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U.S. GOVERNMENT
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FEDERAL REGISTER

Vol. 87 Thursday

No. 169 September 1, 2022

Pages 53647–54122

OFFICE OF THE FEDERAL REGISTER

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The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 121

[Docket No. APHIS–2022–0034]

Possession, Use, and Transfer of Select Agents and Toxins; Regulation of an Attenuated Vaccine Strain of Venezuelan Equine Encephalitis Virus as a Select Agent

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Regulatory determination.

SUMMARY: We are notifying the public that the Animal and Plant Health Inspection Service (APHIS) has determined that the modified Venezuelan equine encephalitis virus (VEEV) strain TC–83(A3G), which is a modification to the attenuated strain VEEV TC–83, has demonstrated increased pathogenicity and lethality and that the strain has the potential to pose a severe threat to animal health or animal products. We are advising the public that VEEV strain TC–83(A3G) is therefore a select agent and subject to APHIS' select agent and toxin regulations.

DATES: Effective September 1, 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Randy Capsel, Science Officer, Division of Agricultural Select Agents and Toxins, Emergency and Regulatory Compliance Services, Animal and Plant Health Inspection Service, 4700 River Road, Riverdale, MD 20737; Telephone: (301) 851–3402; email: *Randy.T.Capsel@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Agricultural Bioterrorism Protection Act of 2002, as amended (the Act, 7 U.S.C. 8401) provides for the regulation of certain biological agents and toxins that have the potential to pose a severe threat to animal and plant health, or to animal and plant products. The Animal and Plant Health Inspection Service (APHIS) has the primary responsibility for implementing the provisions of the Act within the U.S. Department of Agriculture. The Act also provides authority for APHIS to jointly regulate with the U.S. Department of Health & Human Services' Centers for Disease Control and Prevention (CDC) biological agents and toxins that have the potential to pose a serve threat to both public health and safety and animal health or animal products.

The regulations in 9 CFR part 121 (referred to below as the regulations) implement the provisions of the Act by setting forth the requirements for possession, use, and transfer of Veterinary Services select agents and toxins. In § 121.4 of the regulations, paragraph (e) sets forth a process by which an attenuated strain of a select agent or toxin modified to be less potent or toxic may be excluded from the requirements of the select agent and toxin regulations in part 121 based upon a determination by APHIS' Administrator that the attenuated strain or modified toxin does not pose a severe threat to public health and safety, animal health, or animal products. Under § 121.4(e)(2), if an excluded attenuated strain is subjected to any manipulation that restores or enhances its virulence, resulting in a select agent that poses a severe threat to animal health or animal products, the resulting select agent will be subject to the requirements of the regulations in part 121.

Venezuelan equine encephalitis virus (VEEV) is a member of the genus Alphavirus in the family Togaviridae, and is a small, enveloped virus with a genome consisting of a single strand of positive-sense RNA. VEEV is a mosquito-borne virus that causes encephalitis or encephalomyelitis in all equine species and humans. Because it can affect both animals and humans, VEEV is listed as an overlap select agent in § 121.4(b) of the regulations and therefore is subject to regulation by both APHIS and CDC. On February 7, 2003, VEEV strain TC–83 was excluded from the regulations because mice vaccinated subcutaneously with VEEV strain TC–83 rapidly developed immunity to subcutaneous or airborne challenge with virulent VEEV.[1] Based on these findings, APHIS, in collaboration with CDC, determined that the attenuated strain did not have the potential to pose a severe threat to animal health or animal products.

However, based on a recent review by subject matter experts, APHIS has determined that a modification to the excluded, attenuated VEEV vaccine strain TC–83 has been shown to increase its virulence and pathogenicity. An adenine (A) at position 3 in TC–83 has been shown to contribute to the attenuation of VEEV. In TC–83(A3G), the A has been changed to a guanine (G), which is found in all wild-type isolates of VEEV. The reversion of this nucleotide mutation to the wild-type nucleotide resulted in increased lethality in mice when compared to mice inoculated with the vaccine strain TC–83. Additional data determined that the pathogenic effects of TC–83(A3G) are more pronounced in young mice.

As a result, the modification of the excluded, attenuated VEEV vaccine strain TC–83 to create VEEV strain TC–83(A3G) restores the virus's virulence and has the potential to pose severe threat to animal health or animal products. Therefore, VEEV strain TC–83(A3G) is subject to the regulations in part 121.

Authority: 7 U.S.C. 8401; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 29th day of August 2022.

Anthony Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2022–18990 Filed 8–30–22; 11:15 am]

BILLING CODE 3410–34–P

[1] See *https://www.selectagents.gov/sat/exclusions/overlap.htm.*

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1056; Project Identifier MCAI–2022–00895–P; Amendment 39–22153; AD 2022–18–02]

RIN 2120–AA64

Airworthiness Directives; MT-Propeller Entwicklung GmbH Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain MT-Propeller Entwicklung GmbH MTV–5–1–( ), MTV–9–( ), MTV–11–( ), MTV–12–( ), MTV–14–B, MTV–14–D, MTV–15–( ), MTV–16–( ), MTV–17–( ), MTV–18–( ), MTV–20–( ), and MTV–27–( ) variable pitch propellers. This AD was prompted by reports of certain propeller blade lag screws that were manufactured with an improper surface finish, which results in reduced fatigue strength of these lag screws. This AD requires replacement of certain propeller blade lag screws with parts eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 16, 2022

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 16, 2022.

The FAA must receive comments on this AD by October 17, 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 *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 final rule, contact MT-Propeller Entwicklung GmbH, MT-Propeller USA, Inc., 1180 Airport Terminal Drive, DeLand, FL 32724; phone: (386) 736–7762; email: *service@mt-propellerusa.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *www.regulations.gov* under Docket No. FAA–2022–1056.

Examining the AD Docket

You may examine the AD docket at *www.regulations.gov* under Docket No. FAA–2022–1056; 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 street address for the Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Michael Schwetz, Aviation Safety Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7761; email: *9-AVS-AIR-BACO-COS@faa.gov.*

SUPPLEMENTARY INFORMATION:

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–2022–1056; Project Identifier MCAI–2022–00895–P'' 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 *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 Michael Schwetz, Aviation Safety Engineer, Boston ACO 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.

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 2022–0134, dated July 6, 2022 (referred to after this as ''the MCAI''), to address an unsafe condition for certain MTV–5, MTV–9, MTV–12, MTV–14, MTV–15, MTV–16, MTV–18, and MTV–27 variable pitch propellers, all models, having a serial number (S/N) identified in MT-Propeller Entwicklung GmbH Alert Service Bulletin (ASB) No. 30, Revision 7, dated June 23, 2022 (MT-Propeller ASB No. 30, Rev. 7); and MTV–5, MTV–9, MTV–11, MTV–12, MTV–14, MTV–15, MTV–16, MTV–17, MTV–18, MTV–20, and MTV–27 variable pitch propellers, any model, on which a propeller blade is installed, having an S/N identified in MT-Propeller ASB No. 30, Rev. 7. The MCAI states that in 2014, it was discovered that a batch of non-conforming propeller blade lag screws were manufactured with an improper surface finish, which results in reduced fatigue strength for these lag screws. Further investigation revealed that the non-conforming propeller blade lag screws were installed on the blades of propellers manufactured during the period of November 2013 to October 2014 and on certain propellers and propeller blades that were overhauled or repaired by MT-Propeller or an MT-Propeller approved Service Center during the same period. MT-Propeller published Service Bulletin No. 30, Original Issue, dated November 4, 2014, identifying the S/Ns of the affected propellers and propeller blades and specifying the replacement of the propeller blade lag screws with serviceable propeller blade lag screws. MT-Propeller later published MT-Propeller Entwicklung GmbH ASB No. 30, Revision 7, updating the S/Ns of the affected propellers and propeller blades. This condition, if not corrected, could lead to in-flight blade detachment,

resulting in damage to the airplane and reduced control of the airplane. The FAA is issuing this AD to address the unsafe condition.

You may examine the MCAI in the AD docket at *www.regulations.gov* under Docket No. FAA–2022–1056.

