those analyses most likely to directly influence investment selection. For both scoring providers and other third-party data providers, the disclosure would be required to include how the fund evaluates the quality of the data from such provider, which we believe would help protect investors by allowing them to assess the reliability of the information and the extent of the independent analysis performed by the fund's adviser.[75]

Third, if the fund tracks an index, the summary must identify the index and briefly describe the index and how it utilizes ESG factors in determining its constituents.[76] For example, a fund tracking the XYZ Sustainability Index would disclose that it tracks this index and provide an overview of the kinds of companies included in the index. This would inform an investor that the fund's investments are driven by the composition of the index, as well as how that index is constructed.

Because the description of an index's methodology can be lengthy, the summary in the table would be complemented by a more detailed description later in the prospectus. Specifically, a fund tracking an index also would provide later in the prospectus the index's methodology, including any criteria or methodologies for selecting or excluding components of the index that are based on ESG factors.[77] The disclosure in the ESG Strategy Overview table would give investors an overview of the index's construction—and thus the fund's investments—with additional information in the prospectus about the index methodology thereby protecting investors by providing them sufficient information to determine whether an index's methodology aligns with the ESG-related priorities of the investor.

Finally, we are also proposing that an ESG-Focused Fund provide in this row an overview of any third-party ESG frameworks that the fund follows as part of its investment process.[78] Consistent with our approach to the other disclosure items required by the row, the fund would provide an overview of those standards in the row, with the more detailed description of any applicable ESG framework and how it applies to the fund later in the prospectus. We recognize that many advisers to ESG-Focused Funds have expressed a commitment to follow frameworks, such as the United Nations Sustainable Development Goals (''UN SDG'') or the United Nations Principles for Responsible Investing (''UN PRI'').[79] In these cases, requiring a fund to disclose that the fund's investments will follow such a framework would help an investor understand how the fund considers such ESG frameworks in its investment strategy. For example, under the proposed amendments, a fund might disclose in its ESG Strategy Overview table that the fund's investment objective is to seek long-term capital appreciation while also contributing to positive societal impact aligned to the UN SDG by limiting the fund's investments to companies that contribute to at least one of those goals. The fund would then be required to disclose later in its prospectus more information about any UN SDG goal on which the fund focuses and how the fund determines that a portfolio company contributes to that goal.[80]

[70] Proposed Item 9(b)(2)(d) of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(2)(B), Instruction 9.b.(4) of Form N–2 [17 CFR 274.11a–1].

[71] *Id.*

[72] *See infra* section II.A.1.b.

[73] *See supra* footnote 33 and accompanying text.

[74] Proposed Item 9(b)(2), Instruction 2 of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(2)(B), Instruction 9.b of Form N–2 [17 CFR 274.11a–1].

[75] *Id.*

[76] Proposed Item 4(a)(2)(ii)(B), Instruction 5.(c) of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(2)(B), Instruction 5.c. of Form N–2 [17 CFR 274.11a–1].

[77] Proposed Item 4(a)(2)(ii)(B), Instruction 5(a) of Form N–1A [17 CFR 274.11A]; proposed amended Item 9(b)(2), Instruction 2(a) of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(2)(B), Instruction 9.b.(1) of Form N–2 [17 CFR 274.11a–1].

[78] Proposed Item 4(a)(2)(ii)(B), Instruction 6 of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(2)(B), Instruction 6 of Form N–2 [17 CFR 274.11a–1].

[79] These standards are just examples included for illustrative purposes. More information about the UN SDG is available at *https://sdgs.un.org/goals.* More information about the UN PRI is available at *https://www.unpri.org.*

[80] Proposed Item 9(b)(2), Instruction 2(e) of Form N–1A [17 CFR 274.11A]; Proposed Item 8.e.2.(2)(B), Instruction 9.b.(5) of Form N–2 [17 CFR 274.11a–1].

We request comment on all aspects of our proposal with respect to disclosure by ESG-Focused Funds regarding investment selection disclosure for ESG-Focused Funds, including the following items:

31. Is there additional information concerning the investment selection process in addition to the proposed disclosures for ESG-Focused Funds that would be helpful to investors? Should we require that additional information be included in the table or in another disclosure item? Is there information in this proposed requirement that should not be in the table and should be placed elsewhere instead? Where should that information be placed, and how will the alternative locations(s) help ensure investors receive key information in a readily accessible location?

32. Should we, as proposed, require that information with respect to each investment process be provided in a disaggregated manner if both apply? What manner of presentation of the information would be helpful to investors?

33. Is the proposed level of disclosure and the division of that disclosure between the summary section of prospectus and statutory prospectus (*i.e.,* Items 4 and 9 of Form N–1A) appropriate? Similarly, is the proposed level and the division of that disclosure between earlier and later in the prospectus (*i.e.,* proposed Item 8.2.e.(2), Instruction 3 and Instruction 9 of Form N–2) appropriate? Is there information that we are proposing to require in the table that we should consider allowing to be disclosed later in the prospectus? Conversely, is there information that we are proposing to require later in the prospectus that we should require earlier in the prospectus?

34. Is the information that we are proposing to require an ESG-Focused Fund to disclose about how the fund incorporates ESG factors into its investment process for evaluating, selecting, and excluding investments appropriate and sufficiently clear?

35. Should we specifically require, as proposed, an ESG-Focused Fund to disclose in the ESG Overview Table whether it seeks to select or exclude issuers that engage in certain activities, or whether the fund seeks to select or exclude issuers from particular industries?

36. Our proposed amendments include definitions of inclusionary and/or exclusionary screens. Should those definitions be modified? Do definitions of the screens help a fund determine if its investment process is considered a screen for purposes of indicating the fund uses a screen as a strategy? Should we include examples of inclusionary or exclusionary screens? If so, what examples should the instructions include?

37. As proposed, funds that apply an inclusionary or exclusionary screen would be considered an ESG-Focused Fund regardless of how extensive or narrow the screen is. For example, a fund that applies an exclusionary screen to just a few industries would be an ESG-Focused Fund and provide the ESG Strategy Overview Table. Should we prescribe how extensive an inclusionary or exclusionary screen must be in order for a fund applying the screen to be an ESG-Focused Fund under our proposed amendments? For example, if an exclusionary screen would exclude companies on the basis of an ESG criterion that involved such an unusual set of facts that no or few companies would be excluded, should that fund instead be considered an Integration Fund, requiring the more streamlined disclosure as opposed to a table? Do more limited screens raise concerns that investors would be misled into believing the screen is more comprehensive than it is? Conversely, would the required disclosures about the screen and the fund's ESG investing generally address any such concerns if the fund were treated as an ESG-Focused Fund?

38. Should we, as proposed, require funds to describe any exceptions to their screening mechanism? How common is it for a fund that applies a screen to its investments to except certain investments from its screening mechanism, that is, to make investments that otherwise would be excluded by the screen? What methodologies or factors do funds have for processing such exceptions? Should that information be disclosed to investors, either in the ESG Strategy Table or elsewhere in the prospectus?

39. Should we require all funds to disclose the percentage of the portfolio to which the screen applies, even if it is 100%? Are there funds that currently apply a screen only to a portion of their portfolio? Should we include an explicit requirement that the fund explain its approach to applying a screen to only part of a portfolio, as proposed?

40. Should we, as proposed, require a fund that implements its ESG strategy by applying an inclusionary or exclusionary screen to disclose the percentage of the portfolio, in terms of net asset value, to which the screen is applied, if less than 100%, excluding cash and cash equivalents held for cash management? Should the scope of exclusions to which the screen would be applied be expanded, such as also excluding similar investments held for cash management and/or excluding the amount of any borrowings held for investment purposes? Is ''cash management'' sufficiently understood or would guidance about cash management be helpful? Alternatively, should we specify a percentage of any non-ESG assets, even if not for cash management, that would be considered *de minimis* and not need to be disclosed?

41. Should we, as proposed, require funds to provide disclosure later in the prospectus about the factors applied by any inclusionary or exclusionary screen? Should such disclosure, as proposed, include the quantitative thresholds or qualitative factors used to determine a company's industry classification or whether a company is engaged in a particular activity? Should any part of this information be required to be in the ESG Strategy Overview Table? Is there any other disclosure that we should require funds to provide, either in the ESG Strategy Overview Table or later in the prospectus relevant to a screen?

42. Would the disclosure that we would be requiring in the fund's statutory prospectus (*e.g.,* Item 9 of Form N–1A) about the index methodology used and how that methodology incorporates ESG factors be difficult for retail investors to understand? Are there ways in which we could tailor those requirements to make that disclosure more useful at conveying information to help protect investors? Would an example be helpful?

43. Should we, as proposed, require funds to disclose in the ESG Strategy Overview Table an overview of their use of third-party data providers, such as scoring or ratings providers and/or internal methodologies? Are there specific aspects of this disclosure that we should require in the table? Are there any competitive concerns with disclosing internal methodologies? Are there alternatives that would mitigate such concerns and still achieve the goal of helping investors understand the process of how ESG factors are used in investment selection?

44. To what extent do funds use multiple third-party data providers? Should we permit or require funds to provide only the information about the fund's primary third-party data provider (''primary'' in the sense that a fund utilizes that third-party data provider more than others when making investment decisions)? If so, should we provide additional instructions for funds to determine which scoring provider is the primary third-party data provider? Should we, as proposed,

require funds to disclose more detailed information later in the prospectus about a third-party data provider's and/or the fund's internal methodologies? Does this requirement strike an appropriate balance for providing investors with complete information while providing investors an overview toward the beginning of the prospectus that is not overwhelming? Should we, as proposed, require funds to provide a description of their evaluation of the data quality from such providers? When a fund uses multiple third-party data providers, should the fund disclose how it considers conflicting assessments of companies by such providers?

45. Would the proposed requirements regarding third-party data providers and internal methodologies produce disclosure that would be difficult for retail investors to understand? If so, are there ways in which we could tailor those requirements to make that disclosure more accessible for retail investors? Would an example of how the fund evaluates the quality of the third-party data provider's ESG information/analysis be helpful? Are there other ways, such as through the use of various features (such as a chart, check-the-box, or bullet points) that might be useful in helping an investor to understand the disclosure?

46. The disclosure, as proposed, about any index that an ESG-Focused Fund tracks to implement its ESG strategy is more information than what we require about other indexes that funds may track. Would this disclosure be useful to an investor? Would more or less information about how the fund tracks such ESG-focused index be useful to an investor? Are there alternatives to this proposed disclosure that we should consider?

47. Would the disclosure, as proposed, about any index that the fund may track and how the index utilizes ESG factors in determining its constituents; any internal methodology or third-party data provider or combination thereof that the fund may use; or any inclusionary or exclusionary screen that the fund may apply be helpful to investors? Should any part of this information be required to be in the ESG Strategy Overview Table?

48. Do third-party data providers and indexes currently provide funds with the information that we would be requiring ESG-Focused Funds to disclose later in their prospectuses? What are the costs to a fund to obtain and disclose this information from third-party providers?

49. We are proposing that a fund disclose any third-party ESG frameworks it follows. Is the level of detail about that third-party ESG framework appropriate? Should we limit the scope of what is reported about the third-party ESG framework? If so, how? Is there other information about the third-party ESG framework that should be disclosed? If so, what types of information should be disclosed? Is there additional information about how the fund follows the third-party ESG framework that would be helpful?

50. Are there any licensing or other issues that a fund would have to address if we were to require a fund to, as proposed, disclose information concerning a third-party data provider, index, or any third-party ESG framework? If so, what might those issues entail and how could we mitigate any concerns or costs while still providing investors with complete information about the ESG investment selection process?

51. Are there any particular asset classes that ESG-Focused Funds would invest in that should have specific disclosure requirements? For example, are there any particular attributes of green bonds, social bonds and/or sustainability-linked bonds that warrant specific disclosures tailored to these investments?

(2) Impact Fund Disclosure

In addition to the proposed disclosures described above, an Impact Fund, *i.e.,* a fund that selects investments to seek to achieve a specific ESG impact or impacts, would be required to provide in the row ''How [the Fund] incorporates [ESG] factors in its investment decisions'' an overview of the impact(s) the fund is seeking to achieve, and how the fund is seeking to achieve the impact(s). The overview must include (i) how the fund measures progress toward the specific impact, including the key performance indicators the fund analyzes, (ii) the time horizon the fund uses to analyze progress, and (iii) the relationship between the impact the fund is seeking to achieve and financial return(s).[81] As with other proposed requirements, the fund would provide a more detailed description later in the prospectus to complement the overview provided in the ESG Strategy Overview Table.[82]

This information is designed to protect investors by providing them with specific information concerning the impact(s) the fund seeks to achieve. Requiring the fund to disclose the desired impact(s), as well as how the fund measures its progress toward achieving that impact and the related time horizon, is designed to help an investor to understand and evaluate what strategies the fund uses to achieve the impact(s). It also would address the risk of investors being misled through exaggerated ESG claims by distinguishing Impact Funds from other kinds of funds that have more general aspirations or goals, or from other ESG-Focused Funds, particularly funds that primarily use inclusionary or exclusionary screens but without seeking to achieve any specific ESG impact. In addition, requiring the fund to disclose relationship between the impact(s) the fund is seeking to achieve and financial returns is designed to require funds to disclose, if true, that financial returns are secondary to achieving the fund's stated impact—or conversely, that achieving the fund's stated impact is intended to enhance financial returns.[83] We believe an investor needs to understand this relationship to make an informed investment decision.

For example, an Impact Fund might disclose that it seeks total return while pursuing investment opportunities that finance the construction of affordable housing units. The fund also would include how it measures progress toward this goal, such as disclosing that it reviews as a key performance indicator the number of affordable housing units it financed annually. Finally, the fund would discuss the relationship between its goal of financing affordable housing units and its goal of seeking total return over, for example, a ten-year period. We believe such information would allow an investor to evaluate if a fund's specific impact(s) align with the investor's own objectives and to understand how the fund assesses progress in achieving the impact.

In addition to disclosure in the ESG Strategy Overview table, we also are proposing to require an Impact Fund to

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[81] Proposed Item 4(a)(2)(ii)(B), Instruction 7 of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(2)(B), Instruction 7 of Form N–2 [17 CFR 274.11a–1]. In addition, an Impact Fund would have to state that it reports annually on its progress in achieving the impact in the Fund's annual report. Proposed Item 27(b)(7)(i)(B) of Form N–1A [17 CFR 274.11A].

[82] Proposed Instruction 2(f), Item 9(b)(2) of Form N–1A [17 CFR 274.11A]; Proposed Item 8.2.e.(2)(B), Instruction 9.b.(5) of Form N–2 [17 CFR 274.11a–1].

[83] Letter from Federated Hermes to Vanessa Countryman (May 5, 2020) (discussing the distinction between collateral benefits ESG and risk-return ESG and how that distinction turns on the investor's motive, and attaching Max Schanzenbach and Robert Sitkoff ''Reconciling Fiduciary Duty and Social Conscience: The Law and Economics of ESG Investing by a Trustee,'' 72 Stan. L. Rev. 381 (Feb. 2020)) submitted in Request for Comments on Fund Names, SEC File No. S7–04–20, *available at https://www.sec.gov/comments/s7-04-20/s70420-216512.pdf.*

disclose in its investment objective the ESG impact that the fund seeks to generate with its investments.[84] Open-end funds disclose their investment objectives at the beginning of the prospectus. Because closed-end funds are not required to disclose their investment objectives until later in the prospectus, the proposed instruction for closed-end funds would require an Impact Fund to disclose the ESG impact that the fund seeks to generate with its investments where the fund first describes its objective in the filing.[85] For both open- and closed-end funds, this requirement is designed to highlight for investors any ESG-related impact an Impact Fund is seeking to achieve, given that such specific or measurable impacts differentiate Impact Funds from other ESG-Focused Funds. We request comment on all aspects of our proposal with respect to disclosure by Impact Funds in the prospectus, including the following items:

52. Are Impact Funds appropriately considered a subset of ESG-Focused Funds, or are they sufficiently distinct that they need a separate set of disclosure requirements in the prospectus beyond the specific proposed instruction for Impact Funds? Should we require additional disclosures for Impact Funds beyond what we have proposed? Is there any disclosure about an Impact Fund we have proposed that the Commission should not adopt?

53. Should we, as proposed, require an Impact Fund disclose the relationship between the impact the Fund is seeking to achieve and financial return(s)? Should we require this disclosure of all ESG-Focused Funds?

54. Should we, as proposed, require an Impact Fund to disclose how it is seeking to achieve its impact, including how it measures progress towards impact? Should we instead define an Impact Fund as an ESG-Focused Fund that seeks to achieve ''measurable'' ESG impact or impacts rather than define an ESG-Focused Fund as a fund that seeks to achieve a specific impact, as proposed?

55. Should we require, as proposed, an Impact Fund to describe the fund's time horizon for progressing on its impact objectives and any key performance indicators that the fund uses to analyze or measure the effectiveness of the its engagement?

56. Should we, as proposed, require the statement that the fund reports annually on its progress in achieving its impact in the fund's annual report to shareholders or annual report on Form 10–K as applicable? Would that statement be helpful to an investor to be aware of an obligation by the fund to report progress, which the investor may want to review in making an initial investment decision?

57. Should we, as proposed, require an Impact Fund to disclose the ESG impact it is seeking to generate in the fund's investment objective section of the prospectus? Should we, as proposed, require a closed-end fund to provide this disclosure where the Impact Fund first describes its objective in the filing?

(3) Proxy Voting or Engagement With Companies

A common way for advisers to funds to advance ESG goals is through using their power as an investor.[86] In most cases, a fund's adviser votes the proxies of the fund's portfolio companies voting securities on the fund's behalf. [87] In these cases, a fund adviser's stewardship can include strategies for how the fund will vote proxies on ESG-related voting matters that arise. Further, advisers may engage with the management of issuers through meetings or statements of policy. As a result, funds have significant power that can be used to influence the actions of portfolio companies, whether through formal actions such as proxy voting or through other forms of engagement such as meetings with management or statements of policy. Investors have an interest in how funds in which they invest exercise their influence with regard to ESG issues.[88] We are proposing additional disclosure on these topics to help investors in ESG-Focused Funds understand how the fund's adviser engages with portfolio companies on ESG issues.

Specifically, we are proposing that funds for which engagement with issuers, either by voting proxies or otherwise, is a significant means of implementing their ESG strategy check the appropriate box in the first row of the ESG Strategy Overview Table.[89] A fund that checks either the proxy voting or engagement box in the first row of the ESG Strategy Overview Table indicating that proxy voting or engagement with issuers is a significant means of implementing its ESG strategy would be required to provide a brief narrative overview in the last row of the ESG Strategy Overview table of how the fund engages with portfolio companies on ESG issues. This could include, for example, an overview of the fund's voting of proxies and meetings with management.[90] As discussed further below, a fund that does not check the box in the first row would still be required to include this item in the ESG Strategy Overview Table and would disclose that neither proxy voting nor engagement with issuers is a significant part of its investment strategy.

Unlike other common strategies for which we are proposing check boxes in the first row of the ESG Strategy Overview Table, where a fund would check the box as a result of any use of the strategy described by the check box, we are proposing that a fund would only check the boxes regarding proxy voting or engagement with issuers if either such strategy is a ''significant'' means of implementing the fund's ESG

[84] Proposed instruction to Item 2 of Form N–1A [17 CFR 274.11A]; Proposed Instruction 10 to Item 8.2.e.(2)(B) of Form N–2 [17 CFR 274.11a–1].

[85] Proposed Instruction 10 to Item 8.2.e.(2)(B) of Form N–2 [17 CFR 274.11a–1].

[86] *See* Letter from Morningstar to Chair Gensler (June 9, 2021) attaching Sustainable Funds U.S. Landscape Report—More funds, more flows, and impressive returns in 2020, Morningstar Manager Research (Feb. 19, 2021) *available at https://www.sec.gov/comments/climate-disclosure/cll12-8899329-241650.pdf;* Climate Action 100+, *available at https://www.climateaction100.org/* (an initiative of more than 370 institutional investors that uses proxy voting power to ensure action on climate change); *see, e.g., Managers Wield Proxy Votes to Target Corporate Governance,* Lisa Fu, *Fund Fire* (Mar. 18, 2020) *available at https://www.fundfire.com/c/2686753/328173/managers_wield_proxy_votes_target_corporate_governance.* Staff has observed that funds that invest in other parts of the capital structure, for instance through holding debt or investing in asset-backed securities, also engage on ESG issues; discussion herein of fund engagement with issuers also includes fund engagement as a debt holder, asset-backed security investor, or similar stakeholder due to investment in an issuer.

[87] *See* Disclosure of Proxy Voting Policies and Proxy Voting Records by Registered Management Investment Companies, Investment Company Act Release No. 25922 (Jan. 31, 2003) [68 FR 6563 (Feb. 7, 2003)] (''N–PX Adopting Release''), *available at https://www.sec.gov/rules/final/33-8188.htm* (recognizing that while the fund's board of directors, acting on the fund's behalf, has the right and the obligation to vote proxies relating to the fund's portfolio securities, this function is typically delegated to the fund's investment adviser); *see also* Proxy Voting: Proxy Voting Responsibilities of Investment Advisers and Availability of Exemptions from Proxy Rules for Proxy Advisory Firms, Staff Legal Bulletin No. 20 (IM/CF) (June 30, 2014), *available at https://www.sec.gov/investment/slb20-proxy-voting-responsibilities-investment-advisers* at text accompanying n.4.

[88] *See also* Enhanced Reporting of Proxy Votes by Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers, Investment Company Act Rel. No. 34389 (Sept. 29, 2021) [86 FR 57478 (Oct, 15, 2021)]; *see also* Commission Guidance Regarding Proxy Voting Responsibilities of Investment Advisers, Investment Company Act Rel. No. 33605 (Aug. 21, 2019) [84 FR 47416 (Sept. 10, 2019)].

[89] Proposed Item 4(a)(2)(ii)(B), Instructions 4 and 8 of Form N–1A [17 CFR 274.11A]; Proposed Item 8.e.(2)(B), Instructions 4 and 8 of Form N–2 [17 CFR 274.11a–1]. *See also* Section II.A.1.b.

[90] Proposed Item 4(a)(2)(ii)(B), Instruction 8 of Form N–1A [17 CFR 274.11A]; Proposed Item 8.e.(2)(B), Instruction 8 of Form N–2 [17 CFR 274.11a–1].

strategy.[91] Funds that invest in voting securities generally vote proxies they receive as a result, and without clarification, a fund may incorrectly believe that simply voting on ESG proxy matters could be sufficient for the fund to check the associated box in the ESG strategy overview row. Likewise, funds may hold meetings with certain issuers on an infrequent or ad hoc basis rather than as a significant part of their strategy, and may incorrectly believe that such infrequent or ad hoc engagement would be sufficient for them to claim that engagement is a part of their strategy. We believe that the proposed additional requirement for the fund to make proxy voting or other engagement a ''significant'' portion of its strategy in order to check the associated box results in the strategy being appropriately limited to funds that proactively use proxy voting or engagement with issuers as a means of implementing of their ESG strategy. While a fund's determination of whether either strategy is significant would depend on the facts and circumstances, we generally believe a fund that regularly and proactively votes proxies or engages with issuers on ESG issues to advance one or more particular ESG goals the fund has identified in advance would be using voting and engagement as a significant means to implement its strategy.[92]

We are proposing that this overview identify the specific methods, both formal and informal, that funds use to influence issuers. First, we are proposing that a fund would be required to identify whether the fund has specific or supplemental proxy voting policies and procedures that include one or more ESG considerations for companies in its investment portfolio and, if so, state which ESG considerations those policies and procedures address. We believe that investors will find it useful to be able to understand whether any such policies exist in order to help them understand and evaluate the fund's claims about its voting practices on ESG voting matters.

Additionally, if an ESG-Focused Fund seeks to engage with issuers on ESG matters other than through voting proxies, such as through meetings with or advocacy to management, the fund would be required to disclose in this row an overview of the objectives it seeks to achieve with its engagement strategy. We believe investors are interested in understanding a fund's engagement on ESG issues through means other than voting proxies when considering ESG investments.[93] Finally, if the fund does not engage or expect to engage with issuers on ESG issues, the Fund must provide that disclosure in the row. As is the case for funds' voting policies, we believe it is important for investors to understand if an ESG-Focused Fund does not engage or expect to engage with issuers on ESG issues because investors may expect that an ESG-Focused Fund that holds voting securities generally would engage with issuers on topics within the fund's ESG goals.

A fund that does not check the proxy voting box or the engagement box in the first row would still be required to include this row in the ESG Strategy Overview Table and would disclose that neither proxy voting nor engagement with issuers is a significant means of implementing its investment strategy. Even though in many cases a fund may not use proxy voting or engagement as a significant means of implementing its ESG engagement strategy, the fund may still vote proxies if it holds voting securities, or it may engage with issuers on a limited basis, and investors may wish to understand how it votes or engages on ESG issues. In addition, we believe it is important for investors to understand if the fund does *not* vote proxies or engage on ESG issues, as investors in an ESG-Focused Fund might otherwise be misled because they reasonably expected the fund to engage in these practices. For example, we believe that investors should understand when an ESG-Focused Fund holds voting securities but does not use proxy voting or other engagement as a means of implementing their ESG strategy, as this may be contrary to the investor's expectations. For funds that invest only in non-voting securities, we believe it would be helpful to state this fact for investors.

As with other ESG disclosures, we are proposing a layered disclosure approach for this information. The concise disclosure provided by the fund would be in the ESG Strategy Overview table and would be complemented by additional information in an open-end fund's statutory prospectus and later in a closed-end fund's prospectus, which would provide investors with complete information to evaluate a fund's engagement while not overwhelming investors with information at the front of the prospectus. Specifically, a fund that engages or expects to engage with companies in its portfolio on ESG would be required to disclose specific information on the objectives it seeks to achieve with its engagement strategy, including the Fund's time horizon for progressing on such objectives and any key performance indicators that the Fund uses to analyze or measure of the effectiveness of such engagement.[94] Collectively, these disclosures are designed to help an investor monitor how the fund engages on ESG issues, for example by implementing the ESG strategies it advertises to investors, and to understand the role of voting and engagement activity with respect to the fund's ESG focus and strategy.

We request comment on all aspects of our proposal with respect to engagement disclosure for ESG-Focused Funds, including the following items:

58. Should we, as proposed, provide separate check boxes for proxy voting and engagement? Should we, as proposed, include both proxy voting and engagement in the row ''How the Fund votes proxies and/or engages with companies about [ESG] issues?'' How commonly do funds voting proxies as a significant means of implementing their ESG strategy also use engagement as a significant means of implementing their ESG strategy, or vice versa? Do funds engage with issuers in ways other than through voting proxies and meeting with management that we should address in the disclosure rules? What are those other ways? Should we require disclosure about those other ways of engaging with issuers? What would that disclosure include?

59. As proposed, any fund for which proxy voting or engagement with issuers is a significant means of implementing the Fund's ESG strategy would indicate it pursues the applicable strategy by checking the box for proxy voting or engagement (or both, as applicable). Should this be the case, even for a fund that uses investment selection as the primary method for achieving its ESG goal? Is the proposed requirement that proxy voting or engagement with issuers be a ''significant'' means of

[91] For example, a fund checking this box might pursue a strategy of purchasing securities of an issuer that is performing poorly on ESG metrics, such as a company that has historically focused on fossil fuel production that the fund believes does not have a strategy to allocate capital to other sectors of the energy market, and run a proxy campaign to elect board members who it believes would promote a shift in its capital allocation strategy.

[92] Proposed Item 4(a)(2)(ii)(B), Instruction 4 of Form N–1A [17 CFR 274.11A]; Proposed Item 8.e.(2)(B), Instruction 4 of Form N–2 [17 CFR 274.11a–1].

[93] Funds have long discussed their practice of ''behind the scenes'' engagement. *See, e.g.,* N–PX Adopting Release, *supra* footnote 87, at Section II.B. The lack of consistent disclosure regarding this practice has been highlighted by advisory groups. *See, e.g.,* text accompanying note 27.

[94] Proposed Instruction 2(f) to Item 9(b)(2) of Form N–1A [17 CFR 274.11A]; proposed Instruction 9.b.(6) to Item 8.e.(2)(B) of Form N–2 [17 CFR 274.11a–1].

implementing the fund's ESG strategy clear? Should we provide additional guidance on what constitutes a ''significant'' means of implementing a fund's ESG strategy? Should we provide that a fund's proxy voting would only be a ''significant'' means of implementing the fund's ESG strategy if the fund engages in activity beyond simply exercising its right to vote, for example by developing or proposing initiatives directly? Should we provide for additional requirements in order for a fund to check the applicable box indicating that it uses proxy voting or engagement with issuers to implement its ESG strategy?

60. Should we, as proposed, require an ESG-Focused Fund that does not expect to vote proxies or engage with issuers to provide such disclosure in the ESG Strategy Overview table? If a fund does not expect to vote proxies or engage with its issuers, should it be required to affirmatively state this fact, as proposed, or would it instead be appropriate to require a different disclosure, such as a statement that the row is ''not applicable?'' Would such disclosure help an investor understand how a fund does or does not engage with issuers to implement its ESG strategy? Are there circumstances in which an ESG-Focused Fund's disclosure of its proxy voting or engagement practices could result in the fund making decisions that are not in the fund's best interest? Should we provide an exception from this disclosure for ESG-Focused Funds that do not expect to invest in voting securities, or would describing such strategy provide investors with helpful information? Should we require an ESG-Focused Fund that does not expect to invest in voting securities to affirmatively disclose this fact to investors in the ESG Strategy Overview table? Are there other ways in which funds that invest in non-voting securities engage with issuers and, if so, should we modify the proposed requirement to explicitly refer to such practices as being relevant disclosure for purposes of this item?

61. Is there additional information that should be disclosed in the statutory prospectus about the ESG-Focused Fund's specific or supplemental proxy voting policies regarding how it votes on ESG issues? For example, should we require a fund to provide a narrative description of its specific or supplemental proxy voting policies regarding how it votes on ESG issues? Can those policies be described briefly in a way that is understandable to investors? What other disclosure would help an investor understand how the fund votes proxies on ESG issues?

2. Unit Investment Trusts

In addition to management investment companies, some UITs provide exposures to portfolios selected based on ESG factors.[95] Accordingly, we are proposing to require these UITs to provide investors with clear information about how portfolios are selected based on ESG factors. The proposed amendment would require any UIT with portfolio securities selected based on one or more ESG factors to explain how those factors were used to select the portfolio securities.[96]

A UIT, by statute, is an unmanaged investment company that invests the money that it raises from investors in a generally fixed portfolio of stocks, bonds, or other securities.[97] Investors can review that portfolio before investing and, therefore, know the portfolio in which they will be investing for the duration of their UIT investment. Unlike a management company, a UIT does not trade its investment portfolio, and does not have a board of directors, officers, or an investment adviser to render advice during the life of the UIT. In addition, UITs that do not serve as variable insurance contract separate account vehicles or that are not ETFs typically have a limited term of 12 to 18 months.[98]

We designed our proposed amendment to provide UIT investors with the ability to understand the role ESG factors played in the portfolio selection process. In contrast to the amendments that we are proposing for other types of funds, the level of detail required by the proposed amendment reflects the unmanaged nature of UITs. In particular, we are not proposing to differentiate disclosure based on whether a UIT's selection process was an integration model or an ''ESG-focused'' model as the portfolio is fixed, and such model will not be used for continued investment selection after the UIT shares are sold. UIT trustees generally engage in ''mirror voting'' of shares, that is, vote the UITs' shares in a portfolio company in the same proportion as the vote of all other holders of the portfolio company's shares. Accordingly, we are not requiring disclosure of engagement with portfolio companies.

We request comment on all aspects of our proposed ESG disclosure for UITs, including the following items:

62. Should the ESG disclosure requirement apply to UITs, as proposed? Should the substantive disclosure requirement for UITs differ from that of other types of funds, as proposed?

63. A UIT invests the money that it raises from investors in a generally fixed portfolio of stocks, bonds, or other securities. However, the focus of certain investments of the UIT's fixed portfolio might ''drift'' away from the ESG factors that formed the basis for those investments' inclusion in the portfolio during the UIT's limited term. Should the amendments address such situations?

64. Are there elements of the proposed disclosure requirements for other types of funds that we should require of UITs? For example, should we differentiate disclosure requirements for UITs whose depositors integrate ESG factors and those whose depositors used ESG factors as a more significant or main consideration for portfolio selection? Are there currently any UITs for which the depositor selected the securities for the UITs portfolio with the goal of achieving one or more specific ESG impact and, if so, should we differentiate disclosure requirements for such UITs?

65. Should the Commission require ESG disclosure for all types of UITs, including insurance company separate accounts organized as UITs and UITs operating as ETFs?

66. Should the ESG disclosure requirement for UITs address proxy voting? Are there circumstances where the trustee would not ''mirror'' vote? If so, what are those circumstances?

[95] According to public filings with the Commission, as of Oct. 26, 2021, there were 35 UITs registered on Form S–6 that incorporated an ESG strategy.

[96] *See* Proposed Instruction 2 to Item 11 of Form N–8B–2 under the Investment Company Act [17 CFR 274.12]. A UIT registers the trust on Form N–8B–2 under the Investment Company Act [17 CFR 274.12] and each series of the trust on Form S–6 under the Securities Act of 1933 [17 CFR 239.16]. Form S–6 generally requires the registrant to provide in its prospectus the information required by the disclosure items in Form N–8B–2. *See* Instruction 1. Information to be Contained in Prospectus of Form S–6 [17 CFR 239.16].

[97] *See* 15 U.S.C. 80a–4(2) (defining a UIT, in part, to mean an investment company organized under a trust indenture or similar instrument that issues redeemable securities, each of which represents an undivided interest in a unit of specified securities).

[98] Fund of Fund Arrangements, Investment Company Act Release No. 33329 (Dec. 19, 2018) [84 FR 1286 (Feb. 1, 2019)] at n. 169 (''Fund of Funds proposing release''). The proposed amendment does not require insurance company separate accounts organized as UITs to provide additional ESG disclosure because investors in those UITs allocate their investments to subaccounts invested in mutual funds that, in turn, would provide any required disclosure under the proposal about their ESG investing. Further, the proposed amendment does not have additional disclosure requirements for UITs operating as ETFs because, as of Dec. 1, 2021, there were only five UITs that operated as ETFs and those ETFs do not pursue ESG strategies, and because funds have not sought to create new ETF UITs for 19 years.

67. Should the ESG disclosure requirements for UITs address ESG engagement? Are there circumstances where the depositor, trustee, or principal underwriter engages with issuers regarding ESG issues? If so, what are those circumstances, given the unmanaged nature of UITs?

3. Fund Annual Report ESG Disclosure

In addition to the proposed amendments to fund prospectuses, we are proposing several amendments to fund annual reports to provide additional ESG-related information. For registered management investment companies, the proposed disclosure would be included in the management's discussion of fund performance (''MDFP'') section of the fund's annual shareholder report. Currently, the MDFP provides, among other things, a narrative discussion of the factors that materially impacted the fund's performance during the most recently completed fiscal year, a line graph providing the account values for each of the most recently completed 10 fiscal years based on an initial $10,000 investment in the fund compared to the returns of an appropriate broad based index for the same period, and a table showing the fund's average annual total returns for the past 1-, 5-, and 10-year periods.[99] Although funds have flexibility in deciding what information they include in the MDFP, funds are required to disclose factors that materially impacted the fund's financial performance and operations. For BDCs, the proposed disclosure would be included in the management discussion and analysis, or ''MD&A,'' in the fund's annual report on Form 10–K.[100] That section of the annual report is similar to a fund's MDFP in that it requires a narrative discussion of the financial statements of the company and an opportunity to look at a company ''through the eyes of management.''

Specifically, we are proposing to require Impact Funds to discuss the fund's progress on achieving its impact in both qualitative and quantitative terms during the reporting period.[101] The Impact Fund would also be required to discuss the key factors that materially affected the fund's ability to achieve its impact. Additionally, funds for which proxy voting is a significant means of implementing their ESG strategy would be required to disclose certain information regarding how the fund voted proxies relating to portfolio securities on ESG issues during the reporting period.[102] Funds for which engagement with issuers on ESG issues through means other than proxy voting is a significant means of implementing their ESG strategy would also be required to disclose certain information about their engagement practices.[103] Finally, the proposal would require an ESG-Focused Fund that considers environmental factors to disclose the aggregated GHG emissions of the portfolio.[104] We discuss each of these proposed amendments below.

68. Should we require funds to provide the impact, engagement, and GHG emissions disclosure in their annual reports in the MDFP or MD&A as applicable, as proposed? Should we instead require these disclosures to be in another regulatory document such as the fund's prospectus, or Forms N–CEN, N–CSR, or N–PORT? Should we require the disclosure to be on the fund's website? Are there any modifications or enhancements to all the proposed disclosures in annual reports and Forms N–CEN, N–CSR, or N–PORT that we should adopt? If the changes to the shareholder report discussed above that the Commission proposed in August 2020 are adopted substantially as proposed, should we require this disclosure to be included in one of the new sections that the Commission proposed to be added to the report, such as the fund statistics section? Should we require funds to make some or all these disclosures more frequently than annually? For example, should registered investment companies provide the disclosure in both their annual and semi-annual reports to shareholders? Would more frequent disclosure, such as quarterly disclosure, be appropriate? Could more frequent reporting, for example, help mitigate the potential for window dressing, *i.e.,* buying or selling portfolio securities shortly before the date as of which a fund's investments are reported?

69. We are not proposing to extend these requirements to UITs.[105] Because they are unmanaged, we are not aware of any UITs that engage in impact investing, or vote proxies or engage with issuers as a significant means of implementing an ESG strategy. Should we require UITs to provide certain or all of the information we are proposing to require to be included in funds' annual reports? For example, should we require UITs to provide additional information regarding their ESG impacts, results of their proxy voting, results of their ESG engagement, or GHG emissions? How, or to what extent, should any such disclosure requirements differ for UITs, which are not managed, and in the case of UITs that would be covered by this proposal, typically have a limited term, sometimes of 12–18 months? Where should UITs provide the disclosure? For example, should a UIT provide some or all of this disclosure on Form N–CEN?

70. Should we, as proposed, require BDCs to provide certain or all of the information we are proposing to require registered management investment companies to include in MDFP? Is the proposed instruction in Form N–2 that a BDC should provide this disclosure in Item 7 of its annual report filed under the Exchange Act sufficiently clear? Are there instructions on Form N–2 or Form 10–K that we should add?

(a) ESG Impact Fund Disclosure

As discussed above, Impact Funds are seeking to achieve specific ESG impacts with their investments. Therefore, how the fund performed with respect to the fund's ESG impact is relevant to investors, in addition to the currently required information about the fund's financial performance. Some Impact Funds voluntarily disclose information regarding their progress towards achieving their impact in fund fact sheets, shareholder reports, or impact reports. However, information provided to investors of Impact Funds varies across funds. Additionally, voluntary disclosures without minimum requirements can create the potential for funds to exaggerate their ESG-related accomplishments.

[99] In Aug. 2020, the Commission proposed a layered approach to the shareholder report disclosure framework that would streamline the shareholder report delivered to shareholders, with additional information available online upon request. As part of this proposal, the Commission proposed targeted amendments to the MDFP requirements to make the disclosure more concise, but generally did not propose amendments to the current content requirements of the MDFP. *See* Tailored Shareholder Reports, Treatment of Annual Prospectus Updates for Existing Investors, and Improved Fee and Risk Disclosure for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements, Investment Company Act Release No. 33963 (Aug. 5, 2020) [85 FR 70716 (Nov. 5, 2020)] (''Streamlined Shareholder Report Proposal'').

[100] Proposed Instruction 10 to Item 24 of Form N–2 [17 CFR 274.11a–1]. BDC annual reports do not include MDFP.

[101] Proposed Item 27(b)(7)(i)(B) of Form N–1A; Proposed Instruction 4.(g)(1)(B) to Item 24 of Form N–2 [17 CFR 274.11a–1].

[102] Proposed Item 27(b)(7)(i)(C) of Form N–1A; Proposed Instruction 4.(g)(1)(C) to Item 24 of Form N–2 [17 CFR 274.11a–1].

[103] Proposed Item 27(b)(7)(i)(E) of Form N–1A; Proposed Instruction 4.(g)(1)(D) to Item 24 of Form N–2 [17 CFR 274.11a–1].

[104] Proposed Item 27(b)(7)(i)(E) of Form N–1A; Proposed Instruction 4.(g)(1)(E) to Item 24 of Form N–2 [17 CFR 274.11a–1].

[105] For this reason, for purposes of this Section II.A.3 of this release, the term ''fund'' does not include UITs.

Accordingly, we believe that creating a common disclosure requirement in annual reports specifically tailored to the ESG strategies of Impact Funds would provide investors who seek to engage in impact investing with information to help these investors to make more informed investment decisions and receive information to assist them in analyzing how effectively funds in which they invest are achieving their ESG impacts. Specifically, we are proposing to require an Impact Fund to summarize briefly the Fund's progress on achieving its specific impact(s) in both qualitative and quantitative terms during the reporting period, and the key factors that materially affected the Fund's ability to achieve the specific impact(s), on an annual basis in the annual report.[106] For example, a community development fund that seeks to enhance services in underserved communities by investing in the construction of community facilities may disclose that, during the reporting period, the companies in which the fund invests constructed a specific number of recreational centers in target communities. As another example, a fund that seeks to conserve natural resources by investing in the construction of certified ''green'' buildings might report the number of ''green'' buildings built by the fund's portfolio companies over the reporting period along with a qualitative discussion of how green buildings are defined and how they contribute to conservation of natural resources.

This type of information would allow investors who are seeking, based on the examples above, to enhance services in underserved communities or conserve natural resources with their investments to evaluate, in both qualitative and quantitative terms, how their investment is achieving their ESG goals in a given year and over time. It would also protect investors from exaggerated claims about ESG impacts by requiring Impact Funds to substantiate such claims on an annual basis by disclosing their progress. Additionally, to the extent different Impact Funds use the same or similar key performance indicators to measure their progress in achieving a specific impact, this requirement would allow investors to compare different Impact Funds with similarly stated ESG impacts.

We request comment on all aspects of our proposed amendments to require an Impact Fund to report progress on achieving its specific impact on an annual basis in the annual report, including the following items.

71. Should we, as proposed, require Impact Funds to discuss their progress on achieving its ESG impact? To what extent do affected funds already provide this disclosure in their annual reports or elsewhere?

72. Should we, as proposed, require the annual report disclosure for Impact Funds to be in both qualitative and quantitative terms? Are there burdens or other issues related to this requirement? Would this result in more comparable information across funds? Are there impacts that commenters do not believe can be conveyed effectively in quantitative terms? Should we allow, but not require, an Impact Fund to provide a qualitative discussion and quantitative information? Should we instead only require Impact Funds to provide a qualitative discussion of its progress? Alternatively, should we require Impact Funds to provide their progress only in quantitative terms?

73. Instead of requiring an Impact Fund to disclose its progress towards achieving its specific impact in the annual report as proposed, should we instead require it to be disclosed in another regulatory document such as the fund's prospectus, or Forms N–CEN, N–CSR, or N–PORT? Should we allow the fund to omit the disclosure in its annual report or other regulatory document if the fund provides the information on its website? If so, should the regulatory documents provide a link to the website?

74. As discussed above, the Commission proposed amendments to fund shareholder reports that would significantly shorten the shareholder reports and change its contents.[107] If the amendments to shareholder reports in that proposal were adopted, should the disclosure regarding an Impact Fund's progress on achieving its specific impact go in a different section of the shareholder report (other than the MDFP) as the Commission proposed to amend it? For example, under the proposed rule, the shareholder report would contain a new section entitled ''fund statistics,'' where funds would be required to disclose certain key fund statistics, including the fund's net assets, total number of portfolio holdings, and portfolio turnover rate. A fund would also be allowed to include additional statistics that are reasonably related to a fund's investment strategy. To the extent the proposed rule is adopted, should we require or allow disclosure of an Impact Fund's progress towards achieving its specific impact to be included in the fund statistics section of the proposed shareholder report?

75. Are the proposed instructions for the disclosure by Impact Funds sufficiently clear? Are there portions of the instructions that we should clarify? Are there alternative instructions that would provide investors in Impact Funds with meaningful information about a fund's progress towards its objectives? For example, if an Impact Fund changes the methodology it uses to calculate its progress towards achieving its specific impact, should the instructions require such a fund to describe the change in methodology and the reasons for the change?

76. Should we require all ESG-Focused Funds and/or Integration Funds to provide MDFP or MD&A disclosure regarding how effectively they implemented their ESG strategies? For example, do ESG-Focused Funds that primarily use an inclusionary or exclusionary screen track any key performance indicators to analyze the effectiveness of the screen in furthering the ESG issues that are relevant to fund? Do Integration Funds track any key performance indicators? Would this disclosure of such key performance indicators be helpful to investors? Would it lead to potential for investors to be misled through overemphasis of ESG factors relative to such funds' actual level of consideration of such factors?

(b) ESG Proxy Voting Disclosure

We are also proposing amendments to fund annual reports to require an ESG-Focused fund for which proxy voting is a significant means of implementing its ESG strategy to disclose certain information regarding how it voted proxies relating to portfolio securities on particular ESG-related voting matters.[108] Specifically, the proposed amendments would require the fund to disclose, in the MDFP or MD&A section of the annual report as applicable, the percentage of ESG-related voting matters during the reporting period for which the Fund voted in furtherance of the initiative.[109] The fund would be

[106] Proposed Item 27(b)(7)(i)(B) of Form N–1A; Proposed Instruction 4.(g)(1)(B) to Item 24 of Form N–2 [17 CFR 274.11a–1]. This requirement would apply to any fund that meets the definition of Impact Fund included in Item 4(a)(2)(i)(C) of Form N–1A and Item 8.2.e.(1)(C) of Form N–2. *See supra* Section II.A.1.b.(2).

[107] *See* Streamlined Shareholder Report Proposal, *supra* footnote 99.

[108] Proposed Item 27(b)(7)(i)(C) of Form N–1A; Proposed Instruction 4.(g)(1)(C) to Item 24 of Form N–2 [17 CFR 274.11a–1]. This requirement would apply to any fund that checks the proxy voting box included in the proposed amendments to Item 4 of Form N–1A and Item 8 of Form N–2. *See supra* Section II.A.1.b.(3).

[109] Take, for example, a fund focused on deforestation. During the reporting period, the fund

Continued

permitted to limit the disclosure to voting matters involving ESG factors that the fund incorporates into its investment decisions. Additionally, a fund would be required to refer investors to the fund's full voting record filed on Form N–PX by providing a cross reference, and for electronic versions of the annual report, including a hyperlink, to the fund's most recent complete proxy voting record filed on Form N–PX.[110]

We believe that this disclosure regarding the percentage of the fund's votes in furtherance of relevant ESG initiatives would complement the prospectus disclosure we are proposing funds to provide regarding how they use proxy voting to influence portfolio companies, as well as the existing granular report funds provide with their full proxy voting records on Form N–PX.[111] The proposed disclosure would allow an investor immediately to see the extent to which the fund was voting in favor of relevant ESG initiatives, while directing investors to the more detailed disclosure of the fund's voting record filed on Form N–PX for investors interested in that more detailed information.

We request comment on all aspects of these proposed amendments, including the following items.

77. Should we, as proposed, require any fund that indicates that it uses proxy voting as a significant means of implementing its ESG strategy to disclose the percentage of voting matters during the reporting period for which the fund voted in furtherance of the initiative? Should we permit the fund to limit this disclosure to voting matters involving the ESG factors the fund incorporates into its investment decisions, as proposed? Would investors and other market participants find this information helpful? Is there any additional information regarding their proxy voting that we should require funds to provide?

78. Are there any complexities with calculating the aggregate percentage of fund votes in furtherance of an ESG voting matter? For example, to what extent would there be ambiguity as to whether a voting matter involves the ESG factors the fund incorporates into its investment decisions? Are there cases in which it may be unclear whether or not a shareholder proposal that relates to an ESG factor a fund incorporates into its investment decisions advances the particular ESG goal? Could there be situations in which a shareholder proposal may be related to a particular ESG factor the fund incorporates into its investment decisions but the fund nonetheless votes against the proposal, for instance because it believes the proposal would not be a constructive way to address the particular ESG matter? Would funds that wish to provide additional context in these or similar situations be able to do so effectively and concisely within the MDFP or MD&A disclosure?

79. Should funds be required to provide a narrative explanation of how they cast their proxy votes on ESG matters, either instead of or in addition to statistics on ESG matters? If we required a narrative, what elements should a fund be required to include?

80. Should we, as proposed, require funds to provide cross-references to the more detailed disclosure regarding the fund's full proxy voting record on Form N–PX? Should we also require funds to cross reference their ESG proxy voting policies and procedures?

(c) ESG Engagement Disclosure

We are proposing amendments to fund annual reports that would require funds for which engagement with issuers through means other than proxy voting is a significant means of implementing their ESG strategy to disclose progress on any key performance indicators of such engagement.[112] The amendments we are proposing also require disclosure of the number or percentage of issuers with whom the fund held ESG engagement meetings during the reporting period related to one or more ESG issues and total number of ESG engagement meetings. Funds have previously asserted that much of their influence is asserted in private communications outside of formal shareholder votes.[113] We believe that this disclosure would allow investors to evaluate critically the disclosure of funds whose ESG strategy involves engagement other than or in addition to proxy voting in order to reduce the potential for exaggerated claims of engagement, as well as to allow investors to understand better whether these funds are accomplishing their objectives.[114]

We are proposing to define ''ESG engagement meeting'' for this purpose to mean a substantive discussion with management of an issuer advocating for one or more specific ESG goals to be accomplished over a given time period, where progress that is made toward meeting such goal is measurable, that is part of an ongoing dialogue with management regarding this goal. This definition is intended to identify substantive interactions on ESG issues and distinguish an ''ESG engagement meeting'' for this purpose from other meetings or interactions for which advocacy on ESG issues is not a focus, or from aspects of a fund's ESG engagement strategy that are not directed to a particular company, such as letters to all issuers in a fund's portfolio or policy statements describing a fund's ESG priorities. For example, if a fund adviser met with management of an issuer in the fossil fuel industry to urge the issuer to divest carbon-intensive assets by the year 2030 due to their impact on the environment, with a list of measurable interim steps that could be made in each period and a follow-up meeting scheduled with management in six months to discuss progress toward that goal, the each such meeting would be an ESG engagement

was eligible to vote on 100 voting matters that would have limited deforestation. If the fund voted in favor of 75 of those matters, then the fund would report that it voted in furtherance of limiting deforestation 75% of the time during the reporting period.

[110] The requirement to refer investors to the fund's full voting record filed on Form N–PX would not apply to BDCs because they do not file reports on Form N–PX.

[111] The Commission has proposed amendments to Form N–PX that would require filers to select from a standardized list of categories to identify the subject matter of each of the reported proxy voting items, including categories of proxy votes relating to numerous ESG matters. *See* Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers, Investment Company Act Release No. IC–34389 (Sep. 29, 2021) [86 FR 57478 (Oct. 15, 2021)]. Commenters on that proposal requested that the Commission propose additional comprehensive disclosure on funds' ESG engagement, whether by proxy voting or other means, to complement the disclosure on Form N–PX. *See* Letter from Vanguard Group Center regarding Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers (File No. S7–11–21), *available at https://www.sec.gov/comments/s7-11-21/s71121-20109559-263921.pdf.*

[112] *See* Proposed Item 27(b)(7)(i)(D) of Form N–1A; Proposed Instruction 4.(g)(1)(D) to Item 24 of Form N–2.

[113] *See* N–PX Adopting Release, *supra* footnote 87, at Section II.B (''[C]ommenters argued that mandatory disclosure of proxy votes would undermine their ability to change corporate governance practices of portfolio companies through 'behind the scenes' private communications''). Public interest groups have noted the influence that may be wielded through engagement meetings and have suggested that the nonpublic nature of such meetings makes it difficult for investors to understand whether their interests are being served. *See* Letter from Mercatus Center regarding Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers (File No. S7–11–21), *available at https://www.sec.gov/comments/s7-11-21/s71121-9374387-262127.pdf.*

[114] *See also* Section I.A.3 (discussing need for a disclosure framework that allows investors to understand specific information about an ESG investment strategy in light of the different approaches taken by ESG investors).

meeting under the proposed definition.[115]

We recognize that funds may be incentivized to report a higher number or percentage of engagements, and this may result in funds construing the term ''ESG engagement meeting'' differently. For example, certain funds could perceive pressure to report a high number or percentage of engagements and thus adopt a more expansive understanding of what constitutes an engagement than an investor would expect. In order to support compliance with the Federal securities laws, funds should generally consider including in their compliance policies and procedures a requirement that employees memorialize the discussion of ESG issues, for example by creating and preserving meeting agendas and contemporaneous notes of engagements relating to ESG issues to assure accurate reporting on the number of engagements, as we propose to define it.[116]

On the other hand, a ''meet and greet'' between a fund's adviser and the management of an issuer in the fossil fuel industry where the topic is mentioned, but only at a high level would be unlikely to meet the definition, even if the adviser and the issuer's management do discuss transitioning away from fossil fuels. Likewise, a fund adviser that issues a press release announcing a policy that issuers in its portfolio will be expected to divest from their carbon-intensive assets by 2030 due to their impact on the environment could not treat this press release as an ESG engagement meeting because it is not tailored to the operations of a particular company and does not actually interact or engage with anyone at the company, but instead is part of a dialogue with the public, rather than the issuer.[117]

We recognize that, unlike the proposed disclosure requirements relating to a fund's proxy voting, the level of subjectivity involved in determining whether a discussion meets the definition of an ESG engagement meeting could diminish the comparability across funds of the statistics reported pursuant to this instruction. While this metric is only one of several means by which investors could compare ESG-Focused Funds, we believe that it is important to provide this information for investors to allow them to evaluate the efficacy of their fund's engagement activities and to provide some basis for comparison among funds. Though there may be some ambiguities in the inputs for the calculation, we believe that in many cases this would be straightforward for funds to calculate and useful for investors as they consider investments. We believe it would provide investors with enhanced means to monitor whether the results of ESG engagement strategy comport with investor expectations and the fund's prospectus disclosure, as opposed to solely relying on qualitative statements, as well as to compare ESG-Focused Funds. Moreover, we recognize that forms of engagement other than ESG engagement meeting as we propose to define the term may be a valuable part of a fund's engagement strategy, and the proposal would not preclude a fund from also discussing these other efforts in the fund's MDFP or MD&A as applicable.

We request comment on all aspects of these proposed amendments, including the following items.

81. Should we, as proposed, require disclosure of the number or percentage of issuers with which the fund engaged and total number of ESG engagement meetings, as we propose to define that term? Would this information be useful to investors? Instead of, or in addition to, ESG engagement meetings, are there other metrics that we could require to be disclosed in relation to a fund's engagement strategy? Should we require funds to provide additional context to this information beyond the number or percentage of issuers with which the fund engaged and number of engagement meetings?

82. What incentives for funds, issuers, or others would exist as a result of the proposed requirement that funds report the number of ESG engagement meetings they have? For example, will management of certain issuers be more or less likely to engage with a fund if they believe it would be reported? Will funds be more or less likely to engage on certain types of issues? For example, will funds only engage with management of issuers on ESG issues where the fund believes that management already agrees with it? Would disclosure of engagement result in funds or issuers being influenced by other parties who become aware of the engagement, including parties that are not investors in the fund or the applicable issuer, and, if so, should we take any steps as a result of this influence?

83. Is our proposed definition of ''ESG engagement meeting'' sufficiently clear? Is it appropriate that in order for a discussion to constitute an ESG engagement meeting, the meeting must be a substantive discussion with management of an issuer advocating for one or more specific ESG goals to be accomplished over a given time period, where progress that is made toward meeting such goal is measurable, that is part of an ongoing dialogue with the issuer regarding this goal? Are there additional criteria that we should require in order for a discussion to constitute an ESG engagement meeting, for example, by requiring that meetings be with personnel of a particular seniority (such as executive officer or board member) of an issuer, requiring that the meeting must only discuss ESG issues?

84. Is it possible that funds will construe the term ''ESG engagement meeting'' more liberally than investors, resulting in a higher reported number than if the definition of ESG engagement meeting were more narrow? Should we provide additional guidance on the definition of ESG engagement meeting or require additional policies and procedures, recordkeeping, or disclosure in order to assist in making funds' approaches to what constitutes an ESG engagement meeting more consistent between funds and more consistent with investors' expectations? For example, should we require funds to develop written documentation regarding their engagement objectives, performance indicators to measure progress, monitoring and evaluation of ESG engagement meetings, or development of relationships with issuers? How do funds currently set and track their ESG engagement objectives? Is the requirement that progress toward an ESG goal be ''measurable'' sufficiently clear? Should we provide additional guidance or context regarding the definition of ''measurable'' as used in this instruction? Are there certain ESG goals where progress is not measurable where it would be appropriate for funds to be required to describe their engagement strategy?

85. Should funds be required to provide additional information regarding their engagement strategy, either instead of or in addition to the

[115] In many cases, we recognize that fund advisers meet with management of issuers on behalf of several funds they advise. When an adviser meets with management of an issuer on behalf of multiple funds, each fund for which the meeting is within its ESG strategy would count the engagement meeting in its annual report. *See* proposed Item 27(b)(7)(i)(D) of Form N–1A; proposed Instruction 4.(g)(1)(D) to Item 24 of Form N–2.

[116] *See* 17 CFR 270.38a–1 under the Investment Company Act and Investment Company Act Section 34(b) [15 U.S.C. 80a–33(b)].

[117] After issuing the press release, the fund adviser may follow up with a particular issuer to discuss the specific ways in which the policy announced in the press release would impact the issuer's business and identify specific goals the fund expected the issuer to achieve. Such a meeting would generally constitute an ESG engagement meeting because, unlike a press release or open letter, the fund and the issuer actually discussed how it should be applied to the issuer.

proposed narrative explanation and statistics regarding number of ESG engagement meetings and progress toward key performance indicators? If we required additional information, what elements should a fund be required to include? Could the proposed disclosure of narrative information or statistics regarding ESG engagement meetings result in investors being misled as to the nature or results of a fund's ESG strategy?

86. As proposed, the form would require funds to report statistics regarding the number of ESG engagements meetings across their entire portfolio, irrespective of the ESG goal of the meeting; should we instead require funds to break down their engagement statistics based on category? Would this provide helpful detail for an investor seeking to assess a fund's engagement on a particular topic? Would the breadth of potential categories make it difficult to convey the overall extent of a fund's engagement? Are there particular categories of engagement where investors would find it useful for ESG engagement meeting statistics to be presented separately? Would subcategorizing the statistics in this fashion present any challenges, such as administrative burden for funds or complexity in determining the particular category into which an ESG engagement meeting falls?

(d) GHG Emissions Metrics Disclosure

(1) Scope of Proposed Rule

Investors who seek to invest in environmentally focused funds have shown an increasing interest in consistent and comparable climate-related disclosures, including emissions metrics.[118] Environmentally focused funds have taken various approaches to address this investor interest. Some environmentally focused funds provide metrics or other quantifiable information in fund shareholder reports or marketing materials regarding the amount of GHG emissions financed by such funds.[119] However, this type of disclosure is inconsistent across funds, and funds vary in the methodologies they use to generate such GHG-related quantitative data. Other funds make vague or broad claims regarding the GHG emissions of their portfolio of investments.[120]

The current lack of consistent, comparable and decision-useful data makes it difficult for investors to make better informed investment decisions that are in line with their ESG investment goals and to assess any GHG-related claims a fund has made. It also may lead to potential greenwashing and compromise the reliability of sustainable investment product disclosures.[121] These concerns are heightened for funds that make specific claims regarding the GHG emissions or emissions intensity of their portfolios because such claims may give rise to specific investor expectations regarding the impact of the fund's investments on the environment. At the same time, we are requesting comment on ways in which registrants could have flexibility in making the necessary disclosures.

Therefore, we are proposing to require an ESG-Focused Fund that considers environmental factors as part of its investment strategy to disclose the carbon footprint and the weighted average carbon intensity (''WACI'') of the fund's portfolio in the MDFP or MD&A section of the fund's annual report as applicable.[122] This proposed requirement would apply to ESG-Focused Funds that indicate that they consider environmental factors in response to Item C.3(j)(ii) on Form N–CEN, but do not affirmatively state that they do not consider issuers' GHG emissions as part of their investment strategy in the ''ESG Strategy Overview'' table in the fund's prospectus (''environmentally focused fund'').[123] As discussed in more detail below, the carbon footprint and WACI metrics are generally aligned with the recommendations from the TCFD[124] and Partnership for Carbon Accounting Financials (''PCAF'') frameworks and based on emission data consistent with those defined by the GHG Protocol framework.[125]

We recognize, however, that not all ESG-Focused Funds that consider environmental factors as part of their investment strategies consider the GHG emissions of the issuers in which they invest as part of their investment strategies. Therefore, and as discussed above, a fund would not be required to disclose its GHG emissions metrics if it affirmatively states in the ''ESG Strategy Overview'' table in the fund's prospectus that it does not consider issuers' GHG emissions as part of its investment strategy.[126] We believe it is appropriate to limit the scope of funds that would be required to disclose GHG emissions data to those funds where GHG emissions data play a role in the fund's stated investment strategy. We believe that this approach appropriately limits the scope of this disclosure to funds that consider GHG emissions in their investment strategies, and ensures that investor expectations on a fund's approach to GHG emissions are aligned with the fund's actual investment strategy.

These requirements also would apply to a BDC that is an environmentally focused fund. The Commission has proposed in a separate release to require

[118] *See, e.g.* Robeco Survey Reveals Big Investor Shift on Climate Change and Decarbonization (Mar. 22, 2021), *available at https://www.robeco.com/en/media/press-releases/2021/robeco-survey-reveals-big-investor-shift-on-climate-change-and-decarbonization.html* (stating that a survey of 300 of the world's largest institutional and wholesale investors revealed that, while climate change is a significant factor in the investment policy of almost three-quarters (73%) of investors who were surveyed, 44% of surveyed investors viewed the lack of data and reporting as the biggest obstacle to implementing decarbonization). Additionally, investor demand for improved climate-related metric disclosure has recently developed in the private equity market. A coalition of private equity firms has formed to standardize ESG disclosures by selecting 6 quantitative metrics, including a GHG emissions metric, that portfolio companies will have to report and that private equity funds would then report to their limited partners. *See* Institutional Limited Partners Association, ESG Data Convergence Project, *available at https://ilpa.org/ilpa_esg_roadmap/esg_data_convergence_project/.*

[119] *See* CDP's ''The Time to Green Finance,'' (''CDP Report'') *available at https://www.cdp.net/en/research/global-reports/financial-services-disclosure-report-2020.*

[120] *See* Sustainable finance and market integrity: promise only what you can deliver, A regulatory perspective on environmental impact claims associated with sustainable retail funds in France, 2investinginitiative, July 2021, *available at Sustainable-Finance-and-Market-Integrity.pdf* (*2degrees-investing.org*); *see also* CFA Institute, Global ESG Disclosure Standards for Investment Products (2021), *available at https://www.cfainstitute.org/-/media/documents/ESG-standards/Global-ESG-Disclosure-Standards-for-Investment-Products.pdf* (explaining that, because of the wide variety of methods that the investment management industry uses to incorporate ESG into its investment process and the lack of standardized disclosures around ESG, it is difficult for investors to sort these products into well-defined categories).

[121] *See supra* at text following footnote 4 (describing greenwashing).

[122] *See* proposed Item 27(b)(7)(i)(E) of Form N–1A; proposed Instruction 4.(g)(1)(E) to Item 24 of Form N–2.

[123] Except as otherwise provided or the context requires, when we refer to an ''environmentally-focused fund'' in this release, we are referring to an ESG-Focused Fund that considers environmental factors as part of its investment strategy that has not made this affirmative disclosure in the ''ESG Strategy Overview'' table in the fund's prospectus.

[124] *See supra* footnote 10 (defining the TCFD).