Related Service Information Under 1 CFR Part 51

The FAA reviewed MT-Propeller Entwicklung GmbH ASB No. 30, Revision 7, dated June 23, 2022. This ASB identifies the S/Ns of the affected propellers and propeller blades and specifies replacement of the propeller blade lag screw. This ASB is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

FAA's Determination

These products have been approved by the aviation authority of another country and are 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 described above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

AD Requirements

This AD requires the removal from service of any installed propeller blade lag screw with part number (P/N) A–983–C–85 and the replacement with a part eligible for installation.

Differences Between This AD and the MCAI

The MCAI applies to certain MT-Propeller Entwicklung GmbH MTV–5, MTV–9, MTV–11, MTV–12, MTV–14, MTV–15, MTV–16, MTV–17, MTV–18, MTV–20, and MTV–27 variable pitch propellers, which are identified on the FAA type certificates as MTV–5–1–( ), MTV–9–( ), MTV–11–( ), MTV–12–( ), MTV–14–B, MTV–14–D, MTV–15–( ), MTV–16–( ), MTV–17–( ), MTV–18–( ), MTV–20–( ), and MTV–27–( ) propellers, respectively.

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.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because the improper surface finish on a propeller blade lag screw results in reduced fatigue strength of the propeller blade lag screw. Reduced fatigue strength could lead to in-flight blade detachment, damage to the airplane, and reduced control of the airplane, which is an immediate safety of flight problem. For turboprop engines, the propeller blade lag screw must be replaced within 120 days from the effective date of this AD or before exceeding 50 flight hours (FHs) from the effective date of this AD, whichever occurs first. For piston engines, the propeller blade lag screw must be replaced within 60 days from the effective date of this AD or before exceeding 25 FHs from the effective date of this AD, whichever occurs first. The compliance time for the required actions is shorter than the time necessary to allow for public comment and for the FAA to publish a final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, 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, for the same reasons the FAA found good cause to forego notice and comment.

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 the 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 275 propellers 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
Replace propeller blade lag screws on MTV–11–( ), MTV–15–( ), MTV–17–( ), and MTV–20–( ) propellers (28 propellers).	12 work-hours × $85 per hour = $1,020	$2,500	$3,520	$98,560
Replace propeller blade lag screws on MTV–9–( ), MTV–12–( ), and MTV–18–( ) propellers (164 propellers).	18 work-hours × $85 per hour = $1,530	3,000	4,530	742,920
Replace propeller blade lag screws on MTV–14–B, MTV–14–D, and MTV–16–( ) propellers (28 propellers).	22 work-hours × $85 per hour = $1,870	3,500	5,370	150,360
Replace propeller blade lag screws on MTV–5–1–( ) and MTV–27( ) propellers (55 propellers).	30 work-hours × $85 per hour = $2,550	5,000	7,550	415,250

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:

2022–18–02 MT-Propeller Entwicklung GmbH: Amendment 39–22153; Docket No. FAA–2022–1056; Project Identifier MCAI–2022–00895–P.

(a) Effective Date

This airworthiness directive (AD) is effective September 16, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to MT-Propeller Entwicklung GmbH:

(1) MTV–5–1–( ), MTV–9–( ), MTV–12–( ), MTV–14–B, MTV–14–D, MTV–15–( ), MTV–16–( ), MTV–18–( ), and MTV–27–( ) variable pitch propellers with a propeller serial number (S/N) identified in MT-Propeller Entwicklung GmbH Alert Service Bulletin (ASB) No. 30, Revision 7, dated June 23, 2022 (MT-Propeller ASB No. 30, Rev. 7); and

(2) MTV–5–1–( ), MTV–9–( ), MTV–11–( ), MTV–12–( ), MTV–14–B, MTV–14–D, MTV–15–( ), MTV–16–( ), MTV–17–( ), MTV–18–( ), MTV–20–( ), and MTV–27–( ) variable pitch propellers with a propeller blade S/N identified in MT-Propeller ASB No. 30, Rev. 7, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 6100, Propeller System.

(e) Unsafe Condition

This AD was prompted by reports of certain propeller blade lag screws that were manufactured with an improper surface finish, which results in reduced fatigue strength of these lag screws. The FAA is issuing this AD to prevent in-flight blade detachment. The unsafe condition, if not addressed, could lead to release of the propeller, damage to the airplane, and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) If the affected propeller or propeller blade is installed on a turboprop engine, before exceeding 120 days from the effective date of this AD, or within 50 flight hours (FHs) from the effective date of this AD, whichever occurs first, remove from service any propeller blade lag screw with part number (P/N) A–983–C–85 and replace with a part eligible for installation.

(2) If the affected propeller or propeller blade is installed on a piston engine, before exceeding 60 days from the effective date of this AD, or within 25 FHs from the effective date of this AD, whichever occurs first, remove from service any propeller blade lag screw with P/N A–983–C–85 and replace with a part eligible for installation.

(h) Definition

For the purpose of this AD, a ''part eligible for installation'' is any propeller blade lag screw with P/N A–983–D–85 or P/N A–983–E–85.

(i) Installation Prohibition

After the effective date of this AD, do not install a propeller blade lag screw with P/N A–983–C–85 onto any propeller or propeller blade.

(j) Credit for Previous Actions

You may take credit for the actions required by paragraph (g) of this AD if the actions were performed before the effective date of this AD using MT-Propeller Entwicklung GmbH Alert Service Bulletin No. 30, Revision 6, dated January 18, 2022, or earlier versions of this service information.

(k) Alternative Methods of Compliance (AMOCs)

The following provisions also apply to this AD.

(1) The Manager, Boston ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in § 39.19. In accordance with § 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 (l)(2) of this AD.

(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.

(l) Additional Related Information

(1) Refer to European Union Aviation Safety Agency (EASA) AD 2022–0134, dated July 6, 2022, for related information. This EASA AD may be found in the AD docket at *www.regulations.gov* under Docket No. FAA–2022–1056.

(2) For more information about this AD, contact Michael Schwetz, Aviation Safety Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7761; email: *9-AVS-AIR-BACO-COS@faa.gov.*

(m) 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 the AD specifies otherwise.

(i) MT-Propeller Entwicklung GmbH Alert Service Bulletin No. 30, Revision 7, dated June 23, 2022.

(ii) [Reserved]

(3) For MT-Propeller Entwicklung GmbH service information identified in this AD, contact MT-Propeller Entwicklung GmbH, MT-Propeller USA, Inc., 1180 Airport Terminal Drive, DeLand, FL 32724; phone: (386) 736–7762; email: *service@mt-propellerusa.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

(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: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on August 17, 2022.

Christina Underwood,

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

[FR Doc. 2022–19050 Filed 8–30–22; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0160; Project Identifier AD–2022–00009–E; Amendment 39–22150; AD 2022–17–12]

RIN 2120–AA64

Airworthiness Directives; CFM International, S.A. Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain CFM International, S.A. (CFM) LEAP–1A model turbofan engines. This AD was prompted by reports of two in-flight shutdowns (IFSDs) and subsequent investigation by the manufacturer that revealed cracks in the high-pressure turbine (HPT) rotor stage 1 blades. This AD requires initial and repetitive borescope inspections (BSIs) of the HPT rotor stage 1 blades. Depending on the results of the BSIs, this AD requires either additional BSIs at reduced intervals or replacement of the HPT rotor stage 1 blades. This AD also requires sending the inspection results to CFM if any unserviceable finding is found. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 6, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 6, 2022.

ADDRESSES: For service information identified in this final rule, contact CFM International, S.A., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; phone: (877) 432–3272; email: *aviation.fleetsupport@ge.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0160.

Examining the AD Docket

You may examine the AD docket at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0160; 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: Mehdi Lamnyi, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7743; email: *Mehdi.Lamnyi@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain CFM LEAP–1A23, LEAP–1A24, LEAP–1A24E1, LEAP–1A26, LEAP–1A26CJ, LEAP–1A26E1, LEAP–1A29, LEAP–1A29CJ, LEAP–1A30, LEAP–1A32, LEAP–1A33, LEAP–1A33B2, and LEAP–1A35A (LEAP–1A) model turbofan engines. The NPRM published in the **Federal Register** on March 21, 2022 (87 FR 15896). The NPRM was prompted by reports of two single-engine IFSDs on airplanes powered by LEAP–1A model turbofan engines, operating extensively in the Middle East and North Africa (MENA) region. A post-flight BSI of the HPT module revealed that the engine failures were due to cracks in the HPT rotor stage 1 blades. After investigation, the manufacturer determined that engines operating in the MENA region are susceptible to accelerated HPT rotor stage 1 blade deterioration and airfoil distress due to the build-up of dust. In the NPRM, the FAA proposed to require initial and repetitive BSIs of the HPT rotor stage 1 blades and HPT stator stage 1 nozzle set and, depending on the results of the inspections, additional BSIs at reduced intervals or replacement of the HPT rotor stage 1 blades or HPT stator stage 1 nozzle set. In the NPRM, the FAA proposed to require a BSI of the HPT rotor stage 1 blades and HPT stator stage 1 nozzle set installed on the sister engine of the same airplane if certain criteria are met. In the NPRM, the FAA also proposed to require sending the inspection results to CFM if any unserviceable finding is found. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from three commenters. The commenters were Air Line Pilots Association, International (ALPA), CFM, and an individual commenter. The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for the AD

ALPA expressed support for the AD as written.

Use of a Proprietary Ground Operation System as an Alternate Means of Compliance

An individual commenter stated that using a specific ground operation taxi system could provide an alternate means of compliance for this AD. The commenter reasoned that limiting engine operation during ground operations would increase the interval between inspections from 150 cycles to 450 cycles and from 300 cycles to 900 cycles. The commenter also stated that use of this ground operation taxi system would reduce costs on operators, result in fuel burn reduction, and reduce carbon emissions.

The FAA did not change this AD as a result of this comment. The compliance timing for the actions required by this AD are based on the accumulated number of takeoffs and flight cycles, not on engine operating hours. In addition, it has not been demonstrated that variation in operation of the engine on the ground and during taxi has any impact on the unsafe condition addressed by this AD.

Availability of Revised Service Information

CFM commented that revised service information, CFM Service Bulletin (SB) LEAP–1A–72–00–0461–01A–930A–D, Issue 003–00, dated July 13, 2022, has been published. CFM identified that this revised service information removes references to the HPT stator stage 1 nozzle set, adds an inspection credit for the engines for which the conditional inspection of the sister engine installed on the same airplane is applicable, updates the BSI guidance for the HPT stator stage 1 blades, and removes the requirement to share all videos and images with CFM.

In response to this comment, the FAA revised this AD to reference CFM SB LEAP–1A–72–00–0461–01A–930A–D, Issue 003–00, dated July 13, 2022. The FAA also removed all references to the HPT stator stage 1 nozzle set and associated SB paragraph references as proposed in the NPRM. The FAA has also added paragraph (i), Credit for Previous Actions, to this AD to provide credit for the initial BSI required by paragraph (g)(1)(i) or (2)(i) of this AD if the initial BSI was performed before the

effective date of this AD using CFM SB LEAP–1A–72–00–0461–01A–930A–D, Issue 002–00, dated December 21, 2021.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed CFM SB LEAP–1A–72–00–0461–01A–930A–D, Issue 003–00, dated July 13, 2022. This service information specifies procedures for performing a BSI of the HPT rotor stage 1 blades for LEAP–1A model turbofan engines operating in the MENA region, performing all applicable corrective actions, and reporting any unserviceable HPT rotor stage 1 blade findings to CFM.

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 **ADDRESSES**.

Interim Action

The FAA considers this AD to be an interim action. The inspection reports that are required by this final rule will enable the manufacturer to obtain better insight into the nature, cause, and extent of the cracking, and eventually to develop final action to address the unsafe condition. Once final action has been identified, the FAA might consider additional rulemaking.

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
BSI the HPT rotor stage 1 blades	4 work-hours × $85 per hour = $340	$0	$340	$0

The FAA estimates the following costs to do any necessary reporting and replacements that would be required based on the results of the inspection. The agency has no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace the HPT rotor stage 1 blades	150 work-hours × $85 per hour = $12,750	$988,200	$1,000,950
BSI the HPT rotor stage 1 blades (on the sister engine).	4 work-hours × $85 per hour = $340	0	340
Report BSI results to CFM	1 work-hour × $85 per hour = $85	0	85

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 take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and 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

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:

2022–17–12 CFM International, S.A.: Amendment 39–22150; Docket No. FAA–2022–0160; Project Identifier AD–2022–00009–E.

(a) Effective Date

This airworthiness directive (AD) is effective October 6, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to CFM International, S.A. (CFM) LEAP–1A23, LEAP–1A24, LEAP–1A24E1, LEAP–1A26, LEAP–1A26CJ, LEAP–1A26E1, LEAP–1A29, LEAP–1A29CJ, LEAP–1A30, LEAP–1A32, LEAP–1A33, LEAP–1A33B2, and LEAP–1A35A model turbofan engines with an installed high-pressure turbine (HPT) rotor stage 1 blade, having part number (P/N) 2747M92P01, P/N 2553M91G03, P/N 2553M91G05, P/N 2553M91G06, P/N 2553M91G07, or P/N 2553M91G08 that has accumulated more than 800 Middle East and North Africa (MENA) takeoffs.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of two in-flight shutdowns and subsequent investigation by the manufacturer that revealed cracks in the HPT rotor stage 1 blades. The FAA is issuing this AD to prevent failure of the HPT rotor stage 1 blades. The unsafe condition, if not addressed, could result in failure of the engine, in-flight shutdown, loss of thrust control, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

(1) *Group 1 Engines: Borescope Inspection (BSI) of HPT Rotor Stage 1 Blades*

For Group 1 engines with an affected HPT rotor stage 1 blade installed:

(i) Within 100 flight cycles (FCs) after accumulating 800 MENA takeoffs on the HPT rotor stage 1 blade, before the HPT rotor stage 1 blade accumulates 1,750 cycles since new (CSN), or within 100 FCs after the effective date of this AD, whichever occurs later, perform an initial BSI of the HPT rotor stage 1 blades in accordance with the Accomplishment Instructions, paragraphs 5.E.(1)(c), of CFM Service Bulletin LEAP–1A–72–00–0461–01A–930A–D, Issue 003–00, dated July 13, 2022 (the SB).

(ii) Thereafter, at intervals not to exceed 150 FCs since the last BSI, perform a repetitive BSI of the HPT rotor stage 1 blades in accordance with the Accomplishment Instructions, paragraphs 5.E.(1)(c), of the SB.

(2) *Group 2 Engines: BSI of HPT Rotor Stage 1 Blades*

For Group 2 engines with an affected HPT rotor stage 1 blade installed:

(i) Within 100 FCs after accumulating 800 MENA takeoffs on the HPT rotor stage 1 blade, before the HPT rotor stage 1 blade accumulates 2,600 CSN, or within 100 FCs after the effective date of this AD, whichever occurs later, perform an initial BSI of the HPT rotor stage 1 blades in accordance with the Accomplishment Instructions, paragraphs 5.E.(1)(c), of the SB.

(ii) Thereafter, at intervals not to exceed 300 FCs since the last BSI, perform a repetitive BSI of the HPT rotor stage 1 blades in accordance with the Accomplishment Instructions, paragraphs 5.E.(1)(c), of the SB.

(3) *BSI Results Disposition*

Based on the results of the BSI required by paragraph (g)(1) or (2) of this AD, as applicable, either re-inspect or replace the HPT rotor stage 1 blades set using the criteria, compliance times, and procedures referenced in the Accomplishment Instructions, paragraph 5.E.(1)(f), of the SB.

(4) *Conditional Inspection of the Sister Engine on the Same Airplane*

(i) Based on the BSI results disposition required by paragraph (g)(3) of this AD, if re-inspection or replacement of the HPT rotor stage 1 is required within 50 FCs based on the criteria, compliance times, and procedures referenced in the Accomplishment Instructions, paragraph 5.E.(1)(f), of the SB, then perform the actions required in paragraph (g)(4)(ii) of this AD.