[125] In this regard, several studies have found that GHG emissions data prepared pursuant to the GHG Protocol have become the most commonly referenced measurements of a company's exposure to climate-related risks *See, e.g.,* C. Kauffmann, C. Tébar Less, and D. Teichmann (2012), *Corporate Greenhouse Gas Emission Reporting: A Stocktaking of Government Schemes,* OECD Working Papers on International Investment, 2012/01, OECD Publishing, at 8, *available at http://dx.doi.org/10.1787/5k97g3x674lq-en* (''For example, the use of scope 1, 2, 3 to classify emissions as defined by the GHG Protocol has become common language and practice today.'').

[126] *See* proposed Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 4.(g)(1)(E) to Item 24 of Form N–2.

BDCs to provide climate-related information in their annual reports on Form 10–K, including a BDC's Scope 3 emissions if material or if Scope 3 emissions are part of an announced emissions reduction target.[127] We believe the GHG emission disclosure we are proposing in this release would complement that climate disclosure, if both proposals were adopted. As discussed in more detail below, carbon footprint and WACI together would provide investors in environmentally focused funds with a comprehensive view of the GHG emissions associated with the fund's investments, both in terms of the footprint or scale of the fund's financed emissions and in terms of the portfolio's exposure to carbon-intensive companies. We believe these specific measures are appropriate for environmentally focused funds, regardless of whether the fund is a registered open- or closed-end fund or business development company.

We believe that these requirements would advance the Commission's mission by meeting the demands of investors in environmentally focused funds for consistent and reasonably comparable quantitative information regarding the GHG emissions associated with those funds' portfolios. Investors may need GHG-related quantitative data in environmentally focused funds where GHG emissions data play a role in the fund's investment strategy because such disclosures would provide investors with consistent, comparable, and decision-useful information about their portfolio of investments that are relevant to their investment decisions. This information would better allow investors to make decisions in line with their ESG investment goals and expectations set by the fund, and allow investors in these funds to assess GHG-related claims that a fund has made or to compare the fund's GHG data against the fund's investment strategy.

(2) Emissions Reporting Frameworks and the Development of Financed Emissions Metrics for Investment Portfolios

The GHG Protocol has become the most widely used global greenhouse gas accounting standard for companies.[128] The GHG Protocol's Corporate Accounting and Reporting Standard provides uniform methods to measure and report the greenhouse gases covered by the Kyoto Protocol.[129] It also introduced the concept of ''scopes'' of emissions to help delineate those emissions that are directly attributable to the reporting entity and those that are indirectly attributable to the company's activities.[130] The GHG Protocol has been updated periodically since its original publication and has been broadly incorporated into sustainability reporting frameworks, including, among others, the TCFD and the PCAF frameworks for reporting of Scope 3 financed emissions at the investment portfolio level. These frameworks are discussed in more detail below.

As fund investors' interest in GHG emissions has increased, substantial work also has been done to develop effective means to present aggregated GHG emissions information at a portfolio level in a comparable, consistent, and decision-useful way. Specifically, to address investor concerns and expectations, the TCFD developed a framework to foster consistent climate-related financial disclosures that could be used by organizations across sectors and industries, including funds.[131] As part of its recommendations initially published in 2017, the TCFD suggested several metrics that asset managers and asset owners, including funds, can use to calculate the GHG emissions of their investments.[132] These metrics initially focused on calculating financed Scope 1 and Scope 2 emissions and included, among others, the WACI and carbon footprint metrics.[133] Several international third-party ESG organizations and regulators have endorsed the TCFD framework, including its GHG emissions metrics, and have worked to implement the framework and converge around a unified approach to climate reporting.[134]

There has been significant progress in the development of GHG metric calculations since 2017, particularly in the area of financed GHG emissions.[135] In November of 2020, PCAF established the first global carbon accounting standard for the measurement and disclosure of financed emissions (''PCAF Standard''),[136] which has

[127] *See* The Enhancement and Standardization of Climate-Related Disclosures for Investors, 33–11042 (Mar. 21, 2022) [87 FR 21334 (Apr. 11, 2022)] (''Climate Disclosure Proposing Release'').

[128] *See, e.g.,* letters from ERM CVS; and Natural Resources Defense Council; *see also* Greenhouse Gas Protocol, *About Us | Greenhouse Gas Protocol (ghgprotocol.org).* For example, the Environmental Protection Agency (''EPA'') Center for Corporate Climate Leadership references the GHG Protocol's standards and guidance as resources for companies that seek to calculate their GHG emissions. *See, e.g.,* EPA Center for Corporate Climate Leadership, *Scope 1 and Scope 2 Inventory Guidance, available at https://www.epa.gov/climateleadership/scope-1-and-scope-2-inventory-guidance.*

[129] The Kyoto Protocol, adopted in 1997, implemented the United Nations Framework Convention on Climate Change by obtaining commitments from industrialized countries to reduce emissions of the seven identified gasses according to agreed targets. *See* United Nations Climate Change, *What is the Kyoto Protocol?* The EPA includes these seven greenhouse gases in its greenhouse gas reporting program. *See, e.g.,* EPA, GHGRP Emissions by GHG.

[130] *See* World Business Council for Sustainable Development and World Resources Institute, *The Greenhouse Gas Protocol, A Corporate Accounting and Reporting Standard* REVISED EDITION. Under the GHG Protocol, Scope 1 emissions are direct GHG emissions that occur from sources owned or controlled by the company, such as emissions from company-owned or controlled machinery or vehicles. Scope 2 emissions are those indirect emissions primarily resulting from the generation of electricity purchased and consumed by the company. Scope 3 emissions are all other indirect emissions not accounted for in Scope 2 emissions. These emissions are a consequence of the company's activities but are generated from sources that are neither owned nor controlled by the company.

[131] *See supra* footnote 10; *See* UN Environment Programme Finance Initiative, Task Force on Climate-Related Financial Disclosures, *available at https://www.unepfi.org/climate-change/tcfd/.*

[132] *See* Final Report, Recommendations of the TCFD (June 2017), *available at https://assets.bbhub.io/company/sites/60/2020/10/FINAL-2017-TCFD-Report-11052018.pdf* (''2017 TCFD Guidance'').

[133] *See* Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures (Oct. 2021) (''Updated TCFD Guidance''), *available at https://www.fsb.org/wp-content/uploads/P141021-4.pdf.* (defining the WACI metric as a portfolio's exposure to carbon-intensive companies, expressed in tons of carbon dioxide equivalents ('' CO_2e'') per million dollars of the portfolio company's revenue and defining the carbon footprint metric as the total carbon emissions for a portfolio normalized by the market value of the portfolio, expressed in tons CO_2e per million dollars invested).

[134] *See e.g.,* Reporting on Enterprise Value Illustrated with a Prototype Climate-related Financial Disclosure Standard, CDP, CDSB, GRI, IIRC, and SASB, (Dec. 2020) *available at Reporting-on-enterprise-value_climate-prototype_Dec20.pdf* (*netdna-ssl.com*); *see also* Financial Conduct Authority (''FCA''), Enhancing Climate Related Disclosures by Asset Managers, Life Insurers, and FCA-Regulated Pension Providers (2021), *available at https://www.fca.org.uk/publication/consultation/cp21-17.pdf* (''FCA Consultation Paper'') (proposal to make TCFD-aligned disclosures mandatory in the UK); *see also* New Zealand Government Press Release, New Zealand Becomes First in the World to Require Climate Risk Report (Sept. 15, 2020), *available at https://www.beehive.govt.nz/release/new-zealand-first-world-require-climate-risk-reporting* (adopting a mandatory climate-related financial disclosure regime in line with the TCFD framework).

[135] Scope 3 emissions include the financed emissions of an investment portfolio and are calculated based on the GHG emissions of each company in which the investment portfolio invests. *See infra* footnote 155 (defining Scope 3 emissions).

[136] *See* Partnership for Carbon Accounting Financials, The Global GHG Accounting and Reporting Standard for Financial Industry (Nov. 2020), *available at https://carbonaccountingfinancials.com/files/downloads/PCAF-Global-GHG-Standard.pdf.* Financed emissions are emissions that are financed by loans and investments in a portfolio of a financial institution, including mutual fund portfolios. Financed emissions fall within the Greenhouse Gas Protocol's (''GHG Protocol's'') Scope 3 downstream emissions, specifically listed as category 15 Scope 3 emissions.

subsequently been endorsed by the TCFD [137] in updated guidance issued by the TCFD in 2020 and reviewed by the GHG Protocol.[138] Under the PCAF Standard, a financial institution (including a fund) measures and reports the Scope 1 and Scope 2 emissions of the investments it holds as of its fiscal year-end using the PCAF methodologies.[139]

In addition, under the PCAF Standard, the disclosure of a portfolio investment's Scope 3 emissions are separate from its Scope 1 and Scope 2 emissions. Because of the limited information regarding Scope 3 emissions currently available, PCAF follows a phased-in approach to Scope 3 reporting, with reporting of Scope 3 emissions only for certain select sectors that provide Scope 3 emissions data. PCAF recognized the difficulties inherent in the comparability, coverage, transparency, and reliability of Scope 3 data of the investments held by a financial institution when attempting to capture the Scope 3 dimension of financed emissions. Therefore, by separating Scope 3 emissions from Scope 1 and 2 emissions and having Scope 3 emissions reported by sector, the PCAF Standard seeks to make Scope 3 emissions reporting more common practice by improving data availability and quality over time.

TCFD endorsed the PCAF Standard in its updated guidance and recommended that asset owners disclose the appropriate financed-emissions metric based on PCAF's methodology along with the WACI metric, if relevant.[140] Several foreign jurisdictions are considering regulations that would require financial institutions, including funds and advisers, to disclose GHG emissions data.[141]

(3) Proposed Fund Metrics Reporting Requirement

The proposal would require environmentally focused funds to disclose the carbon footprint and the WACI of the fund's portfolio in the MDFP or MD&A section of the fund's annual report as applicable.[142] Carbon footprint is the total carbon emissions associated with the fund's portfolio, normalized by the fund's net asset value and expressed in tons of CO_2e per million dollars invested in the fund.[143] Carbon footprint is an economic measure of the amount of absolute GHG emissions that a fund portfolio finances, through both equity ownership and debt investments, normalized by the size of the fund. This measure would allow investors to understand the extent to which their investments are exposed to carbon-related assets and their associated risks, as well as the climate impact of fund's investment decisions. For example, if a company has an ''enterprise value'' of $100 million in equity capital and no debt, and a fund buys $10 million of the fund's equity securities, this measure treats the fund as having ''financed'' 10% of the company's emissions and attributes those emissions to the fund. Where the sum of the financed emissions is divided by the net asset value of the fund, as we are proposing, this provides a normalized value of the fund's financed emissions that allows an investor to compare funds of different sizes with each other. Without normalizing for the fund's size, a larger fund might have a larger carbon footprint than a smaller fund simply because of the larger fund's size.

To calculate the fund's carbon footprint under the proposal, a fund would first calculate the portfolio company's enterprise value.[144] Enterprise value is the sum of the portfolio company's equity value plus its total debt.[145] We are proposing to include both equity and debt because a portfolio company can use capital raised from either or both of equity and debt to finance its business activities that generate GHG emissions. A fund would then calculate the carbon emissions associated with each portfolio holding by dividing the current value of the fund's investment in the portfolio company by the portfolio company's enterprise value, then multiplying the resulting amount by the portfolio company's Scope 1 and Scope 2 GHG emissions. Finally, the fund would add up the carbon emissions associated with each portfolio holding and divide the resulting amount by the current net asset value of the portfolio to derive the fund's carbon footprint.

Using the example above to illustrate the calculation, the portfolio company had an enterprise value of $100 million and the fund owned equity securities equal to 10% of the company's enterprise value. If a company's Scope 1 and 2 emissions totaled 2 metric tons of CO_2e in the last year, the emissions attributable to the fund for this calculation would be 10% of 2 metric tons of CO_2e (or 0.2 metric tons of CO_2e). The fund would repeat this calculation for each of its portfolio holdings and then add up the resulting values for all of its portfolio holdings. The fund would then divide the resulting amount by the net asset value of the fund to derive the fund's carbon footprint.

WACI is the fund's exposure to carbon-intensive companies, expressed in tons of CO_2e per million dollars of the portfolio company's total revenue.[146] A fund's WACI measures a fund's exposure to carbon-intensive companies. That is, this measure allows an investor to see, in quantitative terms, the portfolio companies' carbon intensity—the portfolio companies' GHG emissions relative to their revenue—rather than the companies' absolute GHG emissions. For example, if 10% of the fund was invested in XYZ company, the fund would determine XYZ company's carbon emissions per million dollars of revenue by dividing the company's Scope 1 and 2 GHG emissions by the company's total revenue (in millions of dollars). These emissions would then be attributed to the fund in proportion to the weight of the investment in the fund's portfolio: ten percent of the emissions would be attributable to the fund because the

[137] *See* Updated TCFD Guidance, *supra* footnote 133.

[138] *See id. See also* GHG Protocol Press Release, *New Standard Developed to Help Financial Industry Measure and Report Emissions* (Mar. 2021), *available at https://ghgprotocol.org/blog/new-standard-developed-help-financial-industry-measure-and-report-emissions.*

[139] *See* the PCAF Standard, *supra* footnote 136.

[140] The TCFD also recommended that asset owners consider providing other carbon footprinting and exposure metrics that they believe are decision useful for investors.

[141] *See* Sustainable Finance and EU Taxonomy: Commission takes further steps to channel money towards sustainable activities, *available at https://ec.europa.eu/commission/presscorner/detail/en/ip_21_1804* (summarizing the European Commission's proposed mandatory TCFD-aligned disclosure within new Corporate Sustainability Reporting Directive, including data regarding GHG emissions); *see also* FCA Consultation Paper, *supra* footnote 134, at 32 (proposal by the FCA to require certain FCA regulated entities, including funds, to disclose carbon emissions consistent with the TCFD framework and PCAF Standard).

[142] *See proposed* Item 27(b)(7)(i)(E) of Form N–1A; proposed Instruction 4.(g)(1)(E) to Item 24 of Form N–2; Proposed Instruction 10 to Item 24 of Form N–2 [17 CFR 274.11a–1].

[143] Expressing GHG emissions in terms of CO_2e is the common unit of measurement to indicate the global warming potential of a greenhouse gas. *See infra* footnote 153. We are proposing to require this expression to be presented per millions of dollars, rather than dollars, invested in the fund to avoid smaller calculations that may be less informative to investors and more difficult to calculate.

[144] *See* proposed Instruction 1(a)(i) of proposed Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(a)(i) of Instruction 4.(g)(1)(E) to Item 24 of Form N–2.

[145] A portfolio company's total debt is the sum of the book value of its short- and long-term debt.

[146] WACI is consistent with the emissions metrics suggested by the TCFD. *See* Updated TCFD Guidance, *supra* footnote 137; *see also* Climate Disclosure Proposing Release, *supra* footnote 127 (proposing to require corporate issuers to disclose their GHG intensity in terms of metric tons of CO_2e per unit of total revenue and per unit of production for the fiscal year).

holding represents 10% of the fund's net asset value.[147]

To calculate the fund's WACI under the proposal, as reflected in the example above, a fund would first calculate the portfolio weight of each portfolio holding by dividing the value of the fund's investment in the portfolio company by the current net asset value of the fund.[148] The fund would then calculate the carbon emissions of each portfolio company by dividing the portfolio company's Scope 1 and Scope 2 GHG emissions by the portfolio company's total revenue (in millions of dollars). These emissions would then be attributed to the fund in proportion to the weight of the investment in the fund's portfolio, that is, if the fund's investment in ABC Company represented 10% of the fund's net asset value and ABC Company's Scope 1 and 2 GHG emissions divided by revenue was 1 million metric tons of CO_2e, the emissions attributable to the fund under this calculation for ABC Company would be 10% of 1 million. The fund would perform this calculation for each portfolio company in its portfolio and the sum of the emissions attributable to the fund would be the fund's WACI.

We believe these measures together would provide investors in environmentally focused funds with a comprehensive view of the GHG emissions associated with the fund's investments, both in terms of the footprint or scale of the fund's financed emissions and in terms of the portfolio's exposure to carbon-intensive companies. For example, a fund's carbon footprint would help investors understand the extent to which a fund's investments contribute to emissions and how that changes over time and compare it to other environmentally focused funds. On the other hand, a fund's WACI would allow investors to analyze more effectively the fund's exposure to climate risk and to reasonably compare the exposure to climate risk of different funds. For example, a fund's WACI highlights for investors the extent to which a fund's portfolio is exposed to portfolio companies with higher carbon intensity. These portfolio companies may be more susceptible to transition risk, that is, risks related to the expected transition to a lower carbon economy.[149] These measures also are familiar to environmentally focused investors and fund managers, as they are generally consistent with standards developed by the PCAF (a measure similar to carbon footprint) and the TCFD (WACI).

For both the carbon footprint and WACI measures, the proposed rules do not permit a fund to reduce the GHG emissions associated with a portfolio company as a result of the company's use of purchased or generated carbon offsets.[150] We believe that disclosing GHG emissions data without giving effect to any purchased or generated carbon offsets is appropriate, not only because such a measure would provide investors with important information about the magnitude of climate-related risk posed by a fund portfolio's financed GHG emissions, but also because the value of offsets may change due to restrictions imposed by regulation or market conditions. A fund could disclose such offsets separately from its financed emissions if it believed this information was helpful to investors because funds are not restricted from providing additional information in the MDFP beyond what is permitted or required in the form.[151] Similarly, if a fund engages in a short sale of a security, the proposed requirements do not include a provision that would permit the fund to subtract the GHG emissions associated with the security from the GHG emissions of the fund's portfolio that are used to calculate the fund's WACI or carbon footprint. A short sale would allow the fund to profit from a decline in value of the security, but would not reduce the extent of the fund's financed emissions and may not offset the transition risk expressed by the fund's WACI.

We also are proposing several specific instructions that would apply to a fund's calculation of its carbon footprint and WACI. First, the proposal would define CO_2e to mean the common unit of measurement to indicate the global warming potential (''GWP'')[152] of each greenhouse gas, expressed in terms of the GWP of one unit of carbon dioxide.[153] Additionally, the proposal would define GHG emissions to mean the direct and indirect greenhouse gases expressed in metric tons of CO_2e.[154] The proposal would also provide definitions for the types of emissions that should be calculated within financed Scopes 1, 2, and 3.[155] For purposes of the definition

[147] The current value of the portfolio's investment in the portfolio company and the fund's current net asset value would be calculated as of the end of the most recently completed fiscal year.

[148] See proposed Instruction 1(b)(i) of proposed Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(b)(i) of Instruction 4.(g)(1)(E) to Item 24 of Form N–2.

[149] Transition risks are the actual or potential negative impacts on a portfolio company's consolidated financial statements, business operations, or value chains attributable to regulatory, technological, and market changes to address the mitigation of, or adaptation to, climate-related risks, such as increased costs attributable to changes in law or policy, reduced market demand for carbon-intensive products leading to decreased prices or profits for such products, the devaluation or abandonment of assets, risk of legal liability and litigation defense costs, competitive pressures associated with the adoption of new technologies, reputational impacts (including those stemming from a portfolio company's customers or business counterparties) that might trigger changes to market behavior, consumer preferences or behavior, and portfolio company's behavior.

[150] Carbon offsets represent an emissions reduction or removal of greenhouse gases in a manner calculated and traced for the purpose of offsetting company's GHG emissions. *See,* EPA, *Offsets and RECs: What's the Difference?,* available at *https://www.epa.gov/sites/default/files/2018-03/documents/gpp_guide_recs_offsets.pdf.*

[151] This proposed approach is again similar to the approach of the GHG Protocol as well as the PCAF Standard. *See* GHG Protocol, Corporate Accounting and Reporting Standard, Chapter 9; *see also* the PCAF Standard, *supra* footnote 136 at text accompanying n. 12.

[152] The proposal would also define GWP as a factor describing the global warming impacts of different greenhouse gases. It is a measure of how much energy will be absorbed in the atmosphere over a specified period of time as a result of the emission of one ton of a greenhouse gas, relative to the emissions of one ton of carbon dioxide. *See* proposed Instruction 1(d)(ii) of proposed Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(d)(ii) of Instruction 4.(g)(1)(E) to Item 24 of Form N–2.

[153] *See* proposed Instruction 1(d)(i) of proposed Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(d)(i) of Instruction 4.(g)(1)(E) to Item 24 of Form N–2.

[154] Under the proposal, direct emissions are GHG emissions from sources that are owned or controlled by a portfolio company and indirect emissions are GHG emissions that result from the activities of the portfolio company, but occur at sources not owned or controlled by the portfolio company. *See* proposed instruction 1(d)(iv) of proposed Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(d)(iv) of Instruction 4.(g)(1)(E) to Item 24 of Form N–2. The proposal would also define ''Greenhouse gases,'' in turn, to mean carbon dioxide, methane, nitrous oxide, nitrogen trifluoride, hydrofluorocarbons, perfluorocarbons, or sulphur hexafluoride. *See* proposed instruction 1(d)(iii) of proposed Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(d)(iii) of Instruction 4.(g)(1)(E) to Item 24 of Form N–2.

[155] Under the proposal, Scope 1 emissions would be defined as the direct GHG emissions from operations that are owned or controlled by a portfolio company. Scope 2 emissions would be defined as indirect GHG emissions from the generation of purchased or acquired electricity, steam, heat, or cooling that is consumed by operations owned or controlled by a portfolio company. Finally, Scope 3 emissions would be defined as all indirect GHG emissions not otherwise included in a portfolio company's Scope 2 emissions, which occur in the upstream and downstream activities of a portfolio company's value chain. *See* proposed Instructions 1(d)(v) through (vii) of Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(d)(v) through (vii) of Instruction 4.(g)(1)(E) to Item 24 of Form N–2. Upstream activities in which Scope 3 emissions might occur include: a portfolio company's purchased goods and services, a portfolio company's capital goods; a portfolio company's fuel and energy related activities not included in Scope 1 or Scope 2 emissions; transportation and distribution of purchased goods, raw materials, and other inputs; waste generated in a portfolio

Continued

of Scope 3 emissions, the proposal also defines the term value chain to mean, in part, the upstream and downstream activities related to a portfolio company's operations, including activities by a party other than the portfolio company.[156] These definitions are generally consistent with the definitions provided in the GHG Protocol and PCAF Standard.[157]

Additionally, for both the carbon footprint and WACI measures, the fund would determine the GHG emissions associated with each ''portfolio company'' (or ''portfolio holding''), which we are proposing to define as: (a) an issuer that is engaged in or operates a business or activity that generates GHG emissions; or (b) an investment company, or an entity that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Investment Company Act (a ''private fund''), that invests in issuers described in clause (a), except for an investment in reliance on 17 CFR 12d1–1 (''rule 12d1–1'') under the Investment Company Act (*i.e.,* investments in money market funds).[158] This definition is designed to identify companies engaged in business activities that generate GHG emissions. Therefore, fund investments that are not ''portfolio companies''—for example, cash, foreign currencies (or derivatives thereof), and interest rate swaps—would be excluded from the GHG metrics calculations because these investments do not generate GHG emissions.

The definition would require a fund to take into account GHG emissions when the fund invests in other funds or private funds to avoid a fund investing in portfolio companies through such a fund structure without reflecting the associated emissions in the investing fund's GHG metrics. If the underlying fund itself were an environmentally focused fund required to report its carbon footprint and WACI, the investing fund could determine the GHG emissions associated with the investment for purposes of calculating the investing fund's carbon footprint and WACI by taking its pro rata share of the underlying fund's GHG emissions. If the underlying fund was not required to disclose that information, the investing fund could look through its investment in the fund or private fund and take the investing fund's pro rata share of the emissions of the portfolio holdings of the fund or private fund. For this purpose we believe it would be sufficient to identify an underlying fund's holdings based on the underlying fund's most recent financial statements. We are proposing an exception for fund investments in money market funds to allow the fund to invest in money market funds for cash management purposes without having to consider potential GHG emissions associated with the investment. Money market funds, which are regulated extensively under 17 CFR 270.2a–7 (''rule 2a–7''), also may be more limited in their financed emissions because of their relatively limited holdings of commercial paper and similar investments.[159]

Additionally, if a fund obtains its exposure to a portfolio company by entering into a derivatives instrument, the derivatives instrument for purposes of the GHG metrics calculations would be treated as an equivalent position in the securities of the portfolio company that are referenced in the derivatives instrument.[160] For example, if a fund enters into an equity total return swap on XYZ Company with a notional amount of $100 million, the fund would treat this investment as an investment in $100 million of the company's equity securities when computing the fund's carbon footprint and WACI. This approach would avoid creating an incentive for funds to invest in derivatives instead of cash market investments to avoid including the GHG emissions associated with those holdings in the portfolio-level GHG metric calculations.

Third, the proposed instructions specify where the fund must obtain information required to perform the calculations. Funds would be required to obtain the information necessary to calculate a portfolio company's enterprise value and the portfolio company's total revenue from the company's most recent public report required to be filed with the Commission pursuant to the Securities Exchange Act of 1934 or the Securities Act of 1933 (''regulatory report''), containing such information.[161] We believe a portfolio company's most recent regulatory filings would be the most reliable sources of this information where available. Absent a regulatory report containing the necessary information, the fund would calculate the portfolio company's enterprise value and total revenue based on information provided by the company. Furthermore, if a portfolio company reports its revenue in currency other than U.S. dollars, the proposed instructions would require a fund to convert the portfolio company's revenue into U.S. dollars using the exchange rate as of the date of the relevant regulatory report providing the company's revenue. This conversion is necessary so that all of the financial information underlying the fund's carbon footprint and WACI is expressed in U.S. dollars.

Additionally, where the calculations require the value of the fund's holding in a portfolio company or the fund's net asset value, the fund would use the values as of the end of the fund's most recently completed fiscal year (*i.e.,* the values included in the fund's annual report in which the carbon footprint and WACI disclosure would appear).[162] We recognize that the value of the fund's net assets and the value of any particular portfolio holding likely would be as of a date that differs from the date of the data related to the

company's operations; business travel by a portfolio company's employees; employee commuting by a portfolio company's employees; and a portfolio company's leased assets related principally to purchased or acquired goods or services. Downstream emissions in which Scope 3 emissions might occur include: transportation and distribution of a portfolio company's sold products; goods or other outputs; processing by a third party of a portfolio company's sold products; use by a third party of a portfolio company's sold products; end-of-life treatment by a third party of a portfolio company's sold products; a portfolio company's leased assets related principally to the sale or disposition of goods or services; a portfolio company's franchises; and investments by a portfolio company.

[156] *See* proposed instruction 1(d)(viii) of proposed Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(d)(viii) of Instruction 4.(g)(1)(E) to Item 24 of Form N–2.

[157] *See supra* footnotes 128–131 and accompanying text.

[158] *See* proposed Instruction 1(d)(ix) of Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(d)(ix) of Instruction 4.(g)(1)(E) to Item 24 of Form N–2.

[159] Under the proposal, a portfolio company would not include an investment in a money market fund in reliance on rule 12d1–1. That rule defines a money market fund to mean a registered open-end management investment company regulated as a money market fund under rule 2a–7, or certain private funds that are limited to investing in the types of securities and other investments in which a money market fund may invest under rule 2a–7 and undertake to comply with that rule's requirements.

[160] *See* proposed Instruction 1(d)(xiii) of Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(d)(xiii) of Instruction 4.(g)(1)(E) to Item 24 of Form N–2. The proposal would define a derivatives investment to include any swap, security-based swap, futures contract, forward contract, option, any combination of the foregoing instruments, or any similar instrument. This list of instruments is consistent with the Commission's rule regarding funds' use of derivatives. *See* 17 CFR 270.18f–4.

[161] *See* proposed Instruction 1(d)(x) of Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(d)(x) to instruction 4.g.(1)(E) of Item 24 of Form N–2. For example, an issuer's equity value, total debt, and total revenue is generally included in registration statements and reports on Form 10–K or Form 20–F. Form 20–F is the Exchange Act form typically used by a foreign private issuer for its annual report or to register securities under the Exchange Act.

[162] See proposed Instruction 1(d)(xii) of Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(d)(xii) of Instruction 4.(g)(1)(E) to Item 24 of Form N–2.

portfolio company, which would be based on the portfolio company's fiscal year end. We believe that any data anomalies that may occur in a given year are justified by the benefits of transparency, comparability and simplicity of implementation derived from the proposed approach.

The proposed instructions also would address the sources of portfolio companies GHG emissions. We are proposing a data hierarchy for sources that funds would be required to use in obtaining portfolio company GHG emissions data. Specifically, if a portfolio company discloses its Scopes 1 and 2 emissions in a regulatory report, the fund would be required to use these disclosed emissions from the most recent regulatory report when calculating carbon footprint and WACI.[163] Issuers also may disclose GHG information in regulatory reports absent a current specific regulatory requirement to do so. We believe that GHG emissions information that is filed with the Commission in a regulatory report, if available, would be the most reliable source of such information.[164] If a portfolio company does not file such regulatory reports, or they do not contain the GHG information necessary for the fund to calculate carbon footprint and WACI, the fund would be required to use GHG emissions information that is otherwise publicly provided by the portfolio company, such as a publicly available sustainability report published by the company.[165] Using a publicly available source of the information provided by the company would help provide consistency among different funds' calculations of carbon footprint and WACI where the information is not disclosed in a regulatory report.

We recognize that some portfolio companies do not report GHG emissions in regulatory reports and may not otherwise make the information publicly available (''non-reporting portfolio companies''). If a fund, after conducting a reasonable search, does not identify Scope 1 and Scope 2 emissions information publicly provided by the portfolio company, the fund would use a good faith estimate of the portfolio company's Scope 1 and Scope 2 emissions.[166] Requiring a fund to make a good faith estimate—rather than excluding non-reporting portfolio companies altogether—would allow the fund to ascribe GHG emission information to each of its portfolio holdings and therefore provide portfolio-wide measures of the fund's carbon footprint and carbon intensity.

We are not proposing to require that funds use a particular estimation method. We understand there are different approaches to estimating a portfolio company's GHG emissions that funds could use when calculating their WACI or carbon footprint under the proposal. For example, under the PCAF Standard, funds use a non-reporting portfolio company's primary physical activity data, such as the company's energy consumption, where available.[167] Where that data is not available, funds use other economic-activity emissions factors for estimates, including sector-specific industry averages. We also understand that third-party service providers provide estimated emissions data for portfolio companies that a fund could take into account in forming a good faith estimate.[168]

While there has been a significant increase in the public availability and quality of corporate GHG emissions data,[169] the proposed requirement to perform good faith estimates in certain cases reflects that not all of the companies in which an environmentally focused fund may invest will currently provide the GHG information necessary for the fund to calculate the proposed financed emissions disclosures.[170] We recognize that the methodologies and assumptions underlying different good faith estimates of a company's GHG emissions data may impact the consistency of the data across different portfolio holdings of one fund as well as the comparability of funds with the same or similar portfolio holdings. GHG information produced by companies themselves, rather than estimated by a fund, also may not be fully comparable, due to the differences in assumptions and approaches at each company. We believe, however, that the proposed disclosure requirements would provide investors with an effective depiction of the GHG emissions associated with fund's investments and provide a reasonable basis for comparison among funds, notwithstanding that the GHG information underlying the disclosures may not be calculated using identical methods and assumptions.[171]

In order for investors to understand the extent to which a fund's carbon footprint and WACI metrics are based on estimated GHG emissions, a fund that uses estimates in these calculations would be required to disclose the percentage of the aggregate portfolio GHG emissions that was calculated using the fund's good faith estimation process.[172] The fund also would be required to provide a brief explanation of the process it used to calculate its good faith estimates of its portfolio company GHG emissions, including the data sources the fund relied on to generate these estimates. This brief explanation is designed to provide context for the fund's carbon footprint and WACI and allow investors to take into the account the extent to which these calculations rely on estimates and the information on which those estimates are based.

[163] *See* proposed Instruction 1(d)(xi)(A) of Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(d)(xi)(A) of Instruction 4.(g)(1)(E) to Item 24 of Form N–2.

[164] For example, information filed by a portfolio company with the Commission in Exchange Act periodic reports is subject to disclosure controls and procedures, which we believe help to ensure that such a company maintains appropriate processes for collecting and communicating any GHG emissions information included in the report. *See* 17 CFR 240.13a–15.

[165] *See* proposed Instruction 1(d)(xi)(B) of Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(d)(xi)(B) of Instruction 4.(g)(1)(E) to Item 24 of Form N–2. Portfolio company GHG emissions information that is only accessible from a third-party service provider would not be considered information that is publicly provided by the portfolio company. *See infra* footnote168 and related text (stating that funds could take into account information provided by third party service providers as part of the good faith estimation process).

[166] *See* proposed Instruction 1(d)(xi)(C) of Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(d)(xi)(C) of Instruction 4.(g)(1)(E) to Item 24 of Form N–2.

[167] *See* the PCAF Standard, *supra* footnote 136, at text following n.65 (explaining that estimates using emissions factors from production-based models (*i.e.,* emission intensity per physical activity) are preferred over emissions factors from revenue-based models (*i.e.,* emission intensity per revenue)).

[168] There are a number of third-party service providers that currently provide GHG emissions data to funds.

[169] *See e.g.,* Azar *et al.,* The Big Three and corporate carbon emissions around the world, (2021), at n.9, available at *https://reader.elsevier.com/reader/sd/pii/S0304405X21001896?token=23AED5DA8B483D8297FDF29337EC3D429A8E4A88984AF54214180DF07617BB9F51FE2357B456C9023ED605E67363FBA7&originRegion=us-east-1&originCreation=20220201195451* (noting that some ESG third-party vendors provide corporate issuer carbon emissions data for 80% of global market capitalization); *see also* Bolton P., Kacperczyk M. 2020. Do investors care about carbon risk?, National Bureau of Economic Research *available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3398441.*

[170] Id.

[171] *See* Timo Busch, Matthew Johnson, Thomas Pioch, Corporate carbon performance data: Quo vadis? (2020), *available at* Corporate carbon performance data: Quo vadis?—Busch—2022—Journal of Industrial Ecology—Wiley Online Library (comparing available corporate carbon emission data across several main providers and finding, among other things, that the consistency of data is high in scopes 1 and 2 when the outliers are removed).

[172] *See* proposed Instruction 1(d)(xi)(C) of Item 27(b)(7)(i)(E) of Form N–1A and proposed Instruction 1(d)(xi)(C) to instruction 4.g.(2)(B) of Item 24 of Form N–2.

The brief explanation also would be complemented by additional, more granular information about the fund's process for calculating and estimating its portfolio's GHG emissions in order to facilitate investors' decision making.[173] Specifically, we are proposing to require a fund to provide additional information on Form N–CSR regarding any assumptions and methodologies the fund applied in calculating the portfolio's GHG emissions, and any limitations associated with the fund's methodologies and assumptions, as well as explanations of any good faith estimates of GHG emissions the fund was required to make.[174]

While these additional disclosures provide important contextual information to investors and other industry participants regarding the fund's process for calculating GHG metrics, this information can be technical and complex. If we were to require funds to include this information in the annual report, it could make the report substantially longer and more difficult to understand. Therefore, we are proposing a layered approach to this disclosure, requiring a fund to disclose GHG metrics data in the annual report along with a brief summary of the sources of the data and the amount of estimated GHG emissions used, while providing more detailed information regarding the fund's process and methodology for calculating and estimating GHG metrics on Form N–CSR for investors and other industry participants who wish to access this additional information.[175]

In addition to the above metrics, an environmentally focused fund would also be required to disclose the Scope 3 emissions of its portfolio companies, to the extent that Scope 3 emissions data is reported by the fund's portfolio companies.[176] Scope 3 emissions would be disclosed separately for each industry sector in which the fund invests, and would be calculated using the carbon footprint methodology discussed above.[177] We believe that presenting the Scope 3 emissions separately and not combined with the fund's financed Scope 1 and 2 emissions would alleviate some of the concerns related to the possibility of double counting emissions when adding Scope 3 emissions to a fund's financed Scope 1 and 2 emissions.[178] Additionally, we recognize that Scope 3 emissions typically result from the activities of third parties in a portfolio company's value chain, making it more difficult for a fund to estimate the Scope 3 emissions associated with its portfolio companies as compared to Scope 1 and 2 emissions. Therefore, funds would not be required to estimate the Scope 3 emissions of their portfolio companies under the proposal.

In addition, because financed Scope 3 emissions would already be broken out by sector, providing two metrics for each sector (*i.e.,* one WACI and one carbon footprint metric for each sector) could result in an amount of GHG-related disclosure that may be confusing to investors. We believe that carbon footprint is an effective measure for this purpose because it is a relatively simple measure, depicting the scale of the fund's financed emissions, normalized by the size of the fund.

We request comment on all aspects of the proposed amendments to fund annual reports and related disclosure in proposed Item 7 of Form N–CSR requiring GHG emissions disclosures for certain funds, including the following items.

87. Should we, as proposed, require environmentally focused funds to disclose their GHG emissions? Would such disclosure help investors interested in investing in such funds select a fund that is appropriate for them? To what extent would requiring GHG metrics reporting help prevent greenwashing?

88. Should we, as proposed, limit the GHG emissions reporting requirements to environmentally focused funds that do not affirmatively state that they do not consider GHG emissions of the issuers in which they invest as part of their ESG strategy? Should the GHG emissions reporting requirement be limited to fund strategies where the fund's adviser considers GHG emissions information in executing the fund's strategy? If so, would this approach achieve this goal? Are there other environmentally focused funds that should not be subject to the GHG emissions reporting requirements? Alternatively, should we propose modified or different GHG emissions reporting requirements for certain environmentally focused funds, such as funds that focus on investing in carbon capture technology?

89. Do commenters agree that, with respect to BDCs that are environmentally focused funds, the GHG emission disclosure we are proposing in this release would complement the GHG disclosure proposed in the Climate Disclosure Proposing Release if both proposals were adopted? Conversely, should a BDC only be required to disclose the GHG emissions disclosure proposed in this release or only provide the disclosure proposed in the Climate Disclosure Proposing Release?

90. Are there any potential unintended effects in requiring GHG emissions reporting? For example, are there investments that might report high emissions that could nonetheless help the fund achieve an investment objective related to the environment generally or climate change specifically, such as the GHG emissions generated from investments in the construction of windmills or electric cars? If so, would our proposed approach to limit GHG reporting to environmentally focused funds that do not affirmatively state that they do not consider GHG emissions of the issuers in which they invest help alleviate potential unintended effects of the GHG emissions reporting requirement? Rather than our proposed approach to limit the scope of funds subject to the GHG reporting requirement, should we instead require these funds to report alternative metrics that they consider in making investment decisions?

91. Are there alternative metrics that funds focused on climate change consider in making investment decisions that we should require funds to report alongside or instead of the proposed GHG emission metrics?

[173] *See* proposed Item 7 of Form N–CSR. *See also* proposed Instruction 10 to Item 24 of Form N–2 (requiring BDCs to disclose, on Form 10–K, the information requiring by Item 7 of Form N–CSR).

[174] *Id.*

[175] This layered approach to disclosure is in line with the Commission's approach in other contexts. *See, e.g.,* Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, Investment Company Act Release No. 28584 (Jan. 13, 2009) [74 FR 4546 (Jan. 26, 2009)]; *see also* Updated Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts, Investment Company Act Release No. 33814 (Mar. 11, 2020) [85 FR 25964 (May 1, 2020)]; Streamlined Shareholder Report Proposal, *supra* footnote 99.

[176] *See* proposed Instruction 1(d)(x) of Item 27(b)(7)(i)(E) of Form N–1A; proposed Instruction 1(d)(x) of Item 24.4.g.(2)(B) of Form N–2. As with Scopes 1 and 2 emissions information, the proposal would also require funds to use Scope 3 emissions that are reported by a portfolio company in the company's most recently filed regulatory report, if available. In the absence of reported Scope 3 emissions data from a portfolio company in a regulatory report, the fund would be required to use Scope 3 emissions information that is otherwise publicly provided by the portfolio company, such as a publicly available sustainability report published by the company, if available. *See supra* footnotes 166 and 164 and accompanying text.

[177] Funds would not be required to disclose their financed Scope 3 emissions using the WACI methodology.

[178] *See* the PCAF Standard, *supra* footnote 136 at n.40 (noting that double counting occurs between the different Scopes of emissions from loans and investments when a fund invests in portfolio companies that are in the same value chain because the Scope 1 emissions of one company can be the upstream Scope 2 or 3 emissions of its customer).

92. In addition to requiring environmentally focused funds to disclose their GHG emissions, should we also require Integration Funds that state that they use GHG metrics in their integration or investment process, or Integration Funds that consider environmental factors generally, to disclose their GHG emissions? Alternatively, should we require all ESG funds, regardless of their focus on E, S or G, to disclose these metrics? Alternatively, should we require all funds, regardless of whether they are ESG funds, to disclose their GHG emissions? Are investors in funds that do not involve ESG factors nonetheless interested in the GHG emissions associated with the funds' portfolios?

93. Should we, as proposed, require funds to disclose the Scope 1 and Scope 2 GHG emissions of their portfolio holdings using the carbon footprint and the WACI metrics? Do these metrics provide investors with useful information about the emissions associated with the fund's portfolio? Are we correct in our understanding that investors would benefit from seeing both metrics to appreciate the climate impact of the fund's investment decision as well as the fund's exposure to transition risks? Alternatively, should we require only one of these metrics to be disclosed? What are the costs associated with requiring the disclosure of a portfolio's Scope 1 and Scope 2 emissions?

94. Should we require funds to disclose other metrics? Rather than requiring funds to disclose carbon footprint and WACI, should we allow funds to use any reasonable methodology to calculate the GHG emissions associated with their portfolios and provide an explanation of their methodology?

95. The carbon footprint and WACI metrics we are proposing are generally consistent with the metrics recommended by the PCAF Standard and the TCFD. Are there alternative calculation methodologies that we should require funds to use? For example, should we require funds to disclose the carbon emissions of the portfolio as a whole? For example, would investors benefit from seeing the fund's carbon footprint not normalized for the size of the fund, to focus investors on the absolute level of GHG emissions associated with fund portfolios?

96. Should we, as proposed, require funds to calculate their GHG emissions without including a provision permitting a fund to give effect to any purchased or generated carbon offsets? Alternatively, should we allow funds to provide GHG emissions net of such carbon offsets in lieu of an absolute presentation?

97. Should we, as proposed, require funds to combine the Scope 1 and Scope 2 emissions of their portfolios? Alternatively, should we require funds to report separately their portfolio Scope 1 emissions from their portfolio Scope 2 emissions?

98. Are the proposed methods of calculating the carbon footprint and WACI metrics described above appropriate? Is there a better methodology for calculating a portfolio's carbon footprint and WACI? For example, should we require funds to use total assets, rather than net asset value as proposed, in the calculation of carbon footprint and WACI? Should we require funds to express the portfolio emissions in dollars, rather than millions of dollars as proposed?

99. Is the proposed approach to calculating enterprise value appropriate? Is there a better way to calculate enterprise value?

100. If an environmentally focused fund invests in a portfolio company with a holding company structure, should the fund's carbon footprint and WACI include the consolidated emissions of all subsidiaries owned by that holding company as Scope 2 emissions, or should the calculations include solely the Scope 1 and 2 emissions of the holding company? Are there alternative approaches to account for the holding company's control over the emissions of its subsidiaries?

101. Should we, as proposed, require the disclosure of portfolio companies' Scope 3 emissions to the extent they are publicly reported by a portfolio company? Should we require funds to estimate these Scope 3 emissions when they are not reported? How burdensome would this be for funds? Would the estimated Scope 3 emissions be reliable?

102. Should we, as proposed, require the calculation of portfolio companies' Scope 3 emissions using the carbon footprint methodology only? Alternatively, should we require funds to disclose these Scope 3 emissions using both the carbon footprint and the WACI metrics? Are there other metrics that we should require for portfolio company Scope 3 emissions?

103. Should we, as proposed, require the disclosure of portfolio companies' Scope 3 emissions separately for each industry sector in which the fund invests? Is ''industry sector'' the appropriate category for the portfolio companies' Scope 3 emissions? Alternatively, should we permit or require funds to use the same reasonably identifiable category for portfolio company Scope 3 emissions that they use to depict the portfolio holdings of the fund in the graphical representation of holdings section of the annual report?[179] Alternatively, should we require the disclosure of a single metric for all these portfolio companies' Scope 3 emissions?

104. Should we, as proposed, require the calculation of Scope 1 and Scope 2 emissions separately from Scope 3 emissions? Alternatively, should we require funds to disclose all three emission types as a single metric?

105. Are the proposed instructions related to the calculation of GHG metric methodologies clear, easily understandable, and appropriate?

106. Are our proposed definitions of CO_2e, GWP, GHG, GHG emissions, and Scopes 1, 2 and 3 appropriate? Are we correct in our understanding that these defined terms are generally accepted as the appropriate basis for measuring emissions, including financed emissions of portfolios? Are they consistent with the GHG Protocol, the TCFD and PCAF Standards? Are there alternative defined terms that we should adopt? Rather than defining these terms, should we instead allow funds to use their own definitions and provide an explanation of such terms?

107. Is our definition of ''portfolio company,'' which includes the types of fund investments that should be included in the GHG metric calculations, appropriate? Should we, as proposed, include a fund's investments in other funds and private funds in the definition of the types of fund investments that should be included in the GHG emissions calculations? What are the costs associated with such a requirement?

108. Should we prescribe how the fund must determine the GHG emissions associated with its investments in a fund or private fund? If the underlying fund or private fund discloses the GHG emissions of its portfolio, should funds be allowed to rely on the underlying fund's disclosed GHG emissions data as proposed? Alternatively, should the fund be required to look through its investment in the underlying fund regardless of whether such underlying fund discloses its GHG emissions?

109. Should our definition of ''portfolio company'' exclude investments in money market funds, as proposed? To what extent do money market funds' investments finance emissions? Should this exclusion be limited to government money market

[179] *See* Item 27(d)(2) of Form N–1A; *see also* Instruction 6(a) to Item 24 of Form N–2.

funds, as defined in rule 2a–7, which invest 99.5 percent or more of their total assets in cash, government securities, and/or repurchase agreements that are collateralized fully?

110. Are there asset classes or investments that are not included in the proposed definition of a ''portfolio company'' that we should include in the definition? For example, should a ''portfolio company'' include sovereign bonds, cash, foreign currencies, and/or interest rate swaps and other derivatives that do not reference a ''portfolio company''? Would it be practical to include these holdings and how would funds calculate the financed emissions attributable to them? Are there other types of fund investments that we should include or exclude? Should funds be required to separately disclose the percentage of the fund's investments that were not included in the GHG emissions calculations? If so, where should such disclosure appear?

111. Are there particular types of investments that should be treated differently for purposes of a fund's carbon footprint or WACI? For example, should fixed-income securities or securities sold short be treated differently? When a bond is issued for a specific purpose or project, should the GHG emissions associated with the bond be limited to those associated with the purpose or project? Is sufficient information available for such an attribution? When a security is sold short, should the GHG emissions associated with the security be subtracted from a fund's WACI or carbon footprint? To what extent would special instructions for particular types of investments such as special-purpose bonds or securities sold short increase the complexity of the calculation and attendant costs?

112. Is our proposed approach to the calculation of GHG metrics related to derivative instruments appropriate? To what extent do funds that would be subject to this disclosure requirement enter into derivatives? Is the proposed treatment of derivatives appropriate and clear as applied to these derivatives? Alternatively, should we exclude derivatives instruments from the definition of a ''portfolio company'' or ''portfolio holding'' so that funds would be not be required to attribute GHG emission to these investments?

113. Should we, as proposed, require funds to obtain all the information necessary to calculate a portfolio company's enterprise value from their most recent regulatory report? Would this approach ease the burdens and costs associated with complying with the proposal? Would it enhance the comparability of the information across funds with similar investments? Alternatively, should we require funds to obtain more recent data, if such information is voluntarily provided by the portfolio company?

114. For non-U.S. portfolio companies, should we require funds to obtain all the information necessary to calculate a portfolio company's enterprise value from non-U.S. regulatory reports, if available? If so, would funds experience challenges in identifying relevant non-U.S. regulatory reports and determining if they contain information that can be used to calculate the fund's WACI or carbon footprint?

115. For fund investments in private companies or other portfolio companies that do not file regulatory reports, should we require funds to obtain all the information necessary to calculate private company's enterprise value data related to those holdings directly from the companies, as proposed? What are the burdens and costs associated with such an approach? Would such information be consistent and reliable across portfolio companies? If this information is not available, should we require funds to estimate the data necessary to calculate the company's enterprise value?

116. Should we, as proposed, require all necessary data related to the fund to be provided as of the fund's most recently completed fiscal year and all necessary data related to the portfolio company as of the date of the relevant regulatory report filed by the portfolio company containing the necessary information? Would the inconsistency in the ''as of'' dates of the data used in the calculation of GHG metrics affect the quality of the fund's GHG emissions disclosure?

117. If a portfolio company reports its total revenue in currency other than U.S. dollars, should we, as proposed, require a fund to convert the reported revenue to U.S. dollars using the exchange rate as of the date of the portfolio company's regulatory report? What are the costs associated with such a requirement? Should we instead allow a fund to use the exchange rate as of the fund's most recently completed fiscal year or, alternatively, the current exchange rate?

118. If a portfolio company reports zero revenue in a given year, how should funds represent the carbon emissions for such portfolio companies in the fund's calculation of its WACI? For example, should funds be required to use ''1'' as the revenue for a portfolio company with zero revenue when calculating the WACI to avoid incorrectly reporting zero emissions for such a portfolio company? Alternatively, should funds exclude portfolio companies that report zero revenue from the fund's calculation of its WACI and disclose the percentage of the fund's NAV represented by these portfolio companies?

119. Should we, as proposed, include a data hierarchy for the sources of GHG emissions information? Is the specific proposed hierarchy—*i.e.,* regulatory reports, followed by other public reports, and then good faith estimates of emissions—appropriate? Are there any sources of data we should explicitly include or remove? If we were to add sources of data, where in the hierarchy should they be placed? For example, should we require funds to use data from portfolio companies filed with non-U.S. securities or banking regulators if available, instead of other publicly reported data? Should we, instead of establishing a hierarchy, require funds to form a reasonable estimate of each portfolio company's GHG emissions in all cases and permit funds to use whatever data they believe in good faith to be the most reliable?

120. Should we, as proposed, require that a fund use the Scope 1, Scope 2, and Scope 3 emissions of a portfolio company from the company's most recent regulatory report if the report includes that information? Would this approach ease the burdens and costs associated with complying with the proposal to the extent portfolio companies include the relevant GHG information in their regulatory reports? Would it enhance the comparability of the information across funds with similar investments? Are we correct in our understanding that data provided in a regulatory report filed with the Commission is always more reliable than information disclosed on portfolio company website and GHG emissions estimates generated by an ESG provider? Alternatively, should we require funds to seek to obtain more recent data from the portfolio company? What are the costs and burdens associated with such an alternative approach?

121. For portfolio companies that do not report or otherwise provide their Scope 1 and Scope 2 emissions (''non-reporting portfolio companies''), should we, as proposed, require funds to use a good faith estimate of the portfolio companies' Scope 1 and Scope 2 emissions? Should we provide additional guidance on performing these calculations?

122. How burdensome would it be to estimate Scope 1 and Scope 2 emissions and how reliable would the estimates be? Are there ways to ease such burdens

that we should adopt? For example, should we provide a safe harbor from liability for fund disclosure of GHG emissions data because the disclosure will be based on information provided by third parties? If so, should any safe harbor apply to all of the GHG disclosures we are proposing for funds, or should it be more limited, such as only applying to the Scope 3 emissions of the fund's portfolio companies, and/or a fund's good faith estimates of Scope 1 and Scope 2 financed emissions? How should any safe harbor operate? Should the safe harbor provide that the disclosure will not be a fraudulent statement if certain conditions are met? What conditions would be appropriate? For example, should a safe harbor require a fund to perform a certain level of diligence to take advantage of the safe harbor, to ensure that the fund does not receive the benefit of the safe harbor without appropriate diligence? How should any diligence requirement or required state of mind be worded? For example, should the safe harbor be available only if the fund's disclosure of GHG emissions have a reasonable basis and were disclosed in good faith? How should we define a ''fraudulent statement'' for purposes of such a safe harbor, and are there are any antifraud provisions in the Securities Act, Exchange Act, Investment Company Act, or any other provisions of the Federal securities laws, to which the safe harbor should not apply?

123. If a portfolio company does not provide GHG emissions data in a regulatory report, but does provide it in other publicly available documents or on its website, should we require a fund to use this information, as proposed? Alternatively, should we allow a fund to form its own good faith estimate even when a portfolio company publicly provides its GHG emissions data? Would it be difficult for a fund to determine with high confidence that a given portfolio company does not publicly report GHG information outside of the company's regulatory reports?

124. Rather than requiring a fund to estimate a non-reporting company's GHG emissions, should we exclude non-reporting companies from a fund's GHG emission calculations? If so, should we also limit a fund's ability to invest in non-reporting companies? For example, should we limit a fund's ability to invest in non-reporting companies to 20% of a fund's net asset value?

125. Should we, as proposed, require a fund to briefly discuss in the MDFP or MD&A how the fund estimates any GHG emissions, including the sources of data for determining such estimates, and the percentage of the fund's aggregated GHG emissions for which the fund used estimates rather than reported emissions? Is it clear to funds what this description should include? Is there any additional guidance that we should provide? For example, if a fund bases its estimate on information provided by an ESG service provider, is there any additional information that we should explicitly require regarding these service providers? Would this additional information be helpful to investors in understanding how a fund calculates its GHG emissions?

126. Should we, as proposed, require a fund to narratively explain on Form N–CSR the methodologies and assumptions it applied when calculating any good faith estimates of a portfolio company's GHG emissions? Is it clear to funds what this description should include? For funds that base their estimates on information provided by ESG service providers, would the funds be able to describe the underlying methodologies and assumptions used by these service providers?

127. Is our layered approach to the disclosure of GHG emissions appropriate? Should we require a fund to state, in the shareholder report, that additional information regarding the underlying assumptions and methodologies is available on Form N–CSR? Would investors be sufficiently familiar with Form N–CSR to understand the cross reference? Would funds be able to provide a hyperlink or other more specific reference even though the fund may not have filed its report on Form N–CSR at the time it delivers the shareholder report? Alternatively, should we require a fund to summarize briefly the underlying methodologies and assumptions, including any limitations of the methodology, in the shareholder report?

4. Inline XBRL Data Tagging

We are proposing to require that funds submit all proposed ESG-related registration statement and fund annual report disclosure filed with the Commission in a structured, machine-readable data language.[180] Specifically, we would require such funds to submit the specified information to the Commission in Inline XBRL, which allows investors and other market participants, such as data aggregators *(i.e.,* entities that, in general, collect, package, and resell data) to use automated analytical tools to extract the information sought wherever it may be located within a filing.[181]

To implement the proposed structured data requirements, we propose to amend 17 CFR 232.405 (''rule 405 of Regulation S–T'') to reference the ESG-specific form provisions.[182] The information required to be tagged in Inline XBRL would have to satisfy the requirements of rule 405 of Regulation S–T in accordance with the EDGAR Filer Manual.

Background

All open- and registered closed-end funds and BDCs are currently subject to Inline XBRL structured data requirements.[183] In 2009, the

[180] The requirement to submit this information in Inline XBRL would apply to open- and registered closed-end funds and BDCs, and to UITs that file with the Commission on Forms N–1A [17 CFR 274.11A], N–2 [17 CFR 274.11a-1], or S–6 [17 CFR 239.16] and to annual shareholder reports filed on Form N–CSR [17 CFR 274.128] and annual reports filed on Form 10–K [17 CFR 249.310]. This tagging requirement would be implemented by including cross-references to rule 405 of Regulation S–T in each fund registration form (and, as applicable, updating the cross-references to rule 405 in those registration forms that currently require certain information to be tagged in Inline XBRL—that is, Form N–1A and Form N–2); revising rule 405(b) of Regulation S–T to include the tagging of the ESG-related disclosures. Pursuant to 17 CFR 232.301 (''rule 301 of Regulation S–T''), the EDGAR Filer Manual is incorporated into the Commission's rules. In conjunction with the EDGAR Filer Manual, Regulation S–T governs the electronic submission of documents filed with the Commission. Rule 405 of Regulation S–T specifically governs the scope and manner of disclosure tagging for operating companies and investment companies, including the requirement in rule 405(a)(3) to use Inline XBRL as the specific structured data to use for tagging disclosures.

[181] The Commission has an open source Inline XBRL Viewer that allows the user to make an Inline XBRL data human-readable and allows filers to more readily filter and identify errors. Anyone with a recent standard internet browser can view any Inline XBRL filing on the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system at no cost. More information about the Commission's Inline XBRL Viewer is available at *https://www.sec.gov/structureddata/osd-inline-xbrl.html.* In addition, our proposed amendments to 17 CFR 232.11 (''rule 11 of Regulation S–T''), which would include Forms N–8B–2 and S–6 in the definition of an ''Interactive Data File,'' mean that an UIT that files on those forms would, as registrants that file on Forms N–1A, N–3, N–4, and N–6, automatically be suspended from the ability to file a post-effective amendment for immediate effectiveness if the UIT fails to submit any Interactive Data File required by the form on which it files its post-effective amendment. *See* proposed amendments to 17 CFR 230.485 (''rule 485'') and 17 CFR 230.497(c) and (e) (''rule 497(c) and (e)''). We also are proposing to amend these rules to simplify the current structured data rule requirements prescribed by those rules. *Id.*

[182] *See* proposed 17 CFR 232.405(b)(2)(i) and (b)(3)(iii); *see also* proposed amendments to 17 CFR 232.11 (amending the term ''related official filing,'' in part, to include references to Form N–8B–2 [17 CFR 274.12] and Form S–6 [17 CFR 239.16]).

[183] Many funds are already required to tag certain registration statement disclosure items using Inline XBRL; however, UITs that register on Form N–8B–2 and file post-effective amendments on Form S–6 are not currently subject to any tagging requirements. The costs of these requirements for

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Commission adopted rules requiring operating company financial statements and mutual fund risk/return summaries to be submitted in XBRL entirely within an exhibit to a filing.[184] In 2018, the Commission adopted modifications to these requirements by requiring issuers to use Inline XBRL to reduce the time and effort associated with preparing XBRL filings and improve the quality and usability of XBRL data for investors.[185] In 2020, the Commission adopted new Inline XBRL requirements for registered closed-end funds and BDCs that will be effective no later than February 2023.[186] The Commission has also adopted requirements for most registered investment companies to file monthly reporting of portfolio securities on a quarterly basis, in a structured data language.[187] Much of this information is publicly available as structured data on the Commission's website at *www.sec.gov.*

Discussion

We believe that requiring funds to tag their ESG disclosures using Inline XBRL would benefit investors, other market participants, and the Commission by making the disclosures more readily available and easily accessible for aggregation, comparison, filtering, and other analysis, as compared to requiring a non-machine readable data language such as ASCII or HTML. The proposed tagging requirements using Inline XBRL would enable automated extraction and analysis of data regarding the ESG disclosures for investors and other market participants who seek to access information about funds that provide ESG disclosures, both directly and through information intermediaries such as data aggregators and financial analysts. Providing a standardized, structured data framework could facilitate more efficient investor large-scale analysis and comparisons across funds and across time periods. An Inline XBRL requirement would facilitate other analytical benefits, such as more easily extracting/searching ESG-related disclosures (rather than having to manually run searches for those disclosures through entire documents), automatically compare/redline these disclosures against prior periods, and perform targeted assessments of specific narrative disclosures rather than the entire unstructured document. For investors and other market participants, requiring funds to tag their ESG disclosures in a structured data language would both increase the availability, and reduce the cost, of collecting and analyzing such information, potentially increasing transparency and mitigating the potential informational costs as compared to unstructured disclosure. Further, for filers, Inline XBRL can enhance the efficiency of review, yield time and costs savings, and potentially enhance the quality of data compared to other machine-readable standards, as certain errors would be easier to correct because the data is also human readable. This aspect of our proposed amendments is in keeping with the Commission's ongoing efforts to implement reporting and disclosure reforms that take advantage of the benefits of advanced technology to modernize the fund reporting regime and to, among other things, help investors and other market participants better assess different funds.

We request comment on all aspects of our proposed Inline XBRL requirements, including the following items:

128. Should any of the proposed disclosure items be excepted from the proposed Inline XBRL requirement? What would be the effects on data quality and usability to investors and other data users with excepting such disclosure items from the requirement to submit data in Inline XBRL?

129. Should we require or permit funds to use a different structured data language to tag the proposed disclosures? If so, what structured data language should we require or permit, and why?

130. What costs or other burdens (*e.g.,* related to personnel, systems, operations, compliance, etc.) would the proposed Inline XBRL requirements impose on funds? Please provide quantitative estimates to the extent available.

131. How long is it likely to take for vendors and filers to develop solutions for tagging the disclosure required by our proposed amendments?

132. Are any other amendments necessary or appropriate to require the submission of the proposed information required to be submitted in Inline XBRL? What changes should we make and why?

133. To what extent do investors and other market participants find information that is available in Inline XBRL useful for analytical purposes? Is information that is narrative, rather than numerical, useful content for analytical tools?

134. Are there any funds, such as smaller funds, that we should except from the Inline XBRL requirements? Should we, as proposed, apply the Inline XBRL requirements to UITs?

B. Adviser Brochure (Form ADV Part 2A)

Given the rising significance investors place on the consideration of ESG factors when making investment decisions, we also are proposing amendments to Form ADV Part 2A to include information about registered

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funds that are currently subject to tagging requirements and those that newly would be required to tag certain disclosure items are discussed in the Economic Analysis. *See* section III.C.2 *infra.*

[184] *Interactive Data to Improve Financial Reporting,* Release No. 33–9002 (Jan. 30, 2009) [74 FR 6776 (Feb. 10, 2009)] as corrected by Release No. 33–9002A (Apr. 1, 2009) [74 FR 15666 (Apr. 7, 2009)]; *Interactive Data for Mutual Fund Risk/Return Summary,* Investment Company Act Release No. 28617 (Feb. 11, 2009) [74 FR 7748] (Feb. 19, 2009)]) (''2009 Risk/Return Summary Adopting Release'').

[185] *Inline XBRL Filing of Tagged Data,* Investment Company Act Rel. No. 33139 (June 28, 2018) [83 FR 40846, 40847 (Aug. 16, 2018)] (''Inline XBRL Adopting Release''). Inline XBRL allows filers to embed XBRL data directly into an HTML document, eliminating the need to tag a copy of the information in a separate XBRL exhibit. *Id.* at 40851.

[186] *Securities Offering Reform for Closed-End Investment Companies,* Investment Company Act Rel. No. 33814 (Apr. 8, 2020) [85 FR 33290 (June 1, 2020) at 33318] (''Closed-End Fund Offering Reform Adopting Release'') (requiring BDCs to submit financial statement information, and registered closed-end funds and BDCs to tag Form N–2 cover page information and specified prospectus disclosures using Inline XBRL). In 2020, the Commission also adopted Inline XBRL requirements for separate accounts registered as management investment companies. *See Updated Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts,* Investment Company Act Rel. No. 33814 (Mar. 11, 2020) [85 FR 25964 (May 1, 2020)] (''Variable Contract Summary Prospectus Adopting Release'') (requiring variable contracts to use Inline XBRL to submit certain required prospectus disclosures). Most recently, the Commission adopted amendments that revise most fee-bearing forms, schedules, statements, and related rules to require all fee calculation information to be in a filing fee exhibit that must be tagged in Inline XBRL. *See Filing Fee Disclosure and Payment Methods Modernization,* Investment Company Act Rel. No. 34396 (Oct. 13, 2021) [86 FR 70166 (Dec. 9, 2021)] (''Filing Fee Adopting Release'').