(ii) Within 5 FCs after performing the inspection required by paragraph (g)(1) or (2) of this AD, as applicable, either inspect or replace the HPT rotor stage 1 blades on the sister engine using the procedures and compliance times in the Accomplishment Instructions, paragraph 5.E.(1)(g), of the SB. Where the SB specifies to remove the engine, this AD requires replacement of the HPT rotor stage 1 blades.

(5) *Reporting Requirements*

If, during any inspection required by paragraph (g)(1), (2), (3), or (4) of this AD, as applicable, any HPT unserviceable finding is found on an engine as identified in the Accomplishment Instructions, paragraph 5.E.(1)(f) of the SB, within 30 days of performing the inspection, report the HPT rotor stage 1 blade unserviceable finding to CFM in accordance with the Accomplishment Instructions, paragraph 5.E.(1)(f)1, of the SB.

Note 1 to paragraph (g): The Accomplishment Instructions in paragraph 5.E.(1)(f) of the SB reference applicable aircraft maintenance manual tasks for procedures and compliance times for the actions required by paragraphs (g)(3) through (5) of this AD.

(h) Definitions

(1) Group 1 engines are CFM LEAP–1A29, LEAP–1A29CJ, LEAP–1A30, LEAP–1A32, LEAP–1A33, LEAP–1A33B2, and LEAP–1A35A model turbofan engines.

(2) Group 2 engines are CFM LEAP–1A23, LEAP–1A24, LEAP–1A24E1, LEAP–1A26, LEAP–1A26CJ, and LEAP–1A26E1 model turbofan engines.

(3) For the purpose of this AD, a ''MENA takeoff'' is any takeoff accomplished in the MENA region, as defined in the Planning Information, paragraph 3.D., of the SB.

(4) For the purpose of this AD, ''sister engine'' refers to the other engine installed on the same airplane.

(i) Credit for Previous Actions

You may take credit for the initial BSI required by paragraph (g)(1)(i) or (2)(i) of this AD if you performed the initial BSI before the effective of this AD using CFM Service Bulletin LEAP–1A–72–00–0461–01A–930A–D, Issue 002–00, December 21, 2021.

(j) 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 (k) 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.

(k) Related Information

For more information about this AD, contact Mehdi Lamnyi, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7743; email: *Mehdi.Lamnyi@faa.gov*.

(l) 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 the AD specifies otherwise.

(i) CFM Service Bulletin LEAP–1A–72–00–0461–01A–930A–D, Issue 003–00, dated July 13, 2022.

(ii) [Reserved]

(3) For service information identified in this AD, contact CFM International, S.A.,

Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; phone: (877) 432–3272; email: *aviation.fleetsupport@ge.com.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

(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: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on August 12, 2022.

Gaetano A. Sciortino,

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

[FR Doc. 2022–18923 Filed 8–31–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0290; Project Identifier AD–2021–01266–T; Amendment 39–22109; AD 2022–14–04]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. This AD was prompted by a report from Boeing that Rolls-Royce Deutschland Ltd & Co KG (RRD) discovered a design issue in the engine fuel feed system, which could result in fuel flow restrictions to both engines when ice that has accumulated in the airplane fuel feed system suddenly releases into the engines. This AD requires revising the existing airplane flight manual (AFM) to update the limitations on minimum fuel temperatures. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 6, 2022.

ADDRESSES:

Examining the AD Docket

You may examine the AD docket at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0290; 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: Tak Kobayashi, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3553; email: *Takahisa.Kobayashi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. The NPRM published in the **Federal Register** on April 14, 2022 (87 FR 22158). The NPRM was prompted by a report from Boeing that RRD discovered a design issue in the engine fuel feed system, which could result in fuel flow restrictions to both engines when ice that has accumulated in the airplane fuel feed system suddenly releases into the engines. In the NPRM, the FAA proposed to require revising the existing AFM to update the limitations on minimum fuel temperatures. The FAA is issuing this AD to address possible fuel flow restrictions to both engines, which could result in loss of dual engine thrust control and reduced controllability of the airplane.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

The FAA reviewed the relevant data 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.

Interim Action

The FAA considers this AD interim action. Boeing is currently working with RRD to develop updated electronic engine control (EEC) software, which will change the engine oil temperature amber line indicated in the engine indication and crew alerting system (EICAS). This change will ensure that, before takeoff, the engine oil temperature would be warm enough to operate the engine with cold fuel. The updated EEC software combined with the action required by this AD will address the unsafe condition identified in this AD. Once this software is developed, approved, and available, the FAA might consider additional rulemaking.

Costs of Compliance

The FAA estimates that this AD affects 14 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
Revising the existing AFM	1 work-hour × $85 per hour = $85	$0	$85	$1,190

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:

2022–14–04 The Boeing Company: Amendment 39–22109; Docket No. FAA–2022–0290; Project Identifier AD–2021–01266–T.

(a) Effective Date

This airworthiness directive (AD) is effective October 6, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category, with Rolls-Royce Deutschland Ltd & Co KG Model Trent 1000–A (including –A/01 and –A/01A), Trent 1000–A2, Trent 1000–AE (including –AE/01A), Trent 1000–AE2, Trent 1000–AE3, Trent 1000–C (including –C/01 and –C/01A), Trent 1000–C2, Trent 1000–CE (including –CE/01A), Trent 1000–CE2, Trent 1000–CE3, Trent 1000–D (including –D/01 and –D/01A), Trent 1000–D2, Trent 1000–D3, Trent 1000–E (including –E/01 and –E/01A), Trent 1000–E2, Trent 1000–G (including –G/01 and –G/01A), Trent 1000–G2, Trent 1000–G3, Trent 1000–H (including –H/01 and –H/01A), Trent 1000–H2, Trent 1000–H3, Trent 1000–J2, Trent 1000–J3, Trent 1000–K2, Trent 1000–K3, Trent 1000–L2, Trent 1000–L3, Trent 1000–M3, Trent 1000–N3, Trent 1000–P3, Trent 1000–Q3, or Trent 1000–R3 engines installed.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by a report from Boeing that Rolls-Royce Deutschland Ltd & Co KG discovered a design issue in the engine fuel feed system, which could result in fuel flow restrictions to both engines when ice that has accumulated in the airplane fuel feed system suddenly releases into the engines. The sudden release of accumulated ice into the engine fuel feed system, in combination with low fuel temperatures, could cause freezing temperatures at the inlet of certain engine fuel feed system components. The FAA is issuing this AD to address possible fuel flow restrictions to both engines, which could result in loss of dual engine thrust control and reduced controllability of the airplane.

(f) Compliance

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

(g) Airplane Flight Manual (AFM) Revision

Within 30 days after the effective date of this AD, revise the existing AFM to incorporate the information specified in figure 1 to paragraph (g) of this AD into the ''Certificate Limitations'' chapter of the applicable Engine Appendix of the existing AFM.

Figure 1 to paragraph (g) – *Fuel System – Minimum Tank Fuel Temperature*

FUEL SYSTEM

(REQUIRED BY AD 2022-14-04)

The fuel tank temperature limits below must be followed, even when using fuel system icing inhibitor:

- Prior to takeoff, the tank fuel temperature must be at -28 °C or warmer.
- In-flight, the tank fuel temperature must be maintained at -28 °C or warmer, as well as 3 °C above the freezing point of the fuel being used.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle 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 responsible Flight Standards 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) of this AD. Information may be emailed to: *9-ANMSeattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the

Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(i) Related Information

For more information about this AD, contact Tak Kobayashi, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3553; email: *Takahisa.Kobayashi@faa.gov.*

(j) Material Incorporated by Reference

None.

Issued on June 24, 2022.

Christina Underwood,

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

[FR Doc. 2022–18774 Filed 8–31–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0766; Airspace Docket No. 22–AGL–25]

RIN 2120–AA66

Revocation of Class E Airspace; Watersmeet, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes the Class E airspace at Watersmeet, MI. The FAA is taking this action as the result of an airspace review due to the decommissioning of the Watersmeet non-directional beacon (NDB).