[187] Registered investment companies (other than money market funds and small business investment companies) must report information about their monthly portfolio holdings to the Commission in a structured data format on a quarterly basis, 60 days after quarter end, on Form N–PORT, and the holdings for the last month of each quarter is made publicly available. *See* Investment Company Reporting Modernization, Investment Company Act Rel. No. 32314 (Oct. 13, 2016) [81 FR 81870 (Nov. 18, 2016)] (''Reporting Modernization Release''); *see also* Amendments to the Timing Requirements for Filing Reports on Form N–PORT, Investment Company Act Release No. 33384 (Feb. 27, 2019) [84 FR 7980 (Mar. 6, 2019)] (''N–PORT Modification Release''). Money market funds must report portfolio information on Form N–MFP. *See Money Market Fund Reform,* Investment Company Act Release No. 29132 (Feb. 23, 2010) [75 FR 10060 (Mar. 4, 2010)]. *See also infra* at 0, discussing information we are proposing to require in regulatory census reporting forms using a structured data language. Mutual fund prospectus risk/return summary data sets are available at *https://www.sec.gov/dera/data/mutual-fund-prospectus-risk-return-summary-data-sets.*

advisers' ESG practices. Advisers registered with the Commission must deliver a brochure and one or more brochure supplements to each of their clients or prospective clients, which advisers may use to help them with their disclosure obligations as fiduciaries.[188] The adviser brochure is designed to provide a narrative, plain English description of the adviser's business, conflicts of interest, disciplinary history, and other important information to help clients make more informed decisions about whether to hire or retain that adviser.[189] We are proposing to require ESG-related disclosures from registered investment advisers that consider ESG factors as part of their advisory businesses.

We designed these proposed requirements to provide clients and prospective clients with useful and comparable information to help them better evaluate the ESG-related services of the growing number of advisers that offer them and the variety of ways advisers currently approach ESG investing. We believe that requiring advisers to disclose with specificity their ESG investing approach would help clients understand the investing approach the adviser uses, as well as compare the variety of emerging approaches, such as employment of an inclusionary or exclusionary screen, focus on a specific impact, or engagement with issuers to achieve ESG goals. While the proposed requirements share several elements with the requirements we are proposing for registered funds that consider ESG factors, they differ in key respects. First, the proposed requirements for advisers reflect that, unlike a fund prospectus, which describes a single portfolio strategy, an adviser's brochure typically reflects the entire business of the adviser, which may encompass multiple advisory services, investment strategies, and methods of analysis.[190] Additionally, the proposed requirements reflect that the brochure discloses key aspects of the advisory relationship, including certain relationships with related persons.[191] We believe our proposed additions to the brochure would help clients and prospective clients better understand how these advisers consider ESG factors when formulating investment advice and providing investment recommendations, and any corresponding risks or conflicts of interest. A client may use this disclosure to select an adviser and evaluate the adviser's business practices and conflicts on an ongoing basis. As a result, the disclosure that clients and prospective clients receive is critical to their ability to make an informed decision about whether to engage an adviser and, having engaged the adviser, to manage that relationship. We believe these amendments would overall improve the ability of clients and prospective clients to evaluate firms offering advisory services that consider ESG factors, help clients make more informed choices regarding ESG investing, and better compare advisers and investment strategies.

(a) Item 8: Methods of Analysis, Investment Strategies and Risk of Loss

Item 8 of the brochure requires advisers to describe the methods of analysis and investment strategies used when formulating investment advice or managing assets, and to provide a detailed explanation of any material, significant, or unusual risks presented by each of the adviser's significant investment strategies or methods of analysis.[192] Further, if an adviser primarily recommends a particular type of security, the adviser must explain any material, significant, or unusual risks of investing in that security. We are proposing to add a new sub-Item 8.D, which would require an adviser to provide a description of the ESG factor or factors it considers for each significant investment strategy or method of analysis for which the adviser considers any ESG factors. Similar to our proposal for registered funds, we are not proposing to define ''ESG'' or similar terms.[193] Instead, we are proposing to require advisers to provide a description of the ESG factor or factors they consider, and disclose to clients how they incorporate these factors when providing investment advice, including when recommending or selecting other investment advisers. However, we are proposing definitions for ESG integration, focused, and impact strategies, which are similar to the way we propose to define them for registered funds.[194] We believe that proposed sub-Item 8.D, which would include the additional disclosures described below, would help clients and prospective clients, as well as other market participants, better understand how advisers consider ESG factors when implementing their significant investment strategies. More specifically, these disclosures would allow clients and prospective clients to compare the ways different advisers consider ESG factors in their significant investment strategies.[195] We believe that as a result, clients and prospective clients would be better able to select an investment adviser that matches their expectations regarding ESG investing.

As with our proposal for registered funds and for the reasons described above, we believe that for a client or prospective client to evaluate effectively the relevant ESG strategies offered by an adviser, an adviser must explain what it means when it states that it incorporates ESG factors in its investment recommendations, including describing the ESG factors. This proposed sub-item would require an explanation of whether and how the adviser incorporates a particular ESG factor (E, S, or G) and/or a combination of factors. In addition, similar to funds, the proposed disclosure would include an explanation of whether and how the adviser employs integration and/or ESG-focused strategies, and if ESG-focused, whether and how the adviser also employs ESG impact strategies. An adviser that considers different ESG factors for different strategies should include the proposed disclosures for each strategy.[196]

For example, an adviser pursuing an integration strategy may consider the carbon emissions of its investments

[188] *See* 17 CFR 275.204–3 (''Advisers Act rule 204–3'') and Amendments to Form ADV, Investment Advisers Act Release No. 3060 (July 28, 2010) [75 FR 49233 (Aug. 12, 2010)], available at *https://www.sec.gov/rules/final/2010/ia-3060.pdf* (''Brochure Adopting Release''). *See also* Commission Interpretation Regarding Standard of Conduct for Investment Advisers, Release No. IA–5248, at 6–8 (June 5, 2019) [84 FR 33669 (July 12, 2019)], available at *https://www.sec.gov/rules/interp/2019/ia-5248.pdf* (''Fiduciary Interpretation'').

[189] *See* Brochure Adopting Release, *supra* footnote 188, at text accompanying nn.8 and 9.

[190] However, if an adviser offers substantially different types of advisory services, the adviser may opt to prepare separate brochures so long as each client receives all applicable information about services and fees. *See* Instructions for Part 2A of Form ADV: Preparing Your Firm Brochure, Instruction 9.

[191] *See, e.g.,* Form ADV Part 2A Item 10.C.

[192] For purposes of this release, we refer to significant investment strategies or methods of analysis as ''significant strategies.''

[193] *See supra* Section II.A.1 (''Proposed Prospectus ESG Disclosure Enhancements'').

[194] *See* Proposed Form ADV Part 2A sub-Item 8.D. The differences between the proposed terms for funds and advisers reflect the structural differences between funds and advisers (*e.g.,* that advisers to clients that are not registered investment companies provide investment advice that may or may not be discretionary). In addition, for example, the proposed definition of ''ESG-Focused'' for advisers would differ from the proposed definition for funds because the adviser definition would not specifically incorporate advisers with certain ESG-related names or advertising materials.

[195] We believe that clients seeking advisory services tailored to their ESG investing goals would refer to advisers' disclosures under the brochure's current Item 4, to assess whether and how an adviser tailors its advisory services to the individual needs of clients, and whether clients may impose restrictions on investing in certain securities or types of securities.

[196] See *infra* footnote 223 and accompanying text.

alongside other, non-ESG factors when making investment recommendations. In such a case, when explaining its integration strategy, our proposal would require the adviser to explain how it incorporates carbon emissions when making investment recommendations. This explanation would include that the adviser considers other, non-ESG factors alongside its consideration of carbon emissions, but that carbon emissions are generally no more significant than the other factors when providing investment advice, such that carbon emissions may not be determinative in deciding whether to recommend any particular investment. If an adviser employs an ESG-focused strategy because it focuses on one or more ESG factors by using them as a significant or main consideration in providing investment advice or in its engagement strategy with the companies in which its clients invest, it would describe those ESG factors. It would also describe how the adviser incorporates those factors when providing investment advice. To the extent an adviser employs an ESG-focused approach that is also considered ESG-impact because the adviser seeks to achieve a specific ESG impact or impacts for the significant strategy, our proposed brochure amendment would require additional disclosures. Such an adviser would provide an overview of the impact(s) the adviser is seeking to achieve, and how the adviser is seeking to achieve the impact(s). This would include how the adviser measures progress toward the stated impact, disclosing the key performance indicators the adviser analyzes, the time horizon the adviser uses to analyze progress, and the relationship between the impact the adviser is seeking to achieve and financial return(s).

We are also proposing that if an adviser uses, for any significant strategy, criteria or a methodology to evaluate, select, or exclude investments based on the consideration of ESG factors, it must describe those criteria and/or methodologies and how it uses them. An adviser that employs different criteria or methodologies for different strategies would include the proposed disclosures for each significant strategy. Similar to our proposed disclosures for funds, proposed sub-Item 8.D would provide a non-exclusive list of criteria and methodologies to address, as applicable. They are an adviser's use of:

(i) An internal methodology, a third-party criterion or methodology such as a scoring provider or framework, or a combination of both, including an explanation of how the adviser evaluates the quality of relevant third-party data;

(ii) An inclusionary or exclusionary screen, including an explanation of the factors the screen applies, such as particular industries or business activities it seeks to include or exclude and if applicable, what exceptions apply to the inclusionary or exclusionary screen; and

(iii) An index, including the name of the index and a description of the index and how the index utilizes ESG factors in determining its constituents.

As described above, this disclosure is designed to help a client or prospective client understand how the adviser implements ESG into its investment process so that a client with ESG investing objectives can evaluate whether the adviser's ESG investment process matches the client's objectives and expectations. Under the proposed requirement, if an adviser applies inclusionary or exclusionary investment screens based on ESG factors, the adviser would describe those screens, including identifying the specific industries or business activities it seeks to include or exclude and any applicable exceptions. If an adviser utilizes other criteria or methodologies to evaluate, select, or exclude investments based on the consideration of ESG factors, for example relying on an internal scoring methodology for investments based on ESG factors, it would describe the internal methodology and how the adviser uses it. If an adviser's criteria or methodologies include following a third-party ESG framework, it would describe, and explain how it uses, the framework and may consider providing a hyperlink to the framework in its brochure to enhance investors' understanding of the framework.

(b) Item 10: Other Financial Industry Activities and Affiliations

Advisers are currently required to disclose information about their other financial industry activities and affiliations in Item 10 of Form ADV Part 2A. We are proposing an amendment to Item 10.C. to require an adviser to describe any relationship or arrangement, that is material to the adviser's advisory business or to its clients, that the adviser or any of its management persons have with any related person that is an ESG consultant or other ESG service provider (for purposes of this release, a ''related person ESG provider'').[197] Related person ESG providers may include, for example, ESG index providers and ESG scoring providers.[198]

In our view, the relationship between an adviser or its management person and a related person ESG provider is the type of relationship the disclosure in this item was designed to address because such a relationship could create conflicts of interest. For example, if an adviser's related person provides ESG ratings or an ESG index, the adviser could be incentivized to employ its related person ESG provider's services rather than purchasing ESG ratings or indices from unrelated ESG providers. The proposed amendments would require the adviser to identify the related person ESG provider, describe its relationship or arrangement with the provider, and if the relationship or arrangement creates a material conflict of interest with clients, describe the nature of the conflict, as well as how the adviser addresses it.

Additionally, while some advisers' related person ESG providers may also be related persons falling into other categories listed in Item 10.C (*e.g.,* other investment advisers or broker-dealers), others may not fall into any of those categories. We believe adding ESG providers to the list of related parties covered under Item 10.C would promote advisory clients and prospective clients receiving full and fair disclosure of the conflicts created by an adviser's relationships or arrangements with related persons. Clients and prospective clients would be able to incorporate related person ESG providers and potential conflicts of interest into their adviser selection processes. In some cases, the client may not be comfortable with the conflicts of interest that those affiliations create, while other clients may value an advisory relationship that allows for broader access to ESG providers and may seek an adviser with ESG provider affiliates.

(c) Item 17 Voting Client Securities

Among other matters, Item 17 of the brochure requires advisers that have, or will accept, the authority to vote client securities to briefly describe their voting policies and procedures. We are proposing to amend Item 17.A to require advisers that have specific voting policies or procedures that include one or more ESG considerations when voting client securities to include in their brochures a description of which ESG factors they consider and how they consider them.[199] If an adviser has

[197] Under our proposal, the term ''management person'' and ''related person'' would be defined as currently defined in the Form ADV glossary of Terms.

[198] For a discussion of ESG providers, *see supra* text accompanying footnote 25.

[199] Proposed Form ADV Part 2A, Item 17.A. As with the other ESG-related information, we are

different voting policies and procedures for strategies that address ESG-related matters, or for different clients or different ESG-related strategies, the adviser generally should describe those differences.[200]

These amendments are designed to provide clients and prospective clients additional information on proxy voting practices at these advisers given some clients' increased focus on ESG-related issues. We believe that clients (and other market participants) could use this information to understand better and to monitor advisers' engagement with portfolio companies on ESG issues. In addition, the Commission would be better able to understand the variety of advisers' ESG-related proxy voting practices that are emerging in the markets.

We request comment on all aspects of these proposed amendments to Items 8, 10, and 17 of Form ADV Part 2A, including the following items.

135. Instead of our proposed narrative ESG disclosures that would be similar in style of presentation to the rest of the brochure, should advisers be required to present ESG-related information in the brochure in a particular format (*e.g.,* a table or chart),? If so, should we require a format similar to the format we are proposing for funds? Should it differ? Should advisers be required to use other formatting and design features to highlight or distinguish ESG-related disclosures from other information provided in any of these Items? For example, should we require advisers to use subheadings or another formatting feature designed to identify ESG-related information? Should we consider moving any of the proposed disclosures to a separate section of the brochure or to a new ESG appendix to the brochure, and/or should we require an ESG-specific brochure?

136. Is there other information about the consideration of ESG factors when providing investment advice that advisers should be required to include in their brochures? If so, please describe.

137. Is it clear from the current brochure Item 4 that an adviser that offers advisory services that may be tailored to the ESG preferences of its clients is required to explain whether (and, if so, how) it tailors its advisory services and whether clients may impose restrictions on investing in certain securities or types of securities? If not, should we also propose to specify that all advisers that tailor their advisory services based on the ESG preferences of clients must describe the tailoring as part of Item 4 (Advisory Business)? How do advisers currently describe and disclose information about their tailored ESG services in their brochures?

138. To what extent do advisers tailor their advisory business to address the ESG preferences of individual clients? What level of tailoring do advisers offer? For example, can clients create their own exclusionary investment screens or do advisers offer a menu of ESG-focused strategies from which clients can choose, but not customize?

139. Similar to our proposal for funds, we are not proposing to define ''ESG'' or similar terms for Form ADV (the brochure and Part 1A). Instead, our proposal for Form ADV would require advisers that consider ESG factors in any significant strategy or that tailor their advisory services to the individual needs of clients based on clients' ESG preferences, to describe the factors they consider and how they implement them. Is this approach appropriate for Form ADV? Should we seek to define ''ESG'' or any of its subparts in Form ADV? Are the terms ''E,'' ''S,'' and ''G,'' and ''ESG'' factors as we refer to them in Form ADV appropriate and clear?

140. We have proposed terms for ESG ''integration'', ESG-''focused'' and ESG ''impact'' under our Form ADV proposal, which are generally similar to the corresponding definitions we are proposing for funds. Is this appropriate? Do those terms capture the types of significant strategies for which advisers consider ESG factors? Are there alternative ways to describe advisers' significant strategies that consider ESG factors? Should we additionally specify, similar to our approach for funds, that the description ESG-focused includes any significant strategy that includes certain terms in the strategy name or advertising practices? Are there other ways in which the terms as applied to advisers should differ from the corresponding definitions we are proposing for funds?

141. Are the distinctions between integration and ESG-focused strategies, as proposed for Form ADV, sufficiently clear? Are there alternative ways to distinguish between integration and ESG-focused strategies?

142. Similar to our proposal for funds, should the brochure require differing levels of disclosure for integration and ESG-focused strategies? Or, as proposed, should we permit advisers to respond to the brochure disclosures as applicable to their significant strategy or strategies?

143. Should we, as proposed and similar to the proposed requirements for funds, specifically require an adviser to disclose additional information regarding impacts for any significant strategy that is an ESG impact strategy? Should we modify the application of this proposed requirement to advisers? For example, should advisers include the key performance indicators used to measure progress given that advisers do not have a disclosure that corresponds to the MDFP, where we are proposing to require specific disclosures by Impact Funds on their progress?

144. Should we create an additional, separate disclosure requirement for an adviser's significant strategy for which the adviser primarily uses shareholder engagement, as opposed to portfolio management, to implement its ESG-focus? Do advisers engage with portfolio companies on ESG issues in other ways that we have not proposed to address, but should specifically address, in the brochure?

145. As proposed, should we require advisers to describe in the brochure each of their significant strategy or strategies for which they consider ESG factors, and to provide the proposed information about how they incorporate those factors? Should we additionally provide a non-exhaustive list of examples of ESG factors in Form ADV, and allow advisers to add factors as applicable? Are there any other approaches that we should take in providing guidance to advisers as to what constitutes ESG?

146. As proposed, should we require advisers to describe in Item 8 their criteria or a methodology for evaluating, selecting, or excluding investments in their significant strategy or strategies based on the consideration of ESG factors? Do commenters agree with the non-exhaustive list of criteria or methodology we included in this Item? Is it clear and appropriate?

147. Should we, as proposed, include the use of third-party frameworks that incorporate ESG factors in the non-exhaustive list? Should we require additional detail about the framework (in addition to, as proposed, a description of the framework or standard and whether (and how) the adviser uses it), and if so, what additional disclosures should we require?

148. Are there other types of disclosure about advisers' significant strategies for which the adviser considers ESG factors that a client would find helpful? If so, what

proposing in this context—and to the extent not addressed elsewhere in their brochures—that advisers should describe the ESG factors they consider. If an adviser provides such a description earlier, then a cross reference to such description would meet this proposed requirement.

[200] An adviser generally should include whether the adviser allows clients to direct their votes on ESG-related voting matters.

additional disclosures would be helpful for a client? Where should that additional disclosure be located in the brochure?

149. Would an adviser with multiple significant strategies that each consider ESG factors differently be able to explain the proposed required information for each significant strategy? Should we require advisers to include our proposed disclosures for all strategies and methods of analysis that consider ESG factors? For instance, an adviser that tailors its advisory services based on the ESG preferences of individual clients generally would explain such tailoring in response to the current Item 4, but may not be required to describe that tailored strategy in Item 8 if the strategy is not significant. In that case, should an adviser disclose the tailored strategy in one or both Items?

150. Item 8.B currently requires advisers to explain material risks involved for each of its significant strategies, which we believe includes material risks associated with an adviser's ESG investing. Does an adviser's consideration of ESG factors in implementing its significant strategies create any material, significant, or unusual risks related to its consideration of ESG factors? If so, what are some examples and how do advisers describe those risks? Should we amend Item 8.B to state explicitly that advisers must include the material risks involved in each significant strategy for which the adviser considers any ESG factors?

151. Should we additionally require all advisers that consider ESG factors as part of their significant strategies to state that the consideration of ESG factors may lead to the adviser selecting or recommending an investment that may not generate the same level of returns as investments where the adviser does not consider ESG factors? Or, should advisers be required to describe the applicable risks in their own words?

152. As proposed, should we require advisers to disclose whether they or their management persons have any relationships or arrangements with related person ESG providers (*i.e.,* a related person that is an ESG consultants or other ESG service provider) that are material to the adviser's business or to its clients? Is it common for advisers to have agreements or arrangements with related person ESG providers that are material to the adviser's business or to its clients? If so, what is the nature of such arrangements? Do any of those agreements or arrangements create conflicts of interest? If so, what conflicts of interest do they create and how do advisers address those conflicts?

153. Should we define the term ''ESG consultants or other ESG service providers'' in the Form ADV glossary? If so, what definition should we adopt? Given the range of services they provide, would a definition be useful? Alternatively, should we provide additional guidance on the types of entities that would qualify as an ESG consultant or other ESG service provider for purposes of Form ADV reporting? If so, what guidance should we provide? To the extent that there are a variety of these types of providers, should we require or permit advisers to identify particular categories of ESG consultants or other ESG service providers? If so, what categories?

154. As proposed, should advisers that consider ESG factors when voting client securities be required to provide the proposed information in Item 17 about their consideration of ESG factors when voting client securities? Should we require additional disclosures regarding voting client securities? If so, please describe the additional information.

155. Should advisers that do not consider ESG factors when voting client securities be required to expressly disclose this fact in their brochures?

(d) Wrap Fee Brochure (Form ADV Part 2A, Appendix 1)

Advisers that sponsor wrap fee programs are required to prepare a specialized brochure that must be delivered to their wrap fee clients (''wrap fee program brochure'').[201] Because wrap fee programs may incorporate ESG factors in the selection of portfolio managers for the wrap fee clients, we are proposing ESG disclosure requirements for wrap fee program brochures. We believe that wrap fee clients should receive similar ESG-related information as advisory clients that do not participate in such programs. However, we are proposing disclosure requirements tailored to this structure. We believe this information would help current and prospective wrap fee clients understand better how wrap fee programs consider ESG factors and help to facilitate clients' evaluations and comparisons of wrap fee programs that consider ESG factors.

Advisers sponsoring wrap fee programs are required to describe in Item 4 of their wrap fee brochures the services, including the types of portfolio management services, provided under each program. Like the proposed brochure disclosures, we propose to amend this Item to specify that advisers that consider ESG factors in their wrap fee programs must provide a description of what ESG factors they consider, and how they incorporate the factors under each program. Similar to our proposed brochure amendments, we would not define E, S, or G, but our proposed amendments to the wrap fee program brochure would require advisers to discuss any ESG factors they consider.

Advisers sponsoring wrap fee programs are required to describe in Item 6 of their wrap fee brochures how they select and review portfolio managers within their wrap fee programs, the basis for recommending or selecting portfolio managers for particular clients, and the criteria for replacing or recommending the replacement of portfolio managers for the program and for particular clients. Additionally, among other disclosures, Item 6 requires a description of any standards used to calculate portfolio manager performance. The selection, and replacement of portfolio managers within a wrap fee program is an integral part of the adviser's advisory services for clients of the wrap fee program. Therefore, similar to above, we are proposing an amendment to this Item to require advisers that consider ESG factors when selecting, reviewing, or recommending portfolio managers within the wrap fee programs they sponsor, to describe the ESG factors they consider and how they consider them.[202] The description of ESG factors generally should include the types ESG information the adviser considers and must include how the adviser considers the ESG factors. We believe these proposed additions would help wrap fee clients and potential clients with ESG investing objectives to evaluate whether the adviser's selection and evaluation of the program's portfolio manager matches the client's objectives and expectations for the program's portfolio management.

Additionally, we are proposing three disclosure requirements as part of advisers' description of how they consider the relevant ESG factors described above. All three disclosures are designed to facilitate clients' determinations of whether and how a wrap fee program that claims to consider ESG factors, actually considers ESG factors when selecting, reviewing or recommending the programs' portfolio managers. With this

[201] *See* Form ADV Part 2A, Appendix 1; Instructions for Part 2A of Form ADV: Preparing Your Firm Brochure, at Instruction 10. In wrap fee programs, clients generally are charged one fee in exchange for both investment advisory services and the execution of transactions as well as other services.

[202] Proposed Form ADV, Part 2A, Appendix 1, Item 6.A.4.

information, clients and prospective wrap fee clients could compare wrap fee programs' processes for selecting, reviewing or recommending portfolio managers based on ESG factors, and find wrap fee programs with portfolio management that best match their ESG investing goals. We believe our proposed disclosures would also help the Commission better understand the variety of ESG investing approaches that are emerging in wrap fee programs.

The first of the three disclosures would require advisers to describe any criteria or methodology they use to assess portfolio managers' applications of the relevant ESG factors into their portfolio management. This would include any industry or other standards for presenting the achievement of ESG impacts and/or third-party ESG frameworks, and any internal criteria or methodology.[203] For example, if an adviser evaluates a portfolio manager's achievement of ESG impacts by comparing its impacts to an ESG benchmark or ESG index, the adviser generally should describe how that portfolio manager's ESG impacts are calculated, the applicable benchmark or index, and how the portfolio manager's impacts compared to the specified benchmark or index. Similarly, if an adviser evaluates a portfolio manager's application of specific ESG factors by determining whether and how the portfolio manager follows a global ESG framework, the adviser generally should describe the framework and how it assess whether the manager follows the framework.

Second, we are proposing that these advisers provide an explanation of whether they review, or whether a third party reviews, portfolio managers' applications of the relevant ESG factors described above. If so, our proposal would require them to describe the nature of the review and the name of any third party conducting the review. An example of this could be an adviser that engages a third party to review information reported by a portfolio manager about the carbon emissions of its portfolio companies to determine its accuracy. In this case, the adviser would be required to identify the third party completing the review and the nature of the review, which generally should explain how the third party assesses the accuracy of the emissions information provided by the portfolio manager. Another example could be an adviser that employs a third-party ESG service provider to score portfolio managers based on their considerations of specific ESG factors. In this case, the adviser would be required to name the third-party ESG provider and the nature of the review, which generally should describe the relevant ESG factors it uses to score portfolio managers, and how it arrives at the scores.

Third, we are proposing to require that an adviser explain, if applicable, that neither the adviser nor a third party assesses portfolio managers' applications of the relevant ESG factors into their portfolio management, and/or that the portfolio managers' applications of the relevant ESG factors may not be calculated, compiled, assessed, or presented on a uniform and consistent basis. Whether the adviser (or a third party) actually reviews how the portfolio manager applies the relevant ESG factors is important for wrap fee clients to understand. For example, if a portfolio manager's application of the relevant ESG factors is calculable and presentable on a uniform and consistent basis, but the adviser discloses that it does not review the calculation or presentation, a client can assess whether its wrap fee sponsor is committed to evaluating, and/or equipped to evaluate, the portfolio manager's application of ESG factors.

As part of this third disclosure item, the adviser would also be required to state and explain why, if applicable, any ESG factors it considers in evaluating portfolio managers may not be calculated, compiled, assessed, or presented on a uniform and consistent basis. We believe this information would assist an investor in understanding the limitations of any information provided to it about the portfolio manager's applications of relevant ESG factors. In this case, the client can request additional information from the sponsor about how the sponsor reviews the manager's application of ESG factors in its portfolio management.

Finally, we are proposing to amend Item 6.C. to require any adviser that acts (itself or through its supervised persons) as a portfolio manager for a wrap fee program described in its wrap fee program brochure (for purposes of this release, a ''sponsor-manager''), to respond to an additional specified brochure Item; namely, proposed Item 8.D. Item 6.C of the wrap fee program brochure currently requires sponsor-managers to respond to specified brochure Items that describe the investments and investment strategies the adviser (or its supervised persons) will use as portfolio manager.[204] Rather than deliver both a wrap fee program brochure and a brochure to its wrap fee program clients, a sponsor-manager may deliver just a wrap fee program brochure to its wrap fee program clients, provided the clients receive no other advisory services from the adviser.[205]

For a sponsor-manager that considers ESG factors for a significant strategy of its wrap fee program, we believe the information required by proposed Item 8.D of the brochure is an important component of the adviser's description of its investment strategies. Because wrap fee clients of sponsor-managers are generally not required to receive separate brochures from the sponsor-manager, we believe it would be beneficial for these clients to receive these ESG disclosures in the wrap fee brochure. Further, they would complete the sponsor-manager's currently required disclosure in response to brochure Item 8.A.[206]

We request comment on all aspects of the proposed amendments to the wrap fee brochure, including the following items.

156. Do commenters agree that wrap fee program participants should receive similar ESG-related information as advisory clients that do not participate in such programs, tailored to the wrap fee program structure as proposed?

157. Have we tailored the proposed requirements appropriately to the wrap fee program structure? If we should tailor the requirements in a different way, please describe how. For example, should we, as proposed in Item 6 of the wrap fee program brochure, require advisers that consider ESG factors in their portfolio manager selection, review and recommendations to describe those ESG factors and how they consider them? Are there other ways a wrap fee program sponsor could consider ESG factors in its wrap fee program services in addition to in its selection and evaluation of portfolio managers?

158. Do commenters agree with the proposal's specified disclosures for wrap fee program sponsors? For example, should we, as proposed, require an adviser that engages a third party to review portfolio managers' applications of relevant ESG factors, to describe the nature of the review and the name of any third party conducting

[203] Proposed Form ADV, Part 2A, Appendix 1, Item 6.A.4.

[204] *See* Instructions for Part 2A Appendix 1 of Form ADV: Preparing Your Wrap Fee Program Brochure, Instruction 6.

[205] *Id.*

[206] Item 6.C of the wrap fee program brochure also currently requires a sponsor-manager to include a response to Item 17 of the brochure (Voting Client Securities), for which we are proposing an amendment to address ESG.

the review? Are there any sensitivities with requiring disclosure of the name of the reviewer?

159. Should we, as proposed, amend Item 6.C. to include a required response to proposed Item 8.D of the brochure, which would apply only to certain sponsor-managers that deliver wrap fee program brochures? Alternatively, should all wrap fee program sponsors be required to include this information in their wrap fee program brochures? Would this information be necessary in the wrap fee program brochure for wrap fee program clients that receive both a wrap fee program brochure from the sponsor and a brochure from the program's third-party portfolio manager? Under our proposal, are there wrap fee clients that would not receive this information, and if so, who are they? Similarly, we currently require certain sponsor-managers to respond in the wrap fee program brochure to Item 17 (Voting Client Securities) of the brochure, which would include our proposed ESG amendment. Should we alternatively require all wrap fee sponsors to disclose in their wrap fee program brochures whether and how their portfolio managers incorporate ESG factors into proxy voting for clients' securities in the wrap fee program?

160. What, if any, ESG-related information do advisers (or third parties on their behalf) evaluate when they evaluate portfolio managers for wrap fee programs? For example, do they evaluate portfolio managers' quantified information such as GHG metrics for managed portfolios, as applicable?

161. Do advisers engage in any other types of evaluation of portfolio managers' applications of ESG factors that our proposed disclosure requirements would not cover for which we should require disclosure? If so, what are they and how should we include them? Alternatively, should we limit our disclosure requirement to address only an adviser's evaluation of portfolio managers' achievement of stated metrics or other quantifiable information, such as GHG emissions reductions?

C. Regulatory Reporting on Form N–CEN and ADV Part 1A

To complement our proposed investor- and client-facing disclosures, we are also proposing to collect census-type information about funds' and advisers' uses of ESG factors, including their uses of ESG providers. We are proposing to amend Forms N–CEN and ADV Part 1A for registered funds and advisers (both registered investment advisers and exempt reporting advisers), respectively, to collect this information using the structured XML-based data languages in which those Forms are currently submitted, thus providing the Commission and investors with consistent, usable, and comparable data.[207] We believe that our proposed new data on Forms N–CEN and ADV Part 1A would assist both the Commission staff and the public in understanding the trends in this evolving space including, for example, changes in total assets under management for which funds or advisers incorporate E, S, and/or G. We additionally believe clients and investors would use this data, together with the narrative ESG information we are proposing to require in investor- and client-facing disclosures, to make more informed decisions about their selection of funds or advisory services that consider ESG factors.

1. Form N–CEN

As discussed above, the information that is currently available to the Commission and data users, including investors and other market participants, regarding how funds incorporate ESG factors into their investment strategies and portfolio holdings is inconsistent across funds. To enhance the ability of the Commission, investors and other market participants to track trends in ESG funds, we are proposing amendments to Form N–CEN that are designed to collect census-type information regarding these funds and the ESG-related service providers they use in a structured data language.[208] We believe that this standardized and structured disclosure would complement the proposed tailored narrative disclosure included in the fund prospectus and annual report discussed above.[209] For example, the Commission, investors and other market participants could use this information to identify efficiently funds that incorporate ESG factors into their investment strategies and categorize funds based on the type of ESG strategy they employ. This information would also enhance the Commission's ability to carry out its regulatory functions, including assessing trends related to ESG investing in the fund industry and their processes for incorporating ESG into their investment strategies.[210]

Specifically, we are proposing to add proposed Item C.3(j) of Form N–CEN that asks questions tailored to ESG funds' strategies and processes. A fund that indicates that it incorporates ESG factors would then be required to report, among other things: (i) the type of ESG strategy it employs (*i.e.,* integration, focused, or impact) as those strategies are defined in proposed Item 4(a)(2)(i) of Form N–1A and proposed Item 8.2.e of Form N–2, as applicable; (ii) the ESG factor(s) it considers (*i.e.,* E, S, and/or G);and (iii) the method it uses to implement its ESG strategy (*i.e.,* tracking an index, applying an inclusionary and/or exclusionary screen, proxy voting, engaging with issuers, and/or other).[211] In responding to proposed Item C.3(j) of Form N–CEN, an ESG-Impact Fund would be required to report that it is both an ESG-Focused Fund and an ESG-Impact Fund.

The proposed amendments to Form N–CEN would also collect information regarding whether a fund considers ESG-related information or scores provided by ESG providers in implementing its investment strategy.[212] If so, the fund would be required to provide the legal name and legal entity identifier (''LEI''), if any, or provide and describe other identifying number of each such ESG provider.[213] A fund would also be required to report whether the ESG provider is an affiliated person of the Fund.

Requiring a fund to report information regarding its consideration of information from an ESG provider would help the Commission, investors, and other market participants understand any differences in how funds with similar investment strategies rely on ESG providers in implementing those strategies. The information on Form N–CEN also would allow analysis of the extent to which funds rely on information provided by a particular ESG provider, such as the number of funds, or amount of AUM, that may rely on information provided by that provider. Additionally, we believe that requiring funds to disclose whether an ESG provider is an affiliated person of the fund would assist Commission,

[207] Throughout this Release, we refer to advisers exempt from registration under sections 203(l) and 203(m) of the Advisers Act as ''exempt reporting advisers.'' Because BDCs are not required to file Form N–CEN, the proposed amendments to Form N–CEN will not apply to BDCs.

[208] Form N–CEN is currently submitted using a structured, XML-based data language that is specific to that Form.

[209] *See supra* section II.A.1 (discussing proposed prospectus ESG disclosure enhancements); *see also* section II.A.3 (discussing proposed annual report ESG disclosure requirements).

[210] *See* Investment Company Reporting Modernization, Investment Company Act Release No. 31610 (May 20, 2015) [80 FR 33590 (June 12, 2015)] (''Investment Company Reporting Modernization Release'').

[211] Proposed Item C.3(j)(i) through (iii) of Form N–CEN.

[212] Proposed item C.3(j)(iv) of Form N–CEN.

[213] *See supra* at text preceding footnote 25 (discussing ESG service provides and the role they play in providing ESG information regarding companies).

investors, and other market participants in evaluating conflicts of interest that could exist when an ESG provider is also an affiliated person of the fund.[214]

The proposed amendments to Form N–CEN would also require a fund to report whether the fund follows any third-party ESG frameworks.[215] If so, the fund would be required to provide the full name of such frameworks.[216] This information would help the Commission, investors and other market participants to classify funds based on the ESG frameworks they follow in order to understand and assess trends in the market better.

Form N–CEN currently requires any fund that tracks the performance of an index to identify itself as an index fund and provide certain information about the index, and so this requirement currently applies to ESG funds that track an index. We are proposing amendments to Form N–CEN that would require all index funds to report the name and LEI, if any, or provide and describe other identifying number of the index the funds track.[217] We believe that this information will help the Commission, investors, and other market participants to monitor trends in ESG investing through reference to indexes. Additionally, because we believe that these amendments would be helpful for all index funds to understand better the use of indexes in the industry more generally, we are proposing to require all funds to identify the indexes they track.

We request comment on our proposed amendments to Form N–CEN, including the following issues.

162. Should funds be required to report the proposed census-type information regarding their incorporation of ESG factors into their investment strategy on Form N–CEN? Would this information be helpful to investors and other market participants? How would investors and other market participants use this information?

163. Should we, as proposed, use the definitions of the terms ''Integration Fund'' and ''ESG-Focused Fund'' as they appear in proposed Item 4(a)(2)(i) of Form N–1A? Would this approach make it easier for funds to comply with this reporting requirement? Should we adopt a different definition of these terms?

164. Should we, as proposed, require ESG-Focused Funds to further identify themselves as Impact Funds, if relevant? Should we, as proposed, use the definition of the term ''Impact Fund'' as it appears in Item 4(a)(2)(i)(B) of Form N–1A? Would this approach make it easier for funds to comply with the proposed reporting requirement on Form N–CEN? Should we adopt a different definition for the term ''Impact Fund''?

165. Should we, as proposed, require ESG funds to indicate whether they consider E, S, or G factors? Should we, as proposed, allow them to check all that apply? Alternatively, should we require them to select an ESG factor only if the fund considers it to a material degree? If so, how should we define materiality?

166. Should we, as proposed, require ESG funds to indicate what method the fund uses to implement its ESG strategy, including by tracking an index, applying an inclusionary and/or exclusionary screen, proxy voting, or engaging with issuers? Should we, as proposed, allow funds to check all that apply? Are there any other types of investment strategies that funds may use not reflected in the proposed list? Would investors and other market participants find this information useful? Are there ways we can make this information more useful? For example, for each of the methods of ESG strategy implementation, should we require funds to further indicate which E, S, or G factor, or a factor within E, S, or G, they consider within each method?

167. Should we, as proposed, require funds to report whether they consider ESG information or scores from ESG providers and the full name and LEI, if any, or provide and describe other identifying number of the ESG provider? Are there ways we can enhance the usefulness of this information? For example, as discussed above, funds vary in the level of their reliance on ESG providers. Therefore, should we require funds to disclose the name of their ESG provider only if they rely on information to a material extent? If so, how should we define material?

168. Should we, as proposed, require funds to report whether the ESG provider is an affiliated person of the fund? Are there other types of conflicts of interest that we should require funds to report? For example, should we require funds to report whether an ESG provider provides other, non-ESG related, services?

169. Should we define the term ''ESG consultants or other ESG service providers'' on Form N–CEN? If so, what definition should we adopt?

170. Should we, as proposed, require all index funds to report the name and LEI, if any, or provide and describe other identifying number of their index on Form N–CEN? Would ESG funds that seek to track an index consider themselves to be both ESG funds and index funds on Form N–CEN? Are there funds that consider an ESG index as part of their investment strategy but do not identify themselves as an index funds because they do not track the index? Is there any additional information regarding indexes that we should collect specifically for ESG funds?

171. Should we, as proposed, require funds to report whether they follow any third-party ESG framework(s) and the name(s) of any such entities, as applicable? Should funds be required to report any other information, such as a link to the website of the framework? In light of the proliferation of such frameworks, would this information be useful to investors and other market participants? Are there ways to enhance the information provided? For example, should we allow funds to report this information only if they follow such frameworks to a certain extent? If so, how should we set such threshold for reporting?

2. Form ADV Part 1A Reporting

We are proposing amendments to Form ADV Part 1A designed to collect information about an adviser's uses of ESG factors in its advisory business. These proposed amendments would expand the information collected about the advisory services provided to separately managed account clients and reported private funds. We would apply the proposed additions to separately managed account reporting in Item 5 to only investment advisers registered or required to be registered with the Commission, and would apply the proposed additions to Items 6 and 7 (*e.g.,* other business activities and private fund reporting) to those advisers and exempt reporting advisers. We believe it is appropriate to continue to collect information from both types of advisers for Items that each are currently required to complete.[218] These proposed items are designed to improve the depth and quality of the information we collect on investment advisers and to facilitate our risk monitoring

[214] *See* International Organization of Securities Commissions (''IOSCO''), *Environmental, Social and Governance (ESG) Ratings and Data Products Providers: Consultation Report,* at 35, available at CR02/2021 Environmental, Social and Governance (ESG) Ratings and Data Products Providers (*iosco.org*) (discussing the potential conflicts of interest of ESG providers and the need to appropriately manage such conflicts).

[215] Proposed item C.3(j)(vi) of Form N–CEN.

[216] *See supra* footnote 8 (discussing the various climate and sustainability frameworks that have developed over time).

[217] *See* proposed Item C.3(b)(i) of Form N–CEN.

[218] Exempt reporting advisers must complete the following Items of Part 1A: 1, 2, 3, 6, 7, 10, and 11, as well as corresponding schedules.

initiatives, which also serves to benefit current and prospective advisory clients. Moreover, because Form ADV is available to the public on our website, these amendments also are intended to provide advisory clients and the public additional information regarding advisers' ESG investing.

(a) ESG Data for Separately Managed Account Clients and Private Funds

We are proposing amendments to Form ADV Part 1A to collect information about advisers' uses of ESG factors for their separately managed account (''SMA'') clients and reported private funds. We are proposing amendments to Item 5.K. (Separately Managed Account Clients) and corresponding sections of Schedule D, which currently require advisers to provide information about their advisory businesses with respect to SMA clients.[219] These amendments would collect aggregated information for an adviser's applicable SMA clients. We are proposing similar amendments to private fund reporting in Section 7.B.(1) of Schedule D to collect information from private fund advisers about their uses of ESG factors in managing each reported private fund. This information would be similar to the information we are proposing to collect on Form N–CEN regarding ESG factors and include, for example, type of strategy (*i.e.,* integration, ESG-focused, and ESG impact).

We are proposing to focus this collection of information from advisers with respect to their SMA clients and private funds, rather than from advisers with respect to their registered investment companies and BDCs, because registered investment companies and BDCs would report similar ESG-related information, including on Forms N–CEN and in the fund prospectus.[220] We believe that collecting this information would provide the Commission and current and prospective advisory clients with important information about advisers' consideration of ESG factors in their advisory businesses, including the specific factors they consider, the types of ESG-related strategies they employ, and potential conflicts of interest with related person ESG providers.[221] As discussed above, there is a current lack of consistent and comparable information among advisers that say they consider one or more ESG factors. This information would provide us with comparability across advisers and advance our regulatory goal of gaining a more complete understanding of advisers' considerations of ESG factors in their separately managed account and private fund management businesses. We believe the proposed new reporting requirements would improve our ability to understand the ESG landscape and assess trends among investment advisers in this emerging and evolving area, and their processes for incorporating ESG into their investment strategies. We believe that this census-style disclosure would complement the proposed tailored narrative disclosure in the brochure and wrap fee program brochure discussed above. For example, the Commission, clients and other market participants could use this information to identify advisers that incorporate ESG factors into their investment strategies and categorize advisers based on the type of ESG strategy they employ.

Type(s) of ESG-related strategy or strategies. We propose to require an adviser to disclose whether it considers ESG factors as part of one or more significant strategies (as defined above) in the advisory services it provides to its separately managed account clients, including in its selection of other investment advisers and/or as part of their advisory services when requested by separately managed account clients (together with significant strategies, for purposes of this release, ''SMA strategies'').[222] If so, our proposal would require the adviser to indicate for its SMA strategies whether it employs an integration or ESG-focused approach, and if ESG-focused, whether it also employs an ESG-impact approach. Under our proposal, an adviser must select all three approaches, if it offers all three.[223] These advisers would also report whether they incorporate one or more of E, S, and/or G factors into their SMA strategies. Similarly, if an adviser considers any ESG factors as part of one or more significant investment strategies or methods of analysis in the advisory services it provides to a reported private fund, the adviser would report whether it employs in its management of that private fund an ESG-integration or ESG-focused approach, and if ESG-focused, whether it also employs an ESG-impact approach. It would also report whether it incorporates one or more of E, S, and/or G factors (and which factor(s)). This information would categorize general approaches to incorporating ESG to help Commission staff understand industry trends, as well as prepare for, conduct, and implement our risk-based examination program.

(b) Third-Party ESG Framework(s)

We also propose to require advisers to report whether they follow any third-party ESG framework(s) in connection with their advisory services.[224] If so, the adviser would be required to report the name of the framework(s).[225] This information would inform the Commission (and current and prospective advisory clients) that the adviser follows certain framework(s), if applicable. We believe that requiring the name of the framework would be useful to the Commission and clients as these frameworks are not uniform and some may apply only to very specific investment types. They can also range in complexity from a set of aspirational principles to, for example, highly prescriptive financial industry benchmarks for assessing and managing environmental and social risk for infrastructure projects. Requiring this information would provide Commission staff with additional data to assess and evaluate trends in this industry. Moreover, current and prospective clients could use this information to find advisers that follow ESG

[219] For purposes of reporting on Form ADV, we consider advisory accounts other than those that are pooled investment vehicles (*i.e.,* registered investment companies, business development companies, and pooled investment vehicles that are not investment companies (*i.e.,* private funds)) to be separately managed accounts. *See* 2016 Adopting Release [81 FR 81870 (Nov. 18, 2016)], at text preceding footnote 8. *See also* Form ADV Part 1A Item 5.K(1) (describing separately managed account *clients*).

[220] Advisers to registered investment companies and BDCs would be required to respond to the proposed new question in Item 5 of Form ADV, reporting whether they seek to follow any third-party ESG framework(s) in connection with their advisory services.

[221] *See* Brochure Adopting Release, *supra* footnote 188, at text accompanying n.74 (describing significant investment strategies or methods of analysis in the context of a Form ADV brochure Item about risk disclosure as providing a threshold for disclosure that ''captures those methods of analysis or strategies that will be relevant to most clients'').

[222] *See* Proposed Form ADV Part 1A Item 5.K. Responses to this question would refer to the adviser's separately managed account clients in the aggregate (other than when the adviser has only one separately managed account client).

[223] For example, if an adviser has some SMA strategies that are ESG integration, and others that are ESG-focused and ESG-impact, the adviser would select all three strategies. An adviser with only one SMA strategy, however, would select *either* ESG-integration *or* ESG-focus (and if it selects ESG-focus, it would also select ESG-impact, if applicable). This is because we believe that ESG-integration and ESG-focused strategies are distinct investment advisory strategies that would not be employed together in one strategy.

[224] *See* Proposed Form ADV Part 1A Item 5.M.

[225] *See supra* footnote 8 (discussing that many financial institutions sign on to climate and other sustainability frameworks in an effort to integrate ESG considerations and reporting into their business practices, offerings, and proxy voting).

frameworks that match their expectations for ESG investing.

We request comment on all aspects of the proposed reporting of an adviser's consideration of ESG factors for SMA clients and reported private funds and reporting their uses of third-party ESG framework(s), including the following items.

172. Should advisers be required to report to the Commission on Form ADV Part 1A the proposed census-type information regarding their incorporation of ESG factors for SMA clients and reported private funds, as proposed? Would this information be helpful to current and prospective clients and other market participants? How would clients and other market participants use this information?

173. Would the information required to answer the proposed questions in Item 5.K, 5.L, and Section 7.B.(1) and corresponding schedules be readily available to advisers? If not, why?

174. Should we, as proposed, use the terms ESG ''integration'', ESG-''focused'', and ESG-''impact'' that are the same as we proposed for the brochure and similar to the terms we proposed to define for funds? Would this approach make it easier for advisers to comply with this reporting requirement? Alternatively, should we describe these terms differently for Part 1A reporting? If so, how and why?

175. Should we, as proposed, require advisers that consider ESG factors for their SMA clients and private funds to indicate whether they consider E, S, or G factors, and permit them to check all that apply? Alternatively, should we require them to select an ESG factor only if the adviser's strategy or method of analysis considers it to a material degree? If so, how should we define materiality?

176. Is there any different or additional information we should require about SMAs and private funds in these Items and corresponding schedules, and is there any proposed information we should not require? For example, should we require advisers to additionally report in Part 1A, as we are proposing to require for funds in Form N–CEN, whether they engage in any of the following to implement their ESG strategies: tracking an index, applying any inclusionary and/or exclusionary screen, or engaging with issuers? Would these activities be applicable to advisers' SMA strategies and private funds, and would this information disclosed in the Part 1A census-style format provide the Commission and clients with valuable information about the adviser? If required, would this information for SMA strategies and/or each reported fund reveal non-public information regarding an adviser's SMA strategy and/or a private fund's trading strategies, analytical or research methodologies, trading data, and/or computer hardware or software containing intellectual property?

177. If we should require disclosure of advisers' uses of ESG indexes, should we require additional information such as the name and LEI, if any, or provide and describe other identifying number of their index? Are there advisers that consider an ESG index as part of their significant strategies but do not wholly track the ESG index? Is there any additional information regarding indexes that we should collect specifically on Part 1A for advisers that consider ESG factors, and if so, what?

178. Should we collect different amounts or types of information from advisers about their uses of ESG factors in SMA strategies and management of their reported private funds depending on whether the adviser uses an integration or ESG-focused approach? Or, as proposed, should we require the same amount and type of information for integration or ESG-focused approaches? If we should require different amounts of information, what should those differences be, and should we further differentiate the information we collect about ESG-impact strategies from the information we collect about ESG-focused strategies?

179. Should we collect different amounts or types of information from advisers about their uses of ESG factors in SMA strategies depending on whether advisers consider ESG factors (i) as part of their significant strategies *versus* (ii) only (or primarily) when requested by clients? Or, as proposed, should our questions cover both, together? Should we require separate reporting about advisers' uses of ESG factors for certain SMA strategies versus others?

180. As proposed, should we require all advisers to report whether the adviser follows any third-party ESG framework(s), and if so, to report the name of each framework? Are there ways to enhance the information provided? For example, should we allow advisers to report this information only if they follow such frameworks to a certain extent? If so, how should we set such threshold for reporting? Should we also require advisers report this information as it relates specifically to their SMA clients and/or reported private funds, or, as proposed, should we require advisers to provide this information as it relates to any part of their advisory business (without specifying which part)?

181. Should we, similar to our proposal for funds, additionally require advisers to report whether they use any ESG providers for their SMA clients and private funds? If so, should we require advisers to report the full name and LEI, if any, or provide and describe other identifying number of the ESG provider, and/or whether the provider is an affiliate of the adviser or its management persons? Would this information provide the Commission with valuable information about the adviser and its use of ESG providers, in addition to the information we are proposing to collect about an adviser's related-person ESG providers and other business activities as an ESG provider (discussed below in Items 6 and 7)? If so, should we require advisers to disclose the name of their ESG provider only if they rely on the ESG provider to a material extent? If so, how should we define material?

182. Should we, similar to our proposal for funds, additionally require advisers to report on Part 1A whether they consider one or more ESG factors as part of the adviser's proxy voting policies and procedures? Should we require advisers to indicate which E, S, or G factor, or a factor within E, S, or G, they consider as part of their proxy voting policies and procedures?

183. Would any of our proposed disclosures reveal non-public information regarding an adviser's SMA strategy and/or a private fund's trading strategies, analytical or research methodologies, trading data, and/or computer hardware or software containing intellectual property? If so, how? Would our proposed disclosures otherwise have the potential to harm clients and investors in private funds or subject them to abusive market practices? If so, should we collect this information another way, such as through Form PF for advisers to private funds? If so, what information should we collect on Form PF versus Form ADV Part 1A?

184. Do commenters agree that both advisers registered or required to be registered with the Commission and exempt reporting advisers should complete the proposed new questions in Section 7.B.(1) of Schedule D about their reported private funds, since both are currently required to report on private funds in Part 1A? If not, why not?

(c) Additional Information About Other Business Activities and Financial Industry Affiliations

We also propose to require advisers to disclose whether they conduct other business activities as ESG providers or have related persons that are ESG providers by amending Items 6 and 7 of Part 1A (and Sections 6.A. and 7.A. of Schedule D). For each related person ESG provider, the adviser would be required to complete the relevant items in Section 7.A of Schedule D, which requires, for example, the related person's SEC File Number (if any) and additional information about the adviser's control relationship (if any) with the related person. We believe that the disclosures would better allow us to assess the potential conflicts of interest and risks created by relationships between advisers and affiliated ESG providers. We also believe that it would assist the public in better understanding advisers' conflicts of interests when related persons offer ESG provider services, or when the adviser offers its own ESG provider services to others.

We believe that this proposed expansion of Items 6 and 7 would provide us with a more complete picture of the ESG-related activities of an adviser and its related persons. The proposed reported information would enable us to identify affiliated financial service businesses in the evolving ESG advisory marketplace. The additional information on related persons would allow us, clients and other market participants to link disparate pieces of information that we have access to concerning an adviser and its affiliates as well as identifying whether the adviser controls the related person or vice versa. Therefore, it would allow the Commission to understand better advisers' conflicts of interest in the field of emerging ESG providers and give clients and potential clients additional information about potential conflicts of interest to utilize in making their investment decisions.

We request comment on all aspects of the proposed new reporting about any related person ESG provider and an adviser's other business activities as an ESG provider, including the following items.

185. Should we, as proposed, require both advisers registered or required to be registered with the Commission and exempt reporting advisers to report the proposed information in Items 6 and 7 of Form ADV Part 1A (and the corresponding Schedules) about other business activities as an ESG provider or any related person that is an ESG provider, as both are currently required to complete these Items? Or, should we specify that only advisers registered or required to be registered with the Commission should complete this proposed addition to the Items?

186. Should we, instead of our proposed amendments to Items 6 and 7, require advisers to disclose the proposed information only if the adviser actually uses the services of the related person ESG provider (or provides its ESG provider services to its own advisory clients)? If so, should we require this information only if the adviser uses the services in its advisory business to a material extent and/or to a threshold percentage of clients? If so, how should we define material and/or what threshold should we use, or should we impose a different type of reporting threshold for this information (and if so, what)?

187. Are there other types of financial services providers in the ESG marketplace that we should specifically include in the lists contained in Items 6 and 7?

188. Is the information advisers need to complete the proposed additional questions contained in Section 7.A. readily available for related person ESG providers? Are there other questions not currently included in Section 7.A. that we should ask to determine additional conflicts of interest advisers face through ESG related persons or through conducing other business activities as an ESG provider? For example, should we require advisers to report whether a related person ESG provider provides other, non-ESG related, services?

D. Compliance Policies and Procedures and Marketing

Under the Advisers Act and Investment Company Act compliance rules, each adviser registered or required to be registered under the Advisers Act and each registered fund must have, and annually review, policies and procedures reasonably designed to prevent violations of applicable laws.[226] The Advisers Act Compliance Rule requires advisers to consider their fiduciary and regulatory obligations under the Advisers Act and to formalize policies and procedures reasonably designed to address them.[227] Similarly, the Company Act Compliance Rule requires a fund to adopt and implement compliance policies and procedures reasonably designed to prevent violations of the Federal securities laws by the fund, including policies and procedures providing for its oversight of compliance of its service providers, subject to approval by the fund's board of directors.[228] Among other things, the Commission has stated that advisers' and funds' compliance policies and procedures must address the accuracy of disclosures made to clients, investors and regulators, as well as portfolio management processes, including consistency of portfolios with investment objectives and disclosures by the adviser and/or fund.[229] Funds and advisers must annually review the adequacy and effectiveness of such compliance policies and procedures.[230] ESG strategies, including integration, ESG-focused and impact strategies, will necessarily require different levels and types of compliance policies and procedures.

Our staff has observed a range of compliance practices, however, that do not appear to address effectively advisers' incorporation of ESG factors into their advisory services.[231] In light of these observations, as well as the comprehensive nature of our proposed ESG-related amendments to required disclosures, we believe it would be appropriate and beneficial to reaffirm existing obligations under the compliance rules when advisers and funds incorporate ESG factors. Specifically, as with all disclosures, advisers' and funds' compliance policies and procedures should address the accuracy of ESG-disclosures made to clients, investors and regulators. They should also address portfolio management processes to help ensure portfolios are managed consistently with the ESG-related investment objectives disclosed by the adviser and/or fund.

Advisers may wish to consider the following specific examples of effective ESG-related disclosure, policies, procedures and practices. If an adviser discloses to investors that it considers certain ESG factors as part of an integration strategy, the adviser's compliance policies and procedures should be reasonably designed to ensure the adviser manages the portfolios

[226] *See* 17 CFR 275.206(4)–7 (''Advisers Act Compliance Rule'') and 17 CFR 270.38a–1 (''Company Act Compliance Rule'').

[227] *See* Compliance Programs of Investment Companies and Investment Advisers, Release No. IA–2204 (Dec. 17, 2003) [68 FR 74714 (Dec. 24, 2003)] at text accompanying n.11.

[228] *Id.* at nn.24–31 and accompanying text.

[229] *Id.* at text accompanying nn.17 through 23 and text accompanying n.37.

[230] *Id.* at nn.70–71 and accompanying text.

[231] *See, e.g.,* Risk Alert, Division of Examinations (Apr. 9, 2021), available at *esg-risk-alert.pdf* (*sec.gov*) (discussing, for example, firms that claimed to have formal processes in place for ESG investing, but have a lack of policies and procedures related to ESG investing, and compliance programs that did not appear to be reasonably designed to guard against inaccurate ESG-related disclosures and marketing materials). This Risk Alert represents the views of the staff of the Division of Examinations. It is not a rule, regulation, or statement of the Commission. The Commission has neither approved nor disapproved its content. The Risk Alert, like all staff statements, has no legal force or effect: it does not alter or amend applicable law, and it creates no new or additional obligations for any person.

consistently with how the strategy was described to investors (*e.g.,* actually considering the ESG factors in the way it says it considers them). If a registered fund discloses to investors that it adheres to a particular global ESG framework, its policies and procedures should include controls that help to ensure client portfolios are managed in accordance with that framework. Similarly, if an adviser uses ESG-related positive and/or negative screens on client portfolios, the adviser should maintain adequate controls to maintain, monitor, implement, and update those screens. Relatedly, if an adviser has agreed to implement a client's ESG-related investing guidelines, mandates, or restrictions, the adviser's compliance policies and procedures should be designed to ensure these investment guidelines, mandates, or restrictions are followed. If an adviser discloses to investors that ESG-related proxy proposals will be independently evaluated on a case-by-case basis, the adviser should adopt and implement policies and procedures for such evaluation.[232] In addition, if an adviser advertises to its clients that they will have the opportunity to vote separately on ESG-related proxy proposals, the adviser must provide such opportunities to its clients to the extent applicable and should maintain internal policies and procedures accordingly.

In addition, current regulations seek to prevent false or misleading advertisements by advisers, including greenwashing, by prohibiting material misstatements and fraud. The provision at 17 CFR 275.206(4)–8 prohibits advisers to pooled investment vehicles from making false or misleading statements to existing or prospective investors in such pooled investment vehicles (*e.g.,* investors in a registered investment company or private fund).[233] The Marketing Rule prohibits an adviser from, directly or indirectly, distributing advertisements that contain any untrue statement of a material fact, or omitting to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it was made, not misleading.[234] Therefore, it generally would be materially misleading for an adviser materially to overstate in an advertisement the extent to which it utilizes or considers ESG factors in managing client portfolios. For example, if an adviser advertisement asserts that it applies a negative screen to oil and gas stocks in client portfolios, but it fails to apply such a screen in practice it would be materially misleading. Similarly, it generally would be materially misleading if an adviser stated in its marketing materials that it has substantially contributed to the development of specific governance practices, or reduction in carbon emissions, at its portfolio company, if the adviser's actual roles in the development or reduction in emissions were limited or inconsequential.

E. Compliance Dates

We propose to provide a transition period after the effective date of the amendments, if adopted, to give funds and advisers sufficient time to comply with the ESG disclosure requirements for investment company companies and investment advisers. Accordingly, we propose that the compliance date of any adoption of this proposal for the following items would be one year following the effective date, which would be sixty days after the date of publication in the **Federal Register**: (i) the proposed disclosure requirements in prospectuses on Forms N–1A and N–2, (ii) the proposed disclosure requirements for UITs on Form N–8B2; (iii) the proposed regulatory reporting on Form N–CEN, and (iv) the proposed disclosure requirements and regulatory reporting on Form ADV Parts 1 and 2.

We propose that the compliance date of any adoption of the proposed disclosures in the report to shareholders and filed on Form N–CSR would be 18 months following the effective date, which would be sixty days after the date of publication in the **Federal Register**. Extending the compliance date for the proposed annual report further out from the proposed prospectus disclosure would allow funds to determine the right level of detail to provide in the proposed prospectus before implementing the result-oriented disclosure required by the proposed annual reports. It will also provide extra time for affected funds to develop any needed procedures for gathering data necessary to comply with the GHG metrics, proxy voting, and engagement reporting requirements if adopted.

We request comment on the compliance dates outlined above.

189. Should we, as proposed, provide a one-year transition for affected funds to come into compliance with the proposed prospectus and registrations statement requirements if adopted? Should the period be shorter or longer? Should the transition period be the same for open-end funds, closed-end funds, and UITs, as proposed?

190. Should Integration Funds and ESG-Focused Funds have the same compliance period as one another, as proposed?

191. Should we, as proposed, provide an 18-month transition for affected funds to come into compliance with the proposed disclosure requirements in the annual report? Should the proposed annual report requirements have different transition periods from one another? Specifically, do funds need more or less time than proposed to gather data to produce (i) the required disclosures for Impact Fund objectives, (ii) voting and engagement metrics, or (iii) GHG metrics?

192. Is six months, as proposed, the appropriate amount of time between the effective date of the proposed prospectus disclosures and the proposed disclosures in the report to shareholders for affected funds?

193. Should we, as proposed, provide a one-year transition period for affected funds to come into compliance with the proposed N–CEN Reporting requirements? Should the proposed N–CEN requirements have the same transition period as the proposed prospectus requirements, as proposed?

194. Should we, as proposed, provide a one-year transition for affected advisers to come into compliance with the proposed disclosure and reporting requirements in Form ADV Parts 1 and 2? Should the period be shorter or longer? Should the transition period, as proposed be the same for ADV Parts 1 and 2?

III. Economic Analysis

A. Introduction

The Commission is mindful of the economic effects, including the costs and benefits, of the proposed amendments. Section 2(c) of the Investment Company Act provides that when the Commission is engaging in rulemaking under the Act and is required to consider or determine whether an action is consistent with the public interest, the Commission shall also consider whether the action will promote efficiency, competition, and capital formation, in addition to the protection of investors. Similarly,

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[232] *Id.*

[233] *See* 17 CFR 275.206(4)–8 (''Advisers Act rule 206(4)–8'').

[234] 17 CFR 275.206(4)–1 (''Marketing Rule''). *See* Final Rule: Investment Adviser Marketing, Release No. IA–5653 (Dec. 22, 2020) [86 FR 13024 (Mar. 5, 2021)] (''Marketing Rule Adopting Release''). The amended rule became effective on May 4, 2021, and has an eighteen-month transition period between effectiveness and Nov. 4, 2022, when compliance is required for all firms. Prior to effectiveness of the amendments, and in some instances until Nov. 4, 2022, the previous version of the rule prohibited any advertisement which contained any untrue statement of a material fact, or which was otherwise false or misleading.

whenever the Commission engages in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, section 202(c) of the Advisers Act requires the Commission to consider, in addition to the protection of investors, whether the action would promote efficiency, competition, and capital formation. The analysis below addresses the likely economic effects of the proposed amendments, including the anticipated and estimated benefits, costs, and the effects on efficiency, competition, and capital formation. The Commission also discusses the potential economic effects of certain alternatives to the approaches taken in this proposal.

Many of the benefits and costs discussed below are difficult to quantify. For example, it is difficult to quantify the efficiency benefits produced from reducing investors' search costs and the associated welfare gains from better alignments between investors' investment objectives and selected ESG funds or advisers. Also, in some cases, data needed to quantify these economic effects are not currently available and the Commission does not have information or data that would allow such quantification. For example, we anticipate the enhanced transparency and consistency in ESG disclosures would provide more complete and accurate information available to investors and prospective investors about ESG investing. However, we lack data that would allow us to quantify the value of more complete information in ESG disclosures, which varies across investors and also depends on the degree to which any particular investor may derive non-pecuniary benefits from ESG investing. While the Commission has attempted to quantify economic effects where possible, much of the discussion of the economic effects is qualitative in nature. The Commission seeks comment on all aspects of the economic analysis, especially any data or information that would enable a quantification of the proposal's economic effects.

B. Economic Baseline

The economic baseline against which we measure the economic effects of this proposal, including its potential effects on efficiency, competition, and capital formation, is the state of the world as it currently exists.

1. Current Regulatory Framework

As discussed above, funds and registered advisers are subject to disclosure requirements concerning their investment strategies.[235] Funds must provide disclosures in their prospectus including material information on investment objectives, strategies, risks, and governance, and a discussion of fund performance in their annual reports. Certain of these fund prospectus disclosures are subject to Inline XBRL tagging requirements, while others are not.[236] Fund annual reports are only subject to Inline XBRL tagging requirements to the extent they are filed by seasoned closed-end funds and include tagged prospectus disclosures incorporated into their Form N–2 registration statements by reference.[237] Registered advisers are required to provide information about their advisory services in narrative format on Form ADV Part 2 describing their firm's methods of analysis and investment strategies, fees, conflicts, and personnel; these disclosures are not tagged in Inline XBRL or any other machine-readable data language.[238]

General disclosures about ESG-related investment strategies would fall under these disclosure requirements, but there are no specific requirements about what a fund or adviser following an ESG strategy must include. The names rule requires that a fund adopt a policy to invest at least 80 percent of the value of its assets in the type of investment suggested by its name and, although current fund practices are mixed, many funds adopt such a policy when the fund's name indicates that the fund's investment decisions incorporate one or more ESG factors.[239] Further, funds and advisers (both registered investment advisers and exempt reporting advisers) are currently not required to report to the Commission ESG-specific information on Forms N–CEN and Form ADV Part 1A.[240] Rather, Form N–CEN currently requires any fund, including an ESG fund, that tracks the performance of an index to identify itself as an index fund and provide certain information about the index,[241] but Form N–CEN does not require reporting on funds' ESG-specific strategies and processes. Similarly, registered advisers and exempt reporting advisers are required to report certain information about their advisory business on Form ADV Part 1A, but are currently not required to report uses of ESG factors in their advisory business and investment strategies, including with respect to an adviser's reported private funds and separately managed accounts.

2. Affected Parties

(a) Registered Investment Companies and BDCs

As of the end of December 2020, there were 13,248 open-end funds reporting an aggregate $30,013 billion in average total net assets and 691 closed-end funds reporting an aggregate $305 billion in average total net assets.[242] There also were 94 BDCs reporting an aggregate $66 billion in total net assets and 5,818 UITs with $1,116 billion in total net assets.[243]

The proposed rules would define categories of funds: Integration, ESG-Focused, and Impact Funds (a subset of ESG-Focused funds that seek to achieve a specific ESG impact or impacts), and provide specific requirements for each category. While many funds provide information about how they consider ESG factors in their prospectus documents or shareholder reports, information about ESG factors at the fund level is not consistently disclosed. As a result, it is difficult to determine accurately how many funds would fall into each category.

Determining the number of Integration Funds is particularly difficult, as these funds only consider ESG factors as part of a broader

[235] *See supra* section I.A.3.

[236] With respect to open-end fund registration statements filed on Form N–1A, only those disclosures included in Items 2–4 of Form N–1A (*i.e.,* the prospectus risk/return summary, which includes a discussion of investment objectives, principal investment strategies, and principal risks) are required to be tagged in Inline XBRL. *See* General Instruction C.3.g.i of Form N–1A; 17 CFR 232.405(b)(2)(i); Inline XBRL Adopting Release, *supra* footnote 185. Similarly, for registered closed-end funds and BDCs that file on Form N–2, the discussion of investment strategies and principal risks, as well as other specified prospectus disclosures, will be required to be tagged in Inline XBRL no later than Feb. 2023. *See* General Instruction I.2 of Form N–2; 17 CFR 232.405(b)(3)(iii); Closed-End Fund Offering Reform Adopting Release, *supra* footnote 186. Unit investment trust registration statements filed on Forms N–8B–2 and S–6 are not currently subject to tagging requirements.

[237] *See* General Instruction I.3 of Form N–2.

[238] Registered advisers must file brochures and amendments electronically through the Investment Adviser Registration Depository (''IARD'') system as a text-searchable (non-machine readable) PDF. *See* 17 CFR 275.203(a)(1); General Instruction 5 of Form ADV Part 2.

[239] *See* Investment Company Names, Investment Company Act Release No. 24828 (Jan. 17, 2001) [66 FR 8509 (Feb. 1, 2001)].

[240] *See supra* section II.C. Form N–CEN and Form ADV Part 1A are each submitted using an XML-based structured data language specific to that Form.

[241] *See supra* section II.C.1.

[242] These estimates are based on Form N–CEN filings, Item C.19, as of Dec. 31, 2020.

[243] The estimates for BDCs are based on Forms 10K/10Q filings and Morningstar Direct data as of Dec. 31, 2020. The estimates for UITs are based on Form S–6 as of Dec. 31, 2021. As insurance companies' separate accounts, which are organized as UITs, would not be subject to the proposed rules, the estimate mentioned above would not include them. *See supra* footnote 98 (for more information).

investment strategy. According to one commenter, today virtually all asset managers have incorporated ESG considerations to some degree, or have plans to do so, across their investment strategies.[244]

We do, however, attempt to estimate the number of funds that the proposed rule would consider ESG-Focused Funds (including Impact Funds). We do this by using the fund name as a proxy for the fund's investment strategy. Based on an analysis of fund names, we estimate 21 closed-end funds and 35 UITs had names that imply an ESG strategy.[245] We estimate that there were 208 open-end mutual funds with $114 billion in net assets and 125 ETFs with $250 billion in net assets, and thus a total of 333 open-end funds with $364 billion in net assets, with fund names suggesting an ESG focused strategy as of July 2021.[246] Further, we estimate the share of funds with names suggesting an ESG focused strategy were about 3 percent of the total number of mutual funds and ETFs, and represented approximately 1 percent of total assets at the end of 2020.[247]

ESG-Focused mutual funds and ETFs have recently seen sharp increases in net flows, leading to substantial increases in assets under management. As summarized in table 1, net flows rose by 61 percent in 2018, 252 percent in 2019, and 472 percent in 2020. Flows into ESG-Focused ETFs experienced even more pronounced growth, rising by 52 percent in 2018, 298 percent in 2019, and 680 percent in 2020.[248]

TABLE 1—ANNUAL GROWTH RATE OF NET-FLOWS TO FUNDS WITH ESG-FOCUSED STRATEGIES

Fund type	2018	2019	2020
Mutual Funds	82%	185%	49%
ETFs	52	298	680
Mutual Funds and ETFs	63	252	472

To understand the asset holdings of the funds whose names imply an ESG strategy, we analyzed data from Form N–PORT filings.[249] According to this analysis on Form N–PORT filings, corporate equities represent 83 percent of assets held by these funds, while corporate debt represents the second largest investment type, accounting for 6 percent of assets held by these funds.

Above, we estimated the number of funds that the proposed rules would consider ESG-Focused Funds, using the name as a proxy for the investment strategy. Additionally, we reviewed databases from several ESG providers and how they classify funds that consider ESG factors in their investment strategy or approach. Although it is difficult to precisely map the scope of ''ESG-Focused Funds'' onto various definitions for ESG funds as employed by ESG providers, in general, it appeared that ESG providers use broad definitions to classify ESG funds. This means that not all funds identified by ESG providers as ESG funds would be considered ESG-Focused Funds under the proposal. Some funds following ESG principles as indicated by ESG providers may be considered Integration Funds under the proposal.[250] Furthermore, we found variations in funds classified as ESG funds across ESG providers. As a result, a fund classified as an ESG fund by one ESG provider is not necessarily classified as an ESG fund by another provider.[251] For instance, one ESG provider identified 781 mutual funds and ETFs as ESG funds as of February 2022,[252] while another ESG provider identified 423 mutual funds and ETFs as ESG funds as

[244] *See* Morningstar Comment Letter attachment, Morningstar US Sustainable Fund Landscape 2020. This report, however, noted that those firm-level commitments have yet to make a significant impact at the fund level.

[245] The estimates for closed-end funds are based on an analysis of Form N–PORT filings as of Nov. 30, 2021. The estimates for UITs are based on an analysis of Morningstar Direct data as of Dec. 31, 2020.

[246] The estimated number of funds that have an ESG strategy is based on analysis of mutual funds and ETFs with names containing ''ESG,'' ''Clean,'' ''Environ(ment),'' ''Impact,'' ''Responsible,'' ''Social,'' or ''Sustain(able).'' This analysis is based on Morningstar data as of July 31, 2021. Some mutual funds and ETFs may not have fund names containing these ESG-related terms, although they incorporate ESG factors in their investment strategies. In this respect, this estimate may undercount the number of funds with ESG strategies, however, some funds with names containing ESG terms may consider ESG factors, along with many other factors, in their investment decisions. In this respect, this estimate may then over count the number of funds with ESG strategies. *See also* comment letter from Morningstar to Chair Gensler (June 9, 2021) in response to Acting Chair Allison Lee's Climate RFI attaching Sustainable Funds U.S. Landscape Report: More Funds, More Flows, and Impressive Returns in 2020, Morningstar Manager Research (Feb. 10, 2021) *available at https://www.sec.gov/comments/climate-disclosure/cll12-8899329-241650.pdf.* In this report, Morningstar estimated there were 392 sustainable funds in 2020, following its own definition of sustainable funds.

[247] This is somewhat consistent with other analysis that examined the share of global assets under management by sustainable funds relative to the overall market capitalization. Although this share has been generally in an upward trend, the share was approximately 2.3 percent in 2020. *See* International Monetary Fund Global Financial Stability Report: Markets in the time of Covid-19, *Climate Change: Physical Risks and Equity Price* Chapter 5 (Apr. 2020). Another paper estimated about 3 percent of U.S. mutual funds were sustainable funds. In this paper, sustainable funds were classified via pattern search on mutual funds names. *See* Bertrand Candelon, Jean-Baptiste. Hasse, Quentin. Lajaunie, *ESG-Washing in the Mutual Funds Industry? From Information Asymmetry to Regulation,* Risks, 9, 199 (2021) (''Candelon''). These studies estimate the size of funds likely implementing ESG-Focused strategies (in other words, make ESG factors a central feature of their investment strategies). The number and asset size of ESG-integration funds, funds that consider ESG factors along with other factors, would be larger than those of ESG-Focused Funds.

[248] Our analysis of Morningstar data is consistent with a trend observed in a Morningstar report, Sustainable Funds U.S. Landscape Report: More Funds, More Flows, and Impressive Returns in 2020, Morningstar Manager Research (Feb. 10, 2021) (This report was attached in a comment letter from Morningstar to Chair Gensler (June 9, 2021)), *available at https://www.sec.gov/comments/climate-disclosure/cll12-8899329-241650.pdf.*

[249] Form N–PORT is filed by a registered management investment company, or an exchange-traded fund organized as a unit investment trust, or series thereof (''Fund''). A money market fund (''money market fund'') under rule 2a–7 under the Investment Company Act of 1940 (15 U.S.C. 80a) (''Act'') (17 CFR 270.2a–7) or a small business investment company (''SBIC'') registered on Form N–5 (17 CFR 239.24, 274.5) are excluded. The analysis included 321 funds with names containing ''Sustainable,'' ''Responsible,'' ''ESG,'' ''Climate,'' ''Carbon,'' or ''Green'' and used data as of Sept. 2021.

[250] Under the proposal, an ''ESG-Focused Fund'' would mean a fund that focuses on one or more ESG factors by using them as a significant or main consideration in: (1) selecting investments, or (2) its engagement strategy with the companies in which it invests. One ESG provider, MSCI, defines funds with an ESG Policy as funds that have adopted investment policies that consider some ESG criteria. It is not clear how significantly ESG criteria are used.

[251] This is consistent with other studies suggesting inconsistencies across ESG providers in general. *See infra* (for more detailed discussion).

[252] MSCI identifies funds with an ESG Policy. The funds with an ESG Policy are defined as funds that have adopted investment policies that consider some ESG criteria, including; environmental, social or governance concerns, religious beliefs, inclusive employee policies, or environmentally friendly investments. The designation is attributed to a fund based on what is stated in the fund's investment strategy in the fund prospectus.

of December 2021.[253] Another ESG provider identified 425 mutual funds and ETFs as funds with certain ESG attributes as of February 2022.[254] A combined total of 1,028 mutual funds and ETFs were classified as ESG funds by at least one of the three ESG providers.

According to one report, fund managers incorporate environmental, social, and governance factors fairly evenly, but within the broad topic of environmental factors the specific issues considered are more concentrated, while for social and governance factors the specific issues incorporated in their investment analysis and decision-making processes are much more diverse.[255] In particular, ''climate change/carbon'' was by a wide margin the most commonly listed specific ESG issue considered by fund managers in asset-weighted terms. $4.18 trillion in assets fell under fund managers who listed this criterion, a growth of 39 percent from 2018 to 2020, and an amount in 2020 that is 71% more than any other specific issue.[256] The particular prevalence of climate change/carbon-related factors being incorporated in investment analysis and decision-making processes by fund managers also aligns with survey-based evidence from institutional investors.[257]

(b) Private Funds

As of the end of December 2020, registered investment advisers reported 41,938 private funds with a combined gross asset value of $17,585 billion.[258] We estimate that 243 of these funds, or fewer than one percent, had names suggesting ESG investments.[259] Exempt reporting advisers (ERAs) reported to advise 23,053 private funds with a combined gross asset value of $5,679 billion.[260] We estimate that 144 of these funds, or fewer than one percent, had names suggesting ESG investments.[261] In 2021, a number of private funds launched a collaboration project to standardize ESG metrics, including GHG emissions, and provide a mechanism for comparative reporting for the funds. This voluntary reporting framework in the private fund industry now represents $8.7 trillion in assets under management and over 1,400 underlying portfolio companies as of January 2022.[262]

(c) Investment Advisers

As of December 2020, 13,812 registered investment advisers (''RIAs'') oversaw over $110 trillion in regulatory assets under management (''RAUM''). As of December 2020, we identified 10,120 RIAs (73 percent) that provided advisory services to SMA clients, managing about $43 trillion in assets.[263] Currently, investment advisers describe their significant investment strategies or analytical methods including information about any incorporation of ESG factors in Form ADV Part 1A and Part 2A (brochures). However, ESG factors are not consistently disclosed across investment advisers, and practices regarding ESG disclosures vary substantially.

As of December 2020, approximately one in three RIAs, or 4,949 RIAs total, provided advisory services to private funds and oversaw nearly $18 trillion in regulatory assets. Of these 4,949 RIAs, 3 percent advised private funds with names containing ESG terms.[264] According to Form ADV Part 1A filings, there existed 4,791 exempt reporting advisers (ERAs). Approximately 2 percent of ERAs provided advisory services to private funds with names containing ESG terms.[265]

3. Investor Interest in ESG Funds

In this section, we discuss various comment letters, reports, and academic articles examining investors' interest in ESG funds and investing behaviors of investors in such funds. The definitions of ESG funds and ESG investing used in these comment letters, reports and articles vary and generally do not line up exactly with the definitions of ESG fund categories under the proposed rules. In the discussion below, however, we use the terminologies as defined in these comment letters, reports, and articles. Therefore, the observations discussed below may not translate precisely to the set of funds subject to the proposed rules.

(a) Evidence From Investor Surveys

A review of several surveys suggest that investor demand for ESG funds and investments has increased for several

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[253] Morningstar identifies sustainable investment funds—ESG funds overall. These ESG funds overall are defined as funds that incorporate ESG principles into investment process or through engagement activities.

[254] Bloomberg identifies funds with certain ESG attributes. For purposes of this review, we considered active funds with the following general attribute(s): ESG, Clean Energy, Climate Change, Environmentally Friendly, or Socially Responsible.

[255] According to the US SIF, sustainable investing assets are managed using investment strategies such as ESG incorporation, shareholder advocacy, and overlapping strategies. See US SIF, Sustainable Investing Basics (2020), *available at https://www.ussif.org/sribasics* (''US SIF'') and the executive summary of the Report on US Sustainable and Impact Investing Trends at *https://www.ussif.org/files/US%20SIF%20Trends%20Report%202020%20Executive%20Summary.pdf.*

[256] Other issues include ''anti-corruption'' ($2.44 trillion), ''board issue'' ($2.39 trillion), ''sustainable natural resources/agriculture'' ($2.38 trillion), ''executive pay'' ($2.22 trillion).

[257] *See* Philipp Krueger, Zacharias Sautner, and Laura T. Starks, *The Importance of Climate Risks for Institutional Investors,* 33 (3) Rev. Fin. Stud. 1067–1111 (2020) (''Krueger'').

[258] These estimates are based on an analysis of Form ADV Schedule D filings as of Dec. 31, 2020.

[259] We identified private funds with names containing ''ESG,'' ''Clean,'' ''Environ(ment),'' ''Impact,'' ''Responsible,'' ''Social,'' or ''Sustain(able)'' as having an ESG focus.

[260] These estimates are based on Form ADV Schedule D filings as of Dec. 31, 2020. Some private funds have two different investment advisers, a RIA and an ERA. Those private funds could be double-counted, because the private funds are reported by the RIA and also by the ERA. Feeder funds who report a master fund on Form ADV are removed to avoid double-counting.

[261] We identified private funds with names containing ''ESG,'' ''Clean,'' ''Environ(ment),'' ''Impact,'' ''Responsible,'' ''Social,'' or ''Sustain(able)'' as having an ESG focus. One survey of global investors and their advisors found that 51 percent of general partners (GPs) from North America used an ESG risk factor framework when evaluating potential portfolio companies in 2021. The same survey reported that 45 percent of GPs from North America required portfolio companies to focus on financially material ESG factors. Examining only Venture Capitals (VCs), 49 percent of the global VC GP respondents have implemented the consideration of sustainable practices at the portfolio company level. Some of these GP respondents may be considered implementing Integration strategies, not necessarily Focused strategies. Furthermore, these figures might be biased upward as the individuals interested in ESG related issues are more likely to respond to this survey, as acknowledged in the report. *See* PitchBook, *Sustainable Investment Survey 2021* (Sept. 17, 2021). According to another report, 645 impact funds closed between 2006 and Mar. 2021 in the North America, which is somewhat comparable to our estimated number of private funds with ESG-Focused strategies. *See* PitchBook, *Analyst Note: Impact Funds by Reason and Region* (July 27, 2021).

[262] This private fund collaboration group has aligned on an initial core set of six ESG categories: greenhouse gas emissions, renewable energy, board diversity, work-related injuries, net new hires, and employee engagement. *See Private Equity Industry's First-Ever ESG Data Convergence Project Announces Milestone Commitment of Over 100 LPs and GPs,* Carlyle (Jan. 28, 2022), *available at https://www.carlyle.com/media-room/news-release-archive/private-equity-industrys-first-ever-esg-data-convergence-project-announces-over-100-lps-gps;* see also ESG Data Convergence Project, Institutional Limited Partners Association, *available at https://ilpa.org/ilpa_esg_roadmap/esg_data_convergence_project/.*

[263] These estimates are based on Form ADV filings as of Dec. 31, 2020.

[264] Based on reporting from Form ADV Schedule D it includes private funds ''ESG,'' ''Clean,'' ''Environ(ment),'' ''Impact,'' ''Responsible,'' ''Social,'' or ''Sustain(able)'' in its name. Some private funds may not have fund names containing these ESG-related words, although they focus on ESG factors in their investment strategies. In this regard, the estimate would undercount private funds focusing on ESG factors, however, some private funds with names containing ESG terms may consider ESG factors equally with many other factors in their investment decisions. In this respect, this estimate may overestimate the number of private funds focusing on ESG factors.

[265] The limitations discussed in footnote above are also applied here. Furthermore, some private funds obtain advice both from registered investment advisers and ERAs.

reasons and such investor demand is expected to continue to grow. In one survey, a majority (56 percent) of U.S. investment professionals responded that they consider ESG information in investment decisions because ESG information is material to investment performance.[266] Another survey found that 62 percent of institutional investors cited focusing on long-term investment outcomes as a reason for ESG investing.[267] According to another survey, institutional investors mentioned protecting their own reputations as a reason why they incorporate climate risks in their investment process.[268]

Survey evidence suggests that retail investors are also interested in ESG investing. One survey found 83 percent of U.S. retail investors reported a preference for investing in companies that are leaders in environmentally responsible practices.[269] In another survey, a majority (51 percent) of U.S. retail investors said the ESG-related performance of the company influenced their investment decisions.[270] Moreover, three-quarters of U.S. retail investors reported that they have increased or plan to increase their investment in ESG investments.[271] In addition, U.S. asset managers forecast high demand for such investments in the next two to three years, particularly among younger investors.[272] Should these younger investors retain their interest in ESG investing, this suggests that assets in ESG strategies may grow as assets are gradually transferred from the older to the younger generation.[273]

(b) Evidence From Mutual Fund Flows

In addition to evidence from surveys, investors are displaying a demand for investment strategies focusing on ESG. In particular, compared to 25 years ago, relatively more investment dollars are now directed to sustainable investing assets.[274] Similarly, several commenters suggested that the number of ESG funds has increased over time.[275] For example, one commenter stated that the number of ESG funds have increased by 18 percent for the past 15 months, from December 2019 to March 2021.[276] According to another commenter, the number of sustainable open-end funds and ETFs has increased nearly fourfold over the past ten years.[277] At least 30 new sustainable funds have been launched each year since 2015, with 71 new fund launches in 2020. As a result, a total of 244 new sustainable funds have been launched since 2015.[278] Additionally, 58 existing funds, 25 funds in 2020 alone, have changed their investment strategies to become sustainable funds since 2015.[279]

In addition to a proliferation in the number of ESG-related funds, increased investor demand for ESG-related investments can be seen in the increase in fund flows toward ESG-related mutual funds relative to the fund flows toward other mutual funds. According to a comment letter, in 2020, net flows to sustainable funds reached $51.1 billion ($17.4 billion to sustainable open-end funds and $33.7 billion to sustainable ETFs).[280] Net flows to sustainable funds have steadily increased since 2016, but most notably since 2019. In 2016, 2017, and 2018, net flows to sustainable funds were around $5 billion per year. In 2019, net flows reached $21.4 billion. In 2020, overall open-end funds have suffered net outflows of $289 billion. Even then, sustainable open-end funds have still received net inflows of $17.4 billion.[281]

Investor interest in ESG funds is further consistent with academic studies which show that flows in these funds respond to ESG-related information. For example, one empirical study on mutual fund flows found that both retail and institutional mutual fund investors responded to sustainability reports: mutual funds that received the highest sustainability rating from a third-party ESG provider have experienced significant net inflows, whereas funds that received the lowest sustainability rating from the same ESG provider have experienced substantial net outflows.[282] Another study found that ''socially responsible investment'' (SRI)[283] funds

[266] *See* Amir Amel-Zadeh, and George Serafeim, *Why and How Investors Use ESG Information: Evidence from a Global Survey,* Harvard Business School (Working Paper No. 17–079) (Feb. 2017). This is a survey of senior investment professional at large global financial institutions. In this survey, 33% of U.S. investment professionals responded that they consider ESG information because of growing demands from clients or stakeholders.

[267] *See* Robert G. Eccles, Mirtha D. Kastrapeli, and Stephanie J. Potter, *How to Integrate ESG into Investment Decision-Making: Results of a Global Survey of Institutional Investors,* 29(4) J. Applied Corporate Fin. 125 (2017). Similarly, a GAO report found that most institutional investors interviewed for the report stated that they seek ESG information to better understand risks that could affect companies' long-term financial performances. *See* U.S. Gov't Accountability Office, Report to the Senator Mark Warner, *Public Companies: Disclosure of Environmental, Social, and Governance Factors and Options to Enhance Them* (July 2020), *available at https://www.gao.gov/assets/gao-20-530.pdf.*

[268] *See* Krueger, *supra* footnote 257. While this survey was conducted to institutional investors globally, U.S. institutional investors were most represented in the survey. In addition to the protection of investor's own reputation (30%), institutional investors cited ''moral/ethical obligation (27.5%),'' ''legal obligation or fiduciary duty (27%),'' ''beneficial to investment returns (25%),'' and ''reduction of overall portfolio risks (24%),'' as reasons why they incorporate climate risks in their investment process.

[269] *See* Consumer Federation of America Comment Letter; see also Cerulli Associates, *Global Retail Investors and ESG: Responsible Investing Converges with Accelerated Environmental and Social Imperatives* (Apr. 2021), *available at https://info.cerulli.com/rs/960-BBE-213/images/2021_ESG_White_Paper.pdf.*

[270] *See* GlobeScan, *Retail Investors' Views of ESG* (2021), *available at https://3ng5l43rkkzc34ep72kj9as1-wpengine.netdna-ssl.com/wp-content/uploads/2021/12/GlobeScan-Radar-2021-Retail_Investors_Views_of_ESG-Full-Report.pdf.*

[271] *Id.*

[272] *See* Cerulli Associates, *Global Retail Investors and ESG: Responsible Investing Converges with Accelerated Environmental and Social Imperatives* (Apr. 2021), *available at https://info.cerulli.com/rs/960-BBE-213/images/2021_ESG_White_Paper.pdf.* In this white paper, millennials are defined as individuals with ages between 24 and 39 in 2020, while Generation Z refers to individuals with age 23 or younger. Baby boomers refer to individuals with ages between 56 and 74 in 2020. In this survey, 84% (70%) of asset managers anticipated high demands for ESG investing from millennial clients (Generation Z) in the next two to three years. In contrast, only 14% of asset managers anticipated high demands for ESG investing from baby boomers.

[273] *See* Consumer Federation of America Comment letter; see also Cerulli Associates, *Global Retail Investors and ESG: Responsible Investing Converges with Accelerated Environmental and Social Imperatives* (Apr. 2021), *available at https://info.cerulli.com/rs/960-BBE-213/images/2021_ESG_White_Paper.pdf.*

[274] *See* US SIF *Report on US Sustainable and Impact Investing Trends 2020* (2020), *available at https://www.ussif.org/files/US%20SIF%20Trends%20Report%202020%20Executive%20Summary.pdf.*

[275] *See also* section I.A.1.

[276] *See* ICI Comment Letter.

[277] *See* Morningstar Comment Letter (attachment), Morningstar US Sustainable Fund Landscape (2020).

[278] *See* Morningstar Comment Letter (attachment), Morningstar US Sustainable Fund Landscape (2020). *See supra* footnote 283. (For detailed discussion about the definition of ''sustainable funds.'')

[279] Most of these funds also changed their names to accurately reflect changes in investment strategies as well.

[280] *See* Morningstar Comment Letter attachment, Morningstar U.S. Sustainable Fund Landscape (2020). According to this report, while many funds mention ESG factors briefly somewhere in their prospectus, often in a less-prominent ''Additional Information'' section, the sustainable funds make their commitment clear and prominent in their prospectus, often in ''Principal Investment Strategies'' section of the fund's prospectus with enough details.

[281] *See* Morningstar Comment Letter attachment, Morningstar U.S. Sustainable Fund Landscape (2020).

[282] *See* Samuel M. Hartzmark and Abigail B. Sussman, *Do Investors Value Sustainability? A Natural Experiment Examining Ranking and Fund Flows,* 74 (6) J. Fin. 2789, 2789–2837 (2019). Investors' responses were mostly concentrated in two extreme rating categories, the lowest and the highest, and investors responded more to discrete measures rather than continuous measures. All these are consistent with literature finding the importance of salient information in investment decisions.

[283] This is the terminology used in this and other studies. While there are some differences across

Continued

with a stronger public-facing profile, such as funds listed on a website of a major independent organization committed to sustainable investing, received higher inflows than other SRI funds or other funds.[284] Other studies suggest that a disproportionate share of funds flow into SRI mutual funds when climate risk is particularly salient, for example, after environmental disasters.[285] Additionally, other studies found that SRI funds have more persistent flows, less volatility in flows, and are generally less sensitive to past performance compared to other funds.[286]

Part of this investor demand, as reflected by fund flows, could be because investors may have a particular preference toward ESG investments, as some studies suggest. [287] Consistent with this view, some studies suggest that SRI investors are less sensitive to financial performance compared to other investors and are willing to forgo financial performance to incorporate their social preferences.[288] Another study suggests similar results about SRI investors in venture capital funds, finding that investors who previously invested in Impact Funds are more likely to invest in Impact Funds again, even though Impact Funds, on average, did not outperform.[289] This study further found that SRI investors reinvest in Impact Funds due to their non-pecuniary preferences, not their inaccurate beliefs about financial performance.

4. Institutional Investor Engagement With Companies on ESG-Related Issues

In addition to considering ESG-related issues when selecting portfolio investments, some institutional investment managers also engage directly with portfolio companies on these issues. Most institutional investors, including asset managers, engage with portfolio companies.[290] Fewer than 20 percent of institutional investors responded that they did not engage with portfolio companies.[291] Institutional investors usually engage with portfolio companies through multiple channels. Investors most often use private channels such as discussing with portfolio companies' management teams the financial implications of climate risks (43 percent) or proposing certain actions to portfolio companies on climate risk issues (30 percent) at shareholder meetings. Many institutional investors have engaged with portfolio companies more publicly as well. For example, 30 percent of institutional investors indicated that they voted against a management proposal over climate risk issues at annual meetings, and about the same share (30 percent) of institutional investors submitted shareholder proposals on climate risk issues.[292]

Global hedge fund managers reported that the most common method of shareholder engagement was to engage privately with portfolio companies on ESG issues (74 percent), followed by proxy voting (34 percent).[293] In contrast, only 25 percent of hedge fund managers reported public engagements and 13 percent divestment.[294]

However, one report suggests global asset managers do not comprehensively disclose proxy voting records and shareholder engagement activities.[295] For instance, this report found that 55 percent of the assessed asset managers disclosed a record of proxy votes they cast in annual general meetings of portfolio companies and only 17 percent published reasons for their voting decisions.[296] Further, 36 percent of the assessed asset managers disclosed no information about their ESG-related engagement activities publicly.[297]

5. Current Practices

Some funds and advisers voluntarily provide ESG-related information to their investors, including by adhering to third-party frameworks and as part of voluntary disclosures of financed emissions. To provide this information, funds and advisers rely on various sources, including disclosures by corporate issuers, data from ESG providers, and index providers. This section discusses these practices in detail.

(a) Disclosures by Funds and Investment Advisers on Their Use of ESG Information

Some asset managers make ESG-related information available at the fund level. For instance, some funds already provide information about ESG factors in the prospectus or other documents. However, currently ESG information is not required to be disclosed in a consistent and standardized manner.[298] Different funds may use different terminology to describe ESG investing

studies, socially responsibility investment refers to an investment process that integrates environmental, social and corporate governance considerations in investment decision making.

[284] *See* Jędrzej Białkowski and Laura T. Starks, *SRI Funds: Investor Demand, Exogenous Shocks and ESG Profiles,* University of Canterbury, Department of Economics and Finance (Working Papers in Economics 16/11) (2016). Authors examined SRI funds that are members of US SIF and thus listed on US SIF's website. These SRI funds were found to receive higher inflows than other SRI funds or non-SRI funds.

[285] *See also* Jędrzej Białkowski and Laura T. Starks, *SRI Funds: Investor Demand, Exogenous Shocks and ESG Profiles,* University of Canterbury, Department of Economics and Finance (Working Papers in Economics 16/11) (2016).

[286] *See* Luc Renneboog, Jenke ter Horst, & Chendi Zhang, *Is Ethical Money Financially Smart? Nonfinancial Attributes and Money Flows of Socially Responsible Investment Funds,* 20 J. Fin. Intermediation 562, 562–588 (2011).

[287] *See* Lubos Pastor, Robert F. Stambaugh, and Lucian A. Taylor, *Sustainable Investing in Equilibrium,* 142 J. Fin. Econ. 550, 550–571 (2021). Sadok El Ghoul and Aymen Karoui, *Does Corporate Social responsibility Affect Mutual Fund Performance and Flows?* 77 (C) J. Banking & Fin. 53, 53–63 (2017). *See also* Jędrzej Białkowski and Laura T. Starks, *SRI Funds: Investor Demand, Exogenous Shocks and ESG Profiles, University of Canterbury, Department of Economics and Finance* (Working Papers in Economics 16/11) (2016); Karen L. Benson and Jacquelyn E. Humphrey, *Socially Responsible Investment Funds: Investor Reaction to Current and Past Returns,* 32 (9) J. Banking & Fin. 1850, 1850–1859 (2008); Luc Renneboog, Jenke ter Horst, & Chendi Zhang, *Socially Responsible Investments: Institutional Aspects, Performance, and Investor Behavior,* 32 (9) J. Banking & Fin. 1723, 1723–1742 (2008).

[288] *See* Arno Riedl and Paul Smeets, *Why Do Investors Hold Socially Responsible Mutual Funds?* 72 J. Fin. 2505, 2505–2550 (2017).

[289] *See* Brad M. Barber, Adair Morse and Ayako Yasuda, *Impact Investing,* 139 (1) J. Fin. Economics 162, 162–185 (2021). In this paper, 159 funds were considered Impact Funds by applying a strict a criterion that the fund must state dual objectives—investments made with the intention to generate positive, measurable social and environmental impact alongside a financial return—in its motivation. Even though Impact Funds on average do not beat the market ex post, the impact investors invest in Impact Funds, thus suggesting that main results mostly reflect investors' preferences rather than investors' inaccurate beliefs that Impact Funds would outperform non-Impact Funds.

[290] *See* Krueger, *supra* footnote 257. In this study, institutional investors include asset managers (23%), banks (22%), pension funds (17%), insurance companies (15%), mutual funds (8%), and other institutions (15%).

[291] *Id. See also* Joseph A. McCahery, Zacharias Sautner, and Laura T. Starks, *Behind the Scenes: The Corporate Governance Preferences of Institutional Investors,* 71 J. Fin. 2905, 2905–32 (2016).

[292] *See* Krueger, *supra* footnote 257.

[293] *See* KPMG, *Sustainable Investing: Fast-Forwarding Its Evolution* (Feb. 2020), *available at https://assets.kpmg/content/dam/kpmg/xx/pdf/2020/02/sustainable-investing.pdf.*

[294] *Id.*

[295] *See* Felix Nagrawala and Krystyna Spinger, *Point of No Returns: A Ranking of 75 of the World's Largest Asset Managers' Approaches to Responsible Investment,* ShareAction (Mar. 2020), *available at https://shareaction.org/wp-content/uploads/2020/03/Point-of-no-Returns.pdf* (''ShareAction''). This study includes 75 global asset managers. Asset managers from the U.S. were capped at 20 to represent other regions. Voting data was partially provided by Proxy Insight and sent to asset managers for verification. *See also* IOSCO, *Recommendations on Sustainability-Related Practices, Policies, Procedures and Disclosure in Asset Management: Consultation Report* (June 2021), *available at https://www.iosco.org/library/pubdocs/pdf/IOSCOPD679.pdf.*

[296] *See* ShareAction, *supra* footnote 295.

[297] *See* ShareAction, *supra* footnote 295.

[298] *See* Morningstar Comment Letter (for more detailed discussion about the state of corporate issuers' disclosures); see also section III.B.5.d.

strategies, which could be confusing to investors.

In addition, the inconsistency and lack of transparency in current disclosures may make it challenging to discern in which particular ESG strategy funds and advisers are engaged. Another concern with the absence of consistency and transparency in the current disclosures is that it creates a risk that funds and advisers may exaggerate their ESG strategies or the extent to which their investment products or services take into account ESG factors in order to attract business—a practice often referred to as ''greenwashing.'' [299] A review of several academic papers reveals that there is no universally accepted definition of ''greenwashing.'' [300] However, many studies find that greenwashing has negative impacts on consumers, including increased confusion, skepticism, and lost trust.[301]

Funds and advisers may exaggerate or overstate the ESG qualities of their strategies, while labeling and marketing themselves in a manner that makes it difficult for investors to distinguish them from funds and advisers that are truly committed to and engaged in the particular ESG strategies that interest them. Indeed, academic work suggests that fund marketing approaches that take advantage of current popular investment styles lead to abnormal positive inflows, even when their actual strategies go unchanged.[302] Similar findings also have been shown specifically in the context of ESG-related claims.[303] Several empirical studies compare the distribution of ESG scores of ESG funds with those of non-ESG funds. They find the distributions of ESG scores between ESG funds and non-ESG funds overlap substantially. Further, ESG funds do not exhibit, on average, better ESG scores than non-ESG funds. In some cases, ESG funds have lower ESG scores than non-ESG funds.[304] Examining inflows of ESG funds, these studies find ESG funds with low ESG scores attract flows as much as ESG funds with high ESG scores, or ESG funds with low ESG scores attract higher flows than non-ESG funds with similarly low ESG scores, suggesting the limited ability of investors to assess ESG-related claims made by funds accurately.[305]

(b) Third-Party Disclosure Frameworks

Some funds follow third-party ESG frameworks as part of the funds' investment process and for developing ESG-related disclosures to be included in regulatory filings or public reports. Currently, multiple reporting frameworks exist globally including the UN PRI, the Carbon Disclosure Project (''CDP''), the Sustainability Accounting Standards Board (SASB), the Global Reporting Initiative (GRI), the Climate Disclosure Standards Board (CDSB), the International Integrated Reporting Council (IIRC), and the TCFD recommendations.[306] These third-party reporting frameworks have been developed with slightly different underlying objectives.[307] However, in 2020, CDP, CDSB, GRI, IIRC, and SASB announced their commitment to align their reporting frameworks and develop a comprehensive ESG reporting framework.[308] Furthermore, several jurisdictions have announced their

[299] *See, e.g.,* IOSCO, *Sustainable Finance and the Role of Securities Regulators and IOSCO: Final Report* 3 (10) (Apr. 2020) *available at https://www.iosco.org/library/pubdocs/pdf/IOSCOPD652.pdf.* While greenwashing is most closely associated with the environmental component of ESG, we will also use the term more broadly for social and governance factors as well.

[300] *See* Lucia Gatti, Peter Seele, and Lars Rademacher, *Grey Zone in—Greenwash Out. A Review of Greenwashing Research and Implications for the Voluntary-Mandatory Transition of CSR,* 4(1) Int'l J. Corporate Soc. Responsibility 1, 1–15 (2019). After reviewing 94 academic papers, authors find no consensus about the definition of ''greenwashing.'' Some studies define greenwashing as false advertisement or misleading claims. Others define greenwashing as claims that are not substantiated by third-party certification or evidence. Another group defines greenwashing as claims that are not typically false but rather selective disclosures of positive information and obscuration of negative information.

[301] *See* Hendy Mustiko Aji and Bayu Sutikno, *The Extended Consequence Of Greenwashing: Perceived Consumer Skepticism,* 10(4) Int'l J. Bus. & Info. 433, 433–468 (2015); Imran Rahman, Jeongdoo Park, and Christina Geng-qing Chi, *Consequences Of ''Greenwashing'': Consumers' Reactions To Hotels' Green Initiatives,* 27(6) Int'l J. Contemporary Hospitality Mgmt. 1054, 1054–1081 (2015); NE Furlow, *Greenwashing In The New Millennium,* 10(6) J. Applied Bus. & Econ. 22, 22–25(2010); Yu-Shan. Chen and Ching-Hsun Chang, *Greenwash And Green Trust: The Mediation Effects Of Green Consumer Confusion And Green Perceived Risk,* 114 J. Bus. Ethics 489, 489–500 (2013).

[302] *See* Michael J. Cooper, Huseyin Gulen, and Panambur Raghavendra Rau, *Changing Names with Style: Mutual Fund—Name Changes and Their Effects on Fund Flows,* 60 J. Fin. 2825, 2825–2858 (2005); Susanne Espenlaub, Imtiaz ul Haq, and Arif Khurshed, *It's All in The Name: Mutual Fund Name Changes After Sec Rule 35d–1,* 84 J. Banking & Fin. 123, 123–34 (2017).

[303] *See* Sadok El Ghoul and Aymen Karoui, *What's in a (Green) Name? The Consequences Of Greening Fund Names On Fund Flows, Turnover, And Performance,* 39 Fin. Research Letters 101620 (2021). Candelon, *supra* footnote 247.

[304] These studies examined hedge funds and mutual funds that are UN PRI signatories or self-designated ESG mutual funds. *See* Candelon, *supra* footnote 247; Hao Liang, Lin Sun, Lin; & Melvin Teo, *Greenwashing: Evidence From Hedge Funds,* Research Collection Lee Kong Chian School Of Business 1–68 (2021); Rajna Gibson Brandon, Simon. Glossner, Phillip Krueger, Pedro Matos, and Tom Steffen, . *Do Responsible Investors Invest Responsibly*? ECGI Finance (Working Paper No. 712/2020) (June 2021). In addition, the UN PRI signatories in the U.S. do not seem to improve their fund-level ESG scores after joining the PRI. *See* Soohun Kim and Aaron Yoon, *Analyzing Active Mutual Fund Managers' Commitment to ESG: Evidence from the United Nations Principles for Responsible Investment* Management Science (Forthcoming) (2021). Another study finds no significant relationship between mutual funds' ESG ratings and ESG information communicated by fund managers. *See* Candelon, *supra* footnote 247.

[305] *See* Markku Kaustia and Wenjia Yu, *Greenwashing in Mutual Funds* (Sept. 30, 2021). Available at SSRN: *https://ssrn.com/abstract=3934004.* Liang, Hao; Sun, Lin; and Teo, Melvyn, *Greenwashing: Evidence From Hedge Funds* 1–68. Research Collection Lee Kong Chian School of Business (2021) Rajna Gibson Brandon, Simon. Glossner, Phillip Krueger, Pedro Matos, and Tom Steffen, *Do Responsible Investors Invest Responsibly*? (Ecgi Finance Working Paper No. 712/2020) (June 2021); Soohun Kim and Yoon, Aaron, *Analyzing Active Mutual Fund Managers' Commitment to ESG: Evidence from the United Nations Principles for Responsible Investment* (Forthcoming), Management Science (2021). *See also* Markku Kaustia and Wenjia Yu (2021) (finding that: Self-designated ESG mutual funds with low ESG ratings no longer attract institutional investors later years, although those funds continue to attract retail investors. Similar disconnections between funds' actual investment styles and funds' classifications are examined in other studies outside of ESG investment space.); Chen Huaizhi, Lauren Cohen, and Umit G. Gurun, *Don't Take Their Word For It: The Misclassification of Bond Mutual Funds,* 76 J. Fin. 1699 (2021).

[306] The TCFD recommended disclosures cover four core elements: Governance, Strategy, Risk Management and Metrics and Targets. Each element has two or three specific disclosures to be made in the organization's mainstream report (*i.e.* annual financial filings). These are meant to generate comparable, consistent and decision-useful information on climate-related risks. The TCFD provides both general, and in some cases, sector-specific guidance for each disclosure, while simultaneously framing the context for disclosure, and offering suggestions on what and how to disclose in the mainstream report.

[307] *See* Int'l Platform on Sustainable Fin., *State and Trends of ESG Disclosure Policy Measures Across IPSF Jurisdictions, Brazil, and the US* (Nov. 2021), *available at https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/211104-ipsf-esg-disclosure-report_en.pdf.* According to this study, some reporting standards such as SASB were developed primarily for satisfying the information needs of capital market participants, while others, such as GRI, are to balance the information needs of diverse stakeholder groups.

[308] *See* Statement of Intent to Work Together Towards Comprehensive Corporate Reporting. Summary of Alignment Discussions Among Leading Sustainability and Integrated Reporting Organizations, CDP, CDSB, GRI, IIRC and SASB.'' Impact Management Project, *World Economic Forum and Deloitte* (Sept. 2020), *available at https://29kjwb3armds2g3gi4lq2sx1-wpengine.netdna-ssl.com/wp-content/uploads/Statement-of-Intent-to-Work-Together-Towards-Comprehensive-Corporate-Reporting.pdf* According to this report, GRI, SASB, CDP, and CDSB, along with the TCFD recommendations guide the overwhelming majority of quantitative and qualitative sustainability disclosures including climate-related reporting. The same report states that the IIRC provides the integrated reporting framework that connects sustainability disclosure to reporting on financial and other capitals. Framework includes 6 capitals: financial, manufactured, intellectual, human, social and relationship, and natural.

official reporting requirements for domestic organizations to be aligned with the TCFD recommendations.[309] TCFD suggested several metrics that funds can use to calculate the GHG emissions of their investments, including, among others, the WACI and carbon footprint metrics.

In 2018, the UN PRI incorporated a set of indicator questions based on TCFD recommendations into its reporting framework.[310] TCFD reported that in 2021, out of a total of 5,058 asset managers and asset owners in the U.S., approximately 10 percent (517) of asset managers and asset owners reported to the UN PRI on climate-related indicators based on its review of climate related disclosures.[311] In 2020, out of 340 U.S. asset managers reporting to the UN PRI, about 83 percent (283 asset managers) privately made climate disclosures, while 17 percent (57 asset managers) made their reports public.[312] Among four TCFD disclosure elements, U.S. asset managers reporting to the UN PRI exhibited low reporting rates in metrics elements [313] and only 12 percent of U.S. asset managers disclosed GHG emissions and the related risks.[314] To measure, monitor, and manage portfolio emissions, U.S. asset managers most commonly used carbon footprint (32 percent) and exposure to carbon-related assets (32 percent), closely followed by portfolio footprint (30 percent) and carbon intensity (30 percent). The least used approach by asset managers was the WACI (21 percent) metric, which the TCFD recommends asset managers and asset owners disclose for one of its four core elements, Metrics and Targets.[315] However, the TCFD reported that in 2021, the WACI was the metric most frequently used by asset owners reported to the UN PRI, although it was still the least used by asset managers.[316] A survey of central banks indicated that most of them calculate several carbon emission metrics in line with the recommendations of the TCFD. Carbon footprint is the metric that central banks most often (33 percent) monitored.[317]

(c) Disclosures Related to Financed Emissions by Certain Financial Institutions

As of October 2021, the PCAF has global members encompassing 163 financial institutions with $51.4 trillion in assets. Among these PCAF members, 4 asset managers representing $9 trillion assets, are headquartered in the United States.[318] Asset managers that are committed to PCAF or other third-party frameworks voluntarily measure and disclose financed emissions.[319] Financed emissions of an asset manager include greenhouse gas emissions aggregated across portfolios.[320] However, an asset manager's disclosed financed emissions may be incomplete and not cover all managed portfolios. In 2020, one international organization conducted a survey of global financial institutions to establish a baseline for the current state of certain climate change considerations in the financial sector.[321] Of the institutions that participated in this survey, 51 percent responded that they analyze their portfolios' impacts on the climate.[322] Approximately 25 percent of respondents, or 84 financial institutions including asset managers, reported their financed emissions. However, among these financial institutions' calculated financed emissions, financial institutions most frequently responded that the financed emissions calculations covered less than 10 percent of a respondent's portfolio assets.[323]

Based on this same survey, inconsistency exists not just in the portfolio coverage, but also in the metrics reported based on the methods of aggregation. While the WACI, the metric recommended by the TCFD, was most commonly disclosed, portfolio carbon footprint, overall carbon intensity, and exposure to carbon-related assets were also commonly reported among asset owners and managers.

(d) Disclosures by Corporate Issuers

Funds and investment advisers may rely on the limited ESG data currently reported by corporate issuers when reporting the extent of their own ESG-related activities.[324] One study estimates that, among S&P 500 companies, 54 percent published some form of ESG data in 2020.[325] This same study reports that the vast majority—97 percent—have some form of assurance or verification.[326] One commenter cited

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[309] Eight jurisdictions—Brazil, the European Union, Hong Kong, Japan, New Zealand, Singapore, Switzerland, and the United Kingdom—announced the TCFD-aligned reporting requirements. *See* Task Force on Climate-related Financial Disclosures, *2021 Status Report* (Oct. 14, 2021) *available* at *https://www.fsb.org/wp-content/uploads/P141021-1.pdf.*

[310] *See* Principles for Responsible Inv., *Climate Change Snapshot 2020* (July 17, 2020), *available at https://www.unpri.org/climate-change/climate-change-snapshot-2020/6080.article.*

[311] *See* Task Force on Climate-related Financial Disclosures, 2021 *Status Report* (Oct. 14, 2021) *available at https://www.fsb.org/wp-content/uploads/P141021-1.pdf.*

[312] If at least one climate related indicator is made public, it is considered public disclosure. *See* Principles for Responsible Investment, Climate Change Snapshot 2020 (July 17, 2020), *available at https://www.unpri.org/climate-change/climate-change-snapshot-2020/6080.article.*

[313] TCFD recommendations cover four core elements: Governance, Strategy, Risk Management and Metrics and Targets. *See* Task Force on Climate-Related Financial Disclosures, 2021 Status Report (Oct. 14, 2021) (For more details), *available at https://www.fsb.org/wp-content/uploads/P141021-1.pdf.*

[314] *See* Principles for Responsible Investment, Climate Change Snapshot 2020 (July 17, 2020), *available at https://www.unpri.org/climate-change/climate-change-snapshot-2020/6080.article.*

[315] *Id.* (In this report, ''carbon intensity'' relates to a company's physical carbon performance and describes the extent to which its business activities are based on carbon usage for a defined Scope and fiscal year The WACI is a metric that the TCFD recommended asset managers and asset owners disclose for one of its four core elements, Metrics and Targets.)

[316] This information includes all asset owners including U.S. asset owners that report to PRI in 2021. *See* Task Force on Climate-related Financial Disclosures, *2021 Status Report* (Oct. 14, 2021), *available at https://www.fsb.org/wp-content/uploads/P141021-1.pdf.* (The information specifically about U.S. asset managers in 2021 is not available in this report.)

[317] *See* Network for Greening the Fin. Sys. (''NGFS''), *A Call for Action: Climate Change as a Source of Financial Risk* 11 (Apr. 2019), *available at https://www.ngfs.net/sites/default/files/medias/documents/synthese_ngfs-2019_-_17042019_0.pdf.*

[318] *See* P'ship for Carbon Acct. Fins. (PCAF), *Financial Institutions Taking Action: Overview of Financial Institutions* (see table), *available at https://carbonaccountingfinancials.com/financial-institutions-taking-action#financial-institutions-taking-action* (''PCAF''). The U.S. Financial Institutions represent commercial banks, investment banks, development banks, insurers, and asset owners/managers.

[319] *See* CDP Report, *supra* footnote 119.

[320] Financial institutions indirectly contribute to GHG emissions through their lending, investments and insurance underwriting. Under the GHG Protocol, these emissions are classified as indirect Scope 3 emissions in Category 15, which are often referred to as financed emissions or portfolio emissions.

[321] *See* CDP Report, *supra* footnote 119. According to this report, a total of 332 financial institutions (banks, insurers, asset owners and asset managers) participated in this survey. Of these 332 financial institutions, 74 institutions are from North America. However, this report does not have detailed information about how many of these 74 institutions are asset managers in the U.S.

[322] The report indicated that a total of 332 global financial institutions responded to this questionnaire. Out of those 332 institutions, 133 institutions were in Europe, (85 institutions were in Asia Pacific, and 78 institutions were in North America. 25 institutions were in Middle-East and Africa and 15 institutions were in Latin America. These 332 financial institutions from six continents had combined assets of over $109 trillion. Financial institutions include banks, insurers, asset managers, and asset owners. *Id.*

[323] *See* CDP Report, *supra* footnote 119.

[324] *See* ICI Comment Letter.

[325] *See S&P 500 and ESG Reporting,* Center for Audit Quality (Aug. 9, 2021), *available at https://www.thecaq.org/sp-500-and-esg-reporting.* In 2020, 271 companies published ESG data, which increased from 188 companies in 2019.

[326] Of those 264 companies, 31 companies had assurance from accounting firms, while 235 companies had assurance from other providers such as consulting firms. *Id.* Similarly, 99 out of the 100 largest U.S. companies by market capitalization provided some form of sustainability disclosures, 71 obtained some level of assurance, and 11 obtained this assurance from an audit firm or affiliated firm. *See* International Federation of

disclosure rates of between 60 and 70% among environmental (E), social (S) and governance (G) factors for issuers in the United States and Canada.[327]

Among environmental factors, according to one commenter, more than half of S&P 500 companies report Scope 1 and 2 emissions, with fewer reporting Scope 3 emissions.[328] We also analyzed 6,644 annual reports (10-Ks, 40-Fs, and 20-Fs) submitted from late 2019 until the end of 2020 and found that 33 percent contain some form of disclosure related to climate change, with a greater proportion coming from larger firms and those in high-emission industries.[329] Commenters indicated that the quality of these disclosures and the degree to which these disclosures are standardized vary.[330]

Some companies elect to disclose sustainability or ESG information outside of their SEC filings. A majority (52 percent) of public companies that participated in a survey indicate that they already publish a sustainability, ESG, or similar report, with more companies planning to publish their first reports in the near future.[331] Of those companies already publishing a sustainability report, most (86 percent) publish it as a separate report on their company website.[332]

The share of companies voluntarily publishing sustainability or ESG reports varies significantly by size and by sector. Large-cap companies and companies in high emission sectors such as energy and utility are more likely than others to publish reports. For instance, among the Russell 1000 index companies, 92 percent of large companies (in terms of market capitalization) published sustainability or ESG reports in 2020.[333] In contrast, about half of small-cap companies published such reports.[334] Examining various sectors, nearly all companies in the utility and energy sectors published sustainability or ESG reports in 2020, whereas about half of companies in the communication sector published such reports.[335]

To the extent that ESG-related disclosures by funds rely on the information disclosed by corporate issuers, the reliability and quality of ESG disclosures by corporate issuers influence the reliability and quality of ESG disclosures by funds as well. Some commenters suggested third-party assurance would improve the reliability of ESG disclosures by corporate issuers, and thus indirectly improve the quality and reliability of funds' ESG disclosures.[336] These commenters further suggest that assurance would provide investors with confidence in the disclosed information, and thus increase the utility of disclosures.[337] Examining current practices of corporate issuers obtaining assurance on climate or ESG related disclosures, according to one survey, 28 percent of public companies obtain third-party audits or assurances.[338] Regarding these climate or ESG disclosures, there are some discrepancies by size of companies. Forty-four percent of the larger half of the Russell 1000 index companies sought external assurance for non-financial ESG disclosures in 2020, whereas only 18 percent of the smaller half of the Russell 1000 index companies did so.[339] Even among the companies that obtained external assurance on ESG disclosures, 2 percent for small-cap companies and 3 percent for large-cap companies obtained the assurance on the entire sustainability reports. Approximately half of the companies with external assurance (48 percent for large-cap companies, 56 percent for small-cap companies) obtained assurance on GHG emissions only. In terms of the level of assurance, 90 percent of companies with external assurance obtained limited or moderate assurance, whereas 7 percent of companies obtained reasonable assurance.[340]

There also exist Federal and state-level reporting rules related to GHG emissions. At the Federal level, the EPA's 2010 Mandatory Reporting of Greenhouse Gases Rule requires large emitters and suppliers of fossil fuels that meet certain conditions to disclose their emissions to the GHG Reporting Program,[341] which are then made public through their website.[342] However, the EPA's GHG Reporting Program (EPA GHGRP) does not require disclosures at the corporate issuer level. Further, the EPA GHGRP does not require disclosure of emissions sources outside the United States. One study suggests that EPA GHGRP usually covers between 30 percent and 50 percent of a company's carbon scope 1 emissions, so the aggregated facility level emissions are not strongly correlated with the overall Scope 1 emissions.[343] At least 16 states and Puerto Rico have enacted legislation mandating some form of GHG emissions reporting.[344]

Accountants (''IFAC''), *The State of Play in Sustainability Assurance* (2021), *available at https://www.ifac.org/knowledge-gateway/contributing-global-economy/discussion/state-play-sustainability-assurance.*

327 Disclosure rates related to environmental factors are 66 percent in the U.S. and Canada, social factors are 67 percent, governance factors are 65 percent. *See* Morningstar, Corporate Sustainability Disclosures (June 7, 2021). (Morningstar comment letter attachment report states that the disclosure rates are measured by the Sustainalytics company database.)

328 *See* ICI Comment Letter; IEA, *Number of Companies in the S&P 500 Reporting Energy- and Emissions-Related Metrics* (updated May 26, 2020), *available at https://www.iea.org/data-and-statistics/charts/number-of-companies-in-the-s-and-p-500-reporting-energy-and-emissions-related-metrics.*

329 This is generally consistent with a survey that found 34 percent of public companies disclose information regarding climate related risks, GHG emissions, or energy sourcing in their SEC filings. Of those companies disclosing in their SEC filings, the vast majority (82 percent) disclose it under Item 105 of Regulation S–K, Risk Factor. *See* U.S. Chamber of Commerce Center for Capital Markets Competiveness, *2021 Survey Report: Climate Change & ESG Reporting from the Public Company Perspective* (2021), *available at https://www.centerforcapitalmarkets.com/resource/climate-change-public-company-perspective-esg-reporting-climate-change-public-company-perspective/.* A total of 436 public companies participated in this survey, representing a broad range of industries that covered small to large market capitalization.

330 *See* Morningstar Comment Letter.

331 *See* Climate Change & ESG Reporting from the Public Company Perspective (2021).

332 *See* Climate Change & ESG Reporting from the Public Company Perspective (2021).

333 Large companies refer to the largest half of the Russell 1000 index companies by market capitalization, which are generally the same companies comprising the S&P 500 index. *See 2021 S&P 500 + Russell 1000 Sustainability Reporting in Focus,* Governance & Accountability Institute, Inc. (2021), *available at https://www.ga-institute.com/2021-sustainability-reporting-in-focus.html.*

334 *Id.* (small companies refer to the smaller half of the Russell 1000 index companies).

335 *Id.*

336 *See* ICI Comment Letter, Securities Industry and Financial Markets Association (SIFMA) Asset Management Group Comment Letter, Morningstar Comment Letter.

337 *Id.*

338 *See* Climate Change & ESG Reporting from the Public Company Perspective (2021).

339 *See* Governance & Accountability Institute, Inc., *supra* footnote 333.

340 *Id.*

341 *See* 40 CFR part 98. *See also* EPA Fact Sheet: Greenhouse Gases Reporting Program Implementation. The EPA rule applies to all facilities that directly emit more than 25,000 metric tons of carbon dioxide equivalent (CO_2e) per year (*i.e.,* Scope 1 emissions) and to all suppliers of certain products that would result in over 25,000 metric tons CO_2e if those products were released, combusted, or oxidized (*i.e.,* a component of Scope 3 emissions). The EPA estimates that the required reporting under the EPA rule covers 85–90% of all GHG emissions from over 8,000 facilities in the United States.

342 The EPA provides emissions data at the facility level and the ultimate parent level, the latter of which represents an aggregation of facility-level data. The data is made public each year through the EPA website.

343 *See* Timo Busch, Matthew Johnson, and Thomas Pioch, *Corporate Carbon Performance Data: Quo Vadis,* 26 J. Indus. Ecology 350 (2020) (''Busch''). *See also* Network for Greening the Fin. Sys. (''NGFS''), *Progress Report on Bridging Data Gap* (May 2021), *available at https://www.ngfs.net/sites/default/files/medias/documents/progress_report_on_bridging_data_gaps.pdf.*

344 *See* Greenhouse Gas Emissions Reduction Targets and Market-based Policies, National

Continued

(e) Use of ESG Providers and ESG Indices by Asset Managers

The market for ESG ratings and data has grown considerably over the past few years due in part to a lack of consistent disclosure at the corporate issuer level, and the increasing interest of investors in ESG funds and investing.[345] One report estimates there are over 150 ESG providers globally.[346] Each of these providers has its own definitions and data sources.[347] Some studies estimate there are 10 to 15 major ESG rating and data providers worldwide.[348]

Among E, S, and G factors, some assess environmental data to be better aligned across ESG providers than social and governance data.[349] For instance, data on scope 1 and 2 carbon emissions are relatively consistent across ESG providers, although data on scope 3 emissions are somewhat inconsistent. Some attribute this discrepancy to the fact that a larger number of companies report scope 1 and 2 emissions compared to scope 3 emissions.[350] ESG providers generate large datasets based on data from corporate reports. When companies do not report emissions data, ESG providers use their own estimation methods and fill in these missing data.[351] Compared to company reported data, estimations across ESG providers are relatively less consistent.[352] Some suggest that different estimation methodologies used across ESG providers contribute to the inconsistency across ESG providers.[353]

Investment advisers and fund managers often collect, digest, and evaluate information on ESG factors other than that disclosed by corporate issuers to incorporate in their investment decisions. Therefore, many advisers and fund managers currently rely on information from ESG providers pertaining to issuers in their analysis.[354] Even if managers and advisers decide to conduct the analyses in-house, due to the lack of existing ESG data and inconsistency in existing ESG disclosures from corporate issuers, properly incorporating ESG factors in portfolios and investment strategies may require significant resources.[355] Many asset managers use ESG ratings and ESG data by contracting with multiple ESG providers because the scope, coverage, specialization, and expertise of ESG providers differ.[356] Asset managers also use ESG providers for different purposes to varying degrees.[357] Some asset managers use ESG ratings to incorporate ESG factors in their investment decisions, while others use ESG data and build their own internal rating methodologies. In addition, some asset managers use ESG ratings to guide their engagement with portfolio companies. Institutional investors use ESG ratings to assess their exposure to ESG risks and monitor their external asset managers.

Among asset managers that rely on quantitative data with respect to their ESG analyses, a majority use market indexes tracking ESG factors in some way.[358] Asset managers in the United States use ESG indexes most frequently for investment strategies, followed by benchmarking and measurement purposes.[359] In 2020, there were 2.96 million indexes globally.[360] Objectives, scope and strategies vary across ESG indices, ranging from low-carbon solutions to ESG tilting.[361] In addition, one third of U.S. asset managers in a survey strongly agreed that the indexes improved their ability to compare ESG performances.[362]

C. Benefits, Costs and Effects on Efficiency, Competition, and Capital Formation of the Proposed Rule and Form Amendments

The proposed rules' ESG disclosure framework requires several different types of ESG disclosures from funds and advisers that are tailored to a given fund's or adviser's ESG features. In this section, we first discuss the general economic benefits associated with more precise and comparable ESG disclosures by funds and advisers. We then discuss the economic effects associated with each of the specific disclosure requirements of this proposal, including benefits, costs, and effects on efficiency, competition, and capital formation.

1. General Economic Benefits of ESG Disclosure

As discussed in previous sections, there has been substantial demand from investors for ESG-related strategies. Also as discussed, investors' ability to obtain

Conference of State Legislatures (''NCSL'') (Sept. 22, 2021). The same report indicates that other states, such as New Mexico, North Carolina, and Pennsylvania, have recently committed to statewide GHG reduction goals through executive action, but do not currently have binding statutory targets.

[345] IOSCO, *IOSCO Consults on ESG Ratings and Data Providers* (Media Release) (July 26, 2021), *available at https://www.iosco.org/news/pdf/IOSCONEWS613.pdf.*

[346] *See* KPMG, *supra* footnote 293.

[347] *Id.*

[348] *See* European Comm'n, Directorate-Gen. for Fin. Stability, Fin. Servs. & Capital Mkts. Union, *Study on Sustainability-Related Ratings, Data and Research,* (Jan. 6, 2021) (Report prepared by SustainAbility) *available at https://data.europa.eu/doi/10.2874/14850.* In this study, major ESG rating and data providers include Bloomberg, CDP, FTSE Russell, ISS–ESG, MSCI, Refinitiv, RepRisk, RobecoSAM, Sustainalytics, and Vigeo Eiris.

[349] *Id.*

[350] *Id. See also* Patrick Bolton and Marcin Kacperczyk, *Do Investors Care About Carbon Risk?* National Bureau of Economic Research (2020). Authors suggest that Scope 3 emissions are estimated using an input-output matrix, while the data on scope 1 and scope 2 emissions are widely reported.

[351] *See* Busch, *supra* footnote 343.

[352] *Id. See also* NGFS, *Progress Report on Bridging Data Gap* (May 2021), *available at https://www.ngfs.net/sites/default/files/medias/documents/progress_report_on_bridging_data_gaps.pdf, supra* footnote 343. It is worth noting that company-reported data on scope 3 emissions are relatively inconsistent across ESG providers, compared to company-reported data on scope 1 and 2.

[353] *See* NGFS, *Progress Report on Bridging Data Gap* (May 2021), *available at https://www.ngfs.net/sites/default/files/medias/documents/progress_report_on_bridging_data_gaps.pdf, supra* footnote 343.

[354] *See* Investment Adviser Association Comment Letter; OECD Business and Finance Outlook 2020 Chapter 4.

[355] *See* OECD Business and Finance Outlook 2020, Chapter 4.

[356] *See* IOSCO, *IOSCO Consults on ESG Ratings and Data Providers* (Media Release) (July 26, 2021), *available at https://www.iosco.org/news/pdf/IOSCONEWS613.pdf, supra* footnote 345. Not only asset managers rely on services from ESG providers. A majority (58 percent) of central banks currently use or consider to use the data provided by external ESG providers. Of those central banks that use services from ESG providers, two thirds (67 percent) use more than one ESG provider. *See* Network for Greening the Financial System, Progress report on the implementation of sustainable and responsible investment practices in central bank's portfolio management, Dec. 2020.

[357] *See* IOSCO, *IOSCO Consults on ESG Ratings and Data Providers* (Media Release) (July 26, 2021), *available at https://www.iosco.org/news/pdf/IOSCONEWS613.pdf, supra* footnote 345.