DATES: Effective 0901 UTC, November 3, 2022. The Director of the Federal Register approves this incorporation by reference action under 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, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *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: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

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 removes the Class E airspace extending upward from 700 feet above the surface at Northwoods Airport, Watersmeet, MI, due to the cancellation of the instrument procedures at this airport, and the airspace is no longer being required.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (87 FR 37252; June 22, 2022) for Docket No. FAA–2022–0766 to remove the Class E airspace at Watersmeet, MI. 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 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.

Availability and Summary of Documents for Incorporation by Reference

This document amends 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 Rule

This amendment to 14 CFR 71 removes the Class E airspace extending upward from 700 feet above the surface at Northwoods Airport, Watersmeet, MI.

This action is the result of the instrument procedures at this airport being cancelled and the decommissioning of the Watersmeet NDB, the airspace no longer being required.

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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does 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 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR 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 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.

* * * * *

AGL MI E5 Watersmeet, MI [Removed]

Issued in Fort Worth, Texas, on August 24, 2022.

Martin A. Skinner,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2022–18636 Filed 8–31–22; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1230

[Docket No. CPSC–2014–0011]

Safety Standard for Frame Child Carriers

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In March 2015, the U.S. Consumer Product Safety Commission (CPSC) published a consumer product safety standard for frame child carriers under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The standard incorporated by reference the ASTM voluntary standard for frame child carriers that had been adopted in 2014 and was in effect at the time. The CPSIA sets forth a process for updating mandatory standards for durable infant or toddler products that are based on a voluntary standard, when the voluntary standards organization revises the standard. Consistent with the CPSIA's update process, this direct final rule updates the mandatory standard for frame child carriers to incorporate by reference ASTM's 2022 version of the voluntary standard.

DATES: The rule is effective on December 3, 2022, unless CPSC receives a significant adverse comment by October 3, 2022. If CPSC receives such a comment, it will publish a document in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of December 3, 2022.

ADDRESSES: You can submit comments, identified by Docket No. CPSC–2014–0011, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *www.regulations.gov.* Follow the instructions for submitting comments. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. CPSC typically does not accept comments submitted by electronic mail (email), except as described below.

Mail/hand delivery/courier/confidential Written Submissions: CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–7479.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *www.regulations.gov.* If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Docket: For access to the docket to read background documents or comments received, go to: *www.regulations.gov,* and insert the docket number, CPSC–2014–0011, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Keysha Walker, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–6820; email: *KWalker@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

1. Statutory Authority

Section 104(b)(1) of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products and to adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). A mandatory standard must be ''substantially the same as'' the corresponding voluntary standard, or it may be ''more stringent than'' the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.*

Section 104(b)(4)(B) of the CPSIA specifies the process for updating the Commission's rules when a voluntary standards organization revises a standard that the Commission previously incorporated by reference under section 104(b)(1). First, the voluntary standards organization must notify the Commission of the revision. Once the Commission receives this notification, the Commission may reject or accept the revised standard. The Commission may reject the revised standard by notifying the voluntary standards organization, within 90 days of receiving notice of the revision, that it has determined that the revised standard does not improve the safety of the consumer product and that it is retaining the existing standard. If the Commission does not take this action to reject the revised standard, then the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the Commission received notification of the revision or on a later date specified by the Commission in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B).

2. Safety Standard for Frame Child Carriers

Under section 104(b)(1) of the CPSIA, the Commission adopted a mandatory rule for frame child carriers, codified in 16 CFR part 1230. The rule incorporated by reference ASTM F2549–14a, *Standard Consumer Safety Specification for Frame Child Carriers,* with no modifications. 80 FR 11121 (Mar. 2, 2015). At the time the Commission published the final rule, ASTM F2549–14a was the current version of the voluntary standard. Until now, the voluntary standard has not been revised since promulgation of the final rule.

On June 6, 2022, ASTM notified CPSC that it has revised the voluntary standard for frame child carriers, by approving ASTM F2549–22 on April 1, 2022. On June 16, 2022, the Commission published a notice of availability in the **Federal Register** regarding the revised voluntary standard and sought comments on the effect of the revisions on the safety of the standard for frame child carriers. 87 FR 36311 (Jun. 16, 2022). We did not receive any comments.

As discussed in section B. Revisions to ASTM F2549, based on CPSC staff's review of ASTM F2549–22,[1] the Commission will allow the revised voluntary standard to become the mandatory standard because it improves the safety of frame child carriers.[2] Accordingly, by operation of law under section 104(b)(4)(B) of the CPSIA, ASTM F2549–22 will become the mandatory consumer product safety standard for frame child carriers on December 3, 2022. 15 U.S.C. 2056a(b)(4)(B). This direct final rule updates 16 CFR part 1230 to incorporate by reference the revised voluntary standard, ASTM F2549–22.

B. Revisions to ASTM F2549

The ASTM standard for frame child carriers includes performance requirements, test methods, and requirements for warning labels and instructional literature, to address hazards to children associated with frame child carriers. ASTM F2549–22 contains substantive revisions, as well as editorial, non-substantive revisions. These revisions consist of revising the load condition in the Dynamic Strength Test and Stability Test, increasing the applied torque in the Torque Test, replacing the test torso, harmonizing the warning label with the standard's scope, adding additional flammability requirements for fabric components of the product, and applying several minor language revisions. The Commission concludes that these changes collectively improve the safety of frame child carriers, and none of the changes has a material adverse effect on safety. Below is a detailed discussion of the substantive and non-substantive changes made to ASTM F2549–14a.

Substantive Changes in ASTM F2549–22

ASTM F2549–22 made the following substantive changes to ASTM F2549–14a:

1. In section 5.12, the revised standard adds flammability requirements for fabric components of the frame carrier, in addition to the existing flammability requirements for solid components of the frame carrier (as determined by 16 CFR 1500.3(c)(6)(vi)). The new requirements for fabric components of the frame carrier specify: ''There shall be no Class 2 or 3 fabrics used in the construction of a frame child carrier when the fabrics are evaluated against the requirements of 16 CFR 1610.'' Accordingly, the new requirements only permit the use of Class 1 fabrics, which have a lower flammability that is acceptable for use in clothing.

The regulation at 16 CFR part 1610 is an ignition test that measures the time it takes for a fabric sample to ignite when a flame is applied. Class 2 and Class 3 fabrics ignite in less time than Class 1 fabrics; therefore, they are more flammable. The revised standard only permits the use of Class 1 fabrics, which exhibit the longest time to ignite (and therefore, are the least flammable fabric class) and are rated for use in clothing. This change improves the safety of frame child carriers because it ensures that fabric components of the frame carrier meet the most stringent flammability requirements for fabrics.

2. The revised standard adds a requirement in section 5.12.3 under 5.12 *Flammability of Frame Child Carriers* that states, ''Non-toy accessories that are sold with and intended to be attached to the product shall also meet the requirement of 5.12.'' This change improves the safety of frame child carriers because it ensures that non-toy accessories, such as sunshades, hoods, and bibs meet the most stringent flammability requirements for solids and fabrics.

3. Figure 5 in the revised standard specifies a drawing of a rigid torso with dimensions, which replaces a generic photo of a typical torso that is used for training. The rigid test torso with dimensions aligns with the test torso specified in other standards for child carrier products (ASTM F2907–19—Standard Consumer Safety Specification for Sling Carriers, the EN 13209–1 Child care articles. Child carriers. Safety requirements and test methods Framed back carrier, and EN 13209–2 Child use and care articles—Baby carriers—Safety requirements and test methods—Part 2: Soft carrier). The new test torso is referenced in sections 7.2 *Dynamic Strength Test* and 7.3 *Static Load Test.*

The dynamic and static performance tests require attachment of the frame carrier to a test torso. However, the test results are determined by the magnitude and location of the force applied to the product in the static load and dynamic strength test, and the results are not affected by minor changes to the structure to which the product is attached. Therefore, the change to the test torso does not impact safety.

4. In the 2022 version of the standard, ASTM revised multiple elements pertaining to dynamic strength, which improve safety. In section 6.2 *Dynamic Strength,* the revised standard adds to the dynamic strength requirements an evaluation of the system that attaches the frame carrier to the user's torso, in addition to the existing evaluation of the system that retains the child occupant in the frame carrier.