[358] Index Indus. Ass'n (''IIA''), *Measurable Impact: Asset Mangers on the Challenges and Opportunities of ESG Investment* (2021) (IIA 2021 International Survey of Asset Managers), *available at http://www.indexindustry.org/wp-content/uploads/2021/07/IIA-ESG-Executive-Summary-2021-vFINAL.pdf.*

[359] *See* IIA, *Measurable Impact: Asset Mangers on the Challenges and Opportunities of ESG Investment* (2021) (IIA 2021 International Survey of Asset Managers), *available at http://www.indexindustry.org/wp-content/uploads/2021/07/IIA-ESG-Executive-Summary-2021-vFINAL.pdf, supra* footnote 358; Figure 21; NGFS, *Progress report on the implementation of sustainable and responsible investment practices in central banks' portfolio* (Dec. 2020) (for the use of ESG indexes in general), *available at https://www.ngfs.net/sites/default/files/medias/documents/sri_progress_report_2020.pdf.*

[360] *See* IIA, *Index Industry Association's Third Annual Survey Finds 2.96 Million Indexes Globally, available at http://www.indexindustry.org/2019/10/15/index-industry-associations-third-annual-survey-finds-2-96-million-indexes-globally/.*

[361] ESG tilting is also referred to as index-adjusted weighting in that companies are selected or reweighted by comparing the ESG characteristics of a firm to those of its peers. *See* NGFS, *Progress Report on Bridging Data Gap* (May 2021), *available at https://www.ngfs.net/sites/default/files/medias/documents/progress_report_on_bridging_data_gaps.pdf, supra* footnote 343.

[362] *See* IIA, *Measurable Impact: Asset Mangers on the Challenges and Opportunities of ESG Investment* (2021) (IIA 2021 International Survey of Asset Managers), *available at http://www.indexindustry.org/wp-content/uploads/2021/07/IIA-ESG-Executive-Summary-2021-vFINAL.pdf, supra* footnote 358.

information may be impeded by the inconsistent and at times favorably-biased nature of reporting on ESG strategies by funds and advisers. Opaque ESG-related statements in the current environment make it difficult for some investors to discern funds' and advisers' degree of commitment to such strategies.[363] Even when funds provide quantitative disclosures, such as financed emissions, there currently is substantial inconsistency among funds as to when metrics are reported, the proportion of the portfolio covered, and the method of aggregation.[364] Investor and client interest in ESG strategies necessitates comparable and reliable ESG-related information. This interest has not been met as a result of key market failures that appear to have led to deficiencies in current ESG-reporting practices. Below we describe examples of frictions that may lead to these market failures in more detail and how a mandatory reporting regime may thus produce benefits for investors and clients.[365]

(1) Funds and Advisers May Be Able and Willing To Present Information Inconsistently

Funds or advisers may have incentives to make a strategy look as good as possible (for example, as a result of selective choice of metrics or methods of computation, exaggeration, obfuscation, or ''greenwashing''). But such decisions might impose a negative externality on other funds' and advisers' investors and clients. For example, if a fund or adviser includes favorably-biased claims in its disclosures, these disclosures could increase flows into and value of investments of investor or client funds, but also prevent investors and clients overall from understanding which funds are actually engaging in the strategies they would prefer to undertake. In a setting where investors or clients are unable to distinguish exaggerated claims at all, this results in what is referred to as a cheap talk equilibrium, where no useful information is discernable.[366] In this scenario, a mandatory reporting regime would be beneficial to investors and clients to the extent that disclosures in the current environment are either unverifiable, difficult to verify, or exaggerated.[367]

The benefits of mandatory disclosure become even more pronounced if funds or advisers not only have discretion in disclosure (both in disclosing or not and the method of disclosure), but also have incentives that are misaligned with their clients' or investors' interests—*i.e.,* in the presence of agency problems.[368] For example, agency problems may arise if funds are rewarded more for good performance than they are punished for bad performance. The empirical mutual fund literature provides some evidence that this is the case, where funds with superior performance are rewarded with large inflows, while poor performing funds see limited outflows.[369] In this case, funds may have a greater incentive to avoid disclosing negative information, instead focusing on the most positive aspects of their fund.[370] This can further incentivize embellished disclosures and therefore reduce useful information available to investors and clients.

When funds or advisers use inconsistent methods in reporting disclosures, the resulting lack of standardization can be costly for investors and clients, who may be unable to accurately compare across funds or advisers as a result. While agency problems, as noted above, can exacerbate these inconsistencies, such irregular reporting can arise any time there are multiple reasonable, but distinct and not easily comparable, approaches in presenting information chosen by different sets of funds or advisers—as appears to be the case in the current environment for ESG-related disclosures. Standardization limits such inconsistencies, allowing investors to identify funds and clients that are closely aligned with their investment objectives and therefore facilitating more efficient capital allocation. Standardization that enhances transparency and comparability of such disclosures is also likely to promote competition among investment advisers and funds.

(2) Investors/Clients May Have Varying Preferences for and Expectations About Such Disclosures

Finally, voluntary disclosures may not provide all relevant information if funds and advisers are uncertain of investor or client responses to such disclosures. If, for example, investors have varied preferences, such that funds are uncertain about whether investors will consider a given disclosure to be good or bad news, then not all funds will choose to disclose, resulting in potentially beneficial private information that is not revealed.[371] Even in a setting where preferences of potential clients might be similar, as may be the case for ESG-focused funds, responses to disclosures may still be uncertain, because investors may interpret the same information differently. This may be the case when there are varying levels of sophistication among investors in their ability to understand disclosures and/or different prior expectations.[372]

As discussed above, fund managers and investment advisers currently expend significant resources to search, collect, and process ESG-related data under the existing voluntary disclosure regime. The following sections discuss the benefits and costs of the proposed rules against this baseline.[373]

2. Investor and Client Facing Disclosures

We are proposing several amendments to disclosures furnished to

[363] *See* section III.B.5.a.

[364] *See* section III.B.5.d.

[365] *See* Beyer, Cohen, Lys, and Walther, *The Financial Reporting Environment: Review of The recent Literature,* J. ACCT. ECON. 296–343 (2010) for a more technical and detailed discussion of these and other additional assumptions.

[366] *See* Vincent Crawford and Joel Sobel, *Strategic Information Transformation,* 50 Econometrica 1431, 1431–1451 (1982).

[367] Even if investors or clients are somewhat able to discern potentially misleading statements as they become larger, but imperfectly so or only after incurring time or monetary costs, theoretical work still suggests that in equilibrium funds and advisers might be incentivized to still apply a positive bias to their disclosures, so that mandatory disclosures and standards would improve the information conveyed to investors and clients. *See* E. Einhorn, and A. Ziv, *Biased Voluntary Disclosure,* Review of Accounting Studies 420–442 (2012).

[368] Agency problems are conflicts of interest between investors or clients (*i.e.,* the principals) and funds or advisers (*i.e.,* the agents), respectively.

[369] *See* Erik R. Sirri and Peter Tufano, *Costly Search and Mutual Fund Flows,* 53(5) Journal of Finance 1589–1622 (1998).

[370] *See* Nikolai Roussanov, Hungxun Ruan, and Yanhao M. Wei, *Marketing Mutual Funds,* Jacobs Levy Equity Management Center for Quantitative Financial Research Paper (2020).

[371] *See* Jeroen Suijs, *Voluntary Disclosure of Information When Firms Are Uncertain of Investor Response,* 43 J. Acct. & Econ. 291, 391–410 (2007); Bond, Philip, and Yao Zeng, *Silence is Safest: Information Disclosure When the Audience's Preferences are Uncertain,* forthcoming Journal of Financial Economics (2022).

[372] *See* Ronald A. Dye, *Investor Sophistication and Voluntary Disclosures,* 3 Rev. Acct. Stud. 261, 261–287 (1998).

[373] As specified in section III.B, the economic baseline against which we measure the economic effects of this proposal, including its potential effects on efficiency, competition, and capital formation, is the state of the world as it currently exists. Accordingly, we do not include the recently proposed Climate Disclosure Rule in our baseline. To the extent the recently proposed Climate Disclosure Rule is adopted as currently proposed, we provide additional analysis below that discusses how the Climate Disclosure Rule may affect the incremental costs and benefits of certain provisions under this proposal. *See* Proposed Rule on the Enhancement and Standardization of Climate-Related Disclosures for Investors, (Apr. 11, 2022) [87 FR 21334 (April 11, 2022)], *available at https://www.federalregister.gov/documents/2022/04/11/2022-06342/the-enhancement-and-standardization-of-climate-related-disclosures-for-investors.*

investors or clients, including fund prospectuses, annual reports, and Form ADV Brochures (Form ADV Part 2A, including Appendix 1, the Wrap Fee Program Brochure), with the aim of providing investors and clients with more meaningful information concerning ESG factors. This section analyzes the anticipated benefits and costs associated with these amendments in detail.

By providing a comprehensive framework on key features of ESG funds and investment advisers, the proposed requirements would increase the amount of information related to how funds and advisers consider ESG factors available to investors and make ESG disclosures easily comparable across funds and advisers. As a result, investors would be able to more easily identify funds and advisers that most closely align with their investment objectives.

(a) Enhanced ESG Disclosure for Fund Prospectus

(1) Benefits

The proposed amendments would require additional disclosure by open-end funds (including ETFs) and closed-end funds (including BDCs) that consider one or more ESG factors. The level of detail required by the proposed enhanced disclosure would depend on the extent to which a fund considers ESG factors in its investment process. This disclosure structure tailors the amount of the disclosure to the specific needs of the investors in a particular fund; investors in funds that more extensively incorporate ESG factors may need more detailed ESG-related information to assess the fund performance compared to funds that consider ESG factors along with many other factors.

The proposed rule's disclosure framework achieves this by requiring different degrees and types of disclosure across two main types of ESG funds: Integration Funds and ESG-Focused Funds (including Impact Funds). Within ESG-Focused Funds, the framework tailors its requirements depending on how funds implement ESG strategies such as tracking a specific ESG index, applying an inclusionary or exclusionary screen, seeking to achieve a specific impact, voting proxies, and engaging with issuers on ESG matters.

Generally speaking, Integration Funds are funds that consider one or more ESG factors as part of a broader investment process that also incorporates non-ESG factors. Under the proposed rule, funds that meet the proposed definition of ''Integration Fund'' would provide more limited disclosures relative to ESG-Focused Funds. Specifically, Integration Funds would be required to summarize in a few sentences how the fund incorporates ESG factors into its investment selection process, including what ESG factors the fund considers. Open-end funds would provide this information in the summary section of the fund's prospectus, while closed-end funds, which do not use summary prospectuses, would disclose the information as part of the prospectus's general description of the fund. The proposal would further require a more detailed description of how an Integration Fund incorporates ESG factors into its investment selection process in an open-end fund's statutory prospectus or later in a closed-end fund's prospectus. We believe these disclosures would improve investors' ability to process information and assist them in comparing across Integration Funds.

The proposal would include specific additional disclosures regarding the role of GHG emissions for Integration Funds in the fund's statutory prospectus or later in a closed-end fund's prospectus. Certain investors have expressed particular demand for information on the role of GHG emissions in ESG investment selection processes,[374] which can create an incentive for funds to overstate the extent to which portfolio company emissions play a role in the fund's strategy. We believe these disclosures would further assist investors in comparing across Integration Funds and make better informed choices of Integration Funds for their investments, given that Integration Funds might vary substantially in how they utilize GHG emissions metrics data or otherwise consider portfolio company GHG emissions.

The requirements for Integration Funds to disclose information regarding ESG factors and GHG emissions are more limited than the requirements for ESG-Focused funds. We believe that these more limited requirements for Integration Funds would improve investors' ability to process information and assist them in comparing across Integration Funds while avoiding impeding informed investment decisions with overemphasized statements on the role of ESG factors in Integration Funds.

ESG-Focused Funds, which include funds that employ several different ESG investment strategies as a significant or main consideration in selecting investments or in their engagement strategy with the companies in which they invest, would be required to provide more detailed information than Integration Funds. This information would be presented in a tabular format, in a standard order and consistent manner, across ESG-Focused Funds. By providing information prominently in the same location in each fund's prospectus, the proposed amendments could improve investors' understanding of an ESG-Focused Funds' investment strategy and assist them in comparing different ESG-Focused Funds. Because each of the common ESG strategies applicable to the fund would be presented in a ''check the box'' style, investors could immediately identify the ESG strategies employed by each fund, which would further enhance the comparability across ESG-Focused Funds.

To facilitate investors' informed investment decision making, the proposed amendments would also require an ESG-Focused Fund to provide a more detailed and lengthier disclosure later in the prospectus. Under the proposal's layered disclosure approach in an electronic version of the prospectus, the fund would also be required to provide hyperlinks in the table to related, more detailed disclosure. This proposed approach would make full and detailed ESG-related information available to investors, allowing them to make more informed investment decisions.

At the same time, the layered requirements would avoid overwhelming investors with information that any particular investor may not be interested in. If an investor wants more in-depth information about certain topics, the proposed layered approach would allow investors to selectively gather the information they need, thus enhancing the overall effectiveness and the utility of the disclosures.

The proposed rules would require ESG-Focused Funds that apply inclusionary or exclusionary screens to explain briefly the factors the screen applies as well as to state the percentage of the portfolio, in terms of net asset value, to which the screen is applied and explain briefly why the screen applies to less than 100% of the fund's portfolio (excluding cash and cash equivalents held for cash management) if applicable. These proposed requirements would enhance investors' understanding about how ESG factors guide the fund's investment decisions and what kinds of investments a fund focuses on or avoids. This would facilitate investors' searches to identify funds closely aligned with the investors'

[374] *See* CDP Report, *supra* footnote 119.

preferences on ESG investing, a potentially difficult task in the current environment of inconsistent disclosures. Furthermore, by providing the share of the portfolio selected with regards to a particular screen, investors would verify whether and to what extent that ESG factors are incorporated into the fund. Therefore, the proposed rules would reduce ambiguous or overstated claims and increase transparent and comparable information about ESG investing, which, in turn, would enable investors to easily verify ESG-related claims, compare across ESG-Focused Funds, and make better informed decisions.

If an ESG-Focused Fund commits to any third-party frameworks, its prospectus would disclose what third-party frameworks the fund follows in its investments and how the framework applies to funds. This would enable investors to better understand how the fund's commitment to such ESG frameworks is reflected in its portfolios, and gauge how closely the fund is aligned with those ESG frameworks, which would guide investors in their searches to identify funds that better reflect investors' ESG investment objectives.

If an ESG-Focused Fund tracks an index, its prospectus would describe the index and how the index utilizes ESG factors in determining its constituents. The proposed disclosures about the index that the fund tracks would likely benefit investors by providing insights into how the fund allocates capital and by providing an ESG-specific benchmark against which similar funds can be compared. These disclosures could increase competition among ESG-Focused Funds that track an ESG-related index, facilitate efficient capital allocation, and further promote capital formation.

In addition, under the proposed rules, if an ESG-Focused Fund uses an internal methodology or an ESG provider in evaluating, selecting, or excluding investments, it must provide an overview of how it incorporates ESG factors into its process for evaluating, selecting, or excluding investments. This requirement would benefit investors by allowing them to evaluate and monitor how funds use ESG criteria to construct their portfolios, which may be an important factor in some investors' investment decisions and may promote competition among ESG-Focused Funds. Additionally, the proposed rules would enhance the efficiency of capital allocation by enabling investors to identify funds that are better aligned with investors' preferences.

The proposed rules also require an ESG-Focused Fund that engages with issuers to provide qualitatively an overview of how it engages or expects to engage with its portfolio companies on ESG issues, including through the fund's voting of proxies and meetings with management. Shareholder engagement strategies have gained traction lately and many investors now view shareholder engagements as a crucial element in ESG investing.[375] Specific information about funds' voting policies and voting records would likely assist investors in selecting funds and advisers, and enable an investor to effectively monitor funds and advisers in connection with whether they exercise voting rights in a manner aligned with the investor's objectives. This could increase competition among ESG-Focused Funds and further facilitate capital formation in ESG-Focused Funds that engage with issuers.

With respect to Impact Funds, a type of ESG-Focused Fund, the proposed rules would require the fund to describe what impact(s) it seeks to achieve, how it will achieve the impact(s), how the fund measures progress, what key performance indicators are analyzed, what time horizon is used to analyze progress, and the relationship between the impact and financial returns. Investors seeking to achieve specific impacts would find this additional information particularly important because it would allow them to more easily identify and compare funds seeking the same impacts. This would lower investor search costs, which could promote competition among Impact Funds and increase capital formation.

In aggregate, the proposed rule's tailored requirements would allow investors to differentiate between funds for which ESG is a major focus (under the proposed rule, ESG-Focused Funds), other funds for which ESG is one factor among many (under the proposed rule, Integration Funds), and funds that do not consider ESG as part of their investing strategies (non-ESG). This would allow investors to more efficiently select funds that are better aligned with their investment objectives. In addition, by structuring the proposed disclosure to clearly discriminate between funds that incorporate ESG factors to varying degrees, the proposal would reduce the risk that a fund overstates the extent to which it considers ESG factors in its investment process and would provide a more accurate description of the fund's investment processes to investors.

(2) Costs

Integration Funds and ESG-Focused Funds would incur costs to comply with the proposed ESG-disclosures for fund prospectuses. In general, we anticipate that the compliance burden would be relatively lower for Integration Funds and higher for ESG-Focused and Impact Funds, as the latter funds would be subject to more detailed disclosure requirements.[376] Compliance costs would be mitigated to the extent that some funds incorporating ESG factors may already disclose some form of ESG-related information. Further, these costs are ultimately borne by investors as funds are pass-through vehicles.

The proposed rules would require ESG-Focused Funds to disclose more detailed ESG-related information than Integration Funds. In preparing disclosures, attorneys and compliance professionals would review and familiarize themselves with requirements as specified in the proposed rules. Fund managers would review their current investment strategies and practices to gather any information needed for the proposed disclosures. Attorneys would review funds' disclosures to ensure that the disclosures satisfy all requirements of the proposed rules.[377]

Any increase in compliance costs are passed on to investors as funds are pass-through vehicles. Larger funds and funds that are part of larger fund complexes would experience economies of scale in complying with the proposed requirements compared to smaller funds and funds that are part of smaller fund complexes. Therefore, smaller funds and funds that are part of a smaller fund complex may potentially experience a competitive disadvantage relative to larger funds and fund families.

[375] Jonathan B. Berk and Jules H. van Binsbergen, *The Impact of Impact Investing,* Stanford University Graduate School of Business Research Paper, George Mason Law & Economics (Research Paper No. 21–26) (Aug. 21, 2021), *available at https://ssrn.com/abstract=3909166* or *https://dx.doi.org/10.2139/ssrn.3909166.*

[376] For example, we estimate the annual direct costs attributable to information collection requirements in the proposed amendments to the open-end fund prospectus would be $1,319.50 per Integration Fund, while we estimate higher costs for ESG-Focused Funds, $9,084 per ESG-Focused Fund.

[377] Based on the results of the Paperwork Reduction Act (''PRA'') analysis provided for N–1A, it is estimated that the annual direct paperwork cost burdens attributable to information collection requirements in the proposed amendments to the open-end fund prospectus would be approximately $1,319.50 per Integration Fund, and $9,084 per ESG-Focused Fund. We estimate that the proposed amendments to the closed-end fund prospectus in Form N–2 filings would incur the same compliance costs per fund as the proposed amendments to Form N–1A.

Among funds incorporating ESG factors, some funds may already disclose ESG-related information, while other funds may not. Funds that already disclose some form of ESG-related information would incur lower compliance costs compared to the funds that currently do not disclose any ESG-related information. Similarly, among funds that already disclose some form of ESG information, funds whose disclosure elements are similar to the proposed requirements would incur relatively lower compliance costs compared to the funds whose current disclosures are not aligned with the proposal. In this regard, funds that already disclose some form of ESG-related information, and in particular funds whose current disclosures are closely aligned with the proposal, may be at a competitive advantage, relative to funds that currently do not disclose any ESG-related information.

There may be costs associated with emphasizing ESG factors beyond other factors. This could distract investors, and could lead to an overemphasis on ESG investing, detracting from capital formation. Some funds may incur costs in determining which category a fund belongs to, as some may perceive an ambiguity in the proposed definitions or if the fund's current practices or investment strategies do not fit neatly with the proposed types of funds.

The proposed rules may prompt some funds to change their current investment strategies and investment implementation practices. For instance, a fund may determine the disclosure requirements associated with operating as an ESG-Focused Fund under the proposal may be too costly given its current investment practices and strategies. Therefore, it may decide to not have ESG factors as the primary focus of its investment strategy. In this case, such a fund would incur costs in changing its current investment strategy, including adjusting its disclosure and marketing practices to reflect such a change. Due to lack of data, we cannot precisely estimate the magnitude of such potential adjustments. Nonetheless, a fund making these adjustments may incur substantial costs, as the fund would need to carefully review its current investment strategies and processes against the provisions in the proposed rules, identify areas requiring adjustment, and implement those adjustments.

Some ESG funds may currently disclose ESG-related information that would not be required by the proposed rules and amendments. In response to the proposal, some of these funds may decide to disclose only the required information and discontinue their current practices of disclosing any additional information. This may be the case if there are ongoing costs to existing voluntary disclosures that the fund decides to shift toward covering the costs of mandatory disclosures under the proposed rule. If that happens, some investors may be negatively affected to the extent that they are familiar with, relying on, or otherwise prefer any discontinued information. However, even if so, this negative impact would be mitigated by the enhanced consistency and transparency in ESG disclosures and the potential reduction in overstated or exaggerated claims with regard to ESG funds.

(b) ESG Disclosures for Unit Investment Trusts

The proposed rules also contain an amendment to the registration statement requirement for UITs to provide investors with clear information about how portfolios are selected based on ESG factors. The proposed amendment would require any UIT that provides exposures to portfolios that were selected based on one or more ESG factors to explain how those factors were used to select the portfolio securities.[378] In contrast to the amendments that we are proposing for other types of funds, the level of detail required by the proposed amendment for UITs reflects their unmanaged nature.[379] For example, we are not proposing to differentiate disclosure based on whether a UIT's selection process follows an integration model or an ''ESG-Focused'' model as the portfolio is fixed, and these models will not be used for investment selection after the UIT shares are sold.

(1) Benefits

Since investors can review the UIT's portfolio before investing, the proposed amendments would particularly benefit UIT investors by providing ESG-related information at the critical moment of portfolio selection. Given these features of UITs, the proposed amendments would benefit investors by lowering search costs and enabling investors to more effectively and efficiently identify UITs that align with their objectives, thus promoting competition among UITs, efficient allocation of capital, and capital formation by furthering investments in UITs.

(2) Costs

UITs would incur one-time direct compliance costs at inception. These costs would primarily derive from gathering information, and preparing and subjecting to legal review the proposed disclosures. After establishment, there would be no recurring costs during the life of the UIT.[380] Similar to our discussion of compliance costs for other funds in section III.C.2.a, we anticipate that larger UITs or those that are part of a larger fund family would experience economies of scale and that smaller UITs or those that are part of a smaller fund family may experience a competitive disadvantage.

(c) ESG Disclosure for Fund Annual Reports

In addition to the proposed amendments to fund prospectuses, we are proposing several amendments to fund annual reports to provide additional ESG-related information for Impact and ESG-Focused Funds in the MDFP or MD&A section of the annual report as applicable. Specifically, the proposed amendments would require Impact Funds to discuss the fund's progress on achieving its ESG-related impacts in both qualitative and quantitative terms during the reporting period, and the key factors that materially affected the fund's ability to achieve the desired impact.[381] Additionally, funds for which proxy voting is a significant means of implementing their ESG strategy would be required to disclose certain information regarding how the fund voted proxies relating to portfolio securities on ESG issues during the reporting period.[382] Funds for which engagement with issuers on ESG issues

[378] *See* proposed instruction to Item 11 of Form N–8B–2 under the Investment Company Act of 1940 (17 CFR 274.12).

[379] *See supra* footnotes 97–98 and accompanying text (stating that a UIT, by statute, is an unmanaged investment company that invests the money that it raises from investors in a generally fixed portfolio of stocks, bonds, or other securities. Unlike a management company, a UIT does not trade its investment portfolio, and does not have a board of directors, officers, or an investment adviser to render advice during the life of the UIT).

[380] Based on the results of the PRA analysis, the annual direct paperwork cost burdens attributable to information collection requirements in the proposed amendments to the Form N–8B–2 would be approximately $871.50 per UIT. We estimate the proposed amendments to the Form S–6 would incur the same compliance cost of $871.50 per UIT. Note that UITs would bear different costs related to the proposed Inline XBRL requirement than the other funds that would be subject to the requirement, because unlike those other funds, UITs are not currently filing any forms in Inline XBRL. *See infra* section IV.B.

[381] Proposed Item 27(b)(7)(i)(B) of Form N–1A; Proposed Instruction.4.(g)(1)(B) to Item 24 of Form N–2 [17 CFR 274.11a–1].

[382] Proposed Item 27(b)(7)(i)(C) of Form N–1A; Proposed Instruction 4.(g)(1)(C) to Item 24 of Form N–2 [17 CFR 274.11a–1].

through means other than proxy voting is a significant means of implementing their ESG strategy would also be required to disclose certain information about their engagement practices.[383] Finally, the proposal would also require environmentally focused funds to disclose the aggregated GHG emissions of the portfolio.[384]

(1) Disclosure Concerning Impacts, Proxy Voting, and Engagement

(a) Benefits

In addition to the proposed amendments to fund prospectuses, the proposed amendments to fund annual reports provide additional ESG-related information in the MDFP or MD&A section for Impact Funds and ESG-Focused Funds that engage with issuers through proxy voting or other means. We anticipate that these proposed amendments would generate benefits for prospective and current investors. Investors usually review and compare different fund prospectuses before selecting where to invest, meaning that prospectus disclosures particularly benefit investors actively involved in their search processes. In comparison, disclosures in fund annual reports would benefit both current and prospective investors by helping them monitor the ESG-related progress and performance of funds over the reporting year.

In this regard, the proposed amendments would benefit investors in Impact Funds by providing investors quantitative and qualitative information to contextualize and evaluate the fund's progress on achieving its intended impact, in addition to any risk-adjusted financial return. Such information would benefit investors by enhancing their understanding of the fund's actual progress in achieving its impact, as well as increasing transparency into the key factors that materially affected the fund's ability to achieve its impact. To the extent different Impact Funds use the same or similar key performance indicators to measure their progress in achieving a given impact, investors could more easily compare which funds have been more effective at achieving their ESG impact.

In addition, the proposed amendments would require an ESG-Focused Fund for which proxy voting is a significant means of implementing ESG strategy to disclose information about how the fund used proxy voting to accomplish its ESG voting strategy. Specifically, the fund would be required to disclose the percentage of ESG-related voting matters during the reporting period for which the fund voted in furtherance of the initiative. The fund would be permitted to limit the disclosure to voting matters involving ESG factors that the fund incorporates into its investment decisions. Further, the fund would be required to provide a cross reference or hyperlink to the fund's full voting record filed on Form N–PX for investors who are interested in more granular information beyond the top-line percentage disclosed in the fund's annual shareholder report.[385] By providing the information about ESG-related voting matters in annual reports, investors would easily confirm whether the expectations they formed based on the prospectus are met, and assess how funds use proxy voting as a tool to achieve their stated ESG-related objectives. The proposed disclosure concerning proxy voting records could be particularly useful for investors because it would, as a quantitative measure, enhance the comparability across ESG-Focused Funds.

Under the proposed amendments, funds for which engagement with issuers through means other than proxy voting is a significant means of implementing their ESG strategy would be required to disclose the progress on any objectives of such engagement described in their prospectus. Further, such funds would be required to disclose the number or percentage of issuers with whom they held ESG engagement meetings related to one or more ESG issues and the total number of ESG engagement meetings. This type of information is, for the most part, not widely available, even though many investors view shareholder engagement as a crucial element in ESG investing as discussed in section III.C.2.a. Given this circumstance, the proposed disclosure requirements would fill this information gap, and enable investors to evaluate more comprehensively how funds would implement ESG strategies and accomplish their objectives, especially when the most common engagement method is private meetings with issuers, which are often not transparent to investors. Moreover, some regard effective engagements as a driver to enhance operational and financial performance.[386] In this regard, increased transparency about engagement activities and proxy voting would enhance efficiency, promote competition and facilitate capital formation by equipping investors with necessary information to select funds that effectively engage with the issuers.

The proposed fund report disclosure requirements would allow investors to monitor the fund's progress toward stated ESG-related objectives over time easily as well as across competing funds by enhancing transparency and comparability. In this regard, the proposed amendments would promote competition among ESG-Focused Funds. In addition, the proposed disclosures would provide investors information to more efficiently identify funds better aligned with their ESG-related preferences (*e.g.,* funds pursuing the same ESG impacts), which would facilitate capital to be allocated in accordance with investors' ESG-related preference, thus, enhance the efficiency in capital allocation. Furthermore, the increased transparency about how funds achieve their stated ESG-related objectives would bolster capital formation by improving investor confidence in this space, and promote competition among ESG-Focused Funds.

(b) Costs

The proposed amendments to fund annual reports would impose compliance costs on the subjected funds, although those costs will vary depending on the types and features of the particular fund. For example, Impact Funds would incur costs to disclose their progress toward their specific impact goals in both qualitative and quantitative terms. Similarly, funds that engage with issuers through proxy voting or other means would disclose detailed information such as how the fund voted on ESG issues and total number of engagement meetings on particular ESG-related matters. To meet these requirements, funds would need to gather their records on these issues, review and evaluate them in accordance with their stated goals or key performance indicators, and prepare disclosures in the report.[387] Through these processes, a fund may more closely track and monitor its progress

[383] Proposed Item 27(b)(7)(i)(E) of Form N–1A; Proposed Instruction 4.(g)(1)(D) to Item 24 of Form N–2 [17 CFR 274.11a–1].

[384] Proposed Item 27(b)(7)(i)(E) of Form N–1A; Proposed Instruction.4.(g)(1)(E) to Item 24 of Form N–2 [17 CFR 274.11a–1].

[385] The requirement to refer investors to the fund's full voting record filed on Form N–PX would not apply to BDCs because they do not file reports on Form N–PX.

[386] *See* ShareAction, *supra* footnote 295.

[387] Based on the results of the PRA analysis, the annual direct paperwork cost burdens attributable to information collection requirements in the proposed amendments to the fund shareholder reports would be approximately $5,724 per fund for disclosure requirements related to Impact Funds. This is the same amount required for disclosure related to ESG voting matters and engagements.

over time. Some or all of the associated compliance costs may ultimately be passed on to investors through potentially higher expenses or fees.

Under the proposal, certain ESG-Focused Funds would disclose their progress toward their stated impact goals and their records about proxy voting and engagements with issuers. These proposed requirements may incentivize funds to select impact goals that could easily produce more measurable progress in the near future or focus more on frequent meetings with portfolio companies instead of producing successful outcomes from the engagements. Furthermore, the proposed requirements for engagements may be more challenging for small funds if they do not have the right expertise and resources and if they do not usually gain traction with portfolio companies on their own, as suggested by one study.[388] If so, those funds may be competitively disadvantaged compared to their peers with more resources or expertise.

(2) GHG Metrics Disclosures

(a) Benefits

The proposed rules would also require environmentally focused funds to disclose GHG metrics—specifically, their carbon footprint and the WACI of their portfolio in the MDFP or MD&A section of the fund's annual report as applicable—unless the fund affirmatively states that it does not consider issuers' GHG emissions as part of its investment strategy.[389]

As mentioned previously, one report notes that ''climate change/carbon'' was by a wide margin the largest asset-weighted ESG criterion among fund managers, with $4.18 trillion in assets as of 2020.[390] However, in the current voluntary regulatory environment, financed GHG emissions disclosures by funds are inconsistently reported. For example, as discussed above, surveys of financed emission disclosures commonly report only a portion of a fund's portfolio.[391]

Given this baseline, reporting transparent and consistent quantitative metrics would provide more meaningful information to investors interested in environmentally focused funds that consider issuers' GHG emissions as part of their investment strategy.[392] In particular, the proposed GHG metrics would help investors interested in identifying and investing in environmentally focused funds to compare such funds based on quantitative information about the fund's portfolio emissions where the fund considers GHG emissions as part of its investment strategy. In addition, the proposed GHG metrics would address greenwashing concerns by providing a quantitative measure for comparing such funds, limiting the ability for some funds to exaggerate their practices for evaluating GHG metrics or the extent to which they take into account GHG emissions.

The proposed rules would require environmentally focused funds to disclose two GHG metrics, both of which are measured at the portfolio level, and thus make it easier for investors to compare and rank different funds. By requiring two GHG metrics instead of one, the needs of different investors would be better met as each metric is developed for slightly different purposes. Specifically, the portfolio carbon footprint metric would provide more critical information when investors determine where to invest in order to make impacts on emissions as it provides the information about the number of tons of CO_2e per million dollars invested in the fund. This metric would also be useful for investors who are more interested in the total size of a fund's financed emissions, as it can be easily converted to absolute total carbon emissions by multiplying by the total size of the fund. Conversely, the WACI could be more useful for investors who are interested in a portfolio's exposure to carbon-intensive companies, so investors could easily identify funds that invest in more carbon efficient companies.

We propose to cover a wide range of asset classes including derivatives in calculating GHG metrics. By including various types of assets including derivatives in GHG metrics, the proposal would reduce the incentive to invest in one asset class over another depending on the inclusion or exclusion of a particular asset class in GHG metrics. Otherwise, it may incentivize funds to hold equity exposure as derivative positions for high emission issuers to avoid disclosing the associated emissions, and thus affect capital allocations. Moreover, investors attempting to understand the climate-related risks and opportunities of their portfolio would need information on GHG emissions for derivatives too, since derivatives can inherit the risk profile of the underlying security. Moreover, as described in Section III.C.1, some investors may incur a non-pecuniary cost to holding non-ESG investments. As such, information about derivatives positions would allow them to better ascertain where their portfolio concurs with their values.

In addition to the above metrics, an environmentally focused fund would also be required to disclose the financed Scope 3 emissions of its portfolio companies, to the extent that Scope 3 emissions data are reported by the fund's portfolio companies.[393] Scope 3 emissions would be disclosed separately for each industry sector in which the fund invests, and would be calculated using the carbon footprint methodology discussed above.[394] Scope 3 emissions represent the largest portion of companies' emissions, in some cases, up to 99 percent of total emissions of the company.[395] In addition, portfolio

[388] *See* KPMG, *supra* footnote 293. Some fund managers express their concern that adopting best practices especially around shareholder engagements could be expensive. Some fund managers, however, may also suggest that small or mid-sized fund managers could address this challenge by collaborating with other asset managers through organizations and initiatives such as Climate Action 100+.

[389] *See* Proposed Item 27(b)(7)(i)(E) of Form N–1A (and related instructions); see also Proposed Instruction.4.(g)(1)(E) to Item 24 of Form N–2. This proposed requirement would apply to ESG-Focused Funds that indicate that they consider environmental factors in response to Item C.3(j)(ii) on Form N–CEN (or, for BDCs, that would indicate that they consider environmental factors in response to that item if they were required to file Form N–CEN). *See supra* footnote 123 (with accompanying text) (discussing the proposed GHG emissions reporting requirements for environmentally focused funds). Carbon footprint is the total carbon emissions associated with the fund's portfolio, divided by the fund's market net asset value and expressed in tons of CO_2e per million dollars invested in the fund, while WACI is the fund's exposure to carbon-intensive companies, expressed in tons of CO_2e per million dollars of the portfolio company's total revenue.

[390] *See* US SIF, *supra* footnote 256.

[391] *See* CDP Report, *supra* footnote 119. *See also* PCAF, *supra* footnote 318.

[392] As discussed in section II.A.3.d, among environmentally focused funds, only certain funds would be required to disclose GHG metrics of their portfolio in the MDFP section of the fund's annual report to shareholders. If a fund affirmatively states that it does not consider issuers' GHG emissions as part of its investment strategy, the fund would not be required to disclose GHG metrics. Hereafter, the funds subject to the proposed rules are referred to as certain environmentally focused funds.

[393] *See* proposed Instruction 1(d)(x) of Item 27(b)(7)(i)(E) of Form N–1A; proposed Instruction 1(d)(x) of Item 24.4.g.(2)(B) of Form N–2.

[394] Funds would not be required to disclose their financed Scope 3 emissions using the WACI methodology.

[395] *See* Stanford Sustainable Finance Initiative Precourt Institute for Energy, Scope 3 Emissions: Measurement and Management, Apr. 2021. *See also* Science Based Targets, Value change in the Value Chain: Best Practices in Scope 3 Greenhouse Gas Management (Nov. 2018). On average the Scope 3 emissions are 5.5 times the amount of combined Scope 1 and Scope 2 emissions. *See* BSR, *Climate Action in the Value Chain: Reducing Scope 3 Emissions and Achieving Science-Based Targets* (2020), *available at https://www.bsr.org/en/our-insights/report-view/scope-3-emissions-science-based-targets-climate-action-value-chain.* On average, more than 75% of an industry sector's carbon footprint is attributed to Scope 3 sources. *See* Carlo Funk, *Carbon Footprinting: An Investor*

companies can organize their business activities in such a way that reduces Scope 1 and 2 emissions without reducing total emissions by increasing Scope 3 emissions instead.[396] Therefore, the information about Scope 3 emissions could provide investors with a more complete picture of total emissions associated with the portfolio. However, Scope 3 emissions data are not widely available and are less consistent.[397] The methodologies to capture Scope 3 emissions accurately are still evolving.[398] Moreover, Scope 3 metrics would overcount the emissions due to the fund. Therefore, disclosing Scope 3 emissions separately from Scope 1 and 2 emissions would provide investors with more reliable information without compromising its quality, while providing investors with the flexibility to factor in Scope 3 emissions, if relevant, in their investment decisions. Furthermore, by separately disclosing Scope 3 emissions, other measurements are free from the concern of over-counting. Because the comparability, coverage, and reliability of Scope 3 data varies greatly per sector,[399] disclosing Scope 3 emissions by industry sector would allow investors to put Scope 3 data into proper context, and thus better understand the meaning of the data.

The benefits discussed above are based on the current climate disclosure regime as compared to the proposed disclosure framework. To the extent that more corporate issuers disclose emissions in their regulatory filings with the Commission, the benefits to investors would be enhanced as funds would be able to base their disclosures on comprehensive and reliable data provided by corporate issuers.[400] As discussed in section III.B.2, currently, almost 90% of the holdings of environmentally focused funds are in public equity or debt. Yet, the information about carbon emissions of public issuers is not evenly available across industries and size of issuers.[401]

(b) Costs

As discussed above, the subset of environmentally focused funds that consider emissions or climate-related factors would be subject to the proposed GHG metric requirements. Due to this limited scope, the aggregate compliance costs associated with the proposed GHG metrics requirements would not be substantial. However, at the fund level, funds that are subject to the proposed requirements would incur non-negligible compliance costs. Some compliance costs would be one-time costs, while others would be on-going costs. For funds subject to the proposed GHG metrics requirements, attorneys and compliance professionals would conduct legal reviews of the proposed requirements and their current practices to identify areas for changes, which would be largely one-time costs.

Funds subject to the proposed GHG metrics requirements may invest in companies that publicly disclose GHG emissions as well as companies that do not publicly disclose emissions. As discussed in section III.B.5, currently, some companies publicly disclose GHG emissions but the availability of this information varies by industry and the size of the company.[402] For instance, the share of larger companies that publicly disclose GHG emissions is, on average, higher than the share of smaller companies disclosing emissions. For those companies that publicly disclose GHG emissions under the current regulatory regime, some disclose the information through regulatory filings with the Commission, while many others publish it in sustainability reports or on the company's website. Thus, funds would be required to review various sources to gather GHG emissions of portfolio companies.[403] For those companies that do not publicly provide the information about GHG emissions, funds would be required to make a good-faith estimation of Scope 1 and Scope 2 emissions. Obtaining, gathering, and estimating emissions data of portfolio companies would be an essential component of costs that funds subject to this proposal would incur.[404] Some fund managers would internally conduct these activities to obtain or estimate input emissions data, while others would base their estimates on inputs from ESG providers. Some would employ both, depending on existing resources and capabilities.

Some financial institutions including asset managers may already rely on ESG providers for external support. For instance, a multinational financial institution reported that it relies on third-parties for data acquisition and expert analysis to produce its climate-related disclosures that are aligned with various voluntary frameworks, such as the TCFD.[405] Among financial institutions that already disclose financed emissions, approximately two thirds (67 percent) reported that they spent less than $20,000 per year as external costs to measure financed emissions.[406] If an institution already

Toolkit, State Street Global Advisors (Sept. 2020). For example, for Lego and Walmart, Scope 3 emissions constitute 75% and 90%, respectively, of total emissions. Herbie Huang, Shrikanth Narayanan, and Jayashankar M. Swaminathan, *See also Carrot or Stick? Supplier Diversity and Its Impact on Carbon Emission Reduction Strategies* (Working Paper) (2020), *available at https://papers.ssrn.com/sol3/papers.cfm?abstractid=3559770*). For another company, Scope 3 emissions account for 97% of total emissions in 2017. *See* BHP, *Addressing Greenhouse Gas Emissions Beyond Our Operations: Understanding the 'Scope 3' Footprint of Our Value Chain* (Aug. 2018).

396 Business entities can push their carbon emissions to other parts of supply chain. *See* Scope 3 Emissions: Measurement and Management, Stanford Sustainable Finance Initiative Precourt Institute for Energy, (Apr. 2021). *See* also *see* Science Based Target, *Value Change in the Value Chain: Best Practices in Scope 3 Greenhouse Gas Management* (Nov. 2018). In its example, a company that outsources much of its manufacturing has a lot higher Scope 3 emissions than its competing peer that less relies on outsourcing. Another study suggests a negative correlation between Scope 1 (or 2) emissions and Scope 3 emissions. *See* Xi Chen, Saif Benjaafar, and Adel Elomri, *On the Effectiveness of Emission Penalties in Decentralized Supply Chains,* 274 (3) European Journal of Operational Research 1155–1167 (2019).

397 *See* section III.B.5 (for more details). *See also supra* footnotes 145 and 146.

398 *See* Stanford Sustainable Finance Initiative Precourt Institute for Energy, Scope 3 Emissions: Measurement and Management (Apr. 2021). *See also* Science Based Targets, *Value Change in the Value Chain: Best practices in Scope 3 Greenhouse Gas Management* (Nov. 2018).

399 *See* Partnership for Carbon Accounting Financials, *The Global GHG Accounting & Reporting Standard for the Financial Industry* (Nov. 18, 2020).

400 For example, if the proposed Climate Disclosure Rule were to be adopted as proposed, corporate issuers would be required to disclose certain GHG emissions metrics in their regulatory filings with the Commission. Such information could then be used by environmentally focused funds to calculate their GHG emission metrics under this proposal, if the proposal is adopted as proposed.

401 *See* section III.B.5.

402 *See also* ICI comment letter and Morningstar comment letter.

403 Another regulator also identified that obtaining and gathering input data would be a key incremental cost in its cost benefit analysis of a proposed rule concerning climate-related disclosures by asset managers. *See* FCA Consultation Paper, *supra* footnote 134.

404 *Id.* This is consistent with another regulator's (the FCA) assessment in analyzing costs and benefits of its regulations concerning climate-related disclosure by asset managers.

405 As described in a case study, this unidentified financial institution is a multinational large cap financial institution based in Europe. Although it relies on services from third parties, it does not provide the information about costs associated with obtaining services from third-parties. This financial institution reports climate-related information in its Universal Registration Documents (URD), Integrated Report, and TCFD Report. *See* Lee Reiners and Karen E. Torrent, *The Costs of Climate Disclosure: Three Case Studies on the Cost of Voluntary Climate-Related Disclosures, A Report of the Climate Risk Disclosure Lab at Duke Law's Global Financial Markets Center* (Dec. 2021), *available at https://climatedisclosurelab.duke.edu/wp-content/uploads/2021/12/The-Cost-of-Climate-Disclosure.pdf.*

406 Other responses include $20,000 to $50,000 (6 percent), $50,000 to $100,000 (11 percent), $100,000 to $200,000 (6 percent), more than $200,000 (11 percent). *See* PCAF Costs and Efforts of GHG Accounting for Financial Institutions (Dec.

Continued

utilizes external services to disclose GHG metrics, the incremental costs associated with obtaining additional external services to comply with the proposed requirements would be lower. Furthermore, since the above costs for external data providers are reported at the institution level, corresponding costs borne by a fund would be a fraction of these reported costs. Because emissions data are currently not located in one place, some institutions may elect to subscribe to data services, instead of expending internal resources, to gather portfolio companies' public emissions data.[407] In addition, some may elect to hire external experts to complement their internal expertise or while they develop certain capabilities.[408]

Instead of or in combination with obtaining services from external ESG providers, some funds may reallocate internal staff resources or hire new staff in response to the proposed GHG metrics requirements. According to a survey of financial institutions that already disclose financed emissions, a majority (56 percent) of financial institutions reported that their employees spent 50 to 100 days to measure financed emissions.[409] These staff hours were reported at the institution level, thus the burden at the fund level would be lower. The increased staff hours could be devoted to various activities such as sourcing emission data, conducting analyses, and preparing disclosures. Many of these activities would occur on an ongoing basis, not just one-time, to comply with the proposal. However, once appropriate compliance systems and structures are established in the first year, many of these activities could be accomplished with fewer resources in the following years, and thus, funds would incur slightly lower compliance costs for the following years. In sum, funds subject to the proposal would incur higher compliance costs to calculate and disclose required GHG metrics. To the extent that funds would incur costs to comply with this proposal, larger fund families would likely experience economies of scale in complying with the proposed requirements compared to smaller fund families. The increased costs could ultimately be passed on to investors, to some degree, in certain environmentally focused funds in the form of higher expenses or fees.

To the extent that some funds already calculate GHG metrics at the portfolio level and disclose them, high compliance costs could be mitigated. As discussed above, some funds voluntarily adhere to third-party frameworks and are currently publicly disclosing GHG metrics. Such funds may be familiar with the two proposed GHG metrics as they are generally consistent with the standards developed by the PCAF (a measure similar to portfolio carbon footprint) and the TCFD (WACI). In addition, some multinational asset managers may disclose GHG metrics of funds they offer to clients in pursuant to other regulator's requirements.[410] Accordingly, to the extent the GHG metric disclosures overlap, such funds would likely incur lower compliance costs attributable to the proposed GHG metrics requirement than other funds. For instance, a large multinational financial institution indicated that the costs to produce its first TCFD climate-related disclosure report did not exceed $100,000 at the institution level.[411] The same financial institution reported that as a large institution that adheres to multiple frameworks, the costs to produce climate-related disclosures range between $250,000 and $500,000.[412] However, for this particular financial institution, the annual cost, as a percentage of revenue, to produce voluntary climate disclosures is less than one tenth of one percent.[413] The costs referenced above are not directly applicable in assessing the compliance costs associated with these proposed GHG metrics requirements because this proposal's scope and requirements are more narrowly tailored to certain funds with a climate related focus and also because the proposed requirements are applied at the fund level, not at the institution level. Similar to this financial institution, some U.S. asset managers adhere to third-party frameworks and issue voluntary climate reports including GHG metrics of portfolios that they manage.[414] These asset managers, and the funds managed by these asset managers, would incur lower incremental costs to comply with this proposal. In this regard, asset managers currently disclosing GHG metrics in accordance with a third-party framework may have a competitive advantage over other asset managers.

Separate from the increased compliance costs, if many environmentally focused funds rely on estimations due to the lack of publicly available emissions data, some investors may consider GHG metrics of such funds less reliable and may potentially invest less in environmentally focused funds.[415] As discussed above, some asset managers rely on information provided by ESG providers. However, one report suggests that ESG providers often focus on large-cap companies, thus providing a limited coverage for

21, 2021). The PCAF Secretariat has conducted a brief survey among financial institutions that had already completed at least one full disclosure cycle. A total of 18 PCAF signatories responded to this survey. A majority of respondents were banks (72 percent) with a small representation (11 percent) from asset managers. *See* Partnership for Carbon Accounting Financials comment letter.

[407] Another regulator, FCA, estimated that a large asset manager would appoint 4 full-time employees, while a medium asset manager would appoint 2.5 full-time employees for various activities (including sourcing relevant data). This estimate, however, would not be directly comparable in this analysis, because the UK's regulations about climate-related disclosures by assets managers are generally broader than this proposal. Additionally, the estimated burden hours are measured at the institutional level, meaning the estimated burden hours at the fund level would be smaller. *See* FCA Consultation Paper, *supra* footnote 134.

[408] Another regulator, FCA, estimated that an asset manager would incur an average subscription to third-party climate related data service of £217,000 on an annual basis. Since the UK's regulations on asset managers would be different in various aspects, this estimate would not be directly applicable in this analysis.

[409] Other responses include less than 50 days (17 percent), 100 to 200 days (6 percent), 200 to 400 days (17 percent), more than 400 days (11 percent). *See PCAF Costs and Efforts of GHG Accounting for Financial Institutions* (Dec. 21, 2021).

[410] For instance, in Dec. 2021, the FCA introduced new rules and guidance for asset managers and certain FCA-regulated asset owners to make mandatory disclosures consistent with the TCFD's recommendations on an annual basis at the entity level and at the portfolio level. In particular, mandatory disclosures at the portfolio level include a core set of climate-related metrics. *See* FCA, *PS21/24: Enhancing Climate-Related Disclosures by Asset Managers, Life Insurers and FCA-regulated Pension Providers* (updated Dec. 17, 2021), *available at https://www.fca.org.uk/publications/policy-statements/ps-21-24-climate-related-disclosures-asset-managers-life-insurers-regulated-pensions.*

[411] *See The Costs of Climate Disclosure: Three Case Studies on the Cost of Voluntary Climate-Related Disclosures,* Duke Law School: Global Financial Markets Center (Dec. 2021).

[412] This financial institution reports climate-related information in its Universal Registration Documents (URD), Integrated Report, and TCFD Report. It adheres to SASB standards as well as TCFD recommendations.

[413] *See* The Costs of Climate Disclosure: Three Case Studies on the Cost of Voluntary Climate-Related Disclosures, *Duke Law School: Global Financial Markets Center* (Dec. 2021).

[414] *See* section III.B.5 (for detailed discussion).

[415] There are some research about the relationship between assurance on disclosed information and investment decisions. Professional investors attribute increased credibility to assured sustainability disclosures, which eventually lead to favorable investment decisions such as investing themselves in the company or recommending the purchase of shares to their clients. *See* Reiner Quick and Petra Inwinkl, *Assurance on CSR Reports: Impact on the Credibility Perceptions of Non-Financial Information by Bank Directors,* 28(5) Meditari Accountancy Research 833–862 (2020); see also Daniel Reimsbach, Rudiger Hahn, Anil Gürtürk, *Integrated Reporting and Assurance of Sustainability Information: An Experimental Study on Professional Investors' Information Processing,* 27(3) European Accounting Review 559–581 (2017).

the carbon footprint.[416] In particular, the absolute availability of Scope 1 emissions (percent of firms) in the U.S. was 10.8 percent.[417] This limitation in the data may inadvertently limit the investment options in constructing portfolios and lead to overrepresentation of certain types of companies in portfolios. Thus, this could result in less reliable and less representative emission metrics. Therefore, fund managers may need to take extra steps to ensure that GHG metrics are reliable and consistent with good-faith estimations.[418] To do so, fund managers may need to ensure that they rely on information from data services with adequate coverage per asset class, sound methodologies to estimate missing values, and quality assurance.[419] Otherwise, this may direct capital to certain types of companies, which may lead to less efficient capital allocations.

Under the proposal, a wide range of asset classes including derivatives would be included in calculating GHG metrics. We understand funds may incur some costs to calculate the values of the derivatives to comply with this proposed requirement. However, we also understand ESG funds currently hold relatively small derivatives positions.[420] Therefore, we anticipate costs associated with incorporating derivatives in GHG metrics would not be substantial.

An environmentally focused fund would also be required to disclose the financed Scope 3 emissions of its portfolio companies, to the extent that Scope 3 emissions data is reported by the fund's portfolio companies.[421] The proposal would also require funds to use Scope 3 emissions that are reported by a portfolio company in the company's most recently filed regulatory report, if available. In the absence of reported Scope 3 emissions data from a portfolio company in a regulatory report, the fund would be required to use Scope 3 emissions information that is otherwise publicly provided by the portfolio company, such as a publicly available sustainability report published by the company. By requiring funds to disclose Scope 3 emissions only to the extent that Scope 3 emissions data are publicly available, funds would not have to estimate Scope 3 emissions of portfolio companies. Therefore, the compliance burden associated with this requirement would be somewhat alleviated. Otherwise, the compliance costs could be higher because most Scope 3 emissions data would be estimated and also funds may need to take extra steps to ensure the quality of Scope 3 estimates. In addition, funds would be required to disclose Scope 3 emissions using a portfolio carbon footprint metric alone, not the WACI, thus the compliance costs would be relatively contained while still providing useful information to investors.

While certain environmentally focused funds would be required to calculate and disclose GHG metrics, funds promoting social or governance related goals would not be required to provide these quantified metrics. As a result, compliance costs for S- or G-focused funds would be substantially lower than E-focused funds. To the extent that investors view S- and G-focused funds as substitutes for E-focused funds, the proposal may create a competitive disadvantage for the latter and comparatively disfavor growth in those funds. Similarly, the proposed rules may lead to the growth of the private funds over registered funds, as the proposed rules do not require environmentally focused private funds to calculate and disclose GHG metrics. In this regard, the proposed rules may affect capital allocations among E-, S- and G-focused funds and also capital allocation between registered funds and private funds within E-focused funds. However, some private funds have committed to voluntarily reporting GHG emissions of underlying portfolio companies.[422] Therefore, to the extent that private funds report GHG emissions and other ESG-related data, concerns that the proposed requirements on registered funds may potentially direct more capital toward private funds and thus favor more growth in private funds, would be mitigated.

By requiring certain metrics over other ones available in the market, the proposed rules may influence current voluntary industry practices and dissuade the industry from using or developing alternative metrics, and thus may discourage innovations in this area. While according to an international survey,[423] the WACI was the most commonly disclosed metric, there are other metrics voluntarily disclosed by some financial institutions.[424] However, we understand that the proposed GHG metrics have been gaining a wide acceptance in many market participants and third-party ESG frameworks have been coalescing around them.[425] In this regard, we do not anticipate this choice of metrics to disrupt current market trends. Instead, it may solidify the existing trend toward reporting the two required metrics. Further, many common alternative metrics (*e.g.* carbon intensity) are simple variations of the two required metrics (*e.g.* portfolio carbon footprint) that would involve little additional data collection or effort to report. Nonetheless, under the proposal, funds currently providing the required metrics may have a slight competitive advantage over funds currently providing alternative metrics.

If more corporate issuers publicly disclose their emissions, it would reduce the compliance costs of this

[416] *See* Int'l Platform on Sustainable Fin., *supra* footnote 307.

[417] *Id.*

[418] Companies report their global GHG emissions to the CDP. Companies are further encouraged to report their global GHG emissions broken down into five sub-categories, (i) Activities, (ii) Business Units, (iii) Facilities, (iv) GHG types and (v) Regions. One study examined these voluntary disclosures to the CDP. According to this study, if companies follow the Precautionary Principle ('If in doubt, err on the side of the planet not on the side of the company') thus act ''in good faith,'' global GHG emissions would be larger than the sum of breakdowns. This study estimated the percentage of companies that violate a ''good-faith'' estimation principle (*i.e.* global GHG emissions are smaller than the sum of breakdowns). In 2019, 16.7 percent of companies failed to meet this test (*i.e.* reported global emissions are smaller than the sum of breakdowns), suggesting that companies did not act in good faith. It is worth noting that this study examined the corporate issuers' disclosures. Therefore, the findings of this study may not be applicable to funds' disclosures. *See* Sergio Garcia Vega, Andreas G. F. Hoepner, Joeri Rogelj, and Frank Schiemann, *Carbon Disclosure Quality: Oil & Gas,* UCD Michael Smurfit Graduate Business School (Nov. 2021).

[419] *See* NGFS, *Progress Report on Bridging Data Gap* (May 2021), *available at https://www.ngfs.net/sites/default/files/medias/documents/progress_report_on_bridging_data_gaps.pdf, supra* footnote 343.

[420] We analyzed data from form N–PORT to better understand asset holdings of funds with names containing ''Sustainable,'' ''Responsible,'' ''ESG,'' ''Climate,'' ''Carbon,'' or ''Green'' as of Sept. 2021. According to this analysis, less than 1% of holdings are in derivative securities. Note that the data used in this analysis may undercount or over-count funds incorporating ESG factors in their investment strategies. For instance, some mutual funds and ETFs may not have fund names containing these ESG-related terms, although they incorporate on ESG factors in their investment strategies. In this respect, this estimate may undercount the number of funds with ESG strategies. Some funds with names containing ESG terms, however, may consider ESG factors along with many other factors in their investment decisions. In this respect, this estimate may then over-count the number of funds with ESG strategies.

[421] *See* proposed Instruction 1(d)(x) of Item 27(b)(7)(i)(E) of Form N–1A; proposed Instruction 1(d)(x) of Item 24.4.g.(2)(B) of Form N–2.

[422] *See* section III.B.2 (for more detailed discussion).

[423] *See* CDP Report, *supra* footnote 119.

[424] In an international survey of financial institutions, the metric most commonly disclosed by asset managers was the WACI (12%), followed by exposure to carbon-related assets, carbon intensity, other, and (Portfolio) carbon footprint, in descending order. *Id.*

[425] *See* discussion in section III.B.5.

proposal.[426] Moreover, the data disclosed by corporate issuers through regulatory filings would be higher quality and more reliable. In addition, fund managers would be able to obtain most of the emissions data from one location through regulatory filings, thus reducing the time and resources used for collecting such data. As a result, if more corporate issuers disclose their emissions through regulatory filings with the SEC, fund managers would incur lower costs to obtain, process, and analyze the emissions data underlying such investments. In this regard, the costs for funds (and to their investors and clients, to the extent that such costs are passed down) to produce the proposed GHG metrics would be reduced to the extent that underlying emissions data would be more comprehensive, easier to obtain, better prepared for use, and easily verifiable.

Under the current regulatory regime, funds need to collect and compile underlying data themselves or rely on services from ESG providers.[427] Therefore, smaller funds with fewer resources may be at a competitive disadvantage to larger funds with more resources. However, if more corporate issuers disclose their emissions through regulatory filings, it may enhance the competitiveness of smaller funds relatively more than larger funds.[428]

(d) Inline XBRL

(1) Benefits

The additional provision requiring Inline XBRL tagging of the new ESG disclosures in fund registration statements (filed on Forms N–1A, N–2, N–8B–2, and S–6) and in fund annual reports (filed on Form N–CSR or Form 10–K) would benefit investors by making the disclosures more readily available for aggregation, comparison, filtering, and other analysis, thus increasing transparency. XBRL requirements for public operating company financial statement disclosures have been observed to reduce information processing and agency costs, thus increasing transparency by infusing more company-specific information into the investment markets.[429] Investors with access to XBRL analysis software may directly benefit from the availability of the fund ESG disclosures in Inline XBRL, whereas other investors may indirectly benefit from the processing of Inline XBRL disclosures by information intermediaries such as financial analysts.[430] In that regard, XBRL requirements for public operating company financial statement disclosures have been observed to increase the number of companies followed by analysts, decrease analyst forecast dispersion, and, in some cases, improve analyst forecast accuracy.[431] Should similar impacts on the informational environment of analysts arise from fund ESG disclosure tagging requirements, this would likely enhance the informational environment of fund investors (both retail and institutional) as well, because there is evidence that fund investors are influenced by analysts' assessments of funds, including their sustainability ratings.[432]

While the observations related to Inline XBRL tagging cited above are specific to operating company financial statement disclosures (including both quantitative and qualitative disclosures in face financial statements and footnotes), and not to non-financial statement disclosures from investment companies such as the proposed fund ESG disclosures, they indicate that the proposed Inline XBRL requirements could directly or indirectly provide investors with increased insight into ESG-related information (such as strategies, proxy voting policies, GHG metrics, et al.) at specific funds and across funds, asset managers, and time periods.

(2) Costs

With respect to the Inline XBRL tagging requirements under the proposed amendments, these

[426] For example, if the Climate Disclosure Proposing Release were to be adopted as proposed, corporate issuers would be required to disclose certain GHG emissions metrics in their regulatory filings with the Commission. Such information could then be used by environmentally focused funds to calculate their GHG emission metrics under this proposal, if the proposal is adopted as proposed.

[427] *See supra* section III.B.5.e (for more detailed discussion).

[428] *See supra* section III.B.5.b.

[429] *See, e.g.,* Yu Cong, Jia Hao, and Lin Zou, *The Impact of XBRL Reporting on Market Efficiency,* 28 J. Info. Sys. 181 (2014) (finding support for the hypothesis that ''XBRL reporting facilitates the generation and infusion of idiosyncratic information into the market and thus improves market efficiency''); Yuyun Huang, Jerry T. Parwada, Yuan G. Shan, and Joey Yang, *Insider Profitability and Public Information: Evidence From the XBRL Mandate* (Working Paper) (2019) (finding XBRL adoption levels the informational playing field between insiders and non-insiders); Patrick A. Griffin, Hyun A. Hong, Joo-Baek Kim, and Jee-Hae Lim, The SEC's XBRL Mandate and Credit Risk: Evidence on a Link between Credit Default Swap Pricing and XBRL Disclosure, 2014 American Accounting Association Annual Meeting (2014) (finding XBRL reporting enables better outside monitoring of firms by creditors, thus leading to a reduction in firm default risk), Jeff Zeyun Chen, Hyun A. Hong, Jeong-Bon, and Kim Ji Woo Ryou, *Information Processing Costs and Corporate Tax Avoidance: Evidence from the SEC's XBRL Mandate* 40 J. Account. Pub. Pol. 2 (2021); (finding XBRL reporting decreases likelihood of firm tax avoidance because ''XBRL reporting reduces the cost of IRS monitoring in terms of information processing, which dampens managerial incentives to engage in tax avoidance behavior''); Jap Efendi, Jin Dong Park, and Chandra Subramaniam, *Does the XBRL Reporting Format Provide Incremental Information Value? A Study Using XBRL Disclosures During the Voluntary Filing Program,* 52 Abacus 259 (2016) (finding XBRL filings have larger relative informational value than HTML filings); Jacqueline L. Birt, Kala Muthusamy, Poonam Bir, *XBRL and the Qualitative Characteristics of Useful Financial Information,* 30 Account. Res. J. 107 (2017) (finding ''financial information presented with XBRL tagging is significantly more relevant, understandable and comparable to non-professional investors''); Steven F. Cahan, Seokjoo Chang, Wei Z. Siqueira, Kinsun Tam, *The Roles of XBRL and Processed XBRL in 10–K Readability,* J. Bus. Fin. Account (2021) (finding 10–K file size reduces readability before XBRL's adoption since 2012, but increases readability after XBRL adoption, indicating ''more XBRL data improves users' understanding of the financial statements'').

[430] Other information intermediaries that have used XBRL disclosures may include financial media, data aggregators and academic researchers. *See, e.g.,* N. Trentmann, *Companies Adjust Earnings for Covid–19 Costs, But Are They Still a One-Time Expense?,* The Wall Street Journal (2020) (citing XBRL research software provider Calcbench as research source); *Bloomberg Lists BSE XBRL Data, XBRL.org* (2018); Rani Hoitash and Udi Hoitash, *Measuring Accounting Reporting Complexity with XBRL,* 93 Account. Rev. 259–287 (2018).

[431] *See, e.g.,* Andrew J. Felo, Joung W. Kim, and Jeehae Lim, *Can XBRL Detailed Tagging of Footnotes Improve Financial Analysts' Information Environment?* 28 Int'l J. Account. Info. Sys. 45 (2018); Yuyun Huang, Yuan G. Shan, and Joey W. Yang, *Information Processing Costs and Stock Price Informativeness: Evidence from the XBRL Mandate,* 46 Aust. J. Mgmt. 110–131 (2020) (finding ''a significant increase of analyst forecast accuracy post-XBRL''); Marcus Kirk, James Vincent, and Devin Williams, *From Print to Practice: XBRL Extension Use and Analyst Forecast Properties* (Working Paper) (2016) (finding ''the general trend in forecast accuracy post-XBRL adoption is positive''); Chunhui Liu, Tawei Wang, and Lee J. Yao, *XBRL's Impact on Analyst Forecast Behavior: An Empirical Study,* 33 J. Account. Pub. Pol. 69–82 (2014) (finding ''mandatory XBRL adoption has led to a significant improvement in both the quantity and quality of information, as measured by analyst following and forecast accuracy''). *But see* Sherwood L. Lambert, Kevin Krieger, and Nathan Mauck, *Analysts' Forecasts timeliness and Accuracy Post-XBRL,* 27 Int'l. J. Account. Info. Mgmt. 151–188 (2019) (finding significant increases in frequency and speed of analyst forecast announcements, but no significant increase in analyst forecast accuracy post-XBRL).

[432] *See supra* footnote 282 (and accompanying text). Similarly, retail investors in operating companies have generally been observed to rely on analysts' interpretation of company disclosures rather than reading the disclosures themselves. *See, e.g.,* Alastair Lawrence, James P. Ryans, and Estelle Y. Sun, *Investor Demand for Sell-Side Research,* 92 Account. Rev. 123–149 (2017) (finding the ''average retail investor appears to rely on analysts to interpret financial reporting information rather than read the actual filing''); Daniel Bradley, Jonathan Clarke, Suzanne Lee, and Chayawat Ornthanalai, *Are Analysts' Recommendations Informative? Intraday Evidence on the Impact of Time Stamp Delays,* 69 J. Fin. 645–673 (2014) (concluding ''analyst recommendation revisions are the most important and influential information disclosure channel examined'').

requirements would result in additional compliance costs for funds that hold themselves out as implementing ESG strategies and marketing themselves to investors or clients as such, because such funds will be required to tag and review the newly required ESG disclosures in registration statements and annual reports before filing them with the Commission.[433] Various XBRL and Inline XBRL preparation solutions have been developed and used by operating companies and investment companies to fulfill their structuring requirements, and some evidence suggests that, for smaller operating companies, XBRL compliance costs have decreased over time.[434]

In addition, all registered open- and closed-end funds and BDCs are currently subject to Inline XBRL structured data requirements.[435] As such, to the extent these funds comply with Inline XBRL compliance requirements internally rather outsourcing to an external service provider, they may already be familiar with Inline XBRL compliance software and may be able to leverage existing Inline XBRL preparation processes and/or expertise in complying with the proposed fund ESG disclosure requirements. This would limit the compliance costs arising from the proposed tagging requirements to only those costs related to selecting additional Inline XBRL tags for the new fund ESG disclosures and reviewing the tags selected. By contrast, unit investment trusts are not be subject to current or forthcoming Inline XBRL requirements in their Commission filings, so they would incur comparatively higher compliance costs as a result of the Inline XBRL tagging requirements under the proposed amendments.[436] We anticipate that such compliance costs would be borne by the funds, and that the costs may ultimately be passed on to investors by way of higher expenses or fees.[437]

(e) Adviser Brochure (Form ADV Part 2A)

(1) Benefits

The proposed amendments to the adviser brochure would benefit clients and prospective clients in a similar way that proposed disclosures by funds would benefit investors. The proposed amendments to adviser brochure (Form ADV Part 2A) are designed to provide clients with information that covers the same topics as the proposed requirements for funds considering ESG-related factors. Specifically, the additional information from the proposed amendments would allow clients and prospective clients to better evaluate the ESG-related services that advisers offer and thus increase comparability across advisers. Because adviser brochures usually encompass the entirety of an adviser's lines of businesses, the proposal would benefit clients and prospective clients by enhancing their understanding of how the advisers consider ESG factors when providing investment recommendations or making investment decisions. As a result, the proposed disclosures would help clients in selecting advisers that are aligned with their investment objectives.

Additionally, the brochure discloses key aspects of the advisory relationship, including relationships with affiliates and third party ESG providers that may present conflicts of interest and affect the adviser-client relationship. This information would be particularly beneficial to prospective clients by allowing them to make an informed decision when they select advisers. Furthermore, disclosing conflicts of interest could itself lessen the severity of the agency problem in relationships between advisers and clients.[438] The requirement to disclose potential conflicts of interests could enhance allocative efficiency by allowing investors to better match with advisers based on their preferences, and furthermore, increase competition among advisers. Additionally, it could promote competition among ESG providers in the dimensions of the quality and the reliability of the ratings and data that they provide to advisers and clients.

(2) Costs

Because the proposed amendments to the adviser brochure (Form ADV Part 2A) share many similarities with the proposed fund disclosures, many of the same cost elements associated with fund prospectuses and annual reports would be applicable for adviser brochures as well.[439] If advisers provide multiple lines of ESG-related business services, those advisers would incur higher costs as they would be required to provide detailed disclosures encompassing their entire business. In this regard, the effects of size on compliance costs would be less clear for advisers, because advisers with complicated business structures may not achieve economies of scale in complying with the proposed rules. If larger advisers tend to provide multiple lines of ESG related services to various types of clients including SMA clients and private funds, the advantages of large size may be less applicable. Conversely, for smaller advisers providing more specialized

[433] *See infra* section IV.E (summarizing the initial and ongoing burden estimates associated with the proposed tagging requirements for Forms N–1, N–2, N–8B–2, S–6, N–CSR, and 10–K. For current XBRL filers (*i.e.,* funds other than unit investment trusts), we estimate the tagging requirements would impose an initial internal cost of $854 per fund (2.4 hours * $356 hourly wage rate = $854), an annual internal cost of $356 per fund (1 hour * $356 hourly wage rate = $356), and an annual external cost of $50 per fund. For new XBRL filers (*i.e.,* unit investment trusts), we estimate the tagging requirements would impose an initial internal cost of $4,272 per fund (12 hours * $356 hourly wage rate = $4,272), an annual internal cost of $1,780 per fund (5 hours * $356 hourly wage rate = $1,780), and an annual external cost of $1,000 per fund).

[434] An American Institute of Certified Public Accountants (''AICPA'') survey of 1,032 public operating companies with $75 million or less in market capitalization in 2018 found an average cost of $5,850 per year, a median cost of $2,500 per year, and a maximum cost of $51,500 per year for fully outsourced XBRL creation and filing, representing a 45% decline in average cost and a 69% decline in median cost since 2014. *See* Michael Cohn, *AICPA Sees 45% Drop in XBRL Costs for Small Companies,* Accounting Today (Aug. 15, 2018) *available at https://www.accountingtoday.com/news/aicpa-sees-45-drop-in-xbrl-costs-for-small-reporting-companies.* Note that this survey was limited to small operating companies; investment companies have substantively different tagging requirements, and may have different tagging processes as well. For example, compared to smaller operating companies, smaller investment companies are more likely to outsource their tagging infrastructure to large third-party service providers. As a result, it may be less likely that economies of scale arise with respect to Inline XBRL compliance costs for investment companies than for operating companies. Additionally, a NASDAQ survey of 151 listed issuers in 2018 found an average XBRL compliance cost of $20,000 per quarter, a median XBRL compliance cost of $7,500 per quarter, and a maximum XBRL compliance cost of $350,000 per quarter in XBRL costs per quarter. *See* letter from Nasdaq, Inc. (Mar. 21, 2019), Request for Comment on Earnings Releases and Quarterly Reports, Release No. 33–10588 (Dec. 18, 2018) [83 FR 65601 (Dec. 21, 2018)]. Like the aforementioned AICPA survey, this survey was limited to operating companies.

[435] *See supra* footnotes 184–186.

[436] *See infra* section IV.E. To the extent unit investment trusts are part of the same fund family as other types of funds that are subject to Inline XBRL requirements, they may be able to leverage those other funds' existing Inline XBRL tagging experience and software, which would likely mitigate the initial Inline XBRL implementation costs that unit investment trusts would incur under the proposal.

[437] *See supra* section III.C.2.a.

[438] *See* Sunita Sah and George Loewenstein, *Nothing to Declare: Mandatory and Voluntary Disclosure Leads Advisors to Avoid Conflicts of Interest,* 25.2 Psychological Science 575–584 (2014). This experimental study suggests that when an adviser needs to disclose conflicts of interest, the adviser eliminates conflicts of interest, thus the adviser could disclose only the absence of conflicts of interest.

[439] Based on the results of the PRA analysis, the annual direct paperwork cost burdens attributable to information collection requirements in the proposed amendments to both Form ADV Part 2A and Part 1A would be approximately $912.75 per RIA, $83.85 per ERA, and $55.90 per private fund advised.

services to a certain clientele alone, the compliance cost increase would be accordingly low. Generally, compliance costs would be mitigated to the extent that some advisers incorporating ESG factors already disclose ESG-related information in their adviser brochure.

In addition, the proposed requirements may lead advisers to conduct reviews of their policies and procedures governing ESG-related investment strategies and services, and refine their policies and procedures accordingly. For instance, an adviser may review its current policies and procedures concerning the procurement of the third-party ESG providers. As a result of such a review, an adviser may decide to modify its policies and procedures, and/or change its current practices concerning the procurement of ESG providers. Implementing these changes could increase compliance costs, which could ultimately, at least to some degree, be passed on to clients in the form of higher fees.

3. Regulatory Reporting

As discussed above, we are proposing to amend Forms N–CEN and ADV Part 1A for funds and advisers, respectively, to collect census-type information about funds' and advisers' use of ESG factors and ESG providers. Because each of Form N–CEN and Form ADV Part 1A is submitted in a structured, XML-based data language specific to that Form, the proposed census-type information would be structured (*i.e.,* machine-readable).

(a) Form N–CEN

We propose to amend Form N–CEN to add proposed Item C.3(j) that would ask questions tailored to an ESG fund's strategies and processes, including ESG factors it considers, ESG strategies employed, and, if applicable, whether it engages in proxy voting or engagement with issuers to implements its ESG strategy.[440] The proposed amendments to Form N–CEN would also collect information regarding whether a fund considers ESG-related information or scores provided by ESG providers in implementing its investment strategy.[441] If so, the fund would be required to provide the legal name and LEI, if any, or provide and describe any other identifying number of each such ESG provider. A fund would also be required to report whether the ESG provider is an affiliated person of the fund. Further, the proposed amendments to Form N–CEN would require a fund to report whether the fund follows any third-party ESG frameworks.[442] Also, index funds would be required to report the name and legal identifier (if applicable) of the index the funds track.[443]

(1) Benefits

The proposed amendments to Form N–CEN would complement the proposed narrative forms of investor facing disclosures by collecting structured ESG-specific information designed to provide the Commission, investors, and other users of the data, such as ESG providers, with consistent and comparable data. The structured (*i.e.,* machine-readable) nature of the information would enhance the ability of the Commission, investors, and other market participants to more effectively analyze data reported through Form N–CEN. For example, although ESG strategies and processes employed by the fund are disclosed in narrative forms in the fund's prospectus and annual report, the additional information collected through Form N–CEN would allow the Commission, investors and other market participants to easily identify and compare funds by the ESG factors the funds incorporate, the ESG strategies the funds employ, and whether ESG factors are considered as part of the funds' proxy voting policies and procedures. Investors and clients would benefit specifically as they could use this data from N–CEN, together with the narrative ESG information we are proposing in investor-and client-facing disclosures, to make more informed decisions about their selection of funds or advisory services that consider ESG factors.

The information collected on whether the ESG provider is an affiliated person of the fund would assist the Commission to more efficiently assess and monitor potential conflicts of interest and risks created by fund's relationship with an affiliated ESG provider, which would allow the Commission to respond more effectively if needed, or inform the Commission in regulatory policies, examinations, or enforcement actions. Such collection of information could also benefit investors and other market participants in monitoring conflicts of interest that could exist when an ESG provider is also an affiliated person of the fund.

The information collected on use of ESG providers would benefit investors, other market participants, and the Commission in helping to better compare and analyze how ESG strategies differ across ESG providers. For instance, the proposed amendments to Form N–CEN would allow investors to more easily compare ESG providers and assess the effectiveness of strategies employed by funds using such providers. As a result, investors would be able to better select funds based on providers used, which could lead to increased competition among ESG providers. Moreover, such increased competition among ESG providers could encourage the development of new methodologies in ESG ratings and in indexes tracking ESG factors, which could stimulate more innovation in this area. Enhanced transparency and comparability among ESG providers and indexes would improve investors' confidence in these instruments, thus facilitate capital formation.

Similarly, as in investor facing disclosures, an ESG-Focused Fund would be required to name any third-party ESG frameworks it follows under the proposed amendments to Form N–CEN. As part of an ESG strategy, this information would help the Commission, investors and other market participants to better understand and assess trends in the market based on the frameworks.

In addition, we propose to amend Form N–CEN to require all funds tracking an index, including ESG-Focused Funds tracking a certain index, to report the name and LEI, if any, or provide and describe any other identifying number of the index the funds track. This proposed amendment would benefit the Commission, investors and other market participants because it would allow them to more efficiently identify the use of particular indexes across the fund industry.[444]

We additionally believe investors would benefit as they could use this data from Form N–CEN, together with the narrative ESG information we are proposing in investor-facing disclosures, to make more efficient and informed decisions about their selection of funds

[440] As discussed in section II.B.X., a fund would be required to indicate whether or not it incorporates ESG factors. A fund that does incorporate ESG factors would then be required to report, among other things: (i) the type of ESG strategy it employs (*i.e.,* Integration, Focused, or Impact), (ii) the ESG factor(s) it considers (*i.e.,* E, S, and/or G); (iii) the method it uses to implement its ESG strategy (*i.e.,* tracking an index, applying an exclusionary and/or inclusionary screen, and/or engaging with issuers) and (v) if applicable, whether it considers ESG factors as part of its proxy voting policies and procedures. *See* Proposed Item C.3(j)(i) through (v) of Form N–CEN. The proposed amendments to Form N–CEN does not apply to BDCs because they do not file Form N–CEN. *See supra* footnote 166.

[441] Proposed item C.3(j)(iv) of Form N–CEN.

[442] Proposed item C.3(j)(vi) of Form N–CEN.

[443] *See* proposed Item C.3(b)(i) of Form N–CEN.

[444] A LEI would provide more accurate identification of an index than using the name of the index alone, because different sources may use different variations on an index's name (*e.g.,* different abbreviations or punctuation), whereas an index's LEI is unique and unchanging.

or advisory services that consider ESG factors, which would also promote competition and capital formation.

(2) Costs

Funds that incorporate ESG factors into their investment strategies would incur costs associated with the proposed amendments to Form N–CEN. The incremental cost associated with these requirements would not be substantial, however, because most of the information required to be reported on Forms N–CEN would be already collected, reviewed and prepared to comply with the proposed requirements of investor facing narrative disclosures. However, to the extent that the proposed amendments to Form N–CEN would require additional data elements not required in investor facing disclosures, the compliance costs of the proposed Form N–CEN amendments would increase, which could ultimately be passed on to investors to some degree in the forms of higher expenses or fees. For instance, all index funds would incur costs to provide the information about what index it tracks. Any ESG-Focused Funds relying on services from ESG providers would provide detailed information about ESG providers, such as legal name and LEI (if any), or provide and describe other identifying numbers of each such ESG provider. It would also show whether an ESG provider is an affiliated person of the fund. Thus, funds relying on multiple ESG providers would incur higher costs than funds that have no relationship with any ESG providers. In addition, larger fund families would likely experience economies of scale, which may create a competitive advantage for larger fund families compared to smaller fund families.[445]

(b) Form ADV Part 1A Reporting

As discussed above, we are proposing amendments to Form ADV Part 1A designed to collect information about an adviser's uses of ESG factors in its advisory business.[446] Specifically, these proposed amendments would expand the information collected about the advisory services provided to SMA clients and private funds.

(1) Benefits

The information in Form ADV Part 1A would be generally the same as information we are proposing to collect on Form N–CEN regarding ESG factors, such as type of strategy (*i.e.,* integration, focused, and impact). Also, like Form N–CEN, Form ADV Part 1A is submitted using a structured data language (specifically, an XML-based data language specific to Form ADV), so the new information would be structured (*i.e.,* machine-readable). We believe collecting this information would provide the Commission and investors with important information about advisers' considerations of ESG factors in their advisory businesses, including the specific factors they consider, the types of ESG-related strategies they employ, the use of voluntary third-party frameworks, and whether they conduct other business activities as ESG providers or have related persons that are ESG providers that could indicate potential conflicts of interest.[447]

This information would increase comparability across advisers and advance our regulatory goal of gaining a more complete understanding of advisers' consideration of ESG factors in their SMA and private fund management businesses. We believe the proposed new reporting requirements would improve our ability to understand the ESG landscape and monitor trends among investment advisers in this emerging and evolving area. We also believe that the additional information would benefit current and prospective clients of SMAs and investors in private funds. In particular, SMA clients and investors in private funds would benefit from the proposed amendments to Form ADV Part 1A because they would be able to more efficiently select an adviser who meets their needs based on the additional information reported. This enhanced efficiency could in turn promote competition among advisers providing ESG-related services. Further, we believe the proposed reporting requirements would better allow the Commission to assess the potential conflicts of interest and risks created by relationships between advisers and affiliated ESG providers. We also believe that the proposed reporting requirements may assist the public in better understanding advisers' conflicts of interests when using the services of affiliated ESG providers, or when the adviser offers ESG provider services to others. This better understanding could increase public confidence in advisers' ESG-related service and further facilitate capital formation.

Costs

Investment advisers that incorporate ESG factors into their investment strategies would incur costs associated with the proposed amendments to Form ADV Part 1A. To the extent that advisers incur higher costs, the increased costs would be, at least in part, passed on to clients of SMAs and private funds, thus investors. The incremental cost associated with these requirements would not be substantial, however, because most of the information required to be reported on Form and ADV Part 1A would be already collected, reviewed and prepared to comply with the proposed amendments to adviser brochures (Form ADV Part 2A). The proposed amendments to Form ADV Part 1A would require additional information that would not be disclosed in adviser brochures, such as the adviser's use of ESG strategies for SMA clients and private funds. These additional requirements would result in additional compliance costs. Therefore, advisers whose business models contain many SMA clients and private funds would experience higher increases in compliance costs associated with Form ADV Part 1A proposed amendments relative to advisers without any SMA clients and private funds.[448]

D. Reasonable Alternatives

1. Uniform Narrative Disclosure Requirements for ESG-Integration and Focused Funds

The proposed amendments for registered funds are designed to require more or less detail about a fund's ESG investing depending on the extent to which a fund considers ESG factors in its investment process. Specifically, Integration Funds would provide more limited disclosures, whereas ESG-Focused Funds would be required to provide more detailed information.

As an alternative, we could require Integration Funds to disclose the same level of detail about their ESG investing as ESG-Focused Funds. This option would, however, increase information processing costs for some investors as the distinction between Integration Funds and ESG-Focused Funds would be less salient. Thus, investors would sift through disclosures to determine whether a fund is an Integration or Focused Fund. Although some additional details about ESG investing

[445] Based on the results of the PRA analysis, the annual direct paperwork cost burdens attributable to information collection requirements in the proposed amendments to Form N–CEN would be approximately $351 per fund for ESG related disclosure requirements and $157.50 per fund for index fund related requirements.

[446] *See supra* section II.C.2.

[447] *See supra* section II.C.3.b.

[448] Based on the results of the PRA analysis, the annual direct paperwork cost burdens attributable to information collection requirements in the proposed amendments to both Form ADV Part 2A and Part 1A would be approximately $912.75 per RIA, $83.85 per ERA, and $55.90 per private fund advised.

provided by Integration Funds could be useful for some investors, the option also could require Integration Funds to provide lengthy disclosures about ESG investing and lead to Integration Funds overemphasizing their ESG credentials. Under this option, an investor may assume the fund considers ESG factors similarly to an ESG-Focused Fund with disclosures of similar length and detail, making it more difficult for the investor to select a fund investment that meets the investor's expectations. We also considered requiring ESG-Focused Funds to provide the more detailed disclosures required by Impact Funds, but had similar concerns regarding such additional disclosures for investors.

2. More Standardized Disclosures

The proposed disclosures for registered funds and advisers are designed to provide ESG-related information in narrative formats as well as standardized formats. For instance, all ESG-Focused Funds would provide—in an ESG Strategy Overview table in the fund's prospectus—concise ESG-related disclosure, in the same format and same location in a tabular format. Part of the ESG Strategy Overview table would be further standardized by utilizing a ''check-box'' format, while the rest would rely on brief descriptions provided by funds. Facilitating a layered disclosure approach, lengthier disclosure or other information would be provided later in the prospectus. Similarly, advisers would provide census-type information on Form ADV Part 1A about their uses of ESG factors. Proposed amendments to the Form ADV brochure (Part 2A brochure and Appendix 1, the Wrap Fee Program Brochure) would include information in a narrative form about ESG practices from advisers that incorporate ESG factors as part of their advisory business.

As an alternative, we could require more standardized disclosures (without any narrative descriptions) for funds and advisers, for instance, by utilizing one standardized tabular format in a ''check the box'' style. By having all information available in one location and in the same format, this alternative could further enhance the comparability across funds and advisers, respectively. However, this alternative approach may risk oversimplifying ESG-related information to fit in a pre-determined standardized format. For instance, funds and advisers would not be able to explain nuanced approaches or complex strategies if the information does not fit neatly within the standardized form. Under this approach, investors may lose details and nuances that could be valuable to their investment decisions. Further, ESG investing is still evolving in the market. As a result, if the pre-determined standardized disclosure format becomes stale or outdated, the utility of the standardized disclosure could be further reduced. Considering these potential effects, we propose an approach that combines standardized disclosures with narrative disclosures, which could better assist investors by providing information consistently and concisely through standardized disclosures, while reserving the flexibility to contextualize ESG investing strategies and practices in descriptive, non-standardized disclosures.

3. Alternative Approach to Layered Disclosure for Funds

We are proposing certain specified disclosures to go in the summary section of the prospectus or, for closed-end funds, information that would precede other disclosures in the same item, and then specifying that more detailed information be placed later in the prospectus. As an alternative, we considered placing all requirements in the statutory prospectus, *e.g.,* Item 9 of Form N–1A, and not specifying the minimum information required in the summary section, including not requiring the use of the Strategy Overview Table. This alternative would leave the determination of what information should be included under the existing sections of the summary prospectus to the funds. However, we believe that such an approach could impede investors' ability to compare different ESG funds, as fund managers would make different choices about the placement of disclosures. Some funds might include less information than we are proposing in the summary section of the prospectus, while others might include more detailed disclosures than we are proposing, which might overwhelm some investors seeking a short, comparable overview.

4. More Granular Reporting for Advisers

We are proposing to require advisers that consider ESG factors as part of their advisory business to provide enhanced ESG-related disclosures to current and prospective advisory clients in the adviser brochure, while also collecting information on advisers' use of ESG factors in their advisory business in Form ADV Part 1A. For example, we propose to require an adviser to provide a narrative description of the ESG factors it considers for each significant investment strategy or method of analysis for which it considers any ESG factors, including whether it utilizes internal or external methodologies, inclusionary or exclusionary screens, or relies on an index, in the adviser brochure.

As an alternative, we considered requiring more detailed information from advisers who consider ESG factors or pursue ESG-focused, or impact strategies. For example, we considered requiring these advisers to report aggregated ESG client holdings statistics and GHG metrics. However, unlike registered funds that generally pursue a single strategy across their portfolio, advisers may implement a variety of strategies for clients. Because ESG metrics under this option would be aggregated across various clients pursuing potentially disparate strategies, it would be difficult for advisers to provide detailed quantitative ESG reporting at the adviser level. The aggregation also would likely impede the utility of this type of information for both investors and the Commission because any aggregated ESG information reported by the adviser would reflect the combined holdings of all its clients, each of whom may have different investment objectives, time horizons, and approaches to ESG investing. Accordingly, we believe it is appropriate to propose the narrative disclosures in the adviser brochure while collecting more limited census data on advisers' ESG practices in ADV Part 1A. This approach would provide investors with clear, consistent, and decision-useful information about adviser ESG practices while still providing the Commission with enhanced census information on ESG developments in this evolving area.

5. GHG Metrics Reporting Requirements

We considered alternatives for several aspects of the proposed GHG reporting requirements including the covered scope of funds, covered asset classes, and required metrics.

(a) Covered Scope of Funds

The proposal would require only environmentally focused funds to disclose GHG metrics, which are funds that consider environmental factors in response to Item C.3(j)(ii) on Form N–CEN, but do not affirmatively state that they do not consider issuers' GHG emissions as part of their investment strategy in the ''ESG Strategy Overview'' table in the fund's prospectus.[449] As an alternative, we could require all funds that consider environmental factors in response to Item C.3(j)(ii) on Form N–CEN to disclose GHG metrics, including

[449] *See supra* footnote 123 and accompanying text.

those that affirmatively state that they do not consider issuers' GHG emissions as part of their investment strategy in the fund's prospectus. As another alternative, we could further require all ESG-Focused Funds to disclose GHG metrics.

The benefits of these alternatives would likely be limited, while they would increase compliance costs across ESG-Focused Funds. Investors who most value GHG disclosures may already invest in ESG-Focused Funds that consider GHG emissions as part of their strategy.

Accordingly, these alternatives would likely target investors who place a lower value on GHG disclosures. For example, some investors may only consider governance-related factors of portfolio companies within ESG-Focused Funds. Also, GHG metrics produced by funds pursuing non-climate related goals could potentially confuse investors, as investors may interpret GHG metrics as an indication that the fund considers climate-related factors. Therefore, we believe it is appropriate to narrow the scope of covered funds, as proposed, by excluding funds from GHG metrics reporting requirements if they affirmatively state that they do not consider portfolio company GHG emissions as part of their ESG strategy. This tailored approach would provide GHG metrics information to investors who seek it without increasing burdens on funds with a different focus.

As another alternative, we could expand the proposed requirement to disclose GHG emissions information to Integration Funds by requiring disclosure of GHG metrics from all Integration Funds that indicate that they consider environmental factors on Form N–CEN unless they affirmatively state in their principal investment strategies that they do not consider GHG emissions as part of their integration process, or alternatively requiring such disclosures from Integration Funds that specifically consider the GHG emissions associated with the portfolio companies in which they invest. These alternatives could help investors who consider environmental factors with their investment decisions. Because these alternatives would make GHG metrics information more widely available across all funds that consider environmental factors to any degree, or across all funds that specifically consider GHG emissions, and help investors in these funds make comparisons across Integration Funds or between Integration Funds and ESG-Focused Funds. However, investors in Integration Funds may assign less utility to GHG metrics disclosed by those funds than GHG metrics disclosed by ESG-Focused or ESG-Impact funds since, by definition, environmental factors are but one of multiple factors these funds consider. Some investors may also misunderstand the GHG metrics disclosure as a signal that the Integration Fund considers climate-related factors more significantly than other factors, which may lead investors to misdirect their investments, affecting capital allocations among Integration Funds and ESG-Focused Funds.

Additionally, these alternatives would impose higher compliance costs on Integration Funds that consider environmental factors or specifically consider GHG emissions. Although it is difficult to precisely estimate the number and scope of Integration Funds, some commenters suggested that a substantial number of funds would be potentially considered Integration Funds as defined in this release.[450] Therefore, the potential impacts of alternatives that apply to all Integration Funds may be significant, although alternatives that apply only to Integration Funds that specifically consider portfolio company GHG emissions would be more limited, as we believe there are a limited number of such funds based on funds' current disclosures. In addition, many Integration Funds may not currently devote resources to calculate GHG metrics, let alone disclose them, as GHG emissions may only be one of many factors that Integration Funds consider in their investment selection process. As a result, Integration Funds would likely incur significantly higher costs to comply with GHG metrics requirements. Facing high compliance costs associated with GHG metrics, these options may incentivize a new fund or even an existing fund to operate without considering environmental factors or portfolio company GHG emissions specifically. These alternatives may inadvertently reduce the number of choices available for investors who seek to invest in environmental funds.

The additional compliance costs of these alternatives, relative to the rule as proposed, would be reduced to the extent that more corporate issuers were to publicly disclose their emissions.[451]

(b) Covered Asset Classes

We propose GHG metrics that include a wide range of asset classes. We understand that, in current practices, sometimes, portfolio carbon footprint metric uses the market capitalization of a company, which counts only equity, not debt, of a company, as a denominator.[452] As an alternative, therefore, we could have included only equities as the denominator in calculating the portfolio carbon footprint metric. However, we believe it is important to take into account both equity and debt because both equity and debt finance the company's operations, thus both contribute indirectly to its emissions. Otherwise, two companies with the same GHG emissions could result in different metric numbers depending on particular combinations of debt and equity (*i.e.,* capital structures) that two companies use to finance their operations. This could be confusing to investors, moreover, it may affect capital allocations between equity and debt. In general, if certain asset classes are not covered in GHG metrics, it may incentivize some funds to invest more in one asset class over another, so that GHG metrics would look improved even though underlying exposures to climate risks remain the same, which could confuse investors. Therefore, climate risks would not be accurately reflected in asset prices, and may lead to inefficient capital allocations through distorted metrics. To mitigate these concerns, under the proposal a fund would be required to include in GHG metrics the emissions attributable to the fund's investment in any ''portfolio company.'' A ''portfolio company'' would include an issuer engaged in or operating a business or activity that generates GHG emissions, as well as an investment in a registered or private fund.[453] Under the proposal, a fund's GHG emissions would include direct investments in portfolio companies as well as when a fund invests through a derivative. Under the proposal, we understand funds may incur some costs to assign value to the derivatives. As another alternative, we could exclude holdings in derivative securities from GHG metrics. This alternative would be less costly than the proposal. However, we believe potential cost savings from excluding derivatives in GHG metrics would not be substantial, because currently, holdings in derivative

[450] *See* section III.B.2. Also see Morningstar Comment letter.

[451] *Cf. supra* footnote 426 and accompanying text.

[452] We understand, however, that leading practices in the financial sector are more in line with our proposed approach that includes both equity and debt. *See* PCAF, *The Global GHG Accounting & Reporting Standard for the Financial Industry,* First Edition (Nov. 18, 2020). (for detailed discussion).

[453] We recognize that it is conceptually difficult to attribute emissions to certain types of derivative securities or certain asset classes such as interest swaps, foreign currencies or cash management vehicles. These kinds of investments would not be included in the proposed definition of a ''portfolio company.''

securities are minuscule among ESG funds.[454] Furthermore, this alternative may incentivize funds to try and circumvent disclosure by holding equity exposure as derivative positions, potentially affecting capital allocations and obfuscating their true underlying financing of GHG emissions.

(c) Required Metrics

In the proposal, we require two GHG metrics, portfolio carbon footprint and weighted average carbon intensity. Alternatively, we could permit funds to report a GHG metric of their choice. In this option, funds would have a flexibility to select a metric that they believe most suitable for their investment strategies or investment goals. This flexibility could facilitate the development of new metrics that better reflect the advancement in methodologies measuring emissions or better capture the changes in environmentally focused investment landscapes. On the other hand, in this option, GHG metrics disclosures would be less useful for investors as investors could not easily compare funds based on objective and comparable emission measures of portfolios. Another alternative would be requiring either of the carbon footprint or weighted average carbon intensity metrics, rather than requiring both. This would be a less costly option. However, it would be more difficult to satisfy varying needs and investment goals of investors with only one metric. Furthermore, the incremental cost associated with producing two metrics, instead of one metric, in the proposal would be minimal as the two proposed GHG metrics require almost identical data elements that are publicly available in most cases.[455]

(d) Scope 3 Emissions in Required Metrics

In the proposal, an ESG-Focused Fund that considers environmental factors would be required to disclose the Scope 3 emissions of its portfolio companies, to the extent that Scope 3 emissions data are reported by the fund's portfolio companies. Alternatively, we could require funds to disclose Scope 3 emissions for all portfolio companies regardless of the reporting status of the company, as Scope 1 and 2 emissions of all portfolio companies would be disclosed. However, under this alternative, fund managers would be required to estimate Scope 3 emissions of non-reporting companies, which could be substantially costlier than the proposed rule. Moreover, the utility of fund managers' aggregated estimates of Scope 3 emissions would be somewhat limited at present, as estimated scope 3 emissions tend to be less consistent and reliable due to the current limited data availability and opaque estimation methodologies discussed in section III.B.5. Thus, this alternative would likely generate less benefits to investors in making informed investment decisions.

In calculating the required GHG metrics under the proposal, Scope 3 emissions of the portfolio would be disclosed separately from Scope 1 and 2 emissions. Further, Scope 3 emissions would be disclosed by sector. Alternatively we could include Scope 3 emissions with Scope 1 and 2 emissions in calculating GHG metrics. However, this alternative approach could exacerbate potential double counting issues in measuring emissions at the portfolio level. To the extent that Scope 1 and 2 emissions overlap among companies that the fund invests in, GHG metrics would overstate its financed emissions, thus, may confuse and misguide investors in their decisions. For instance, GHG metrics overstating emissions financed by the fund may inadvertently discourage certain investors from investing in the fund and instead encourage them to directly invest in portfolio companies.[456] In addition, because Scope 3 emissions are less consistent and reliable, GHG metrics including Scope 3 would be less consistent and reliable than GHG metrics with Scope 1 and 2 emissions only. As a result, these metrics would be less useful for investors. With regards to costs, this alternative could be costlier than the proposal, because a larger number of companies do not disclose Scope 3 emissions, and it would be more difficult to estimate due to the complexity of measuring Scope 3 emissions.[457] Another alternative would be to exclude Scope 3 emissions from disclosure requirements altogether. However, Scope 3 emissions account for most of total carbon emissions in some companies.[458] In this regard, this alternative would provide incomplete information about total carbon emissions financed by the fund, and thus may be less useful for investors. This is particularly important because portfolio companies with the same amount of total carbon emissions could have very different Scope 3 emissions depending on how companies arrange their business structures (*e.g.,* reliance on supply chains). In this regard, if Scope 3 emissions are excluded altogether, investors may not fully appreciate nuanced details in GHG metrics of two companies that emit the same total amount of carbon yet have different business arrangements, and may inadvertently misdirect investments. With regards to costs, this alternative would not save significant costs compared to the proposal because the proposal would require funds to disclose Scope 3 emissions to the extent that portfolio companies disclose them.

(e) Non-Reporting Companies

The current proposal requires the inclusion of good faith estimates for GHG emissions, when portfolio companies do not publicly disclose GHG emissions either by regulatory filings or by public publications, in computing GHG metrics of portfolios. Alternatively, the proposal could require the exclusion of these estimates in the computation of GHG metrics. This alternative could be potentially

[454] We analyzed data from form N–PORT to better understand asset holdings of funds with names containing ''Sustainable,'' ''Responsible,'' ''ESG,'' ''Climate,'' ''Carbon,'' or ''Green'' as of Sept. 2021. According to this analysis, less than 1 percent of holdings are in derivative securities. Note that the data used in this analysis may undercount or over-count funds incorporating ESG factors in their investment strategies. For example, even though some mutual funds and EFTs incorporate ESG factors in their investment strategies, some mutual funds and ETFs may not have fund names containing these ESG-related terms. In this respect, this estimate may undercount the number of funds with ESG strategies. Additionally, some funds with names containing ESG terms may consider ESG factors along with many other factors in their investment decisions. In this respect, this estimate may then over-count the number of funds with ESG strategies.

[455] The differences convey that the portfolio carbon footprint uses enterprise value, while the weighted average carbon intensity uses revenue instead. Both revenue and enterprise value of a public company are publicly available.

[456] Investors who want to have more control over portfolio companies may choose to directly invest in such companies. Additionally, direct investments allow investors to more easily implement their investment strategies according to their values/objectives. For example, investors may decide to divest from certain companies that are not aligned with their values. Investors may elect to indirectly invest in portfolio companies through investment vehicles like mutual funds or ETFs for several reasons. These indirect investment vehicles allow investors to diversify their investment risks, and thus achieve more stable returns. Similarly, these indirect investment vehicles allow some investors, especially small investors, to access certain types of assets that they cannot afford to buy otherwise. Investors who indirectly invest in portfolio companies through these vehicles, however, often do not have direct control over portfolio companies.

[457] *See supra* sections III.B.5.a and III.B.5.b (for more detailed discussion regarding scope 3 emissions).

[458] *See supra* sections III.B.5.a and III.B.5.b. Scope 3 emissions represent the largest portion of companies' emissions, in some cases, up to 99 percent of total emissions of the company. *See supra* footnote 395.

less costly than the proposal since the fund would not have to expend its resources to estimate emissions of non-reporting companies. However, because a substantial number of companies do not publicly disclose their emissions as discussed in section III.B.5, resulting GHG metrics would be less representative of actual emissions financed by the fund. As such, this could provide limited benefits to investors, and potentially misguide investors seeking to make informed decisions. Moreover, GHG metrics could be susceptible to manipulation because metrics could appear improved by shifting the composition (reporting status and emissions) of portfolio companies. Further, it may inadvertently disincentivize non-reporting companies from publicly disclosing GHG emissions. As another alternative, we could require environmentally focused funds to only invest a limited percentage in non-reporting companies. However, this alternative could limit investors' investment options. This restriction could disproportionally affect small-cap companies or companies in certain sectors such as communication or technology sectors, as such companies are less likely to publicly disclose emissions.[459] In addition, to the extent that the fund invests in non-reporting companies without any estimations of emissions associated with those non-reporting companies, resulting GHG metrics would be less representative of the emissions financed by the fund, and thus less informative to investors. Similar to the alternative discussed above, to the extent that the fund would not estimate emissions of non-reporting companies, this alternative could be less costly than the proposal.

6. Modified Inline XBRL Requirements

Under the proposed amendments, the new investor-facing disclosures filed by funds on Forms N–1A, N–2, N–8B–2, S–6, N–CSR, and 10–K would be tagged in Inline XBRL. Alternatively, we could have changed the scope of the proposed tagging requirement for the new investor-facing disclosures, such as by limiting this requirement to a subset of funds.

For example, the tagging requirements could have excluded unit investment trusts, which are not currently required to tag any filings in Inline XBRL. Under such an alternative, unit investment trusts would submit the new disclosures in unstructured HTML or ASCII, and thereby avoid the initial Inline XBRL implementation costs (such as the cost of training in-house staff to prepare filings in Inline XBRL, and the cost to license Inline XBRL filing preparation software from vendors) and ongoing Inline XBRL compliance burdens that would result from the proposed tagging requirement.[460] However, narrowing the scope of tagging requirements, whether based on fund structure, fund size, or other criteria, would diminish the extent of informational benefits that would accrue as a result of the proposed disclosure requirements by making the excluded funds' disclosures comparatively costlier to process and analyze. As such, we are not proposing to exclude any funds or otherwise narrow the scope of Inline XBRL tagging requirements.

E. General Request for Comment

The Commission requests comment on all aspects of this economic analysis, including whether the analysis has: (1) identified all benefits and costs, including all effects on efficiency, competition, and capital formation; (2) given due consideration to each benefit and cost, including each effect on efficiency, competition, and capital formation; and (3) identified and considered reasonable alternatives to the proposed regulations. We request and encourage any interested person to submit comments regarding the proposed regulations, our analysis of the potential effects of the proposed regulations, and other matters that may have an effect on the proposed regulations. We request that commenters identify sources of data and information as well as provide data and information to assist us in analyzing the economic consequences of the proposed regulations. We also are interested in comments on the qualitative benefits and costs we have identified and any benefits and costs we may not have discussed.

In addition to our general request for comment on the economic analysis associated with the proposed amendments, we request specific comment on certain aspects of the proposal:

195. Have we correctly identified the benefits and costs of the proposed rule amendments? Are there additional benefits and costs that we should include in our analysis?

196. We encourage commenters to identify, discuss, analyze, and supply relevant data, information, or statistics related to the benefits and costs associated the proposed rule amendments. We also encourage commenters to supply relevant data, information, or statistics related to Integration, ESG-Focused, and Impact Funds as defined in this release. In particular, we solicit any additional data, information or statistics in connection with our estimated number of funds with ESG-focused strategies as discussed in section III.B of this release.

197. Are there costs to, or effects on, parties other than those we have identified? What are the costs and/or effects?

198. How costly would the proposed GHG metrics disclosure requirements be for environmentally focused funds that consider GHG emissions in their investment strategies?

IV. Paperwork Reduction Act Analysis

A. Introduction

Our proposed rule amendments would have an impact on the current collections of information burdens under the Paperwork Reduction Act of 1995 (''PRA'') of the following Forms and Rules: Form 10–K, Form ADV, Form N–1A, Form N–2, Form N–8B–2, Form S–6, Form N–CSR, Form N–CEN, Investment Company Interactive Data, and 17 CFR 270.30e-1 (''rule 30e-1''). The titles for the existing collections of information that we are amending are: (i) ''Exchange Act Form 10–K'' (OMB Control No. 3235–0063); (ii) ''Form ADV'' (OMB Control No. 3235–0049); (iii) ''Form N–1A, Registration Statement under the Securities Act and under the Investment Company Act for Open-End Management Investment Companies'' (OMB Control No. 3235–0307); (iv) ''Form N–2 under the Investment Company Act of 1940 and Securities Act of 1933'' (OMB Control No. 3235–0026); (v) ''Form N–8B–2, Registration Statement of Unit Investment Trusts Which Are Currently Issuing Securities'' (OMB Control No. 3235–0186); (vi) ''Form S–6 [17 CFR 239.19], for registration under the Securities Act of 1933 of Unit Investment Trusts registered on Form N–8B–2'' (OMB Control No. 3235–0184); ; (vii) ''Form N–CSR, Certified Shareholder Report under the Exchange Act and under the Investment Company Act for Registered Management Investment Companies'' (OMB Control No. 3235–0570); (viii) ''Form N–CEN'' (OMB Control No. 3235–0730); (ix) ''Investment Company Interactive Data'' (OMB Control No. 3235–062); and (x) ''Rule 30e-1 under the Investment Company Act, Reports to Stockholders of Management Companies'' (OMB

[459] *See supra* section III.B.5 (for more detailed discussion).

[460] *See supra* section III.C.2. *See also infra* section IV.E.

Control No. 3235–0025).[461] The Commission is submitting these collections of information to OMB for review and approval in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. 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 OMB control number.

We discuss below the proposed revised existing collection of information burdens associated with the amendments to Form 10–K, Form ADV, Form N–1A, Form N–2, Form N–8B–2, Form N–CSR, Form N–CEN, Form S–6, Investment Company Interactive Data, and rule 30e-1. Responses to the disclosure requirements of the amendments to Form 10–K, Form ADV, Form N–1A, Form N–2, Form N–8B–2, Form N–CSR, Form N–CEN, Form S–6, and rule 30e-1, which are filed with the Commission, are not kept confidential.

A description of the proposed amendments, including the need for the information and its use, as well as a description of the likely respondents, can be found in Section II above, and a discussion of the expected economic effects of the final amendments can be found in Section III above.

B. Form N–1A

Form N–1A is used by registered management investment companies (except insurance company separate accounts and small business investment companies licensed under the United States Small Business Administration), to register under the Investment Company Act and to offer their shares under the Securities Act. In our most recent Paperwork Reduction Act submission for Form N–1A, we estimated for Form N–1A a total annual aggregate ongoing hour burden of 1,672,077 hours, and the total annual aggregate external cost burden is $132,940,008.[462] Compliance with the disclosure requirements of Form N–1A is mandatory, and the responses to the disclosure requirements will not be kept confidential.

The table below summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to Form N–1A.

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[461] The paperwork burdens associated with 17 CFR 275.203–1, 275.204–1, and 204–4 (''rules 203–1, 204–1, and 204–4'') are included in the approved annual burden associated with Form ADV and thus do not entail separate collections of information. Rule 203–1 under the Advisers Act requires every person applying for investment adviser registration with the Commission to file Form ADV. Rule 204–4 under the Advisers Act requires certain investment advisers exempt from registration with the Commission (''exempt reporting advisers'') to file reports with the Commission by completing a limited number of items on Form ADV. Rule 204–1 under the Advisers Act requires each registered and exempt reporting adviser to file amendments to Form ADV at least annually, and requires advisers to submit electronic filings through IARD.

[462] This estimate is based on the last time the rule's information collection was submitted for PRA renewal in 2021. *See* Information Collection Request (''ICR'') Reference No. 202106–3235–001, *available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202106-3235-001.*

TABLE 2: FORM N-1A PRA ESTIMATES

	Initial internal burden hours	Internal annual burden hours[1]	Wage rate[2]	Internal time costs	Annual external cost burden
PROPOSED AMENDMENTS TO FORM N-1A					
Integration Fund Disclosure					
Proposed fund prospectus	3 hours	2 hours[3]	$356 (blended rate for compliance attorney and senior programmer)[4]	$712	$617.50[5]
Total new annual burden per fund		2 hours		$712	$617.50
Number of funds		× 10,598 funds[6]		× 10,598 funds[6]	× 10,598 funds[6]
Total new annual burden		21,196 hours		$7,545,776	$6,544,265
ESG Focused And Impact Fund Disclosure					
Proposed fund prospectus	18 hours	12 hours[7]	$356 (blended rate for compliance attorney and senior programmer)[4]	$4,272	$4,872[8]
Total new annual burden per fund		12 hours		$4,272	$4,872
Number of funds		× 755 funds[9]		× 755 funds[9]	× 755 funds[9]
Total new annual burden		9,060 hours		$3,225,360	$3,678,360
Total estimated burdens for proposed amendments					
		30,256 hours			$10,222,625
TOTAL ESTIMATED BURDENS, INCLUDING AMENDMENTS					
Current burden estimates		+1,672,077 hours			+$132,940,008
Revised burden estimates		**1,702,333 hours**			**$143,162,633**

Notes:
1. Includes initial burden estimates annualized over a 3-year period.
2. These PRA estimates assume that the same types of professionals would be involved in satisfying the proposed requirements that we believe otherwise would be involved in complying with this requirement. The Commission's estimates of the relevant wage rates are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association's *Office Salaries in the Securities Industry 2013*. The estimated figures are modified by firm size, employee benefits, overhead, and adjusted to account for the effects of inflation. *See* Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013 (as adjusted to account for inflation, the "SIFMA Wage Report").
3. Includes initial burden estimates annualized over a three-year period, plus 1 hour of ongoing annual burden hours. The estimate of 2 hours is based on the following calculation: ((3 initial hours /3) + 1 hour of additional ongoing burden hours) = 2 hours.
4. The $356 wage rate reflects current estimates of the blended hourly rate for an in-house compliance attorney ($373) and a senior programmer ($339). $356 is based on the following calculation: ($373+$339)/ 2 = $356.
5. $617.5 includes an estimated $248 for 0.5 hours of outside legal services and an estimated $369.50 for 0.5 hours of management consultant services.
6. For PRA purposes, we estimate that 80% of all funds filing on Form N-1A as of 2021 will incur the burdens associated with the proposed Integration Fund disclosure. We believe this estimate is appropriate because a majority of funds may be required to incur some burdens to determine whether the proposed disclosure requirements would apply to their investment strategies. Furthermore, we have observed that an increasing number of investment advisers have pledged to consider ESG factors to some extent across all their investment products. However, the actual number of funds that meet the definition of Integration Fund may be lower or higher.
7. Includes initial burden estimates annualized over a three-year period, plus 6 hours of ongoing annual burden hours. The estimate of 12 hours is based on the following calculation: ((18 initial hours /3) + 6 hours of additional ongoing burden hours) = 12 hours.
8. $4,872 includes an estimated $1,956 for 4 hours of outside legal services and an estimated $2,916 for 4 hours of management consultant services.
9. The estimated 755 funds includes the staff's estimate of 700 ESG-Focused Funds and 55 ESG Impact Funds registered on Form N-1A as of 2021.

C. Form N–2

Form N–2 is used by closed-end management investment companies (except small business investment companies licensed as such by the United States Small Business Administration) to register under the Investment Company Act and to offer their shares under the Securities Act. In our most recent Paperwork Reduction Act submission for Form N–2, we estimated for Form N–2 a total hour burden of 94,627 hours, and the total annual external cost burden is $6,260,392.[463] Compliance with the disclosure requirements of Form N–2 is mandatory, and the responses to the

[463] This estimate is based on the last time the rule's information collection was submitted for PRA renewal in 2021. *See* ICR Reference No. 202107–3235–015, *available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202107-3235-015.*

disclosure requirements will not be kept confidential.

The table below summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to Form N–2.

TABLE 3: FORM N-2 PRA ESTIMATES

	Initial hours	Annual hours[1]	Wage rate[2]	Internal time costs	Annual external cost burden
PROPOSED AMENDMENTS TO FORM N-2					
Integration Fund Disclosure					
Proposed fund prospectus	3 hours	2 hours [3]	$356(blended rate for compliance attorney and senior programmer)[4]	$712	$617.50[5]
Total new annual burden per fund		2 hours		$712	$617.50
Number of funds		x 598 funds[6]		x 598 funds[6]	x 598 funds[6]
Total new annual burden		1,196 hours		$425,776	$369,265
ESG Focused Fund Disclosure					
Proposed fund prospectus	18 hours	12 hours[7]	$356 (blended rate for compliance attorney and senior programmer)[4]	$4,272	$4,872[8]
Total new annual burden per fund		12 hours		$4,272	$4,872
Number of funds		× 14 funds[9]		× 14 funds[9]	× 14 funds[9]
Total new annual burden		168 hours		$59,808	$68,208
Total estimated burdens for proposed amendments					
		1,364 hours			$437,473
TOTAL ESTIMATED BURDENS, INCLUDING AMENDMENTS					
Current burden estimates		+94,627 hours			+$6,260,392
Revised burden estimates		**95,991 hours**			**6,697,865**

Notes:
1. Includes initial burden estimates annualized over a 3-year period.
2. These PRA estimates assume that the same types of professionals would be involved in satisfying the proposed reporting requirements that we believe otherwise would be involved in complying with this requirement. The Commission's estimates of the relevant wage rates are based on the SIFMA Wage Report.
3. Includes initial burden estimates annualized over a three-year period, plus 1 hour of ongoing annual burden hours. The estimate of 2 hours is based on the following calculation: ((3initial hours /3) + 1 hour of additional ongoing burden hours) = 2 hours.
4. The $356 wage rate reflects current estimates of the blended hourly rate for an in-house compliance attorney ($373) and a senior programmer ($339). $356 is based on the following calculation: ($373+$339)/ 2 = $356.
5. $617.5 includes an estimated $248 for 0.5 hours of outside legal services and an estimated $369.50 for 0.5 hours of management consultant services.
6. For PRA purposes, we estimate that 80% of all funds, including BDCs, filing on Form N-2 as of 2021 will incur the burdens associated with the proposed Integration Fund disclosure. We believe this estimate is appropriate because a majority of funds may be required to incur some burdens to determine whether the proposed disclosure requirements would apply to their investment strategies. Furthermore, we have observed that an increasing number of investment advisers have pledged to consider ESG factors to some extent across all their investment products. However, the actual number of funds that meet the definition of an Integration Fund may be lower or higher.
7. Includes initial burden estimates annualized over a three-year period, plus 6 hours of ongoing annual burden hours. The estimate of 12 hours is based on the following calculation: ((18 initial hours /3) + 6 hours of additional ongoing burden hours) = 12 hours.
8. $4,872 includes an estimated $1,956 for 4 hours of outside legal services and an estimated $2,916 for 4 hours of management consultant services.
9. The estimated 14 funds includes the staff's estimated 11 ESG Focused Funds and 3 ESG Impact Funds registered on Form N-2 as of 2021.

D. Forms N–8B–2 and S–6

Form N–8B–2 is used by UITs to initially register under the Investment Company Act pursuant to section 8 thereof.[464] UITs are required to file Form S–6 to register offerings of securities with the Commission under

[464] *See* 17 CFR 274.12.

the Securities Act.[465] As a result, UITs file Form N–8B–2 only once when the UIT is initially created and then use Form S–6 to file all post-effective amendments to their registration statements to update their prospectuses. In our most recent Paperwork Reduction Act submission for Form N–8B–2, we estimated for Form N–8B–2 a total hour burden of 28 hours, and a total annual external cost burden of $10,300, and for Form S–6 a total hour burden of 107,359 hours, and a total annual external cost burden of $68,108,956.[466] Compliance with the disclosure requirements of Forms N–8B–2 and S–6 is mandatory, and the responses to the disclosure requirements will not be kept confidential.

The tables below summarize our PRA initial and ongoing annual burden estimates associated with the proposed amendments to Forms N–8B–2 and S–6.

TABLE 4: FORM N-8B-2 PRA ESTIMATES

	Initial hours	Annual hours[1]	Wage rate[2]	Internal time costs	Annual external cost burden
BURDEN ESTIMATES FOR FORM N-8B -2 FILINGS					
Additional information concerning the securities underlying the trust's securities	2.0 hours	0.67 hours[3]	$306 (blended rate for compliance attorney and intermediate portfolio manager)	$254	$617.50[4]
Total new annual burden per UIT		0.67 hours		$254	$617.50
Number of filings		× 1 filing[5]		× 1 filing[5]	× 1 filing[5]
Total new annual burden		0.67 hours		$254	$617.50
TOTAL ESTIMATED BURDENS, INCLUDING AMENDMENTS					
Current burden estimates		28 hours[6]			$10,300
Revised burden estimates		**29 hours**[6]			**$10,917.50**

Notes:
1. Includes initial burden estimates annualized over a 3-year period.
2. These PRA estimates assume that the same types of professionals would be involved in satisfying the proposed reporting requirements that we believe otherwise would be involved in complying with this requirement. The Commission's estimates of the relevant wage rates are based on the SIFMA Wage Report.
3. Represents initial burden estimates annualized over a three-year period.
4. $617.50 includes an estimated $248 for 0.5 hours of outside legal services and an estimated $369.50 for 0.5 hours of management consultant services.
5. We are assuming one portfolio per filing. In addition, we may be overestimating the number of filings as the trust may not consider ESG factors when it selects portfolio securities.
6. Rounded to the nearest whole number.

[465] *See* 17 CFR 239.16.

[466] These estimates are based on the last time the rules' information collections were each submitted for PRA renewal in 2020. *See* ICR Reference No. 202006–3235–011, *available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202006-3235-011;* ICR Reference No. 202004–3235–003, *available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202004-3235-003.*

TABLE 5: FORM S-6 PRA ESTIMATES

	Initial hours	Annual hours[1]	Wage rate[2]	Internal time costs	Annual external cost burden
PROPOSED AMENDMENTS TO FORM S-6					
Additional information concerning the securities underlying the trust's securities	2.0 hours	0.83 hours[3]	$306 (blended rate for compliance attorney and intermediate portfolio manager)	$254	$617.50[4]
Total new annual burden per UIT		0.83 hours		$254	$617.50
Number of UIT ETFs		× 8 filings[5]		× 8 filings[5]	× 8 filings[5]
Total new annual burden		9.36 hours		$2,032	$4,940
TOTAL ESTIMATED BURDENS, INCLUDING AMENDMENTS					
Current burden estimates		107,359 hours[6]			+$4,940
Revised burden estimates		**107,368 hours**[6]			**$68,113,896**

Notes:
1. Includes initial burden estimates annualized over a 3-year period.
2. The Commission's estimates of the relevant wage rates are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association's Office Salaries in the Securities Industry 2013. The estimated figures are modified by firm size, employee benefits, overhead, and adjusted to account for the effects of inflation. See Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013, as modified by Commission staff for 2020.
3. Includes initial burden estimates annualized over a three-year period, plus 0.5 hours of ongoing annual burden hours. The estimate of 1.17 hours is based on the following calculation: ((2.0 initial hours /3) + 0.5 hours of additional ongoing burden hours) = 1.17 hours.
4. $617.50 includes an estimated $248 for 0.5 hours of outside legal services and an estimated $369.50 for 0.5 hours of management consultant services.
5. For PRA purposes, we are assuming one portfolio per filing. In addition, we may be overestimating the number of filings as the trust may not consider ESG factors when it selects portfolio securities.
6. Rounded to the nearest whole number.

E. Proposed Inline XBRL Data Tagging Requirements

The Investment Company Interactive Data collection of information references current requirements for certain registered investment companies and BDCs to submit to the Commission in Inline XBRL certain information provided in response to specified form and rule requirements included in their registration statements and post-effective amendments thereto; prospectuses filed pursuant to 17 CFR 230.424(b) (''rule 424(b)'') and rule 497(c) or (e) under the Securities Act; Exchange Act reports that are incorporated by reference into a registration statement; BDC financial statements; and, for registered closed-end funds (that are not interval funds) and BDCs, their filing fee exhibits.[467] We are proposing to amend Forms N–1A, N–2, N–8B–2, S–6, and N–CSR; and rules 11 and 405 of Regulation S–T to require that the ESG-related disclosures that certain funds would be providing in their prospectuses and/or annual reports under our proposed amendments be submitted to the Commission in Inline XBRL.[468] While funds filing registration statements on Forms N–1A and N–2 already submit certain information using Inline XBRL, for funds filing registration statements on Forms N–8B–2 and S–6 and for funds that file their annual reports on Form N–CSR, our proposed data tagging requirements would represent wholly new burdens.

In our most recent Paperwork Reduction Act submission for Investment Company Interactive Data, we estimated a total aggregate annual hour burden of 252,602 hours, and a total aggregate annual external cost burden of $15,350,750.[469] Compliance with the interactive data requirements is mandatory, and the responses will not be kept confidential.

The table below summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to Form N–1A, Form N–2, Form N–8B–2, Form S–6, and Form N–CSR.

[467] *See* Inline XBRL Adopting Release (requiring Form N–1A prospectus risk/return summary information to be submitted in Inline XBRL); Variable Contract Summary Prospectus Adopting Release (requiring variable contracts to submit specified Form N–3, N–4, and N–6 prospectus information in Inline XBRL); Closed-End Fund Offering Reform Adopting Release (requiring registered closed-end funds and BDCs to submit Form N–2 cover page information, specified Form N–2 prospectus information, and financial statement information (for BDCs only) in Inline XBRL); and Filing Fee Adopting Release (requiring registered closed-end funds (that are not interval funds) and BDCs to submit filing fee exhibits filed on Forms N–2 and N–14 in Inline XBRL), *supra* footnotes 185–186.

[468] The Investment Company Interactive Data collection of information do not impose any separate burden aside from that described in our discussion of the burden estimates for this collection of information.

[469] This estimate is based on the last time this information collection was approved in 2020. *See* ICR Reference No. 202008–3235–007, *available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202008-3235-007*.

TABLE 6: INVESTMENT COMPANY INTERACTIVE DATA

	Internal initial burden hours	Internal annual burden hours[1]	Wage rate[2]	Internal time costs	Annual external cost burden
PROPOSED INTERACTIVE DATA ESTIMATES					
ESG-related disclosure for current XBRL filers[3]	2.4 hours	1 hour[4]	$356 (blended rate for compliance attorney and senior programmer)	$356	$50[5]
Number of funds		× 11,920 funds[6]		× 11,920 funds	× 11,920 funds
ESG-related disclosure for new XBRL filers[7]	12 hours	5 hours[8]	$356 (blended rate for compliance attorney and senior programmer)	$1,780	$1000[9]
Number of filings		× 9 filings[10]		× 9 filings	x 9 filings
Total new aggregate annual burden		11,965 hours[11]		$4,259,540[12]	$605,000[13]
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS					
Current aggregate annual burden estimates		+ 252,602 hours			+ $15,350,750
Revised aggregate annual burden estimates		264,567 hours			$15,955,750

Notes:
1. Includes initial burden estimates annualized over a 3-year period.
2. These PRA estimates assume that the same types of professionals would be involved in satisfying the proposed reporting requirements that we believe otherwise would be involved in complying with this requirement. The Commission's estimates of the relevant wage rates are based on the SIFMA Wage Report.3. This estimate represents the average burden for a filer on Form N-1A or Form N-2 that is currently subject to interactive data requirements.
4. Includes initial burden estimates annualized over a three-year period, plus 0.20 hour of ongoing annual burden hours. The estimate of 1 hour is based on the following calculation: ((2.4 initial hour /3) + 0.20 hour of additional ongoing burden hours) = 1 hour.
5. We estimate an incremental external cost for filers on Form N-1A and Form N-2 as they already submit certain information using Inline XBRL.
6. The number of funds represents the aggregate number of filings on Forms N-1A and N-2 as of 2021 that staff estimates would be subject to the ESG-related disclosure data tagging requirements.
7. This estimate represents the average burden for a filer on Form N-8B-2 and Form S-6 that is not currently subject to interactive data requirements.
8. Includes initial burden estimates annualized over a three-year period, plus 1 hour of ongoing annual burden hours. The estimate of 5 hours is based on the following calculation: ((12 initial hours /3) + 1 hour of additional ongoing burden hours) = 5 hours.
9. We estimate an external cost for filers on Form N-8B-2 and Form S-6 of $1,000 to reflect one-time compliance and initial set-up costs. Because these filers have not been previously been subject to Inline XBRL requirements, we estimate that these funds would experience additional burdens related to one time-costs associated with becoming familiar with Inline XBRL reporting. These costs would include, for example, the acquisition of new software or the services of consultants, or the training of staff.
10. We believe that using the number of filings instead of the number of registrants on Form N-8B-2 and Form S-6 would form a more accurate estimate of annual burdens. This estimate is therefore based on the average number of filings made on Form N-8B-2 and Form S-6 from 2020 to 2021. Based on a staff review of filings, we estimate that there would 9 filings that would be subject to the ESG-related disclosure data tagging requirements.
11. 11,965 hours = (11,920 funds x 1 hour) + (9 filings x 5 hours).
12. $4,259,540 internal time cost = (11,920 funds x $356) + (9 filings x $1,780).
13. $605,000 annual external cost = (11,920 funds x $50) + (9 filings x $1,000).

F. Proposed New Annual Reporting Requirements Under Rule 30e–1 and Exchange Act Periodic Reporting Requirements for BDCs

As discussed above, we are proposing new disclosure requirements in the MDFP and MD&A sections of annual reports for registered management investment companies and BDCs, respectively.[470] The collection of information burdens for these amendments correspond to information collections under rule 30e-1 for registered management investment companies and Form 10–K for BDCs. We discuss our proposed changes to each of these information collections below.

We have previously estimated that it takes a total of 1,039,868 hours, and involves a total external cost burden of $149,244,791, to comply with the collection of information associated with rule 30e–1.[471] Compliance with the

470 *See supra,* Section II.A.3.

471 This estimate is based on the last time the rule's information collection was submitted for PRA renewal in 2020. *See* ICR Reference No. 202007–

Continued

disclosure requirements of rule 30e–1 is mandatory. Responses to the disclosure requirements are not kept confidential.

The table below summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to rule 30e–1.