The frame carrier's attachment system includes any straps or hardware that secure the frame carrier to the caregiver. The revised Dynamic Strength performance requirement now ensures that the frame carrier's attachment straps and buckles will not slip more than 1 inch after 90 cycles of up/down movement of the fully loaded frame carrier. This additional test improves the safety of frame child carriers because it ensures that all straps related to the proper retention and orientation of the occupant (including both those within the product and those between the product and the caregiver) will not loosen to the point that the child occupant can fall from the product.

In section 7.2 *Dynamic Strength Test,* sections 7.2.1 through 7.2.6 of the standard were revised. These changes consist of a new test torso and evaluating the attachment system as described above, adding weights to the external pockets, and modification of the test sequence.

Section 7.2.3 now states, ''Pockets, pouches, and other carrying receptacles of the product shall be loaded with weight(s) up to the manufacturer's maximum recommended weight(s), in such a way that will create the most onerous test condition. The most onerous test condition may include no weight(s) or lower than maximum weight(s) in some receptacles.'' Section 6.2 *Dynamic Strength* clarifies that ''Seams of pockets, pouches, and other carrying receptacles are exempt from [the requirement prohibiting damage after the performance test]'' because failure of these areas will not affect the retention and safety of the child occupant.

The revised standard modifies section 7.2.5 under 7.2 *Dynamic Strength Test* to provide for readjustment or re-tightening of all adjustable components, such as straps in the occupant retention system and attachments to the test torso after completion of a 90-cycle vibration test (which follows a 10-cycle test) and before the carrier is subjected to a 49,900-cycle vibration test. The test procedure in ASTM F2549–14a did not have the readjustment step before the 49,900-cycle vibration test.

[1] CPSC staff's briefing package regarding ASTM F2549–22 is available at: *https://www.cpsc.gov/s3fs-public/ASTMsRevisedSafetyStandardforFrameChildCarriers.pdf?VersionId=lfnZNP_EpmjgTtw1my8EyAsKzPrtMzp3.*

[2] The Commission voted 4–1 to approve this notice. Chair Hoehn-Saric, Commissioners Baiocco, Feldman and Boyle voted to approve the notice as drafted. Commissioner Trumka voted to determine that the proposed revision does not improve the safety of frame child carriers and therefore did not approve publication of the notice in the **Federal Register**.

As noted, the application of this test to attachment straps improves safety. With respect to the occupant retention straps, which were subjected to the Dynamic Strength Test under the 2014 standard, the change of readjusting straps after the 90-cycle test results in a potentially less stringent test. This is unlikely to affect the outcome of the test, however, because the test total of 50,000 cycles should fail any substandard strap, fastener, or frame component, regardless of the change. Because a looser adjustment strap for occupant retention is unlikely to affect the outcome of the test after 50,000 cycles of testing, and because the revised test conditions of an increased test load and evaluation of the attachment system are more stringent, the revision to 7.2 *Dynamic Strength Test* is an improvement in safety.

5. Section 7.1.1 *Leg Openings Test*—The following non-mandatory note was removed: ''If the manufacturer does not provide instructions for seat height, adjust the seat so that it results in CAMI's chin resting right above the edge of the frame carrier.'' This non-mandatory note was removed to avoid confusion potentially leading to the carrier not being tested under the most onerous condition.

In some product designs, the leg opening becomes larger as the seat is lowered. Therefore, lowering the seat in these designs can create the most onerous position for the *Leg Openings Test.* However, because this is an explanatory note, and not mandatory, and because there is no change in the requirements to test the product in the most onerous condition, there is no impact on safety.

6. The revised standard modifies sections 7.4.3 and 7.4.4 under 7.4 *Stability Test* to increase the test load from ''at least 40 lb (18.1 kg)'' to ''40 lb (18.1 kg) or equal to the manufacturer's maximum recommended weight for the occupant, if greater.''

This change improves the safety of frame child carriers because it increases the test weight used in the stability test for some frame child carriers. Increasing the test weight increases the center of gravity height used in the stability test. As the center of gravity increases, the tested product is more likely to tip over and fail. Therefore, the change makes the stability test more stringent.

7. The revised standard modifies section 7.10.3 *Torque Test* in section 7.10 *Removal of Protective Components Test* to increase the applied torque from 2 lbf-in to 4 lbf-in. The torque is applied clockwise to any component that is graspable in a child's hand or teeth or if there is at least .04 inch gap between the component and its adjacent component.

This change improves the safety of frame child carriers. It increases the torque applied to components that may come loose when grasped by a child, which reduces the likelihood of a part coming loose and becoming accessible to the child.

8. The revised standard creates a new section 8.5 *Warning Statements* in section 8, *Marking and Labeling,* with the following guidelines:

○ Adds an explicit description of the fall hazard related to a child slipping through the leg opening of the frame carrier.

○ Increases recommended maximum child weight range from ''40 lbs (or the maximum child weight recommended by the manufacturer, if less)'' to ''50 lbs (22.7 kg) (or the maximum weight recommended by the manufacturer, if less).'' This change aligns the warning label with the scope of ASTM F2549, which states that a ''frame carrier is intended for use with a child that is able to sit upright unassisted and weighs between 16 lb and 50 lb (7.3 kg and 22.7 kg).''

○ Adds a clarification that the maximum overall weight recommendation for the product includes the cargo in pockets/pouches in addition to the weight of the child occupant. The maximum overall weight statement shall immediately follow recommended occupant weight statement.

○ Adds a new Figure of an exemplar warning label that illustrates the guidelines specified in section 8.5.

These changes to the warnings and instructions improve the safety of frame child carriers because they harmonize the maximum weight stated in the warning label with the maximum weight stated in the standard's scope, and they clarify the fall hazard in the warning label. The scope of the 2009 version of the standard (ASTM F2549–09) included products that could carry children up to 40 pounds. When the standard was updated to include products that could carry children up to 50 pounds, in F2549–13, this warning label was not updated to reflect the change, and that issue persisted in the F259–14a version that is incorporated by reference in the Commission's rule. The 2022 version of ASTM F2549 remedies this, aligning the warning label with the updated 50-pound limit from 2013. In addition, this change adds a required warning label informing consumers of the product's maximum allowed weight (child + cargo), and thus, it is an improvement in safety.

The substantive changes made in ASTM F2549–22 are an improvement to the safety of frame child carriers. These changes introduce more stringent requirements or more stringent test conditions for flammability, leg hole openings, dynamic strength tests (to evaluate product durability and strap slippage), static stability tests, and torque test to evaluate graspable parts. Therefore, the Commission concludes that these changes improve the safety of frame child carriers.

Non-Substantive Changes in ASTM F2549–22

ASTM F2549–22 makes several non-substantive changes to the standard as follows:

1. Section 5.5 *Scissoring, Shearing, and Pinching,* contains an Ad Hoc revision [3] that make the following changes (*italicized text* is added text and [bracketed text] is deleted text) ''Scissoring, shearing, or pinching that may cause injury [shall not be permissible]*exists* when the edges of [any] *the* rigid parts admit a prove greater than 0.210 in. ([5.3]*5.33* mm) and less than 0.375 in. ([9.50]*9.53*mm) *in* diameter at any accessible point throughout the range of motion of such parts.'' This portion of section 5.5 is not a performance requirement but rather explains how to identify a scissoring, shearing, or pinching hazard. Therefore, changing ''shall not be permissible'' to ''exists'' does not remove or change any general requirements, which are found in section 5. Additionally, the preceding text of section 5.5 still states that products ''shall be designed and constructed so as to prevent injury to the occupant from any scissoring, shearing, or pinching when members or components rotate about a common axis or fastening point, slide, pivot, fold, or otherwise move relative to one another.'' This preceding text ensures that all frame child carriers are evaluated for the scissoring, shearing, and pinching hazards. Therefore, this is a non-substantive change.