3235–015, *available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202007-3235-015.*

TABLE 7: RULE 30E-1 PRA ESTIMATES

	Internal initial burden hours	Internal annual burden hours[1]		Wage rate[2]	Internal time costs	Annual external cost burden
PROPOSED AMENDMENTS TO FUND SHAREHOLDER REPORTS						
ESG Impact Disclosure						
Summary of ESG Impact achievement during reporting period	9 hours	6 hours[3]	×	$345 (blended rate for compliance attorney, senior portfolio manager, and senior programmer)[4]	$2,070	$3,654[5]
Total additional burden per fund		6 hours				$3,654
Number of funds		× 58 funds[6]			× 58 funds	× 58 funds
Annual burden		348 hours			$120,060	$211,932
ESG voting matters and engagement disclosure						
Disclosure of percentage of ESG voting matters and ESG engagement during reporting period	9 hours	6 hours[3]		$345 (blended rate for compliance attorney, senior portfolio manager, and senior programmer)[4]	$ 2,070	$3,654[5]
Total additional burden per fund		6 hours				$3,654
Number of funds		x 769 funds[7]			x 769 funds	x 769 funds
Annual burden		4,614 hours			$1,591,830	$2,809,926
GHG Emissions Metrics Disclosure						
Disclosure of portfolio level GHG emissions metrics for the reporting period	24 hours	16 hours[9]		$307 (blended rate for a senior accountant, compliance attorney, and senior programmer)[8]	$4,912	$4,872[10]
Total additional burden per fund		16 hours				$4,872
Number of funds		x 355 funds[11]			x 355 funds	x 355 funds
Annual burden		5,680 hours			$1,743,760	$1,729,560
Total estimated burdens for proposed amendments						
		10,642 hours				$4,751,418
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS						
Current burden estimates		+1,039,868 hours				+$149,244,791
Revised burden estimates		1,050,510 hours				$153,996,209

Notes:
1. Includes initial burden estimates annualized over a 3-year period.
2. These PRA estimates assume that the same types of professionals would be involved in satisfying the proposed reporting requirements that we believe otherwise would be involved in complying with this requirement. The Commission's estimates of the relevant wage rates are based on the SIFMA Wage Report.
3. This estimate assumes that, after the initial 9 hours that a fund would spend preparing the proposed disclosure, which we annualize over a 3-year period, the fund would incur 3 additional burden hours associated with ongoing preparation of the proposed disclosure per year. The estimate of 6 hours is based on the following calculation: ((9 initial hours /3) + 3 hours of additional ongoing burden hours) = 6 hours.
4. The $345 wage rate reflects current estimates of the blended hourly rate for an in-house compliance attorney ($368), a senior portfolio manager ($332), and a senior programmer ($334). $345 is based on the following calculation: ($368+$332+$334) / 3 = $345.
5. $3,654 includes an estimated $1,467 for 3 hours of outside legal services and an estimated $2,187 for 3 hours of management consultant services.
6. Based on the staff's estimate of the number of funds registered on Form N-1A and Form N-2 with the term "impact" included in the fund name.
7. The estimated 769 funds includes the staff's estimate of 711 ESG-Focused Funds and 58 ESG Impact Funds registered on Form N-1A and Form N-2.
8. The $307 wage rate reflects current estimates of the blended hourly rate for an in-house senior accountant ($218), compliance attorney ($368), and a senior programmer ($334). $307 is based on the following calculation: ($368+$218+$334) / 3 = $307.
9. This estimate assumes that, after the initial 24 hours that a fund would spend preparing the proposed disclosure, which we annualize over a 3-year period, the fund would incur 8 additional burden hours associated with ongoing preparation of the proposed disclosure per year. The estimate of 6 hours is based on the following calculation: ((24 initial hours /3) + 8 hours of additional ongoing burden hours) = 6 hours.
10. $4,872 includes an estimated $1,956 for 4 hours of outside legal services and an estimated $2,916 for 4 hours of management consultant services.
11. Based on the staff's estimate of the number of funds registered on Form N-1A and Form N-2 with climate-related terms included in the fund name or principal investment strategies.

We have previously estimated that it takes a total of 14,188,040 hours, and involves a total external cost burden of $1,893,793,119, to comply with the collection of information associated with Form 10–K.[472] Compliance with the disclosure requirements of Form 10–K is mandatory. Responses to the disclosure requirements are not kept confidential.

We believe that the incremental increase in information collections burdens associated with the proposed annual report requirements for rule 30e–1 discussed above will be the same for Form 10–K. Therefore, the table below summarizes the estimated incremental burden increase associated with the proposed annual report amendments that ESG-Focused BDCs would be required to disclose Form 10–K.

TABLE 8: FORM 10-K PRA ESTIMATES

	Number of estimated affected responses (A)	Burden hour increase per affected response (B)	Total increase in internal burden hours for affected responses (C) = (A) x (B)	Increase in internal costs per affected response (D)	Total increase in internal costs for affected responses (E) = (A) x (D)	Increase in external costs per affected response (F)	Total increase in external costs for affected responses (G) = (A) x (F)
Requirements to disclose **summary of ESG impact, percentage of ESG voting matters and ESG engagement, and portfolio level GHG emissions metrics for the reporting period**	1[1]	28	28	$9,052	$9,052	$12,180	$12,180
Current estimated burdens for Form 10-K			14,188,040 hours				$1,893,793,119
Revised Estimated burdens for Form 10-K			14,188,068 hours				$1,893,805,299

Notes:
1. Based on the staff's estimate of the number of business development companies with ESG-related terms included in the fund name or principal investment strategies.

G. Form N–CEN

Form N–CEN is an annual report filed with the Commission by all registered investment companies, other than face-amount certificate companies. We have previously estimated that it takes a total of 54,890 hours, and involves a total external cost burden of $1,344,980, to comply with the collection of information associated with Form N–CEN.[473] Compliance with the disclosure requirements of Form N–CEN is mandatory. Responses to the disclosure requirements are not kept confidential. The table below summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to Form N–CEN. Staff estimates there will be no external costs associated with this collection of information.

[472] This estimate is based on the last time the rule's information collection was submitted in 2021. *See* ICR Reference No. 202101–3235–003, *available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202101-3235-003.*

[473] This estimate is based on the last time the rule's information collection was submitted for PRA renewal in 2021. *See* ICR Reference No. 202012–3235–017, *available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202012-3235-017.*

TABLE 8: FORM N-CEN PRA ESTIMATES

	Internal initial burden hours	Internal annual burden hours	Wage rate[1]	Internal time costs	Annual external cost burden
PROPOSED AMENDMENTS TO FORM N-CEN					
Proposed ESG Related Disclosure					
Reporting ESG-related fund census information	1 hour	1 hour[2]	$351 (blended rate for compliance attorney and senior programmer)[3]	$351	$0
Total new annual burden per fund		1 hour		$351	$0
Number of funds		× 14,201 funds[4]		× 14,201 funds	
Total new annual burden		14,201 hours		$4,984,551	
Proposed Index Fund Disclosure					
Reporting Index-related fund census information	0.5 hours	0.5 hours[5]	$351 (blended rate for compliance attorney and senior programmer)[3]	$157.5	$0
Total new annual burden per fund		0.5 hours		$157.5	$0
Number of funds		x 2,638 funds[6]		x 2,638 funds	
Total new annual burden		1,319 hours		$415,485	$0
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS					
Current burden estimates		+ 54,890 hours			+ $1,344,980
Revised burden estimates		70,410 hours			$1,344,980

Notes:
1. These PRA estimates assume that the same types of professionals would be involved in satisfying the proposed reporting requirements that we believe otherwise would be involved in complying with this requirement. The Commission's estimates of the relevant wage rates are based on the SIFMA Wage Report
2. This estimate assumes that, after the initial 1 hour that a fund reporting on Form N-CEN to report the proposed ESG-related data elements, which we annualize over a 3-year period, the fund would incur 0.67 additional burden hours associated with ongoing preparation of the proposed reporting requirements per year. The estimate of 1 hour is based on the following calculation: ((1 initial hour /3) + 0.67 hours of additional ongoing burden hours) = 1 hour.
3. The $351 wage rate reflects current estimates of the blended hourly rate for an in-house compliance attorney ($368) and a senior programmer ($334). $351 is based on the following calculation: ($368+$334)/ 2 = $351.
4. This estimate is based on the total number of funds required to complete Part C of Form N-CEN.
5. This estimate assumes that, after the initial 0.5 hours that a fund reporting on Form N-CEN to report the proposed index-related data elements, which we annualize over a 3-year period, the fund would incur 0.3 additional burden hours associated with ongoing preparation of the proposed reporting requirements per year. The estimate of 0.5 hour is based on the following calculation: ((0.5 initial hour /3) + 0.3 hours of additional ongoing burden hours) = 0.5 hours.
6. This estimate is based on the number of index funds required to file Form N-CEN.

H. Form N–CSR

Registered management investment companies are required to file reports with the Commission on Form N–CSR. In our most recent Paperwork Reduction Act submission for Form N–CSR, we estimated the annual compliance burden to comply with the collection of information requirement of Form N–CSR is 181,167.5 burden hours and an external cost burden estimate of $5,199,584.[474] Compliance with the disclosure requirements of Form N–CSR is mandatory, and the responses to the disclosure requirements will not be kept confidential.

The table below summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to Form N–CSR.

[474] This estimate is based on the last time the rule's information collection was submitted for PRA renewal in 2020. *See* ICR Reference No. 202005–3235–023, *available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202005-3235-023.*

TABLE 9: FORM N-CSR PRA ESTIMATES

	Internal initial burden hours	Internal annual burden hours[1]		Wage Rate[2]	Internal Time Costs	Annual external cost burden
PROPOSED AMENDMENTS TO FORM N-CSR						
Total additional burden per filing (proposed new Item 7 of Form N-CSR)	18 hours	11 hours[3]	×	$307 (blended rate for a senior accountant, compliance attorney, and senior programmer)[4]	$3,377	$4,872[5]
Number of filings		×355 funds[6]			× 355 funds	× 355 funds
Total additional burden for Form N-CSR		3,905 hours			$1,198,835	**$1,729,560**
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS						
Current burden estimates		+181,167 hours				+$5,199,584
Revised burden estimates		185,072 hours				$6,929,144

Notes:

1. Includes initial burden estimates annualized over a 3-year period.
2. These PRA estimates assume that the same types of professionals would be involved in satisfying the proposed reporting requirements that we believe otherwise would be involved in complying with this requirement. The Commission's estimates of the relevant wage rates are based on the SIFMA Wage Report
3. This estimate assumes that, after the initial 18 hours that a fund would spend preparing the new item on Form N-CSR, which we annualize over a 3-year period, the fund would incur 5 additional burden hours associated with ongoing preparation of this item per year. The estimate of 11 hours is based on the following calculation: ((18 initial hours / 3) + 5 hours of additional ongoing burden hours) = 11 hours.
4. The $307 wage rate reflects current estimates of the blended hourly rate for an in-house senior accountant ($218), compliance attorney ($368), and a senior programmer ($334). $345 is based on the following calculation: ($368+$218+$334) / 3 = $307.
5. $4,872 includes an estimated $1,956 for 4 hours of outside legal services and an estimated $2,916 for 4 hours of management consultant services.
6. Based on the staff's estimate of the number of funds registered on Form N-1A and Form N-2 with climate-related terms included in the fund name or principal investment strategies. While funds make two filings on N-CSR annually, the disclosure required by this item would only be included on Form N-CSR with a fund's annual shareholder report.

I. Form ADV

The proposed amendments to Form ADV would increase the information requested in Form ADV Part 1A and Part 2 for RIAs, and Part 1A for ERAs. The estimated new burdens below also take into account changes in the numbers of advisers since the last approved PRA for Form ADV and increased costs due to inflation. Based on the prior amendments to Form ADV, we estimated the annual compliance burden to comply with the collection of information requirement of Form ADV is 433,004 burden hours and an external cost burden estimate of $14,125,083.[475] Compliance with the disclosure requirements of Form ADV is mandatory, and the responses to the disclosure requirements will not be kept confidential.

[475] *See* Investment Adviser Marketing, Final Rule, Investment Advisers Act Release No. 5653 (Dec. 22, 2020) [81 FR 60418 (Mar. 5, 2021)] and corresponding submission to the Office of Information and Regulatory Affairs at *Reginfo.gov* ("2021 Form ADV PRA").

We propose the following changes to our PRA methodology for Form ADV:

• *Form ADV Parts 1 and 2.* Form ADV PRA has historically calculated a per adviser per year hourly burden for Form ADV Parts 1 and 2 for each of (i) the initial burden and (ii) the ongoing burden, which reflects advisers' filings of annual and other-than-annual updating amendments. We noted in previous PRA amendments that most of the paperwork burden for Form ADV Parts 1 and 2 would be incurred in the initial submissions of Form ADV. However, recent PRA amendments have continued to apply the total initial hourly burden for Parts 1 and 2 to all currently registered or reporting RIAs and ERAs, respectively, in addition to the estimated number of new advisers expected to be registering or reporting with the Commission annually. We believe that the total initial hourly burden for Form ADV Parts 1 and 2 going forward should be applied only to the estimated number of expected new advisers annually. This is because currently registered or reporting advisers have generally already incurred the total initial burden for filing Form ADV for the first time. On the other hand, the estimated expected new advisers will incur the full total burden of initial filing of Form ADV, and we believe it is appropriate to apply this total initial burden to these advisers. We propose to continue to apply any new initial burdens resulting from proposed amendments to Form ADV Parts 1 and 2, as applicable, to all currently registered or reporting investment advisers plus all estimated expected new RIAs and ERAs annually.

• *Private fund reporting.* We have previously calculated advisers' private fund reporting as a separate initial burden. The currently approved burden for all registered and exempt reporting advisers, including expected new registered advisers and new exempt reporting advisers, with respect to reported private funds, is 1 hour per private fund reported, which we have previously amortized over three years for all private fund advisers. We propose to continue to calculate advisers' private fund reporting as a separate reporting burden, but we propose to apply the initial burden only with respect to the expected new private funds.

TABLE 10: FORM ADV PRA ESTIMATES

	Initial hours per year	Internal annual amendment burden hours[1]	Wage rate[2]	Internal time costs	Annual external cost burden[3]
PROPOSED AMENDMENTS TO FORM ADV					
RIAs (burden for Parts 1 and 2, not including private fund reporting)[4]					
Proposed additions (per adviser) to Part 1A Items 5, 6, and 7, and corresponding schedules; Proposed additions to Part 2 brochure and wrap fee program brochure	0.3 hours for Part 1A, other than private fund reporting + 0.8 hours[5] for Part 2 = 1.1 hours	0.4 hours[6]	$279.50 per hour (blended rate for senior compliance examiner and compliance manager)[7]	1.5 hours x $279.50 per hour = $419.25	1 hour of external legal services ($496) for ¼ of advisers that prepare Part 2; 1 hour of external compliance consulting services ($739) for ½ of advisers that prepare Part 2[8]
Current burden per adviser[9]	29.72 hours[10]	11.8 hours[11]	$273 per hour (blended rate for senior compliance examiner and compliance manager)	(29.72 + 11.8) x $273 = $11,334.96	$2,069,250 aggregated (previously presented only in the aggregate)[12]
Revised burden per adviser	29.72 hours + 1.1 hours = 30.82 hours	0.4 hours + 11.8 hours = 12.2 hours	$279.50 (blended rate for senior compliance examiner and compliance manager)	(30.82 + 12.2) x $279.5 = $12,024.09	$4,689.50[13]
Total revised aggregate burden estimate	27,921.86[14]	173,545 hours[15]	Same as above	(27,921.86 + 173,545) x $279.5 = $56,309,987.37	$8,752,986[16]
RIAs (burden for Part 3)[17]					
No proposed changes	--	--	--	--	--
Current burden per RIA	20 hours, amortized over three years = 6.67 hours[18]	1.58 hours[19]	$273 (blended rate for senior compliance examiner and compliance manager)	$273 x (6.67 + 1.71) = $2,287.74	$2,433.74 per adviser[20]
Total updated aggregate burden estimate	64,755.39 hours[21]	14,189.98 hours[22]	Same as above	$22,065,230.92 (($279.50 x (64,755.39 hours + 14,189.98 hours))	$7,985,652.5[23]
ERAs (burden for Part 1A, not including private fund reporting)[24]					
Proposed additions (per adviser) to Part 1A Items 5, 6, and 7, and corresponding schedules	0.3 hours	N/A – would be included in the existing ongoing reporting burden for ERAs	$279.50 (blended rate for senior compliance examiner and compliance manager)	Wage rate x total hours (see below)	$0
Current burden per ERA	3.60 hours[25]	1.5 hours + final filings[26]	$273 (blended rate for senior compliance examiner and compliance manager)		$0
Revised burden per ERA	3.9 hours	1.5 hours + final	$279.50 (blended rate		$0

	(0.3 hours + 3.6 hours)	filings (same as above)	for senior compliance examiner and compliance manager)		
Total revised aggregate burden estimate	2,639.4[27]	7,780.1 hours[28]	Same as above	$2,912,250.25 ($279.5 x (2,639.4 + 7,780.1 hours))	$0
		Private Fund Reporting[29]			
Proposed additions to Part 1A Item 7, and corresponding schedules	0.2 hours	N/A – would be included in the existing annual amendment reporting burden for ERAs	$279.50 (blended rate for senior compliance examiner and compliance manager)	Wage rate x total hours (see below)	$0
Current burden per adviser to private fund	1 hour per private fund[30]	N/A – included in the existing annual amendment burden	$273 (blended rate for senior compliance examiner and compliance manager)		Cost of $46,865.74 per fund, applied to 6% of RIAs that report private funds[31]
Revised burden per adviser to private fund	1.2 hours	N/A	$279.50 (blended rate for senior compliance examiner and compliance manager)		
Total revised burden estimate	14,233 hours[32]	N/A	Same as above	$3,978,123.5 ($279.5 x 14,233 hours))	$14,153,453.50[33]
		TOTAL ESTIMATED BURDENS, INCLUDING AMENDMENTS			
Current per adviser burden/external cost per adviser	23.82 hours[34]			23.82 hours x $273 = $6,502.86 per adviser cost of the burden hour	$777[35]
Revised per adviser burden/external cost per adviser	15.74 hours[36]			15 hours x $279.5 = $4,192.5 per adviser cost of the burden hour	$1,593.44[37]
Current aggregate burden estimates	433,004 initial and amendment hours annually[38]			433,004 x $273 = $118,210,092 aggregate cost of the burden hour	$14,125,083[39]
Revised aggregate burden estimates	305,064.73[40] Initial and amendment hours annually			290,831.73 x $279.5 = $81,287,468.54 aggregate cost of the burden hour	$30,892,092.00[41]

Notes:

1. This column estimates the hourly burden attributable to annual and other-than-annual updating amendments to Form ADV, plus RIAs' ongoing obligations to deliver codes of ethics to clients.

2. As with Form ADV generally, and pursuant to the currently approved PRA (see 2021 Form ADV PRA), we expect that for most RIAs and ERAs, the performance of these functions will most likely be equally allocated between a senior compliance examiner and a compliance manager, or persons performing similar functions. The Commission's estimates of the relevant wage rates are based on the SIFMA Wage Report

3. External fees are in addition to the projected hour per adviser burden. Form ADV has a one-time initial cost for outside legal and compliance consulting fees in connection with the initial preparation of Parts 2 and 3 of the form. In addition to the estimated legal and compliance consulting fees, investment advisers of private funds incur one-time costs with respect to the requirement for investment advisers to report the fair value of private fund assets.

4. Based on Form ADV data as of December 2020, we estimate that there are 13,812 RIAs ("current RIAs") and 413 advisers that are expected to become RIAs annually ("newly expected RIAs").

5. We estimate that 80% of RIAs incorporate ESG factors into their advisory services, which we believe is similar to the estimated percentage of registered funds that pursue either an ESG integration, ESG focused or ESG impact strategy. See discussion of PRA analysis for funds, above. Therefore, 11,380 RIAs (80% of the total of 14,225 combined current and expected RIAs that are required to complete Parts 1 and 2) would incur a burden of 1 hour, and 2,845 RIAs (20% of 14,225 combined current and expected RIAs that are required to complete Parts 1 and 2) would incur a burden of 0 hours. (11,380 RIAs x 1) +

(2,845 RIAs x 0) / 14,225 = 0.8 blended average hours per RIA.

6. We estimate that 11,380 RIAs (80% of the total of 14,225 combined current and expected RIAs that are required to complete Parts 1 and 2) would incur a burden of 0.5 hour, and 2,845 RIAs (20% of 14,225 current and expected RIAs that are required to complete Parts 1 and 2) would incur a burden of 0 hours. (11,380 RIAs x 0.5) + (2,845 RIAs x 0) / 14,225 = 0.4 blended average hours per RIA.

7. The $279.50 wage rate reflects current estimates from the SIFMA Wage Report of the blended hourly rate for a senior compliance examiner ($243) and a compliance manager ($316). ($243 + $316) / 2 = $279.5.

8. We estimate that a quarter of RIAs would seek the help of outside legal services and half would seek the help of compliance consulting services in connection with the proposed amendments to Form ADV Part 2. This is based on previous estimates and ratios we have used for advisers we expect to use external services for initially preparing various parts of Form ADV. See 2020 Form ADV PRA Renewal (the subsequent amendment to Form ADV described in the 2021 Form ADV PRA did not change that estimate). Because the SIFMA Wage Report does not include a specific rate for outside compliance consultant, we are proposing to use the rates in the SIFMA Wage Report for outside management consultant, as we have done in the past when estimating the rate of outside compliance counsel. We are adjusting these external costs for inflation, using the currently estimated costs for outside legal counsel and outside management consultants in the SIFMA Wage Report: $495 per hour for outside counsel, and $739 per hour for outside management consultant (compliance consultants).

9. Per above, we are proposing to revise the PRA calculation methodology to apply the full initial burden only to expected RIAs, as we believe that current RIAs have generally already incurred the burden of initially preparing Form ADV.

10. *See* 2020 Form ADV PRA Renewal (stating that the estimate average collection of information burden per adviser for Parts 1 and 2 is 29.22 hours, prior to the most recent amendment to Form ADV). *See also* 2021 Form ADV PRA (adding 0.5 hours to the estimated initial burden for Part 1A in connection with the most recent amendment to Form ADV). Therefore, the current estimated average initial collection of information hourly burden per adviser for Parts 1 and 2 is 29.72 hours (29.22 + 0.5 = 29.72).

11. The currently approved average total annual burden for RIAs attributable to annual and other-than-annual updating amendments to Form ADV Parts 1 and 2 is 10.5 hours per RIA, plus 1.3 hours per year for each RIA to meet its obligation to deliver codes of ethics to clients (10.5 + 1.3 = 11.8 hours per adviser). *See* 2020 Form ADV PRA Renewal (these 2020 hourly estimates were not affected by the 2021 amendments to Form ADV). As we explained in previous PRAs, we estimate that each RIA filing Form ADV Part 1 will amend its form 2 times per year, which consists of one interim updating amendment (at an estimated 0.5 hours per amendment), and one annual updating amendment (at an estimated 8 hours per amendment), each year. We also explained that we estimate in that each RIA will, on average, spend 1 hour per year making interim amendments to brochure supplements, and an additional 1 hour per year to prepare brochure supplements as required by Form ADV Part 2. *See id.*

12. *See* 2020 Form ADV PRA Renewal (the subsequent amendment to Form ADV described in the 2021 Form ADV PRA did not affect that estimate).

13. External cost per RIA includes the external cost for initially preparing Part 2, which we have previously estimated to be approximately 10 hours of outside legal counsel for a quarter of RIAs, and 8 hours of outside management consulting services for half of RIAs. *See* 2020 Form ADV Renewal (these estimates were not affected by subsequent amendments to Form ADV). We add to this burden the estimated external cost associated with the proposed amendment (an additional hour of each, bringing the total to 11 hours and 9 hours, respectively, for ¼ and ½ of RIAs, respectively). (((.25 x 13,812 RIAs) x ($496 x 11 hours)) + ((0.50 x 13,812 RIAs) x ($739 x 9 hours))) / 13,812 RIAs = $4,689.50 per adviser.

14. Per above, we are proposing to revise the PRA calculation methodology for current RIAs to not apply the full initial burden to current RIAs, as we believe that current RIAs have generally already incurred the initial burden of preparing Form ADV. Therefore, we calculate the initial burden associated with complying with the proposed amendment of 1.1 initial hours x 13,812 current RIAs = 15,193.2 initial hours in the first year aggregated for current RIAs. We are not amortizing this burden because we believe current advisers will incur it in the first year. For expected RIAs, we estimate that they will incur the full revised initial burden, which is 30.82 hours per RIA. Therefore, 30.82 hours x 413 expected RIAs = 12,728.66 aggregate hours for expected RIAs. We do not amortize this burden for expected new RIAs because we expect a similar number of new RIAs to incur this initial burden each year. Therefore, the total revised aggregate initial burden for current and expected RIAs is 15,193.2 hours + 12,728.66 hours = 27,921.86 aggregate initial hours.

15. 12.2 amendment hours x (13,812 current RIAs + 413 expected new RIAs) = 173,545 aggregate amendment hours.

16. Per above, for current RIAs, we are proposing to not apply the currently approved external cost for initially preparing Part 2, because we believe that current RIAs have already incurred that initial external cost. For current RIAs, therefore, we are applying only the external cost we estimate they will incur in complying with the proposed amendment. Therefore, the revised total burden for current RIAs is (((.25 x 13,812 RIAs) x ($496 x 1 hour)) + ((0.50 x 13,812 RIAs) x ($739 x 1 hour))) = $6,816,222 aggregated for current RIAs. We do not amortize this cost for current RIAs because we expect current RIAs will incur this initial cost in the first year. For expected RIAs, we apply the currently approved external cost for initially preparing Part 2 plus the estimated external cost for complying with the proposed amendment. Therefore, $4,689.50 per expected RIA x 413 = $1,936,763.50 aggregated for expected RIAs. We do not amortize this cost for expected new RIAs because we expect a similar number of new RIAs to incur this external cost each year. $6,816,222 aggregated for current RIAs + $1,936,763.50 aggregated for expected RIAs = $8,752,986 aggregated external cost for RIAs.

17. Even though we are not proposing amendments to Form ADV Part 3 ("Form CRS"), the burdens associated with completing Part 3 are included in the PRA for purposes of updating the overall Form ADV information collection. Based on Form ADV data as of December 2020, we estimate that 8,617 current RIAs provide advice to retail investors and are therefore required to complete Form CRS, and we estimate an average of 364 expected new RIAs to be advising retail advisers and completing Form CRS for the first time annually.

18. See Form CRS Relationship Summary; Amendments to Form ADV, Investment Advisers Act Release No. 5247 (June 5, 2019) [84 FR 33492 (Sep. 10, 2019)] ("2019 Form ADV PRA"). Subsequent PRA amendments for Form ADV have not adjusted the burdens or costs associated with Form CRS. Because Form CRS is still a new requirement for all applicable RIAs, we have, and are continuing to, apply the total initial burden to all current and expected new RIAs that are required to file Form CRS, and amortize that initial burden over three years for current RIAs.

19. As reflected in the currently approved PRA burden estimate, we stated that we expect advisers required to prepare and file the relationship summary on Form ADV Part 3 will spend an average 1 hour per year making amendments to those relationship summaries and will likely amend the disclosure an average of 1.71 times per year, for approximately 1.58 hours per adviser. *See* 2019 Form ADV PRA (these estimates were not amended by the 2021 amendments to Form ADV).

20. *See* 2020 Form ADV PRA Amendment (this cost was not affected by the subsequent amendment to Form ADV and was not updated in connection with that amendment; while this amendment did not break out a per adviser cost, we calculated this cost from the aggregate total and the number of advisers we estimated prepared Form CRS). Note, however, that in our 2020 Form ADV PRA Renewal, we applied the external cost only to expected new retail RIAs, whereas we had previously applied the external cost to current and expected retail RIAs. We believe that since Form CRS is still a newly adopted requirement, we should continue to apply the cost to both current and expected new retail RIAs. *See* 2019 Form ADV PRA.

21. 8,617 current RIAs x 6.67 hours each for initially preparing Form CRS = 57,475.39 aggregate hours for current RIAs initially filing Form CRS. For expected new RIAs initially filing Form CRS each year, we are not proposing to use the amortized initial burden estimate, because we expect a similar number of new

RIAs to incur the burden of initially preparing Form CRS each year. Therefore, 364 expected new RIAs x 20 initial hours for preparing Form CRS = 7,280 aggregate initial hours for expected RIAs. 57,475.39 hours + 7,280 hours = 64,755.39 aggregate hours for current and expected RIAs to initially prepare Form CRS.

22. 1.58 hours x (8,617 current RIAs updating Form CRS + 364 expected new RIAs updating Form CRS) = 14,189.98 aggregate amendment hours per year for RIAs updating Form CRS.

23. We have previously estimated the initial preparation of Form CRS would require 5 hours of external legal services for an estimated quarter of advisers that prepare Part 3, and 5 hours of external compliance consulting services for an estimated half of advisers that prepare Part 3. *See* 2020 PRA Renewal (these estimates were not amended by the most recent amendment to Form ADV). The hourly cost estimate of $496 and $739 for outside legal services and management consulting services, respectively, are based on an inflation-adjusted figure in the SIFMA Wage Report. Therefore, (((.25 x 8,617 current RIAs preparing Form CRS) x ($496 x 5 hours)) + ((0.50 x 8,617 current RIAs preparing Form CRS) x ($739 x 5 hours))) = $21,262,447.5. For current RIAs, since this is still a new requirement, we amortize this cost over three years for a per year initial external aggregated cost of $7,087,482.5. For expected RIAs that we expect would prepare Form CRS each year, we use the following formula: (((.25 x 364 expected RIAs preparing Form CRS) x ($496 x 5 hours)) + ((0.50 x 364 expected RIAs preparing Form CRS) x ($739 x 5 hours))) = $898,170 aggregated cost for expected RIAs. We are not amortizing this initial cost because we estimate a similar number of new RIAs would incur this initial cost in preparing Form CRS each year, $7,087,482.5 + $898,170 = $7,985,652.5 aggregate external cost for current and expected RIAs to initially prepare Form CRS.

24. Based on Form ADV data as of December 2020, we estimate that there are 4,859 currently reporting ERAs ("current ERAs"), and an average of 303 expected new ERAs annually ("expected ERAs").

25. *See* 2021 Form ADV PRA.

26. The previously approved average per adviser annual burden for ERAs attributable to annual and updating amendments to Form ADV is 1.5 hours. *See* 2021 Form ADV PRA. As we have done in the past, we add to this burden the burden for ERAs making final filings, which we have previously estimated to be 0.1 hour per applicable adviser, and we estimate that an expected 371 current ERAs will prepare final filings annually, based on Form ADV data as of December 2020.

27. Per above, for current ERAs, we are proposing to not apply the currently approved burden for initially preparing Form ADV, because we believe that current ERAs have already incurred this burden. For current RIAs, therefore, we are applying only the burden we estimate for the proposed amendment. Therefore, the revised total burden for current RIAs is 0.3 hour x 4,859 current ERAs = 1,457.7 aggregate initial hours per year for current ERAs. We are not amortizing this burden because we expect current ERAs to incur this burden in the first year. For expected ERAs, we are applying the revised total initial burden of preparing Form ADV of 3.9 hours. Therefore, 3.9 hours x 303 expected new ERAs per year = 1,181,7 aggregate initial hours for expected ERAs. For these expected ERAs, we are not proposing to amortize this burden, because we expect a similar number of new ERAs to incur this burden each year. Therefore, in total, 1,457.7 hours + 1,181,7 hours = 2,639.4 aggregate initial annual hours for current and expected ERAs.

28. The previously approved average total annual burden of ERAs attributable to annual and updating amendments to Form ADV s 1.5 hours. *See* 2020 Form ADV Renewal (this estimate was not affected by the subsequent amendment to Form ADV). As we have done in the past, we added to this burden the currently approved burden for ERAs making final filings of 0.1 hour, and multiplied that by the number of final filings we are estimating ERAs would file per year (371 final filings based on Form ADV data as of December 2020). (1.5 hours x 4,859 currently reporting ERAs) + (0.1 hour x 371 final filings) = 7,325.6 updated aggregated hours for currently reporting ERAs. For expected ERAs, the aggregate burden is 1.5 hours for each ERA attributable to annual and other-than-annual updating amendments to Form ADV x 303 expected new ERAs = 454.5 annual aggregated hours for expected new ERAs updating Form ADV (other than for private fund reporting). The total aggregate amendment burden for ERAs (other than for private fund reporting) is 7,325.6 + 454.5 = 7,780.10 hours.

29. Based on Form ADV data as of December 2020, we estimate that 4,949 current RIAs advise 41,938 private funds, and expect an estimated 83 new RIAs will advise 332 reported private funds per year. We estimate that 4,791 current ERAs advise 23,053 private funds, and estimate an expected 348 new ERAs will advise 697 reported private funds per year. Therefore, we estimate that there are 64,991 currently reported private funds reported by current private fund advisers (41,938 + 23,053), and there will be annually 1,029 new private funds reported by expected private fund advisers (332 + 697). The total number of current and expected new RIAs that report or are expected to report private funds is 5,032 (4,949 current RIAs that report private funds + 83 expected RIAs that would report private funds).

30. *See* 2020 Form ADV PRA Renewal (this per adviser burden was not affected by subsequent amendments to Form ADV).

31. We previously estimated that an adviser without the internal capacity to value specific illiquid assets would obtain pricing or valuation services at an estimated cost of $37,625 each on an annual basis. *See* Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act Release No. IA-3221 (June 22, 2011) [76 FR 42950 (July 19, 2011)]. However, because we estimated that external cost in 2011, we are proposing to use an inflation-adjusted cost of $46,865.74, based on the CPI calculator published by the Bureau of Labor Statistics at https://www.bls.gov/data/inflation_calculator.htm. As with previously approved PRA methodologies, we continue to estimate that 6% of RIAs have at least one private fund client that may not be audited. See 2020 Form ADV PRA Renewal.

32. Per above, for currently reported private funds, we are proposing to not apply the currently approved burden for initially reporting private funds on Form ADV, because we believe that current private fund advisers have already incurred this burden. Therefore, we calculated the burden on current private fund advisers for only the proposed incremental new additional burden attributable to private fund reporting of 0.2 hours per private fund x 64,991 currently reported private funds = 12,998.2 aggregate hours for current private fund advisers. We expect advisers to incur this initial burden in the first year and are therefore not amortizing this burden. For the estimated 1,029 new private funds annually of expected private fund advisers, we calculate the initial burden of both the proposed incremental new additional burden attributable to private fund reporting of 0.2 hours per private fund, and the 1 hour initial burden per private fund. Therefore, 1.2 hours per expected new private fund x 1,029 expected new private funds = 1,234.8 aggregate hours for expected new private funds. For these expected new private funds, we are not proposing to amortize this burden, because we expect new private fund advisers to incur this burden with respect to new private funds each year. 12,998.2 hours + 1,234.8 hours = 14,233 aggregate hours for private fund advisers.

33. As with previously approved PRA methodologies, we continue to estimate that 6% of registered advisers have at least one private fund client that may not be audited, therefore we estimate that the total number of audits for current and expected RIAs is 6% x 5,032 current and expected RIAs reporting private funds or expected to report private funds = 301.92 audits. We therefore estimate that approximately 302 registered advisers incur costs of $46,865.74 each on an annual basis (see note 31 describing the cost per audit), for an aggregate annual total cost of $14,153,453.48.

34. 433,004 currently approved burden hours / 18,179 advisers (current and expected annually) = 23.82 hours per adviser. *See* 2021 Form ADV PRA.

35. $14,125,083 currently approved aggregate external cost / 18,179 advisers (current and expected annually) = $777 blended average external cost per adviser.

36. 305,064.73 aggregate annual hours for current and expected new advisers (see infra note 40) / (13,812 current RIAs + 413 expected RIAs + 4,859 current ERAs +303 expected ERAs*) = 15.74 blended average hours per adviser. * The parenthetical totals 19,387 current and expected advisers.

37. $30,892,092.00 aggregate external cost for current and expected new advisers / (19,387 advisers current and expected annually) = $1,593.44 blended average hours per adviser.

38. *See* 2021 Form ADV PRA.

39. *See* 2021 Form ADV PRA.

40. 27,921.86 hours + 173,545 hours + 64,755.39 hours + 14,189.98 hours + 2,639.4 hours + 7,780.1 hours + 14,233 hours = 305,064.73 aggregate annual hours for current and expected new advisers.

41. $8,752,986 + $7,985,652.50 + $14,153,453.50 = $30,892,092.00

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J. Request for Comments

We request comment on our estimates for the new estimated burden hours and change in current burden hours, and their associated costs described above. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments in order to: (i) evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (ii) evaluate the accuracy of the Commission's estimate of the burden of the proposed collections of information; (iii) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (iv) determine whether there are ways to minimize the burden of the collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology. The agency has submitted the proposed collections of information to OMB for approval. Persons wishing to submit comments on the collection of information requirements of the proposed amendments should direct them to the OMB Desk Officer for the Securities and Exchange Commission, *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov,* and should send a copy to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090, with reference to File No. S7–17–22. As OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication of the proposal, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days after publication of this release. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–17–22, and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

V. Initial Regulatory Flexibility Analysis

The Commission has prepared the following Initial Regulatory Flexibility Analysis (''IRFA'') in accordance with section 3(a) of the Regulatory Flexibility Act (''RFA'').[476] It relates to: (i) proposed amendments to fund prospectuses and annual reports, and Form N–CEN; (ii) proposed amendments to Form ADV Part 1A and Part 2A Brochure.

A. Reason for and Objectives of the Proposed Action

Many registered funds and investment advisers to institutional and retail clients consider ESG factors (as described above) in their investment strategies.[477] We understand that some funds and advisers today engage in a diversity of different ESG investing practices, with varying levels of ESG factors consideration, in managing their investment strategies. Investor interest in ESG strategies has rapidly increased in recent years with significant inflows of capital to ESG-related services and investment products. Asset managers, as key conduits for these investments, have responded to this increase in investor demand by creating and marketing funds and strategies that consider ESG factors in their selection process.

While advisers are required to adhere to disclosure rules that currently exist under the Federal securities laws and Commission rules, registered funds and investment advisers are not currently subject to specific ESG factors disclosure requirements in their ESG investing. Investors looking to participate in ESG investing therefore face a lack of consistent and comparable information among investment products and advisers that say they consider one or more ESG factors. This lack of consistent and comparable information can create a risk that a fund or adviser's actual consideration of ESG does not match investor expectations, particularly given that funds and advisers implement ESG strategies in a variety of ways. This also creates the potential for ''greenwashing,'' as discussed above.[478]

We understand that some fund investors and advisory clients are seeking reliable, comprehensive, and comparable information about these ESG investing practices to enhance their investment decision making about for example, whether to invest in a particular ESG fund or to hire or retain an adviser that incorporates ESG factors into its advisory services.[479] Accordingly, the Commission is proposing various disclosure and reporting requirements to provide shareholders and clients improved information from funds and advisers that consider one or more ESG factors. These enhancements are designed to help investors, and those who provide advice to investors, make more informed choices regarding ESG investing and better compare funds and investment strategies. The proposed enhancements create a framework for qualitative disclosures about a fund or adviser's ESG related strategies, and enhance the quantitative data for environmentally focused strategies, where methodologies for reporting emissions metrics are becoming more standardized. In addition to these investor-facing disclosures, we are also proposing that funds and advisers report census type information on their ESG investment practices in regulatory reporting to the Commission, which would inform our regulatory enforcement, examination, disclosure review, and policymaking roles, and help us track trends in this evolving area of asset management.

1. Proposed Amendments to Forms N–1A and N–2 and Fund Annual Reports

We are proposing amendments to Forms N–1A and N–2 to provide additional information in fund prospectuses about the fund's principal investment strategies to help investors better understand how the fund implements ESG factors. The level of detail required would depend on the extent to which a fund considers ESG factors in its investment process. ESG-

[476] 5 U.S.C. 603(a).

[477] *See supra* Section I.

[478] *See id.*

[479] *See id.*

Focused Funds would include specific disclosure about how the fund considers ESG factors in its investment process in tabular format and would include an overview of the fund's ESG strategy, how the fund incorporates ESG factors in its investment decisions, and how the fund engages with companies in its investment portfolio about ESG issues (including, if applicable, an overview of its ESG voting policy). In addition, to the foregoing, Impact Funds would be required to disclose the ESG impact the fund seeks to generate with its investments as part of its investment objective. Integration Funds also be required to provide disclosure, but it would be limited to a description of how the fund incorporates ESG factors into its investment selection process.

In addition to the amendments to Forms N–1A and N–2 focusing on prospectus disclosure, we are proposing amendments to fund annual reports to provide additional ESG-related information. Impact Funds would be required to discuss the fund's progress on achieving its specific impact in quantifiable or numerical terms, and to discuss the factors that materially affected the fund's ability to achieve its specific impact. Additionally, a fund for which proxy voting on ESG voting matters is a significant means of implementing its ESG strategy would be required to disclose certain information regarding how the fund voted proxies relating to portfolio securities on ESG voting matters during the reporting period, and a fund for which engagement with issuers on ESG matters is a significant means of implementing its ESG strategy would be required to disclose information about its ESG engagement meetings. Finally, the proposal would require an ESG-Focused Fund that considers environmental factors to disclose the aggregated GHG emissions of the portfolio. Collectively, the amendments to Forms N–1A and N–2 are designed to provide investors clear information about how a fund considers ESG factors and to address the significant variability in the ways different funds approach their consideration of ESG factors in their investment decisions.

All of these requirements are discussed in detail above in Section II.A. The burdens of these requirements on small entities are discussed below as well as above in our Economic Analysis and Paperwork Reduction Act Analysis, which discuss the burdens on all investment companies.

2. Proposed Amendments to Form N–8B–2 and Form S–6

We are proposing amendments to Form N–8B–2 to provide additional information in fund prospectuses about how portfolios are selected based on ESG factors. The proposed amendment would require any UIT that provides exposures to portfolios that were selected based on one or more ESG factors to explain how those factors were used to select the portfolio securities. We believe these amendments will provide UIT investors with the ability to understand the role ESG factors played in the portfolio selection process.

All of these requirements are discussed in detail above in Section II.A. The burdens of these requirements on small entities are discussed below as well as above in our Economic Analysis and Paperwork Reduction Act Analysis, which discuss the burdens on all investment companies.

3. Proposed Amendments to Form N–CEN

We are also proposing to amend Form N–CEN to collect census-type information about funds' use of ESG factors (including use of ESG providers) in a structured format designed to provide the Commission and investors with consistent and comparable data. A fund would be required to indicate whether or not it incorporates ESG factors and, if it does incorporate ESG factors, to report: (i) the type of ESG strategy it employs, (ii) the ESG factor(s) it considers (*i.e.,* E, S, and/or G), and (iii) if applicable, whether it considers ESG factors as part of its proxy voting policies and procedures. We believe that the proposed new data collected on Form N–CEN would assist both the Commission staff and investors in understanding the trends in this evolving space and to make more informed decisions about their selection of funds that consider ESG factors.

All of these requirements are discussed in detail above in Section II.B. The burdens of these requirements on small advisers and broker-dealers are discussed below as well as above in our Economic Analysis and Paperwork Reduction Act Analysis, which discuss the burdens on all investment companies.

4. Proposed Amendments to Form N–CSR

We are proposing to amend Form N–CSR to provide additional information regarding any assumptions and methodologies the fund applied in calculating the portfolio's GHG emissions disclosed in its prospectus or shareholder reports, and any limitations associated with the fund's methodologies and assumptions, as well as explanations of any good faith estimates of GHG emissions the fund was required to make. BDCs, which do not file reports on Form N–CSR, would provide this information in their annual reports on Form 10–K. In addition to the above metrics, an ESG-Focused Fund that considers environmental factors would also be required to disclose the financed Scope 3 emissions of its portfolio companies, to the extent that Scope 3 emissions data is reported by the fund's portfolio companies. Collectively, these amendments provide important context to information that we propose to require to be disclosed in the proposed amendments to Forms N–1A and N–2, consistent with a layered disclosure framework.

All of these requirements are discussed in detail above in Section II.A. The burdens of these requirements on small advisers and broker-dealers are discussed below as well as above in our Economic Analysis and Paperwork Reduction Act Analysis, which discuss the burdens on all investment companies.

5. Proposed Amendments to Form ADV (Parts 1 and 2)

We are proposing amendments to both Form ADV Part 1A and Form ADV Part 2A (the brochure and the wrap fee program brochure) to address advisers' uses of ESG factors in their advisory businesses. For the brochure, we are proposing to require ESG-related disclosures from advisers that consider ESG factors as part of their advisory businesses, including when making investment recommendations or decisions and when voting client securities. Our proposed requirements reflect that the brochure discloses key aspects of the advisory relationship, including a description of any services that are tailored to the individual needs of clients and any relationships with affiliates and third parties that present conflicts of interest and affect the adviser-client relationship. We also similarly proposing disclosures about a wrap fee program sponsor's use of ESG factors, tailored to wrap fee programs, for the wrap fee program brochure. We are also proposing amendments to Form ADV Part 1A designed to collect information about an adviser's considerations of ESG factors in its advisory business. These proposed amendments would expand the information collected about the advisory services provided to separately management account clients and reported private funds.

All of these requirements are discussed in detail above in Sections II.B and II.C.2. The burdens of these requirements on small advisers and broker-dealers are discussed below as well as above in our Economic Analysis and Paperwork Reduction Act Analysis, which discuss the burdens on all advisers.

B. Legal Basis

The Commission is proposing the rule and form amendments contained in this document under the authority set forth in sections 8, 24, 30, and 38 of the Investment Company Act [15 U.S.C. 80a *et seq.*], sections 203, 204, and 211 of the Advisers Act [15 U.S.C. 80b *et seq.*], sections 5, 6, 7, 10, and 19 of the Securities Act [15 U.S.C. 77a *et seq.*], and sections 13, 15, 23, and 35A of the Exchange Act [15 U.S.C. 78b *et seq.*], and 44 U.S.C. 3506–3507.

C. Small Entities Subject to the Rule and Rule Amendments

1. Proposed Amendments to Forms N–1A, N–2, N–8B–2, N–CEN, N–CSR, and S–6 and Fund Annual Reports

Under Commission rules, for the purposes of the Investment Company Act and the RFA, an investment company is a small entity if, together with other investment companies in the same group of related investment companies, it has net assets of $50 million or less as of the end of its most recent fiscal year.[480] Commission staff estimates that, as of June 2021, there were approximately 27 registered open-end mutual funds, 6 registered open-end ETFs, 23 registered closed-end funds, 5 unit investment trusts and 9 business development companies (collectively, 70 funds) are small entities.

2. Proposed Amendments to Form ADV

Under Commission rules, for the purposes of the Advisers Act and the RFA, an investment adviser generally is a small entity if it: (1) has assets under management having a total value of less than $25 million; (2) did not have total assets of $5 million or more on the last day of the most recent fiscal year; and (3) does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management of $25 million or more, or any person (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year.[481]

[480] 17 CFR 270.0–10(a).

[481] 17 CFR 275.0–7(a) (''Advisers Act rule 0–7(a)'').

Our proposed new rules and amendments would not affect most investment advisers that are small entities (''small advisers'') because they are generally registered with one or more state securities authorities and not with the Commission. Under section 203A of the Advisers Act, most small advisers are prohibited from registering with the Commission and are regulated by state regulators. Based on IARD data, we estimate that as of December 2020, approximately 434 SEC-registered advisers are small entities under the RFA.[482] Because these entities are registered, they, like all SEC-registered investment advisers, would all be subject to the proposed amendments to Form ADV.

The only small entity exempt reporting advisers that would be subject to the proposed amendments would be exempt reporting advisers that maintain their principal office and place of business outside the United States. Advisers with less than $25 million in assets under management generally are prohibited from registering with us unless they maintain their principal office and place of business outside the United States. Exempt reporting advisers are not required to report regulatory assets under management on Form ADV and therefore we do not have a precise number of exempt reporting advisers that are small entities. Exempt reporting advisers are required to report in Part 1A, Schedule D the gross asset value of each private fund they manage.[483] Advisers with their principal office and place of business outside the United States may have additional assets under management other than what is reported in Schedule D. Based on IARD filings, approximately 14.1% of registered investment advisers with their principal office and place of business outside the U.S. are small entities.[484] There are approximately 1,954 exempt reporting advisers with their principal office and place of business outside the U.S.[485] We estimate that 14.1% of those advisers, approximately 276 exempt reporting advisers with their principal office and place of business outside the U.S., are small entities.

[482] Based on SEC-registered investment adviser responses to Items 5.F. and 12 of Form ADV as of Dec. 2020.

[483] *See* Form ADV, Part 1A, Schedule D, Section 7.B.(1).A, Question 11.

[484] Based on adviser data as of Dec. 2020. The number of small entity, non-U.S. RIAs is 130, out of 924 total non-U.S. RIAs. 130 is approximately 14.1% of 940.

[485] Based on adviser data as of Dec. 2020.

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

1. Proposed Amendments to Forms N–1A, N–2, and N–CSR and Fund Annual Reports

We propose to require a fund engaging in ESG investing to provide additional information about the fund's principal investment strategies to help investors better understand how the fund implements ESG factors. The proposed amendments are designed to provide investors clear information about how a fund considers ESG factors and to address the significant variability in the ways different funds approach their consideration of ESG factors in their investment decisions. The level of detail required by this enhanced disclosure would depend on the extent to which a fund considers ESG factors in its investment process, with ESG-Focused Funds providing detailed information in a tabular format while Integration Funds would provide more limited disclosures.

For purposes of this analysis, we assume that all funds that are small entities would provide all proposed disclosures, even though whether or not a particular fund is required to provide certain disclosure depends on whether it considers ESG issues and whether it is an environmentally focused fund. Assuming that all funds that are small entities are ESG-Focused Funds that are also environmentally focused funds, we estimate that 65 funds that are small entities would be subject to these requirements. Of those, approximately 33 prepare prospectuses pursuant to the requirements of Form N–1A and 32 prepare prospectuses pursuant to the requirements of Form N–2. We estimate that compliance with the proposed amendments to Form N–1A would entail internal time costs of $4,272 (12 hours) per fund, compliance with the proposed amendments to Form N–2 would entail internal time costs of $4,272 (12 hours) per fund, and compliance with the proposed amendments to Form N–CSR would entail internal time costs of $3,377 (11 hours) per fund.[486] This would result in aggregate costs of approximately $234,960 for funds that are small entities that prepare prospectuses pursuant to Forms N–1A or N–2. In addition to prospectus disclosure on Form N–1A or N–2, as applicable, funds would be required to disclose certain information on their annual reports. Of

[486] See Sections IV.B and IV.C, respectively. Cost estimates only refer to the paperwork collection costs estimated in connection with the PRA, not all possible costs associated with compliance.

the estimated 65 small entity funds that would be subject to these requirements, we estimate that 56 are registered management investment companies and 9 are BDCs. We estimate that the burdens of compliance with the proposed annual report disclosure requirements would be the same both for registered management investment companies and for BDCs, and that they would entail internal time costs of $9,052 (28 hours).[487] This would result in aggregate costs of up to approximately $588,380.

2. Proposed Amendments to Forms N–8B–2 and S–6

We are proposing amendments to Form N–8B–2 that are designed to provide investors with clear information about how portfolios are selected based on ESG factors. The proposed amendments are intended to provide similar information to the proposed amendments to Forms N–1A and N–2 so that investors do not face a disclosure gap based on the type of fund they select, but the level of detail required by the proposed amendment reflects the unmanaged nature of UITs. We estimate that 5 UITs that are small entities would be subject to these requirements to the extent that they consider ESG factors in their strategy. We estimate that compliance with the proposed amendments to Form N–8B–2 and S–6 would each entail internal time costs of $254 (0.67 hours) per UIT.[488] This would result in aggregate costs of approximately $1,270 for UITs that are small entities that prepare prospectuses pursuant to Form N–8B–2.

3. Proposed Amendments to Form N–CEN

We are proposing amendments to Form N–CEN that are designed to collect census-type information regarding funds' incorporation of ESG into their investment strategies and investment holdings, as well as the ESG-related service providers they use in a structured data format. The proposed amendments are designed to complement the tailored narrative disclosure included in the fund prospectus and annual reports, and to give the Commission, investors and other market participants the ability to identify efficiently funds that incorporate ESG factors into their investment strategies and categorize funds based on the type of ESG strategy they employ.

We estimate that 70 funds that are small entities would be subject to these requirements. We estimate that compliance with the proposed amendments to Form N–CEN would entail internal time costs of $351 (1 hour) per fund.[489] This would result in aggregate costs of approximately $24,570 for funds that are small entities.

4. Proposed Amendments to Form ADV

The proposed amendments to Form ADV would impose certain reporting, recordkeeping, and compliance requirements on all Commission-registered advisers, including small advisers. All Commission-registered small advisers would be required to file Form ADV, including the proposed amendments. The proposed amendments to Form ADV would require registered investment advisers and exempt reporting advisers to report different or additional information than what is currently required. Approximately 710 small advisers currently registered, or reporting as an exempt reporting adviser, with us would be subject to these requirements.[490] We expect these 434 small entity RIAs to spend, on average, 1.9 hours per year to respond to the proposed new and amended questions, for a total of 824.6 aggregate hours per year. We expect these 276 small entity ERAs to spend, on average, 0.3 hours per year to respond to the proposed new and amended questions, for a total of 82.8 aggregate hours per year. The total for all small entity advisers would therefore be 907.4 hours per year.[491] We expect the aggregate cost to small advisers associated with this burden would be $419,275.50.[492]

E. Duplicative, Overlapping, or Conflicting Federal Rules

Commission staff has not identified any Federal rules that currently duplicate, overlap, or conflict with the proposed disclosure and reporting requirements. We recognize that the Commission also has proposed certain GHG disclosure requirements that would apply to BDCs in the Climate Disclosure Proposing Release. We believe the GHG disclosure requirements we are proposing in this release that would apply to a BDC that is an environmentally focused fund would complement the disclosure proposed in the Climate Disclosure Proposing Release if both proposals are adopted.[493] We request comment on this belief, whether commenters perceive any duplication or overlap if both proposals are adopted and, if so, how the Commission should address any such duplication or overlap.

F. Significant Alternatives

The Regulatory Flexibility Act directs the Commission to consider significant alternatives that would accomplish the stated objective, while minimizing any significant adverse impact on small entities. The Commission considered the following alternatives for small entities in relation our proposed amendments: (1) Establishing different reporting, recordkeeping, and other compliance requirements or frequency, to account for resources available to small entities; (2) exempting small entities from the proposed reporting, recordkeeping, and other compliance requirements, to account for resources available to small entities; (3) clarifying, consolidating, or simplifying the compliance requirements under the proposal for small entities; and (4) using performance rather than design standards.

1. Proposed Amendments to Forms N–1A, N–2, N–8B–2, N–CEN, N–CSR, and S–6 and Fund Annual Reports

We do not believe that different compliance or reporting requirements or an exemption from coverage of the forms, or any part thereof, for small entities, would be appropriate for the amendments to Forms N–1A, N–2, N–8B–2, N–CEN, N–CSR, and S–6. Small entities currently follow the same requirements that large entities do when preparing, transmitting, and filing annual reports and preparing and sending or giving prospectuses to investors. The proposal is designed to address a disclosure gap under current law; if the proposal included different requirements for small funds, it could raise investor protection concerns for investors in small funds to the extent

[487] See Section IV.F. Cost estimates only refer to the paperwork collection costs estimated in connection with the PRA, not all possible costs associated with compliance.

[488] *See* Section IV.D. Cost estimates only refer to the paperwork collection costs estimated in connection with the PRA, not all possible costs associated with compliance.

[489] *See* Section IV.G. Cost estimates only refer to the paperwork collection costs estimated in connection with the PRA, not all possible costs associated with compliance.

[490] 434 small entity RIAs + 276 small entity ERAs = 710 advisers.

[491] *See supra* section IV.I. of this release.

[492] *See supra* section IV.I. of this release. For the small entity RIAs the cost calculation is as follows: 434 RIAs × $419.25 = $181,954.50 in internal cost average per RIA + (434 RIAs × .25 hrs) × $496) + (434 RIAs × .5 hrs) × $739) = $214,179 in external cost average per RIA for a total of $404,133.50. For the small entity ERAs the calculation is as follows: 276 ERAs × (0.3 hours × 279.50) = $23,142. Cost estimates only refer to the paperwork collection costs estimated in connection with the PRA, not all possible costs associated with compliance.

[493] *See* Proposed Instruction 10 to Item 24 of Form N–2 [17 CFR 274.11a–1]; Climate Disclosure Proposing Release, *supra* footnote 127.

that investors in small funds would not receive the same disclosures as investors in larger funds.

Similarly, we do not believe it would be appropriate to exempt small funds from the proposed amendments. As discussed above, our contemplated disclosure framework would be disrupted if investors in smaller funds received different disclosures than investors in larger funds. We believe that investors in all funds should benefit from the Commission's proposed disclosure amendments, not just investors in large funds. Further, the amendments we are proposing generally only apply to ESG-Focused Funds, Integration Funds, and Impact Funds, the definitions of which require affirmative actions on the part of a fund by electing to make certain claims in its disclosure documents. To the extent a small entity wishes to be exempted from the rules, such an exemption is already available to all funds regardless of size simply by avoiding making claims that the Commission has determined require additional disclosure in order to protect investors.

We do not believe that clarifying, consolidating, or simplifying the compliance requirements under the proposal for small funds would permit us to achieve our stated objectives. We have sought to create as clear, consolidated, and simple a regulatory framework as we believe appropriate under the circumstances. As noted above, due to the ''opt-in'' nature of many of the requirements, small entities are already able to benefit from a simpler regulatory framework simply by not making claims about certain ESG goals for which additional disclosure is necessary in order to protect investors.

Finally, we do not believe it would be appropriate to use performance rather than design standards. As discussed above, we believe the regulatory disclosures that small funds provide to investors should be consistent with the disclosures provided to investors in larger entities. Our proposed disclosure requirements are tailored to meet the informational needs of different investors, and to implement a layered disclosure framework. We believe all fund investors should experience the anticipated benefits of the new disclosure requirements and that ESG disclosure should be uniform and standardized in order to allow investors to compare funds reporting the same information on the same frequency, and to help all investors to make more informed investment decisions based upon those comparisons.

2. Proposed Amendments to Form ADV

We do not believe that different compliance or reporting requirements or an exemption from coverage of the Form ADV, or any part thereof, for small entities, would be appropriate. Because the protections of the Advisers Act are intended to apply equally to clients of both large and small advisers, it would be inconsistent with the purposes of the Act to specify differences for small entities under the proposed amendments. In addition, as discussed above, our staff would use the information that advisers would maintain to help prepare for examinations of investment advisers. Establishing different conditions for large and small advisers would negate these benefits.

We believe the current proposal is clear and that further clarification, consolidation, or simplification of the compliance requirements is not necessary. We also believe that using performance rather than design standards would be inconsistent with our statutory mandate to protect investors, as advisers must provide certain registration information in a uniform and quantifiable manner so that it is useful to our regulatory and examination program.

G. Solicitation of Comments

The Commission requests comments regarding matters discussed in this IRFA. We request comment on the number of small entities that would be subject to the proposed disclosure and reporting requirements and whether the proposed disclosure and reporting requirements would have any effects that have not been discussed. We request that commenters describe the nature of any effects on small entities subject to the proposed disclosure and reporting requirements and provide empirical data to support the nature and extent of such effects. We also request comment on the estimated compliance burdens of the proposed disclosure and reporting requirements and how they would affect small entities.

VI. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, or ''SBREFA,'' [494] we must advise OMB whether a proposed regulation constitutes a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results in or is likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers or individual industries; or (3) significant adverse effects on competition, investment or innovation. We request comment on the potential effect of the proposed amendments on the U.S. economy on an annual basis; any potential increase in costs or prices for consumers or individual industries; and any potential effect on competition, investment or innovation. Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

Statutory Authority

The Commission is proposing the rule and form amendments contained in this document under the authority set forth in the Securities Act, particularly, sections 5, 6, 7, 10, and 19 thereof [15 U.S.C. 77a *et seq.*], the Exchange Act, particularly, sections 13, 15, 23, and 35A thereof [15 U.S.C. 78a *et seq.*], the Investment Company Act, particularly, sections 8, 24, 30, and 38 thereof [15 U.S.C. 80a *et seq.*], the Advisers Act, particularly, sections 203, 204, and 211 thereof [15 U.S.C. 80b *et seq.*], and 44 U.S.C. 3506–3507.

List of Subjects in 17 CFR Parts 200, 230, 232, 239, 249, 274, and 279

Reporting and recordkeeping requirements, Securities.

Text of Proposed Rule and Form Amendments

For the reasons set out in the preamble, title 17, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart N—Commission Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers

■ 1. The authority citation for part 200, subpart N, continues to read as follows:

Authority: 44 U.S.C. 3506; 44 U.S.C. 3507.

■ 2. Amend § 200.800 in the table in paragraph (b) by adding an entry for ''Form N–CSR'' between the entries for ''Form N–27F–1'' and ''Form N–PORT'' to read as follows:

[494] Public Law 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C. and as a note to 5 U.S.C. 601).

§ 200.800 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

Information collection requirement	17 CFR part or section where identified and described	Current OMB control No.
* * * * *	*	*
Form N–CSR	274.128	3235–0570
* * * * *	*	*

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 3. The authority citation for part 230 continues to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78*l,* 78m, 78n, 78o, 78o–7 note, 78t, 78w, 78*ll*(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, and Pub. L. 112–106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

* * * * *

Sections 230.400 to 230.499 issued under secs. 6, 8, 10, 19, 48 Stat. 78, 79, 81, and 85, as amended (15 U.S.C. 77f, 77h, 77j, 77s).

* * * * *

■ 4. Amend § 230.485 by revising paragraph (c)(3) to read as follows:

§ 230.485 Effective date of post-effective amendments filed by certain registered investment companies.

* * * * *

(c) * * *

(3) A registrant's ability to file a post-effective amendment, other than an amendment filed solely for purposes of submitting an Interactive Data File, under paragraph (b) of this section is automatically suspended if a registrant fails to submit any Interactive Data File (as defined in § 232.11 of this chapter) required by the form on which the registrant is filing the post-effective amendment. A suspension under this paragraph (c)(3) shall become effective at such time as the registrant fails to submit an Interactive Data File as required by the relevant form. Any such suspension, so long as it is in effect, shall apply to any post-effective amendment that is filed after the suspension becomes effective, but shall not apply to any post-effective amendment that was filed before the suspension became effective. Any suspension shall apply only to the ability to file a post-effective amendment pursuant to paragraph (b) of this section and shall not otherwise affect any post-effective amendment. Any suspension under this paragraph (c)(3) shall terminate as soon as a registrant has submitted the Interactive Data File required by the relevant form.

* * * * *

■ 5. Amend § 230.497 by revising paragraphs (c) and (e) to read as follows:

§ 230.497 Filing of investment company prospectuses—number of copies.

* * * * *

(c) For investment companies filing on §§ 239.15A and 274.11A of this chapter (Form N–1A), §§ 239.17a and 274.11b of this chapter (Form N–3), §§ 239.17b and 274.11c of this chapter (Form N–4), or §§ 239.17c and 274.11d of this chapter (Form N–6), within five days after the effective date of a registration statement or the commencement of a public offering after the effective date of a registration statement, whichever occurs later, 10 copies of each form of prospectus and form of Statement of Additional Information used after the effective date in connection with such offering shall be filed with the Commission in the exact form in which it was used. Investment companies filing on Form N–1A, N–3, N–4, or N–6 must submit an Interactive Data File (as defined in § 232.11 of this chapter) if required by the form on which the registrant files its registration statement.

* * * * *

(e) For investment companies filing on §§ 239.15A and 274.11A of this chapter (Form N–1A), §§ 239.17a and 274.11b of this chapter (Form N–3), §§ 239.17b and 274.11c of this chapter (Form N–4), or §§ 239.17c and 274.11d of this chapter (Form N–6), after the effective date of a registration statement, no prospectus that purports to comply with Section 10 of the Act (15 U.S.C. 77j) or Statement of Additional Information that varies from any form of prospectus or form of Statement of Additional Information filed pursuant to paragraph (c) of this section shall be used until five copies thereof have been filed with, or mailed for filing to the Commission. Investment companies filing on Form N–1A, N–3, N–4, or N–6 must submit an Interactive Data File (as defined in § 232.11 of this chapter) if required by the Form on which the registrant files its registration statement.

* * * * *

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 6. The general authority citation for part 232 continues to read as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78*l,* 78m, 78n, 78o(d), 78w(a), 78*ll,* 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 7. Amend § 232.11 by revising the definition of ''Related Official Filing'' to read as follows:

§ 232.11 Definition of terms used in this part.

* * * * *

Related Official Filing. The term *Related Official Filing* means the ASCII or HTML format part of the official filing with which all or part of an Interactive Data File appears as an exhibit or, in the case of a filing on Form N–1A (§§ 239.15A and 274.11A of this chapter), Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), Form N–3 (§§ 239.17a and 274.11b of this chapter), Form N–4 (§§ 239.17b and 274.11c of this chapter), Form N–6 (§§ 239.17c and 274.11d of this chapter), Form N–8B–2 (§ 274.12 of this chapter), Form S–6 (§ 239.16 of this chapter), and Form N–CSR (§§ 249.331 and 274.128 of this chapter), and, to the extent required by § 232.405 [Rule 405 of Regulation S–T] for a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(48)), Form 10–K (§ 249.310 of this chapter), Form 10–Q (§ 249.308a of this chapter), and Form 8–K (§ 249.308 of this chapter), the ASCII or HTML format part of an official filing that contains the information to which an Interactive Data File corresponds.