2. The section 5.8 *Locking and Latching* performance requirement is modified to exempt the frame child carrier's kickstand. Section 5.8 references section 7.8 *Locking Device Test,* where the locking device shall not

[3] ASTM convened a task group, ASTM Ad Hoc Wording Task Group (Ad Hoc TG), consisting of members of the various durable nursery products voluntary standards committees, including CPSC staff. The purpose of the Ad Hoc TG is to harmonize the wording, as well as the warning format, across durable infant and toddler product voluntary standards. Ad Hoc TG recommendations were published as a reference document, titled, ''Ad Hoc Wording—May 4, 2016,'' as part of the F15 Committee Documents.

unlock when a 10 lbf force is gradually applied in the direction tending to unlock it.

Kickstands are separately required to meet section 5.9 *Unintentional folding* performance requirement, which references section 7.9 *Unintentional Folding Test.* In the *Unintentional Folding Test,* the frame child carrier's seat is loaded with a 16-pound weight (or, if greater, the manufacturer's minimum recommended child weight), and the kickstand shall not fold when a 10 lbf force is gradually applied in the direction tending to fold it.

The *Unintentional Folding Test* referenced in the *Unintentional Folding* performance requirement is equivalent to the *Locking Device Test* referenced in the *Locking and Latching* performance requirement and better simulates the hazard loading condition of a frame child carrier's kickstand unintentionally folding. Therefore, this modification does not affect safety.

3. The revised standard adds a requirement to section 6.2 *Dynamic Strength,* which provides that the frame carrier ''shall show no damage that will impair its function,'' in addition to the existing requirement that the frame carrier ''shall not create a hazardous condition, such as frame or fasteners breaking or disengaging or seams separating'' after the dynamic strength tests have been completed. Improper function of the frame carrier is a potentially hazardous condition if it affects retention of the child occupant. Adding impaired functioning as an example of a hazardous condition does not impact safety because it does not change the primary requirement that prohibits the creation of a hazardous condition in the frame carrier after 50,000 cycles of testing.

4. The 2022 revision clarifies section 7.2.3 of the Dynamic Strength Test by changing ''alternating vertical movement at amplitude of 4.7 inches and a frequency of 2 cycles/second (Hz)'' to ''alternating vertical sinusoidal movement through 4.75 inches at a frequency of 2 Hz.''

Originally, section 7.2.3 was intended to describe the vertical reciprocating movement of a frame carrier that moved up and down by 4.7 inches. Typically test labs, including CPSC, use a slider-crank linkage mechanism that converts the rotational motion from a motor shaft to a vertical reciprocating motion. The reciprocating vertical motion of the frame carrier follows the path of a sine wave.

The revision to the *Dynamic Strength Test* adds a better description of the vertical motion. Sinusoidal movement through 4.75 inches describes the vertical movement of the frame carrier in the shape of a sine curve as it raises and lowers by 4.75 inches. The revised wording better describes the vertical movement of the frame carrier during the existing test. Therefore, this is a non-substantive change.

5. Section 8.4. *Warning Design for Product* incorporates the ASTM Ad Hoc recommendations for the design and layout of warnings.

The Commission finds that all of the non-substantive changes made in ASTM F2549–22 regarding safety for frame child carriers do not impact safety because they are editorial in nature or modify a non-mandatory note that merely provides explanatory material.

C. Incorporation by Reference

Section 1230.2 of the direct final rule incorporates by reference ASTM F2549–22. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways in which the material the agency incorporates by reference is reasonably available to interested parties, and how interested parties can obtain the material. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, section B. Revisions to ASTM F2549 of this preamble summarizes the major provisions of ASTM F2549–22 that the Commission incorporates by reference into 16 CFR part 1230. The standard is reasonably available to interested parties. Until the direct final rule takes effect, a read-only copy of ASTM F2549–22 is available for viewing, at no cost, on ASTM's website at: *www.astm.org/CPSC.htm.* Once the rule takes effect, a read-only copy of the standard will be available for viewing, at no cost, on the ASTM website at: *www.astm.org/READINGLIBRARY/.* Interested parties can also schedule an appointment to inspect a copy of the standard at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814, telephone: (301) 504–7479; email: *cpsc-os@cpsc.gov.* Interested parties can purchase a copy of ASTM F2549–22 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; telephone: (610) 832–9585; *www.astm.org.*

D. Certification

Section 14(a) of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051–2089) requires manufacturers of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or for children's products, on tests of a sufficient number of samples by a third party conformity assessment body accredited by CPSC to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are ''consumer product safety standards.'' Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because frame child carriers are children's products, a CPSC-accepted third party conformity assessment body must test samples of the products. Products subject to part 1230 also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA,[4] the tracking label requirements in section 14(a)(5) of the CPSA,[5] and the consumer registration form requirements in section 104(d) of the CPSIA.[6] ASTM F2549–22 makes no changes that would impact any of these existing requirements.

E. Notice of Requirements

In accordance with section 14(a)(3)(B)(vi) of the CPSA, the Commission previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies for testing frame child carriers. 80 FR 11113 at 11121 (Mar. 2, 2015). The NOR provided the criteria and process for CPSC to accept accreditation of third party conformity assessment bodies for testing frame child carriers to 16 CFR part 1230. The NORs for all mandatory standards for durable infant or toddler products are listed in the Commission's rule, ''Requirements Pertaining to Third Party Conformity Assessment Bodies,'' codified in 16 CFR part 1112. *Id.*

Fourteen of the seventeen testing laboratories that are currently CPSC-accepted to conduct testing for frame child carriers are also CPSC-accepted to conduct testing for sling carriers, which already requires them to possess the revised test torso that is newly required for testing to ASTM F2549–22. The three other laboratories should be able to acquire the new test torso (if they

[4] 15 U.S.C. 1278a.

[5] 15 U.S.C. 2063(a)(5).

[6] 15 U.S.C. 2056a(d).

don't already have it) before the effective date for the mandatory standard. Laboratories likewise should have no difficulty creating or modifying equipment for the *Dynamic Strength Test*'s revised loading requirements and updating their procedures to align with the revised standard. Therefore, none of the changes to the standard would impede a CPSC-accepted laboratory from being able to conduct testing to the revised standard. CPSC-accepted testing laboratories that have ASTM F2549–14a in their scope of accreditation are competent to conduct testing to ASTM F2549–22. Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F2549–14a to be capable of testing to ASTM F2549–22, as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies, in the normal course of renewing their accreditations, are expected to update the scope of the testing laboratories' accreditations to reflect the revised standard. Thus, laboratories will begin testing to the new standard when ASTM F2549–22 goes into effect, and the existing accreditations that the Commission has accepted for testing to this standard will cover testing to the revised standard.

F. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551–559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency ''for good cause finds'' that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' *Id.* 553(b)(B). The Commission concludes that when it updates a reference to an ASTM standard that the Commission incorporated by reference under section 104(b) of the CPSIA, notice and comment are not necessary.

Specifically, under the process set out in section 104(b)(4)(B) of the CPSIA, when ASTM revises a standard that the Commission has previously incorporated by reference under section 104(b)(1)(B) of the CPSIA, that revision will become the new CPSC standard, unless the Commission determines that ASTM's revision does not improve the safety of the product. Thus, unless the Commission makes such a determination, the ASTM revision, by operation of law, becomes CPSC's standard. The Commission is allowing ASTM F2549–22 to become CPSC's new standard because its provisions improve product safety. The purpose of this direct final rule is to update the Code of Federal Regulations (CFR) so that it reflects the version of the standard that takes effect by statute. This rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F2549–22 takes effect as the new CPSC standard for frame child carriers, even if the Commission does not issue this rule. Thus, public comments would not alter substantive changes to the standard or the effect of the revised standard as a consumer product safety standard under section 104(b) of the CPSIA. Under these circumstances, notice and comment are unnecessary.