* * * * *

■ 8. Amend § 232.405 by:

■ a. Revising the introductory text, paragraphs (a)(2), (a)(3)(i) introductory text, (a)(3)(ii), (a)(4), (b)(1) introductory text, (b)(2) introductory text, and (b)(2)(i), (iii), and (iv);

■ b. Adding paragraphs (b)(2)(v) and (vi);

■ c. Revising paragraph (b)(3)(iii); and

■ d. Revising the final sentence of Note 1 to the section.

The revisions and additions read as follows:

§ 232.405 Interactive Data File submissions.

This section applies to electronic filers that submit Interactive Data Files. Section 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S–K), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), General Instruction C.3.(h) of Form N–3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N–4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N–6 (§§ 239.17c and 274.11d of this chapter), General Instruction 2.(*l*) of Form N–8B–2 (§ 274.12 of this chapter), General Instruction 5 of Form S–6 (§ 239.16 of this chapter), and General Instruction C.4 of Form N–CSR (§§ 249.331 and 274.128 of this chapter) specify when electronic filers are required or permitted to submit an Interactive Data File (§ 232.11), as further described in note 1 to this section. This section imposes content, format, and submission requirements for an Interactive Data File, but does not change the substantive content requirements for the financial and other disclosures in the Related Official Filing (§ 232.11).

(a) * * *

(2) Be submitted only by an electronic filer either required or permitted to submit an Interactive Data File as specified by § 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S–K), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), General Instruction C.3.(h) of Form N–3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N–4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N–6 (§§ 239.17c and 274.11d of this chapter), General Instruction 2.(*l*) of Form N–8B–2 (§ 274.12 of this chapter), General Instruction 5 of Form S–6 (§ 239.16 of this chapter), or General Instruction C.4 of Form N–CSR (§§ 249.331 and 274.128 of this chapter), as applicable;

(3) * * *

(i) If the electronic filer is not a management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), a separate account as defined in Section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940, a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(48)), or a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–4), and is not within one of the categories specified in paragraph (f)(1)(i) of this section, as partly embedded into a filing with the remainder simultaneously submitted as an exhibit to:

* * * * *

(ii) If the electronic filer is a management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), a separate account (as defined in Section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940, a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(48)), or a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–4), and is not within one of the categories specified in paragraph (f)(1)(ii) of this section, as partly embedded into a filing with the remainder simultaneously submitted as an exhibit to a filing that contains the disclosure this section requires to be tagged; and

(4) Be submitted in accordance with the EDGAR Filer Manual and, as applicable, either Item 601(b)(101) of Regulation S–K (§ 229.601(b)(101) of this chapter), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), General Instruction C.3.(h) of Form N–3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N–4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N–6 (§§ 239.17c and 274.11d of this chapter); General Instruction 2.(*l*) of Form N–8B–2 (§ 274.12 of this chapter); General Instruction 5 of Form S–6 (§ 239.16 of this chapter); or General Instruction C.4 of Form N–CSR (§§ 249.331 and 274.128 of this chapter).

(b) * * *

(1) If the electronic filer is not a management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), a separate account (as defined in Section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940, a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80–2(a)(48)), or a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80–4), an Interactive Data File must consist of only a complete set of information for all periods required to be presented in the corresponding data in the Related Official Filing, no more and no less, from all of the following categories:

* * * * *

(2) If the electronic filer is an open-end management investment company registered under the Investment Company Act of 1940, a separate account (as defined in Section 2(a)(14) of the Securities Act) registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), or a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–4), an Interactive Data File must consist of only a

complete set of information for all periods required to be presented in the corresponding data in the Related Official Filing, no more and no less, from the information set forth in:

(i) Items 2, 3, and 4 of Form N–1A (§§ 239.15A and 274.11A of this chapter); and, as applicable, the information provided in response to Item 9(b)(2) of Form N–1A pursuant to Instructions 1 or 2, as well as any information provided in response to Item 27(b)(7)(i)(B)–(E) of Form N–1A included in any annual report filed on Form N–CSR;

* * * * *

(iii) Items 2, 4, 5, 10, and 17 of Form N–4 (§§ 239.17b and 274.11c of this chapter);

(iv) Items 2, 4, 5, 10, 11, and 18 of Form N–6 (§§ 239.17c and 274.11d of this chapter);

(v) Item 11 of Form N–8B–2 (§ 274.12 of this chapter), pursuant to Instruction 2, including to the extent required by § 239.16 of this chapter (Form S–6); or

(vi) Item 7 of Form N–CSR (§§ 249.331 and 274.128 of this chapter), as applicable.

(3) * * *

(iii) As applicable, all of the information provided in response to Items 3.1, 4.3, 8.2.b, 8.2.d, 8.2.e, 8.3.a, 8.3.b, 8.5.b, 8.5.c, 8.5.e, 10.1.a–d, 10.2.a–c, 10.2.e, 10.3, and 10.5 of Form N–2 in any registration statement or post-effective amendment thereto filed on Form N–2; or any form of prospectus filed pursuant to § 230.424 of this chapter (Rule 424 under the Securities Act); or, if a Registrant is filing a registration statement pursuant to General Instruction A.2 of Form N–2, any documents filed pursuant to Sections 13(a), 13(c), 14, or 15(d) of the Exchange Act, any to the extent such information appears therein; as well as any information provided in response to Instructions 4.g.(1)(B)–(E) or 10 to Item 24 of Form N–2 that is included in any annual report filed on Form N–CSR or Form 10–K.

* * * * *

Note 1 to § 232.405: * * * For an issuer that is a management investment company, unit investment trust or separate account registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) or a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(48)), or a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–4), General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), General Instruction C.3.(h) of Form N–3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N–4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N–6 (§§ 239.17c and 274.11d of this chapter), General Instruction 2.(*l*) of Form N–8B–2 (§ 274.12 of this chapter), General Instruction 5 of Form S–6 (§ 239.16 of this chapter), and General Instruction C.4 of Form N–CSR (§§ 249.331 and 274.128 of this chapter), as applicable, specifies the circumstances under which an Interactive Data File must be submitted.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 9. The general authority citation for part 239 continues to read as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78*l*, 78m,78n, 78o(d), 78o–7 note, 78u–5, 78w(a), 78*ll*, 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37; and sec. 107, Pub. L. 112–106, 126 Stat. 312, unless otherwise noted.

* * * * *

■ 10. Amend Form S–6 (referenced in § 239.16) by adding Instruction 5 to the General Instructions to read as follows:

Note: The text of Form S–6 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM S–6

* * * * *

General Instructions

* * * * *

Instruction 5. Interactive Data

(a) An Interactive Data File as defined in Rule 11 of Regulation S–T [17 CFR 232.11] is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–6 [17 CFR 232.405] for any registration statement or post-effective amendment thereto on Form S–6 that includes or amends information provided in response to Item 11 of Form N–8B–2 (as provided pursuant to Instruction 1.(a) of the Instructions As To The Prospectus of this Form).

(1) Except as required by paragraph (a)(2), the Interactive Data File must be submitted as an amendment to the registration statement to which the Interactive Data File relates. The amendment must be submitted on or before the date the registration statement or post-effective amendment that contains the related information becomes effective.

(2) In the case of a post-effective amendment to a registration statement filed pursuant to paragraphs (b)(1)(i), (ii), (v), or (vii) of Rule 485 under the Securities Act [17 CFR 230.485(b)], the Interactive Data File must be submitted with the filing to which the Interactive Data Filing relates on or before the date the post-effective amendment that contains the related information becomes effective.

(b) All interactive data must be submitted in accordance with the specifications in the EDGAR Filer Manual.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 11. The general authority citation for part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, 80a–29, and 80a–37, unless otherwise noted.

* * * * *

■ 12. Amend Form N–1A (referenced in §§ 239.15A and 274.11A) by:

■ a. Revising General Instruction C.3(g);

■ b. Revising Item 2;

■ c. Revising Item 4(a);

■ d. In Item 9, adding Instructions to Item 9(b)(2); and

■ e. Revising Item 27(b)(7)(i).

The revisions and additions read as follows:

Note: The text of Form N–1A does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM N–1A

* * * * *

General Instructions

* * * * *

C. * * *

3. * * *

(g) Interactive Data

(i) An Interactive Data File (§ 232.11 of this chapter) is required to be submitted to the Commission in the manner provided by rule 405 of Regulation S–T [17 CFR 232.405] for any registration statement or post-effective amendment thereto on Form N–1A that includes or amends information provided in response to Items 2, 3, and 4, and, as applicable, any information provided in response to Item 9(b)(2) pursuant to Instructions 1 or 2.

(A) * * *

(B) * * *

(ii) An Interactive Data File is required to be submitted to the Commission in the manner provided by rule 405 of Regulation S–T for any form of prospectus filed pursuant to paragraphs (c) or (e) of rule 497 under the Securities Act [17 CFR 230.497(c) or (e)] that includes information provided in response to Items 2, 3, 4, or Item 9(b)(2) pursuant to Instructions 1 or 2 that varies from the registration statement. The Interactive Data File must be submitted with the filing made pursuant to rule 497.

(iii) An Interactive Data File is required to be submitted to the Commission in the manner provided by rule 405 of Regulation S–T for any information provided in response to Item 27(b)(7)(i)(B)–(E) of Form N–1A that is included in any annual report filed on Form N–CSR.

(iv) All interactive data must be submitted in accordance with the specifications in the EDGAR Filer Manual, and in such a manner that will permit the information for each Series and, for any information that does not relate to all of the Classes in a filing, each Class of the Fund to be separately identified.

* * * * *

Item 2. * * *

Disclose the Fund's investment objectives or goals. A Fund also may identify its type or category (*e.g.,* that it is a Money Market Fund or a balanced fund).

Instruction. If the Fund is an Environmental, Social, or Governance (''ESG'') Impact Fund, as defined in Item 4(a)(2)(i)(C), disclose the ESG impact that the Fund seeks to generate with its investments.

* * * * *

Item 4. * * *

(a) Principal Investment Strategies of the Fund.

(1) Based on the information given in response to Item 9(b), summarize how the Fund intends to achieve its investment objectives by identifying the Fund's principal investment strategies (including the type or types of securities in which the Fund invests or will invest principally) and any policy to concentrate in securities of issuers in a particular industry or group of industries.

(2) Environmental, Social and Governance (''E,'' ''S,'' or ''G,'' and collectively, ''ESG'') Considerations.

(i) Definitions

(A) ''Integration Fund'' is a Fund that considers one or more ESG factors alongside other, non-ESG factors in its investment decisions, but those ESG factors are generally no more significant than other factors in the investment selection process, such that ESG factors may not be determinative in deciding to include or exclude any particular investment in the portfolio.

(B) ''ESG-Focused Fund'' is a Fund is a Fund that focuses on one or more ESG factors by using them as a significant or main consideration (1) in selecting investments or (2) in its engagement strategy with the companies in which it invests. An ESG-Focused Fund includes (i) any fund that has a name including terms indicating that the Fund's investment decisions incorporate one or more ESG factors; and (ii) any Fund whose advertisements, as defined pursuant to rule 482 under the Securities Act of 1933 [17 CFR 230.482], or sales literature, as defined pursuant to rule 34b–1 under the Investment Company Act of 1940 [17 CFR 270.34b–1], indicate that the Fund's investment decisions incorporate one or more ESG factors by using them as a significant or main consideration in selecting investments.

(C) ''Impact Fund'' is an ESG-Focused Fund that seeks to achieve a specific ESG impact or impacts.

(ii) If the Fund considers ESG factors as part of its principal investment strategies, based on the information given in response to Item 9(b)(2), provide the following disclosure:

(A) If the Fund is an Integration Fund, summarize in a few sentences how the Fund incorporates ESG factors into the investment selection process, including what ESG factors the Fund considers.

(B) If the Fund is an ESG-Focused Fund, disclose the following information in a tabular format in the order specified below.

[ESG] Strategy Overview

<table>
<tr><td rowspan="2">Overview of the Fund's [ESG] strategy</td><td></td></tr>
<tr><td>The Fund engages in the following to implement its [ESG] Strategy (check all that apply):
□ Tracks an index
□ Applies an inclusionary screen
□ Applies an exclusionary screen
□ Seeks to achieve a specific impact
□ Proxy voting
□ Engagement with issuers
□ Other</td></tr>
<tr><td>How the Fund incorporates [ESG] factors in its investment decisions</td><td></td></tr>
<tr><td>How the Fund votes proxies and/or engages with companies about [ESG] issues</td><td></td></tr>
</table>

Instructions

1. The table should precede other disclosure required by Item 4(a). Disclosure provided in the table does not need to be repeated as narrative disclosure in Item 4(a)(1).

2. The Fund may replace the term ''ESG'' in each row with another term or phrase that more accurately describes the applicable ESG factors the Fund considers. The Fund also may replace the term ''the Fund'' in each row with an appropriate pronoun, such as ''we'' or ''our.''

3. The Fund's disclosure for each row should be brief and limited to the information required by the row's instruction. Funds should use lists and other text features designed to provide overviews. Electronic versions of the summary prospectus should include a hyperlink to the location where the information is described in greater detail.

4. *Overview of the Fund's [ESG] strategy.* Provide a concise description in a few sentences of the ESG factor or factors that are the focus of the Fund's strategy. The Fund must also include the list shown in the table above of common ESG strategies in a ''check the box'' style and indicate with a check mark or other feature all that apply. The Fund should only check the box for proxy voting or engagement with issuers (or both, as applicable) if it is a significant means of implementing the Fund's ESG strategy, meaning that the Fund, as applicable, regularly and proactively votes proxies or engages with issuers on ESG issues to advance one or more particular ESG goals the fund has identified in advance.

5. *How the Fund incorporates [ESG] factors in its investment decisions.* Summarize how the Fund incorporates ESG factors into its investment process for evaluating, selecting, or excluding investments. The summary must include, as applicable:

(a) An overview of how the Fund applies any inclusionary or exclusionary screen, including a brief explanation of the factors the screen applies, such as particular industries or business activities it seeks to include or exclude, and if applicable, what exceptions apply to the inclusionary or exclusionary screen. For these purposes, an inclusionary screen is a method of selecting investments based on ESG criteria. An exclusionary screen starts with a given universe of investments and then excludes investment based on ESG criteria. If applicable, state what exceptions apply to the inclusionary or exclusionary screen. In addition, state the percentage of the portfolio, in terms of net asset value, to which the screen is applied, if less than 100%, excluding cash and cash equivalents held for cash management, and explain briefly why the screen applies to less than 100% of the portfolio.

(b) An overview of how the Fund uses an internal methodology, third-party data provider, such as a scoring or ratings provider, or a combination of both.

(c) The name of any index the Fund tracks and a brief description of the index and how the index utilizes ESG factors in determining its constituents.

Information must be provided with respect to each applicable common ESG strategy (*e.g.,* inclusionary and exclusionary screens) in a disaggregated manner if more than one applies. For example, inclusionary screening must be explained distinctly from exclusionary screening. Funds may use multiple rows or other text features to clearly identify the disclosure related to each applicable common ESG strategy.

6. *How the Fund incorporates [ESG] factors in its investment decisions.* As applicable, provide an overview of any third-party ESG frameworks that the Fund follows as part of its investment process.

7. *How the Fund incorporates [ESG] factors in its investment decisions.* An Impact Fund must provide an overview of the impact(s) the Fund is seeking to achieve and how the Fund is seeking to achieve the impact(s). The overview must include (i) how the Fund measures progress toward the specific impact, including the key performance indicators the Fund analyzes, (ii) the time horizon the Fund uses to analyze progress, and (iii) the relationship between the impact the Fund is seeking to achieve and financial return(s). State that the Fund reports annually on its progress in achieving the impact(s) in the Fund's annual report to shareholders.

8. *How the Fund votes proxies and/or engages with companies about [ESG] issues.* The Fund must fill out this row regardless of whether the proxy voting or engagement boxes are checked. The Fund must describe briefly how the Fund engages or expects to engage with issuers on ESG issues (whether by voting proxies or otherwise). The Fund must state whether it has specific or supplemental policies and procedures that include one or more ESG considerations in voting proxies and, if so, state which considerations. If the Fund seeks to engage other than through shareholder voting, such as through meetings with or advocacy to management, the Fund must provide an overview of the objectives it seeks to achieve with the engagement strategy. If the Fund does not engage or expect to engage with issuers on ESG issues (whether by voting proxies or otherwise), the Fund must provide that disclosure in the row.

* * * * *

Item 9. * * *

(b) * * *

(2) * * *

Instructions

1. If the Fund is an Integration Fund, as defined in Item 4(a)(2)(i)(A), describe how the Fund incorporates ESG factors into its investment selection process, including:

(a) The ESG factors that the Fund considers.

(b) If the Fund considers the GHG emissions of its portfolio holdings as an ESG factor in its investment selection process, describe how the Fund considers the GHG emissions of its portfolio holdings, including a description of the methodology the Fund uses for this purpose.

2. If the Fund is an ESG-Focused Fund, as defined in Item 4(a)(2)(i)(B), describe how the Fund incorporates ESG factors into its investment process, including:

(a) The index methodology for any index the fund tracks, including any criteria or methodologies for selecting or excluding components of the index that are based on ESG factors.

(b) Any internal methodology used and how that methodology incorporates ESG factors.

(c) The scoring or ratings system of any third-party data provider, such as a scoring or ratings provider, used by the Fund or other third-party provider of ESG-related data about companies, including how the Fund evaluates the quality of such data.

(d) The factors applied by any inclusionary or exclusionary screen, including any quantitative thresholds or qualitative factors used to determine a company's industry classification or whether a company is engaged in a particular activity.

(e) A description of any third-party ESG frameworks that the Fund follows as part of its investment process and how the framework applies to the Fund.

(f) With regard to engagement, whether by voting proxies or otherwise, a description of specific objectives of such engagement, including the Fund's time horizon for progressing on such objectives and any key performance indicators that the Fund uses to analyze or measure of the effectiveness of such engagement.

* * * * *

Item 27. * * *

(b) * * *

(7) * * *

(i)(A) Discuss the factors that materially affected the Fund's performance during the most recently completed fiscal year, including the relevant market conditions and the investment strategies and techniques used by the Fund's investment adviser.

(B) If the Fund is an Impact Fund as defined in Item 4(a)(2)(i)(C), summarize briefly the Fund's progress on achieving the impacts described in response to Instruction 7 of Item 4(a)(2) in both qualitative and quantitative terms during the reporting period, and the key factors that materially affected the Fund's ability to achieve the impact(s).

(C) If the Fund is an ESG-Focused Fund, as defined in Item 4(a)(2)(i)(B), and indicates that it uses proxy voting as a significant means of implementing its ESG strategy in response to Item C.3(j)(iii) on Form N–CEN, disclose the percentage of ESG voting matters during the reporting period for which the Fund voted in furtherance of the initiative. The Fund may limit this disclosure to voting matters involving the ESG factors the Fund incorporates into its investment decisions. The Fund, other than a business development company, also must include a cross reference, and for electronic versions of the shareholder report include a hyperlink, to its most recent complete voting record filed on Form N–PX.

(D) If the Fund is an ESG-Focused fund, as defined in Item 4(a)(2)(i)(B), and indicates that it uses ESG engagement as a significant means of implementing its ESG strategy in response to Item C.3(j)(iii) on Form N–CEN, discuss the Fund's progress on any key performance indicators. Disclose the number or percentage of issuers with which the Fund held ESG engagement meetings and total number of ESG engagement meetings. For this purpose, an ''ESG engagement meeting'' is a substantive discussion with management of an issuer advocating for one or more specific ESG goals to be accomplished over a given time period, where progress that is made toward meeting such goal is measurable, that is part of an ongoing dialogue with the issuer regarding this goal. If personnel of the Fund's adviser hold an ESG engagement meeting with an issuer on behalf of multiple Funds advised by the adviser, each Fund for which the meeting is within its ESG strategy may count the ESG engagement meeting.

(E) If a Fund is an ESG-Focused fund, as defined in Item 4(a)(2)(i)(B), and indicates that it considers environmental factors in response to Item C.3(j)(ii) on Form N–CEN, except for an ESG-Focused fund that affirmatively states in the ''ESG Strategy Overview'' table required by Item 4(a)(2)(ii)(B) that it does not consider the greenhouse gases (''GHG'') emissions of the portfolio companies in which it invests, disclose the following aggregated GHG emissions metrics of the portfolio for the reporting period: (1) Carbon Footprint and (2) Weighted Average Carbon Intensity. Calculate these metrics using the methodologies in the instructions below, and provide all related disclosures.

Instructions

1. Computation of Aggregated GHG Emissions

(a) Carbon Footprint: Disclose the total GHG emissions associated with the Fund's portfolio, normalized by the Fund's net asset value and expressed in tons of carbon dioxide equivalent ("CO_2e") per million dollars invested in the Fund. Calculate the Portfolio Carbon Footprint as follows for each portfolio holding:

$$\frac{\dfrac{\text{current value of portfolio holding}}{\text{portfolio company's enterprise value}} \times \text{portfolio company's Scope 1 and Scope 2 emissions}}{\text{current portfolio net asset value}}$$

(i) Calculate the enterprise value of the portfolio company. Enterprise value is the sum of the portfolio company's equity value and the book value of its short- and long-term debt.

(ii) Calculate the GHG emissions associated with each portfolio holding by dividing the current value of the holding by the enterprise value of the portfolio company. Then, multiply the resulting value by the portfolio company's Scope 1 and Scope 2 emissions.

(iii) Add the GHG emissions associated with all portfolio holdings, then divide the resulting amount by the Fund's net asset value to derive the Fund's carbon footprint.

(b) Weighted Average Carbon Intensity: Disclose the Fund's exposure to carbon-intensive companies, expressed in tons of CO_2e per million dollars of the portfolio company's total revenue, calculated as follows for each portfolio holding:

$$\frac{\text{current value of portfolio holding}}{\text{current portfolio net asset value}} \times \frac{\text{portfolio company's Scope 1 and Scope 2 emissions}}{\text{portfolio company's total revenue (\$M)}}$$

(i) Calculate the portfolio weight of each portfolio holding by dividing the current value of the portfolio holding by the current net asset value of the Fund's whole portfolio.

(ii) Calculate the GHG emissions of each portfolio company by dividing the portfolio company's Scope 1 and Scope 2 emissions by the portfolio company's total revenue.

(iii) Multiply the portfolio weight of each portfolio holding by the GHG emissions of each portfolio company. The sum of these values for all portfolio holdings is the Fund's weighted average carbon intensity.

(c) Scope 3 Emissions: If the fund holds investments in portfolio companies that disclose their Scope 3 emissions, disclose the Scope 3 emissions associated with the Fund's portfolio, to the extent Scope 3 emissions are publicly available as provided in Instruction (d)(x) of this Item, using the Carbon Footprint methodology described in paragraph (a) of this Item.

(i) Disclose Scope 3 emissions separately for each industry sector in which the Fund invests, as well as the percentage of the fund's net asset value invested in each industry sector.

(d) GHG Metric Calculation Data: To calculate the GHG emissions as discussed in paragraphs (a), (b) and (c) above, apply the following definitions, data inputs, and assumptions:

(i) CO_2e means the common unit of measurement to indicate the global warming potential of each greenhouse gas, expressed in terms of the global warming potential of one unit of carbon dioxide.

(ii) Global warming potential means a factor describing the global warming impacts of different greenhouse gases. It is a measure of how much energy will be absorbed in the atmosphere over a specified period of time as a result of the emission of one ton of a greenhouse gas, relative to the emissions of one ton of carbon dioxide.

(iii) Greenhouse gases ("GHG") means carbon dioxide, methane, nitrous oxide, nitrogen trifluoride, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(iv) GHG emissions means direct and indirect emissions of greenhouse gases expressed in metric tons of CO_2e, of which:

(A) Direct emissions are GHG emissions from sources that are owned or controlled by a portfolio company.

(B) Indirect emissions are GHG emissions that result from the activities of the portfolio company, but occur at sources not owned or controlled by the portfolio company.

(v) Scope 1 emissions are direct GHG emissions from operations that are owned or controlled by a portfolio company.

(vi) Scope 2 emissions are indirect GHG emissions from the generation of purchased or acquired electricity, steam, heat, or cooling that is consumed by operations owned or controlled by a portfolio company.

(vii) Scope 3 emissions are all indirect GHG emissions not otherwise included in a portfolio company's Scope 2 emissions, which occur in the upstream and downstream activities of a portfolio company's value chain.

(viii) Value chain means the upstream and downstream activities related to a portfolio company's operations. Upstream activities in connection with a value chain may include activities by a party other than the portfolio company that relate to the initial stages of a portfolio company's production of a good or service (*e.g.,* materials sourcing, materials processing, and supplier activities). Downstream activities in connection with a value chain may include activities by a party other than the portfolio company that relate to processing materials into a finished product and delivering it or providing a service to the end user (*e.g.,* transportation and distribution, processing of sold products, use of sold products, end of life treatment of sold products, and investments).

(ix) A portfolio company or portfolio holding means a Fund's investment in, including an indirect investment through a derivatives instrument:

(A) An issuer that is engaged in or operates a business or activity that generates GHG emissions; or

(B) An investment company, or entity that would be an investment company under section 3(a) of the Investment Company Act but for the exceptions to that definition provided for in sections 3(c)(1) and 3(c)(7) of the Investment Company Act, that invests in issuers described in paragraph A of this subsection, except for an investment in reliance on § 270. 12d1–1.

(x) Use the values necessary to calculate the portfolio company's equity value, total debt, and total revenue: (1) from the portfolio company's most recent public report required to be filed with the Commission pursuant to the Securities Exchange Act or the Securities Act (''regulatory report'') containing such information) or, (2) absent a regulatory report, based on information provided by the portfolio company. If a portfolio company's total revenue is reported in currency other than US dollars, convert the reported revenue into US dollars using the exchange rate as of the date of the relevant regulatory report providing the company's revenue.

(xi) *Sources of portfolio company emissions data.*

(A) If the portfolio company reports Scope 1, Scope 2, and Scope 3 emissions in a regulatory report, the Fund must use the Scope 1, Scope 2, or Scope 3 emissions in the portfolio company's most recent regulatory report.

(B) If the portfolio company does not report its Scope 1, Scope 2, and Scope 3 emissions as described in subsection 1 of this instruction, the Fund must use Scope 1, Scope 2, or Scope 3 emissions that are publicly provided by the portfolio company.

(C) If the portfolio company does not report or otherwise publicly provide its Scope 1 and Scope 2 emissions, use a good faith estimate of the portfolio company's Scope 1 and Scope 2 emissions. Discuss briefly how the Fund calculates such estimates, including the sources of data for determining such estimates, and the percentage of the Fund's aggregated GHG emissions for which the Fund used estimates rather than reported emissions.

(xii) Use the value of each portfolio holding and the net asset value of the portfolio as of the end of the Fund's most recently completed fiscal year.

(xiii) If a Fund obtains exposure to a portfolio company by entering into a derivatives instrument, the derivatives instrument will be treated as an equivalent position in the securities of the portfolio company that are referenced in the derivatives instrument. A derivatives instrument for this purpose means any swap, security-based swap, futures contract, forward contract, option, any combination of the foregoing, or any similar instrument.

* * * * *

■ 13. Amend Form N–2 (referenced in §§ 239.14 and 274.11a–1) by:

■ a. Revising General Instructions I.2 and 3, redesignating I.5 as I.6, and adding new I.5;

■ b. Adding Item 8.2.e; and

■ c. Revising Instructions 4.g.(1) and 10 to Item 24.

The revisions and additions read as follows:

Note: The text of Form N–2 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM N–2

* * * * *

General Instructions

* * * * *

I. Interactive Data

* * *

2. An Interactive Data File is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T for any registration statement or post-effective amendment thereto filed on Form N–2 or for any form of prospectus filed pursuant to Rule 424 under the Securities Act [17 CFR 230.424] that includes or amends information provided in response to Items 3.1, 4.3, 8.2.b, 8.2.d, 8.2.e, 8.3.a, 8.3.b, 8.5.b, 8.5.c, 8.5.e, 10.1.a–d, 10.2.a–c, 10.2.e, 10.3, or 10.5. The Interactive Data File must be submitted either with the filing, or as an amendment to the registration statement to which it relates, on or before the date the registration statement or post-effective amendment that contains the related information becomes effective. Interactive Data Files must be submitted with the filing made pursuant to Rule 424.

3. If a Registrant is filing a registration statement pursuant to General Instruction A.2, an Interactive Data File is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T for any of the documents listed in General Instruction F.3.(a) or General Instruction F.3.(b) that include or amend information provided in response to Items 3.1, 4.3, 8.2.b., 8.2.d, 8.2.e, 8.3.a, 8.3.b, 8.5.b, 8.5.c, 8.5.e, 10.1.a–d, 10.2.a–c, 10.2.e, 10.3, or 10.5. The Interactive Data File must be submitted with the filing of the document(s) listed in General Instruction F.3.(a) or General Instruction F.3.(b).

* * *

5. An Interactive Data File is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T for any information provided in response to Instructions 4.g.(1)(B)–(E) or 10 to Item 24 of Form N–2 that is included in any annual report filed on Form N–CSR or Form 10–K.

* * * * *

Part A—Information Required in a Prospectus

* * * * *

Item 8. * * *

2. * * *

e. Environmental, Social, and Governance (''E,'' ''S,'' or ''G,'' and collectively, ''ESG'') Considerations

(1) Definitions.

(A) ''Integration Fund'' is a Fund that considers one or more ESG factors alongside other, non-ESG factors in its investment decisions, but those ESG factors are generally no more significant than other factors in the investment selection process, such that ESG factors may not be determinative in deciding to include or exclude any particular investment in the portfolio.

(B) ''ESG-Focused Fund'' is a Fund that focuses on one or more ESG factors by using them as a significant or main consideration (1) in selecting investments or (2) in its engagement strategy with the companies in which it invests. An ESG-Focused Fund includes (i) any fund that has a name including terms indicating that the Fund's investment decisions incorporate one or more ESG factors; and (ii) any Fund whose advertisements, as defined pursuant to rule 482 under the Securities Act of 1933 [17 CFR 230.482], or sales literature, as defined pursuant to rule 34b–1 under the Investment Company Act of 1940 [17 CFR 270.34b–1], indicate that the Fund's investment decisions incorporate one or more ESG factors by using them as a significant or main consideration in selecting investments.

(C) ''Impact Fund'' is an ESG-Focused Fund that seeks to achieve a specific ESG impact or impacts.

(2) If the Fund considers ESG factors as part of its principal portfolio emphasis, provide the following disclosure:

(A) If the Fund is an Integration Fund, summarize in a few sentences how the Fund incorporates ESG factors into the investment selection process, including what ESG factors the Fund considers.

(B) If the Fund is an ''ESG-Focused Fund,'' disclose the following information in a tabular format in the order specified below.

[ESG] Strategy Overview

<table>
<tr><td rowspan="2">Overview of the Fund's [ESG] strategy</td><td></td></tr>
<tr><td>The Fund engages in the following to implement its [ESG] Strategy (check all that apply):
□ Tracks an index
□ Applies an inclusionary screen
□ Applies an exclusionary screen
□ Seeks to achieve a specific impact
□ Proxy voting
□ Engagement with issuers
□ Other</td></tr>
<tr><td>How the Fund incorporates [ESG] factors in its investment decisions</td><td></td></tr>
<tr><td>How the Fund votes proxies and/or engages with companies about [ESG] issues</td><td></td></tr>
</table>

Instructions

1. The table should precede other disclosure required by Item 8.2.

2. The Fund may replace the term ''ESG'' in each row with another term or phrase that more accurately describes the applicable ESG factors the Fund considers. The Fund also may replace the term ''the Fund'' in each row with an appropriate pronoun, such as ''we'' or ''our.''

3. The Fund's disclosure for each row should be brief and limited to the information required by the row's instruction. Funds should use lists and other text features designed to provide overviews. Electronic versions of the table should include a hyperlink to the location in the filing where the information is described in greater detail.

4. *Overview of the Fund's [ESG] strategy.* Provide a concise description in a few sentences of the ESG factor or factors that are the focus of the Fund's strategy. The Fund must also include the list shown in the table above of common ESG strategies in a ''check the box'' style and indicate with a check mark or other feature all that apply. The Fund should only check the box for proxy voting or engagement with issuers (or both, as applicable) if it is a significant means of implementing the Fund's ESG strategy, meaning that the Fund, as applicable, regularly and proactively votes proxies or engages with issuers on ESG issues to advance one or more particular ESG goals the fund has identified in advance.

5. *How the Fund incorporates [ESG] factors in its investment decisions.* Summarize how the Fund incorporates ESG factors into its investment process for evaluating, selecting, or excluding investments. The summary must include, as applicable:

a. An overview of how the Fund applies any inclusionary or exclusionary screen, including a brief explanation of the factors the screen applies, such as particular industries or business activities it seeks to include or exclude. For these purposes, an inclusionary screen is a method of selecting investments based on ESG criteria. Conversely, a fund applying an exclusionary screen starts with a given universe of investments and then excludes investment based on ESG criteria. If applicable, state what exceptions apply to the inclusionary or exclusionary screen. In addition, state the percentage of the portfolio, in terms of net asset value, to which the screen is applied, if less than 100%, excluding cash and cash equivalents held for cash management, and explain briefly why the screen applies to less than 100% of the portfolio.

b. An overview of how the Fund uses an internal methodology, third-party data provider, such as a scoring or ratings provider, or a combination of both.

c. The name of any index the Fund tracks and a brief description of the index and how the index utilizes ESG factors in determining its constituents.

Information must be provided with respect to each applicable common ESG strategy (*e.g.,* inclusionary and exclusionary screens) in a disaggregated manner if more than one applies. For example, inclusionary screening must be explained distinctly from exclusionary screening. Funds may use multiple rows or other text features to clearly identify the disclosure related to each applicable common ESG strategy.

6. *How the Fund incorporates [ESG] factors in its investment decisions.* As applicable, provide an overview of any third-party ESG frameworks that the Fund follows as part of its investment process.

7. *How the Fund incorporates [ESG] factors in its investment decisions.* An Impact Fund must provide an overview of the impact(s) the Fund is seeking to achieve and how the Fund is seeking to achieve the impact(s). The overview must include (i) how the Fund measures progress toward the specific impact, including the key performance indicators the Fund analyzes, (ii) the time horizon the Fund uses to analyze progress, and (iii) the relationship between the impact the Fund is seeking to achieve and financial return(s)). State that the Fund reports annually on its progress in achieving the impact(s) in the Fund's annual report to shareholders or annual report on Form 10–K as applicable.

8. *How the Fund votes proxies and/or engages with companies about [ESG] issues.* The Fund must fill out this row regardless of whether the proxy voting or engagement boxes are checked. The Fund must describe briefly how the Fund engages or expects to engage with issuers on ESG issues (whether by voting proxies or otherwise). The Fund must state whether it has specific or supplemental policies and procedures that include one or more ESG considerations in voting proxies and, if so, state which considerations. If the Fund seeks to engage other than through shareholder voting, such as through meetings with or advocacy to management, the Fund must provide an overview of the objectives it seeks to achieve with the engagement strategy. If the Fund does not engage or expect to engage with issuers on ESG issues (whether by voting proxies or otherwise), the Fund must provide that disclosure in the row.

9. *Supplemental ESG disclosure.* As applicable, the following items must be disclosed by Integration Funds or ESG-Focused Funds to supplement the disclosures in the ESG Strategy Overview Table, to the extent not discussed in the Table. However, such disclosures do not need to precede other disclosures in Item 8.2.

a. If the Fund is an Integration Fund, describe how the Fund incorporates ESG factors into its investment selection process, including:

(1) The ESG factors that the Fund considers.

(2) If the Fund considers the GHG emissions of its portfolio holdings as an ESG factor in its investment selection process, describe how the Fund considers the GHG emissions of its portfolio holdings, including a description of the methodology the Fund uses for this purpose.

b. If the Fund is an ESG-Focused Fund, describe how the Fund incorporates ESG factors into its investment process, including:

(1) The index methodology for any index the fund tracks, including any criteria or methodologies for selecting or excluding components of the index that are based on ESG factors.

(2) Any internal methodology used and how that methodology incorporates ESG factors.

(3) The scoring or ratings system of any third-party data provider, such as a scoring or ratings provider, used by the Fund or other third-party provider of ESG-related data about companies, including how the Fund evaluates the quality of such data.

(4) The factors applied by any inclusionary or exclusionary screen, including any quantitative thresholds or qualitative factors used to determine a company's industry classification or whether a company is engaged in a particular activity.

(5) A description of any third-party ESG frameworks that the Fund follows as part of its investment process and how the framework applies to the Fund.

(6) With regard to engagement, whether by voting proxies or otherwise, a description of specific objectives of such engagement, including the Fund's time horizon for progressing on such objectives and any key performance indicators that the Fund uses to analyze or measure of the effectiveness of such engagement.

10. If the Fund is an Impact Fund, where the Fund first describes its objective in the filing, disclose the ESG impact that the Fund seeks to generate with its investments.

* * * * *

Part B—Information Required in a Statement of Additional Information

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Item 24. Financial Statements

* * * * *

Instructions

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4. * * *

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g. *Management's Discussion of Fund Performance.* Disclose the following information:

(1)(A) Discuss the factors that materially affected the Fund's performance during the most recently completed fiscal year, including the relevant market conditions and the investment strategies and techniques used by the Fund. The information presented may include tables, charts, and other graphical depictions.

(B) If the Fund is an Impact Fund as described in Item 8.2.e.(1)(C), summarize briefly the Fund's progress on achieving the impacts described in response to Instruction 7 of Item 8.2.e in both qualitative and quantitative terms during the reporting period, and the key factors that materially affected the Fund's ability to achieve the impact(s).

(C) If the Fund is an ESG-Focused fund, as defined in Item 8.2.e.(1)(B), and indicates that it uses proxy voting as a significant means of implementing its ESG strategy in response to Item C.3(j)(iii) on Form N–CEN, disclose the percentage of ESG voting matters during the reporting period for which the Fund voted in furtherance of the initiative. The Fund may limit this disclosure to voting matters involving the ESG factors the Fund incorporates into its investment decisions. The Fund, other than a business development company, also must include a cross reference, and for electronic versions of the shareholder report include a hyperlink, to its most recent complete voting record filed on Form N–PX.

(D) If the Fund is an ESG-Focused fund, as defined in Item 8.2.e.(1)(B), and indicates that it uses ESG engagement as a significant means of implementing its ESG strategy in response to Item C.3(j)(iii) on Form N–CEN, discuss the Fund's progress on any key performance indicators. Disclose the number or percentage of issuers with which the Fund held ESG engagement meetings and total number of ESG engagement meetings. For this purpose, an ''ESG engagement meeting'' is a substantive discussion with management of an issuer advocating for one or more specific ESG goals to be accomplished over a given time period, where progress that is made toward meeting such goal is measurable, that is part of an ongoing dialogue with the issuer regarding this goal. If personnel of the Fund's adviser hold an ESG engagement meeting with an issuer on behalf of multiple Funds advised by the adviser, each Fund for which the meeting is within its ESG strategy may count the ESG engagement meeting.

(E) If the Fund is an ESG-Focused fund, as defined in Item 8.2.e.(1)(B), and indicates that it considers environmental factors in response to Item C.3(j)(ii) on Form N–CEN, except for an ESG-Focused fund that affirmatively states in the ''ESG Strategy Overview'' table required by Item

4(a)(2)(ii)(B) that it does not consider the greenhouse gases (''GHG'') emissions of the portfolio companies in which it invests, disclose the following aggregated GHG emissions metrics of the portfolio for the reporting period: (1) Carbon Footprint and (2) Weighted Average Carbon Intensity. Calculate these metrics using the methodologies in the instructions below, and provide all related disclosures.

Instructions

1. Computation of Aggregated GHG Emissions

(a) *Carbon Footprint:* Disclose the total GHG emissions associated with the Fund's portfolio, normalized by the Fund's net asset value and expressed in tons of carbon dioxide equivalent (''CO_2e'') per million dollars invested in the Fund. Calculate the Portfolio Carbon Footprint as follows for each portfolio holding:

$$\frac{\dfrac{\text{current value of portfolio holding}}{\text{portfolio company's enterprise value}} \times \text{portfolio company's scope 1 and scope 2 emissions}}{\text{current portfolio net asset value}}$$

(i) Calculate the enterprise value of the portfolio company. Enterprise value is the sum of the portfolio company's equity value and the book value of its short- and long-term debt.

(ii) Calculate the GHG emissions associated with each portfolio holding by dividing the current value of the holding by the enterprise value of the portfolio company. Then, multiply the resulting value by the portfolio company's Scope 1 and Scope 2 emissions.

(iii) Add the GHG emissions associated with all portfolio holdings, then divide the resulting amount by the Fund's net asset value to derive the Fund's carbon footprint

(b) *Weighted Average Carbon Intensity:* Disclose the Fund's exposure to carbon-intensive companies, expressed in tons of CO_2e per million dollars of the portfolio company's total revenue, calculated as follows for each portfolio holding:

$$\frac{\text{current value of portfolio holding}}{\text{current portfolio value}} \times \frac{\text{portfolio company's scope 1 and scope 2 emissions}}{\text{portfolio company's total revenue (\$M)}}$$

(i) Calculate the portfolio weight of each portfolio holding by dividing the current value of the portfolio holding by the current net asset value of the Fund's whole portfolio.

(ii) Calculate the GHG emissions of each portfolio company by dividing the portfolio company's Scope 1 and Scope 2 emissions by the portfolio company's total revenue.

(iii) Multiply the portfolio weight of each portfolio holding by the GHG emissions of each portfolio company. The sum of these values for all portfolio holdings is the Fund's weighted average carbon intensity.

(c) *Scope 3 Emissions:* If the fund holds investments in portfolio companies that disclose their Scope 3 emissions, disclose the Scope 3 emissions associated with the Fund's portfolio, to the extent Scope 3 emissions are publicly available as provided in Instruction (d)(x) of this Item, using the Carbon Footprint methodology described in paragraph (a) of this Item.

(i) Disclose Scope 3 emissions separately for each industry sector in which the Fund invests, as well as the percentage of the fund's net asset value invested in each industry sector.

(d) *GHG Metric Calculation Data:* To calculate the GHG emissions as discussed in paragraphs (a), (b) and (c) above, apply the following definitions, data inputs, and assumptions:

(i) CO_2e means the common unit of measurement to indicate the global warming potential of each greenhouse gas, expressed in terms of the global warming potential of one unit of carbon dioxide.

(ii) Global warming potential means a factor describing the global warming impacts of different greenhouse gases. It is a measure of how much energy will be absorbed in the atmosphere over a specified period of time as a result of the emission of one ton of a greenhouse gas, relative to the emissions of one ton of carbon dioxide.

(iii) Greenhouse gases (''GHG'') means carbon dioxide; methane; nitrous oxide; nitrogen trifluoride; hydrofluorocarbons; perfluorocarbons; and sulfur hexafluoride.

(iv) GHG emissions means direct and indirect emissions of greenhouse gases expressed in metric tons of CO_2e, of which:

(A) Direct emissions are GHG emissions from sources that are owned or controlled by a portfolio company.

(B) Indirect emissions are GHG emissions that result from the activities of the portfolio company, but occur at sources not owned or controlled by the portfolio company.

(v) Scope 1 emissions are direct GHG emissions from operations that are owned or controlled by a portfolio company.

(vi) Scope 2 emissions are indirect GHG emissions from the generation of purchased or acquired electricity, steam, heat, or cooling that is consumed by operations owned or controlled by a portfolio company.

(vii) Scope 3 emissions are all indirect GHG emissions not otherwise included in a portfolio company's Scope 2 emissions, which occur in the upstream and downstream activities of a portfolio company's value chain.

(viii) Value chain means the upstream and downstream activities related to a portfolio company's operations. Upstream activities in connection with a value chain may include activities by a party other than the portfolio company that relate to the initial stages of a portfolio company's production of a good or service (*e.g.,* materials sourcing, materials processing, and supplier activities). Downstream activities in connection with a value chain may include activities by a party other than the portfolio company that relate to processing materials into a finished product and delivering it or providing a service to the end user (*e.g.,* transportation and distribution, processing of sold products, use of sold products, end of life treatment of sold products, and investments).

(ix) A portfolio company or portfolio holding means a Fund's investment in, including an indirect investment through a derivatives instrument:

(A) An issuer that is engaged in or operates a business or activity that generates GHG emissions; or

(B) An investment company, or entity that would be an investment company under section 3(a) of the Investment Company Act but for the exceptions to that definition provided for in sections 3(c)(1) and 3(c)(7), that invests in issuers described in paragraph A of this subsection, except for an investment in reliance on § 270. 12d1–1.

(x) Use the values necessary to calculate the portfolio company's equity value, total debt, and total revenue: (1) from the portfolio company's most recent public report required to be filed with the Commission pursuant to the Exchange Act or the Securities Act (''regulatory report'') containing such information) or, (2) absent a regulatory report, based on information provided by the portfolio company. If a portfolio company's total revenue is reported in currency other than U.S. dollars, convert the reported revenue into US dollars using the exchange rate as of the date of the relevant regulatory report providing the company's revenue.

(xi) *Sources of portfolio company emissions data.*

(A) If the portfolio company reports Scope 1, Scope 2, and Scope 3 emissions in a regulatory report, the Fund must use the Scope 1, Scope 2, or Scope 3 emissions in the portfolio company's most recent regulatory report.

(B) If the portfolio company does not report its Scope 1, Scope 2, and Scope 3 emissions as described in subsection 1 of this instruction, the Fund must use Scope 1, Scope 2, or Scope 3 emissions that are publicly provided by the portfolio company.

(C) If the portfolio company does not report or otherwise publicly provide its Scope 1 and Scope 2 emissions, use a good faith estimate of the portfolio company's Scope 1 and Scope 2 emissions. Discuss briefly how the Fund calculates such estimates, including the sources of data for determining such estimates, and the percentage of the Fund's aggregated GHG emissions for which the Fund used estimates rather than reported emissions.

(xii) Use the value of each portfolio holding and the net asset value of the portfolio as of the end of the Fund's most recently completed fiscal year.

(xiii) If a Fund obtains exposure to a portfolio company by entering into a derivatives instrument, the derivatives instrument will be treated as an equivalent position in the securities of the portfolio company that are referenced in the derivatives instrument. A derivatives instrument for this purpose means any swap, security-based swap, futures contract, forward contract, option, any combination of the foregoing, or any similar instrument.

* * * * *

10. *Business Development Companies.*

a. Every annual report filed under the Exchange Act by a business development company must contain the information required by Instruction 4.b, and, as applicable, Instructions 4.g(1)(B)–(E) and 4.h to this Item.

b. The requirement to respond to Instructions 4.g(1)(C)–(E) is predicated on responses to certain disclosures required by Item C.3(j) of Form N–CEN. For purposes of this Item, provide the information required by Instructions 4.g(1)(C)–(E) to the extent that a business development company would have supplied the predicate responses to Item C.3(j) were it required to file Form N–CEN.

c. Any information provided in response to Instructions 4.g(1)(B)–(E) to this Item that appears in a business development company's annual report must be included with the disclosure required by Item 7 of Form 10–K (Management's Discussion and Analysis of Financial Condition and Results of Operations).

d. Every annual report filed on Form 10–K that contains the information required by Instruction 4.g(1)(E) to this Item also must contain the information required by Item 7 of Form N–CSR (Disclosure of Greenhouse Gas (GHG) Emissions Methodologies and Assumptions).

* * * * *

■ 14. Amend Form N–8B–2 (referenced in § 274.12) by:

■ a. In the heading of ''2. Preparation and filing of Registration Statement'' under the General Instructions, adding a new instruction (l); and

■ b. Revising the instructions to II.11.

The addition and revisions read as follows:

Note: The text of Form N–8B–2 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM N–8B–2

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General Instructions for Form N–8B–2

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2. * * *

(l). Interactive Data

(1) An Interactive Data File as defined in Rule 11 of Regulation S–T [17 CFR 232.11] is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T [17 CFR 232.405] for any registration statement on Form N–8B–2 that includes information provided in response to Item 11 pursuant to Instruction 2. The Interactive Data File must be submitted with the filing to which it relates on the date such filing becomes effective.

(2) All interactive data must be submitted in accordance with the specifications in the EDGAR Filer Manual.

* * * * *

General Description of the Trust and Securities of the Trust

* * * * *

11. * * *

Instructions

1. The registrant need only disclose information with respect to an issuer that derived more than 15% of its gross revenues from the business of a broker, a dealer, an underwriter, or an investment adviser during its most recent fiscal year. If the registrant has issued more than one class or series of securities, the requested information must be disclosed for the class or series that has securities that are being registered.

2. If one or more environmental, social, or governance (''E,'' ''S,'' or ''G,'' and collectively, ''ESG'') factors are used to select the portfolio securities, describe briefly how such factors are incorporated into the investment selection process, including which ESG factors are considered.

* * * * *

■ 15. Amend Form N–CEN (referenced in §§ 249.330 and 274.101) by:

■ a. Redesignating Items C.3.b.i. through C.3.b.iv. as Items C.3.b.ii. through C.3.b.v., and

■ b. Adding new Items C.3.b.i. and C.3.j.

The additions read as follows:

Note: The text of Form N–CEN does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM N–CEN

* * * * *

Part C: Additional Questions for Management Investment Companies

Item C.3. * * *

b. * * *

i. Full name and LEI, if any, or provide and describe other identifying number of index: ________

* * * * *

j. Funds that incorporate Environmental, Social and/or Governance (''E,'' ''S,'' or ''G,'' and collectively, ''ESG'') factors: ____

i. Does the Fund provide the disclosure required by Item 4(a)(2)(ii) of Form N–1A or Item 8.2.e.(2)(B) of Form N–2? [Y/N] If yes,

1. Is the Fund an ''Integration Fund'' as described in Item 4(a)(2)(i)(A) of Form N–1A or Item 8.2.(e)(1)(A) (A)of Form N–2? [Y/N]

2. Is the Fund an ''ESG-Focused Fund'' as described in Item 4(a)(2)(i)(B) of Form N–1A or Item 8.2.e.(1)(B) of Form N–2? [Y/N] If yes,

A. Is the Fund an ''Impact Fund'' as described in Item 4(a)(2)(i)(C) of Form N–1A or Item 8.2.e.(1)(C) of Form N–2? [Y/N]

ii. Which of the following factors does the Fund consider:

1. Environmental factors? [Y/N]
2. Social factors? [Y/N]
3. Governance factors? [Y/N]

iii. Which of the following does the Fund engage in to implement its ESG strategy:

1. Tracks an index? [Y/N]
2. Applies an inclusionary screen? [Y/N]
3. Applies an exclusionary screen? [Y/N]
4. Proxy voting? [Y/N]
5. Engagement with issuers? [Y/N]
6. Other? [Y/N]

iv. Does the Fund consider ESG information or scores from ESG consultant(s) or other ESG service provider(s)? [Y/N] If yes,

1. Full name(s) and LEI, if any, or provide and describe other identifying number of ESG consultant(s) or other ESG service provider(s): ________

2. Is the ESG consultant(s) or other service provider(s) an affiliated person of the Fund? [Y/N]

v. Does the Fund follow any third-party ESG framework(s)? [Y/N] If yes,

1. Name(s) of the framework(s): ________

* * * * *

■ 16. Amend Form N–CSR (referenced in §§ 249.331 and 274.128) by:

■ a. Revising Instruction C.4;

■ b. Revising the second sentence of Item 2.(c);

■ c. Revising Item 2.(f)(1);

■ d. Redesignating Items 7 through 13 as Items 8 through 14;

■ e. Adding a new Item 7; and

■ f. In Certifications, revising the introductory text of Instruction to paragraph (a)(2); and

■ g. Revising the heading ''Instructions to Item 13'' to read ''Instructions to Item 14.''.

The revisions and addition read as follows:

Note: The text of Form N–CSR does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM N–CSR

* * * * *

General Instructions

* * * * *

C. * * *

4. *Interactive Data File.* An Interactive Data File as defined in Rule 11 of Regulation S–T [17 CFR 232.11] is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T [17 CFR 232.405] by a management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) to the extent required by Rule 405 of Regulation S–T for information provided in response to, as applicable:

(a) Item 27(b)(7)(i)(B)–(E) of Form N–1A included in any annual report filed on this Form;

(b) Items 3.1, 4.3, 8.2.b, 8.2.d, 8.2.e, 8.3.a, 8.3.b, 8.5.b, 8.5.c, 8.5.e, 10.1.a–d, 10.2.a–c, 10.2.e, 10.3, and 10.5 of Form N–2 included in any annual report filed on this Form by a Registrant that is filing a registration statement pursuant to General Instruction A.2 of Form N–2;

(c) Instructions 4.g.(1)(B)–(E) to Item 24 of Form N–2 included in any annual report filed on this Form; and

(d) Item 7 of this Form.

* * * * *

Item 2. * * *

(c) * * * The registrant must file a copy of any such amendment as an exhibit pursuant to Item 14(a)(1), unless the registrant has elected to satisfy paragraph (f) of this Item by posting its code of ethics on its website pursuant to paragraph (f)(2) of this Item, or by undertaking to provide its code of ethics to any person without charge, upon request, pursuant to paragraph (f)(3) of this Item.

* * * * *

(f) * * *

(1) File with the Commission, pursuant to Item 14(a)(1), a copy of its code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions, as an exhibit to its annual report on this Form N–CSR;

* * * * *

Item 7. Disclosure of Greenhouse Gas (GHG) Emissions Methodologies and Assumptions

If a registrant is required to disclose the aggregated GHG emissions of its portfolio in its report transmitted to stockholders pursuant to Rule 30e-1 under the Act, the registrant must provide descriptions of any assumptions and methodologies it applied in calculating the portfolio's GHG emissions, any limitations associated with the registrant's assumptions and methodologies, and explanations of any good faith estimates of GHG emissions the registrant was required to make in response to Item 27(b)(7)(i)(E) of Form N–1A or Instruction 4.g.(1)(E) to Item 24 of Form N–2.

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Certifications

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Instruction to Paragraph (a)(2)

Until the date that the registrant has filed its first report on Form N–PORT (17 CFR 270.150), in the certification required by Item 14(a)(2), the registrant's certifying officers must certify that they have disclosed in the report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.

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Instructions to Item 14

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PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

■ 17. The authority citation for part 279 continues to read as follows:

Authority: The Investment Advisers Act of 1940, 15 U.S.C. 80b–1, *et seq.,* Pub. L. 111–203, 124 Stat. 1376.

■ 18. Form ADV (referenced in § 279.1) is amended by:

■ a. In Part 1A, Item 5, adding paragraphs K.(5), K.(6), and M.;

■ b. In Part 1A, Item 6, adding paragraph A.(15);

■ c. In Part 1A, Item 7, adding paragraph A.(17);

■ d. In Part 1A, Schedule D, adding Section 6.A.(15);

■ e. In Part 1A Schedule D, adding 7.A.5.(q);
■ f. In Part 1A Schedule D, adding Section 7.B.(1)A.29.;
■ g. In Part 2A Item 8, adding paragraph D.;
■ h. In Part 2A, adding Item 10.C.12.;
■ i. In Part 2A, revising 17.A.;
■ j. In Part 2A Appendix 1, revising Items 4.A, Items 6A. and C.

The revisions and additions read as follows:

Note: The text of Form ADV does not, and the amendments will not, appear in the Code of Federal Regulations.

FORM ADV (Paper Version)

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PART 1A

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Item 5. * * *

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K. Separately Managed Account Clients

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BILLING CODE 8011–01–P

(5) Do you consider any Environmental, Social or Governance ("E," "S," or "G," and collectively, "ESG") factors (i) as part of one or more significant investment strategies or methods of analysis in the advisory services you provide to your separately managed account *clients*, including in your selection of other investment advisers if applicable, and/or (ii) as part of your advisory services when requested by your separately managed account *clients*?

☐ Yes ☐ No

(6) If you answered "Yes" to Item 5.K(5), for those advisory services:

a. Do you consider one or more ESG factors alongside other, non-ESG factors in your investment advice, but such ESG factors are generally no more significant than other factors in advising your clients with respect to investments, such that ESG factors may not be determinative in providing advice with respect to any particular investment ("integration")?

☐ Yes ☐ No

b. Do you focus on ESG factors by using them as a significant or main consideration in advising your clients with respect to investments or in your engagement strategy with the companies in which your separately managed account clients invest (ESG-"focused")?

☐ Yes ☐ No

c. If you answered "Yes" to (6)b., do you seek to achieve a specific ESG impact or impacts (ESG "impact")?

☐ Yes ☐ No

(*Select all that apply*. For example, if you have some significant investment strategies that are integration, others that are ESG-focused, and others that are ESG-focused *and* seek to achieve a measurable ESG impact, select “Yes” to a., b., and c.).

d. Which of the following factors do you consider for your separately managed account clients described in Item 5.K(5):

i. Environmental factors?	☐ Yes	☐ No
ii. Social factors?	☐ Yes	☐ No
iii. Governance factors?	☐ Yes	☐ No

(Select all that apply)

* * * * *

M. Third-Party ESG Framework(s):

(1) Do you follow any third-party ESG framework(s) in connection with your advisory services?

☐ Yes ☐ No

If “Yes,” state the name(s) of the framework(s): ____________________ [multiple free text boxes]

Item 6. * * *

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A. * * *

☐ (15) ESG consultant or other ESG service provider

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Item 7. * * *

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A. * * *

☐ (17) ESG consultant or other ESG service provider

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Schedule D

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Section 6.A. * * *

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☐ (15) ESG consultant or other ESG service provider

* * * * *

Section 7.A. * * *

* * * * *

5. * * *

☐ (q) ESG consultant or other ESG service provider

Section 7.B.(1) * * *

* * * * *

A. * * *

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29. (a) Do you consider any ESG factors as part of one or more significant investment strategies or methods of analysis in the advisory services you provide to this *private fund*?

☐ Yes ☐ No

(b) If you answered "Yes" to 29.(a), for the significant investment strategy or method of analysis for which you consider ESG factors for this *private fund*:

(1) Do you consider one or more ESG factors alongside other, non-ESG factors in your investment advice, but such ESG factors are generally no more significant than other factors in advising the fund with respect to investments, such that ESG factors may not be determinative in providing advice with respect to any particular investment ("integration")?

☐ Yes ☐ No

(2) Do you focus on ESG factors by using them as a significant or main consideration in advising the fund with respect to investments or in your engagement strategy with the companies in which the fund invests (ESG "focused")?

☐ Yes ☐ No

(3) If you answered "Yes" to 29.(b)(2), do you seek to achieve a specific ESG impact or impacts (ESG "impact")?

☐ Yes ☐ No

(4) Which of the following factors do you consider when providing advisory services to this *private fund*:

a. Environmental factors? ☐ Yes ☐ No

b. Social factors? ☐ Yes ☐ No

c. Governance factors? ☐ Yes ☐ No

(select all that apply)

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Uniform Application for Investment Adviser Registration

Part 2: Uniform Requirements for the Investment Adviser Brochure and Brochure Supplements

* * * * *

Part 2A of Form ADV: Firm Brochure

* * * * *

Item 8. Methods of Analysis, Investment Strategies and Risk of Loss

* * * * *

D. For each significant investment strategy or method of analysis you use for which you consider any ESG factors, provide a description of the ESG factor or factors you consider, and how you incorporate these factors when advising your clients with respect to investments, including in the selection or recommendation of other investment advisers, and whether and how you incorporate E, S, or G factors, or a combination of ESG factors. This must include, but not be limited to, an explanation of whether and how you:

1. consider one or more ESG factors alongside other, non-ESG factors in your investment advice, but such ESG factors are generally no more significant than other factors in advising your clients with respect to investments, such that ESG factors may not be determinative in providing advice with respect to any particular investment (''integration''); or

2. focus on one or more ESG factors by using them as a significant or main consideration in advising your clients with respect to investments or in your engagement strategy with the companies in which your clients invest (ESG-''focused''). ESG ''impact'' strategies or methods of analysis are those ESG-focused strategies or methods of analysis that seek to achieve a specific ESG impact or impacts. For any ESG impact strategy or methodology, you must provide an overview of the impact(s) you are seeking to achieve and how you are seeking to achieve the impact(s) (including how you measure progress toward the stated impact, disclosing the key performance indicators you analyze, the time horizon you use to analyze progress, and the relationship between the impact you are seeking to achieve and financial return(s)).

If you use criteria or a methodology for evaluating, selecting, or excluding investments in your significant investment strategy or method of analysis based on the consideration of ESG factors, describe that criterion and/or methodology and how you use it for each applicable significant investment strategy or method of analysis. This must include, but is not limited to, a description of whether (and how) you use any of the following:

1. an internal methodology, a third-party criterion or methodology such as a scoring provider or framework, or a combination of both, including an explanation of how the adviser evaluates the quality of relevant third-party data;

2. an inclusionary or exclusionary screen, including an explanation of the factors the screen applies, such as particular industries or business activities it seeks to include or exclude and if applicable, what exceptions apply to the inclusionary or exclusionary screen; and/or

3. an index, including the name of the index and a description of the index and how the index utilizes ESG factors in determining its constituents.''

Note: If you utilize or follow a third-party ESG framework, criterion, or index, you may include a hyperlink to any such framework, criterion, or index in your response to this Item.

* * * * *

Item 10. Other Financial Industry Activities and Affiliations

C. * * *

* * * * *

12. ESG consultant or other ESG service provider.

* * * * *

Item 17. Voting Client Securities

A. If you have, or will accept, authority to vote *client* securities, describe briefly your voting policies and procedures, including those adopted pursuant to SEC rule 206(4)–6. If you have specific voting policies or procedures to include one or more ESG considerations when voting client securities, describe which ESG factors you consider and how you consider them. Describe whether (and, if so, how) your *clients* can direct your vote in a particular solicitation. Describe how you address conflicts of interest between you and your *clients* with respect to voting their securities. Describe how *clients* may obtain information from you about how you voted their securities. Explain to *clients* that they may obtain a copy of your proxy voting policies and procedures upon request.

* * * * *

Part 2A Appendix 1 of Form ADV: Wrap Fee Program Brochure

* * * * *

Item 4. Services, Fees and Compensation

A. Describe the services, including the types of portfolio management services, provided under each program. Indicate the wrap fee charged for each program or, if fees vary according to a schedule, provide your fee schedule. Indicate whether fees are negotiable and identify the portion of the total fee, or the range of fees, paid to portfolio managers. If you consider Environmental, Social, or Governance (''ESG'') factors under your programs, provide a description of the factors you consider, and how you incorporate them under each program.

* * * * *

Item 6. Portfolio Manager Selection and Evaluation

A. * * *

4. If you consider ESG factors when selecting, reviewing, or recommending portfolio managers as described in this Item, describe the ESG factors you consider and how you consider them. Your description of those factors must include:

(i) a description of any criteria or methodology you use to assess portfolio managers' applications of the relevant ESG factors into their portfolio management, including any industry or other standards for presenting the achievement of ESG impacts and/or third-party ESG frameworks, and any internal criteria or methodology;

(ii) an explanation of whether you review, or whether a third-party reviews, portfolio managers' applications of the relevant ESG factors described above. If so, describe the nature of the review and the name of any third party conducting the review.

(iii) if applicable, an explanation that neither you nor a third-party assesses portfolio managers' application of the relevant ESG factors into their portfolio management, and/or that the portfolio managers' application of the relevant ESG factors may not be calculated, compiled, assessed, or presented on a uniform and consistent basis.

* * * * *

C. If you, or any of your supervised persons covered under your investment adviser registration, act as a portfolio manager for a wrap fee program described in the wrap fee program brochure, respond to Items 4.B, 4.C, 4.D (Advisory Business), 6 (Performance-Based Fees and Side-By-Side Management), 8.A and 8.D (Methods of Analysis, Investment Strategies and Risk of Loss), and 17 (Voting Client Securities) of Part 2A of Form ADV.

By the Commission.

Dated: May 25, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–11718 Filed 6–16–22; 8:45 am]

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To designate the facility of the United States Postal Service located at 1233 North Cedar Street in Owasso, Oklahoma, as the "Technical Sergeant Marshal Roberts Post Office Building". (June 16, 2022; 136 Stat. 1265)

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