In Recommendation 95–4, the Administrative Conference of the United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are noncontroversial and not expected to generate significant adverse comments. *See* 60 FR 43108 (Aug. 18, 1995). ACUS recommends that agencies use the direct final rule process when they act under the ''unnecessary'' prong of the good cause exemption in 5 U.S.C. 553(b)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule, because CPSC does not expect any significant adverse comments.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on December 3, 2022. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be ''one where the commenter explains why the rule would be inappropriate,'' including an assertion challenging ''the rule's underlying premise or approach,'' or a claim that the rule ''would be ineffective or unacceptable without a change.'' 60 FR 43108, 43111 (Aug. 18, 1995). As noted, this rule merely updates a reference in the CFR to reflect a change that occurs by statute, and public comments should address this specific action.

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and to prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As discussed in section F. Direct Final Rule Process of this preamble, the Commission has determined that notice and the opportunity to comment are unnecessary for this rule. Therefore, the RFA does not apply. CPSC also notes the limited nature of this document, which merely updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

H. Paperwork Reduction Act

The current mandatory standard for frame child carriers includes requirements for marking, labeling, and instructional literature that constitute a ''collection of information,'' as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501–3521). Although the revised mandatory standard revises existing marking and labeling, and instructional literature language for frame child carriers, the revisions would not add to the burden hours because the products already require marking, labeling, and instructional literature. The new requirements merely require new words or wording changes to language already required by the standard for frame child carriers. Therefore, the new requirements are not more burdensome than the existing requirements.

The Commission took the steps required by the PRA for information collections when it promulgated 16 CFR part 1230, and the marking, labeling, and instructional literature for frame child carriers is currently approved under OMB Control Number 3041–0159. Because the information collection burden is unchanged, the revision does not affect the information-collection requirements or approval related to the standard.

I. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard 180 days after notification to the Commission, unless the Commission timely notifies the standards organization that it has determined that the revision does not improve the safety of the product, or the Commission sets a later date in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B). The Commission

is taking neither of those actions with respect to the standard for frame child carriers. Therefore, ASTM F2549–22 will take effect as the new mandatory standard for frame child carriers on December 3, 2022, 180 days after June 6, 2022, when the Commission received notice of the revision.

J. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision ''consumer product safety standards.'' Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

K. Environmental Considerations

The Commission's regulations provide a categorical exclusion for the Commission's rules from any requirement to prepare an environmental assessment or an environmental impact statement where they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

L. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801–808) states that before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The CRA submission must indicate whether the rule is a ''major rule.'' The CRA states that the Office of Information and Regulatory Affairs determines whether a rule qualifies as a ''major rule.''

Pursuant to the CRA, this rule does not qualify as a ''major rule,'' as defined in 5 U.S.C. 804(2). To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1230

Consumer protection, Imports, Incorporation by reference, Imports, Infants and children, Law enforcement, Safety, Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1230—SAFETY STANDARD FOR FRAME CHILD CARRIERS

■ 1. The authority citation for part 1230 continues to read as follows:

Authority: The Consumer Product Safety Improvement Act of 2008, Pub. L. 110–314, 104, 122 Stat. 3016 (August 14, 2008); Pub. L. 112–28, 125 Stat. 273 (August 12, 2011).

■ 2. Revise § 1230.2 to read as follows:

§ 1230.2 Requirements for Frame Child Carriers.

Each frame child carrier must comply with all applicable provisions of ASTM F2549–22, *Standard Consumer Safety Specification for Frame Child Carriers,* approved on approved April 1, 2022. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A read-only copy of the standard is available for viewing on the ASTM website at *www.astm.org/READINGLIBRARY/.* You may obtain a copy from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; telephone (610) 832–9585; *www.astm.org.* You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814, telephone (301) 504–7479, email *cpsc-os@cpsc.gov,* or 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: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2022–18786 Filed 8–31–22; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 570

[FR–6341–N–01]

Section 108 Loan Guarantee Program: Announcement of Fee To Cover Credit Subsidy Costs for FY 2023

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of fee.

SUMMARY: This document announces the fee that HUD will collect from borrowers of loans guaranteed under HUD's Section 108 Loan Guarantee Program (Section 108 Program) to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in Fiscal Year 2023 in the event HUD is required or authorized by statute to do so, notwithstanding subsection (m) of section 108 of the Housing and Community Development Act of 1974.

DATES: *Applicability Date:* October 1, 2022.

FOR FURTHER INFORMATION CONTACT: Paul Webster, Director, Financial Management Division, Office of Block Grant Assistance, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410; telephone number 202–402–4563 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339. FAX inquiries (but not comments) may be sent to Mr. Webster at 202–708–1798 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2015 (division K of Pub. L. 113–235, approved December 16, 2014) (2015 Appropriations Act) provided that ''the Secretary shall collect fees from borrowers, notwithstanding subsection (m) of such section 108, to result in a credit subsidy cost of zero for guaranteeing . . .'' Section 108 loans. Section 108(m) of the Housing and Community Development Act of 1974 states that ''No fee or charge may be imposed by the Secretary or any other Federal agency on or with respect to a guarantee made by the Secretary under this section after February 5, 1988.'' Identical language was continued or

included in the Department's continuing resolutions and appropriations acts authorizing HUD to issue Section 108 loan guarantees during Fiscal Years (FYs) 2016, 2017, 2018, 2019, 2020, 2021, and 2022. The Fiscal Year (FY) 2023 HUD appropriations bill under consideration [1] also has identical language suspending the prohibition against charging fees for loans issued with Section 108 guarantees after February 5, 1988 and requiring that the Secretary collect fees from borrowers to result in a credit subsidy cost of zero for the Section 108 Program.

On November 3, 2015, HUD published a final rule (80 FR 67626) that amended the Section 108 Program regulations at 24 CFR part 570 to establish additional procedures, including procedures for announcing the amount of the fee each fiscal year when HUD is required to offset the credit subsidy costs to the Federal Government to guarantee Section 108 loans. For FYs 2016, 2017, 2018, 2019, 2020, 2021, and 2022 HUD published notifications to set the fees.[2]

II. FY 2023 Fee: 0.94 Percent of the Principal Amount of the Loan

If authorized by statute, this document sets the fee for Section 108 loan disbursements under loan guarantee commitments awarded for FY 2023 at 0.94 percent of the principal amount of the loan. HUD will collect this fee from borrowers of loans guaranteed under the Section 108 Program to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in FY 2023 if the FY 2023 HUD appropriations bill under consideration is enacted, or if HUD is otherwise required or authorized by statute to collect fees from borrowers to offset the credit subsidy costs of the guaranteed loans, notwithstanding subsection (m) of section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(m)). For this fee announcement, HUD is not changing the underlying assumptions or creating new considerations for borrowers. The calculation of the FY 2023 fee uses a similar calculation model as the FY 2016, FY 2017, FY 2018, FY 2019, FY 2020, FY 2021, and FY 2022 fee notifications, but incorporates updated information regarding the composition of the Section 108 portfolio and the timing of the estimated future cash flows for defaults and recoveries. The calculation of the fee is also affected by the discount rates required to be used by HUD when calculating the present value of the future cash flows as part of the Federal budget process.

As described in 24 CFR 570.712(b), HUD's credit subsidy calculation is based on the amount required to reduce the credit subsidy cost to the Federal Government associated with making a Section 108 loan guarantee to the amount established by applicable appropriation acts. As a result, HUD's credit subsidy cost calculations incorporated assumptions based on: (1) data on default frequency for municipal debt where such debt is comparable to loans in the Section 108 loan portfolio; (2) data on recovery rates on collateral security for comparable municipal debt; (3) the expected composition of the Section 108 portfolio by end users of the guaranteed loan funds (*e.g.,* third-party borrowers and public entities); and (4) other factors that HUD determined were relevant to this calculation (*e.g.,* assumptions as to loan disbursement and repayment patterns).

Taking these factors into consideration, HUD determined that the fee for disbursements made under loan guarantee commitments awarded in FY 2023 will be 0.94 percent, which will be applied only at the time of loan disbursements. Note that future notifications may provide for a combination of upfront and periodic fees for loan guarantee commitments awarded in future fiscal years but, if so, HUD will provide the public an opportunity to comment if appropriate under 24 CFR 570.712(b)(2).

The expected cost of a Section 108 loan guarantee is difficult to estimate using historical program data because there have been no defaults in the history of the program that required HUD to invoke its full faith and credit guarantee or use the credit subsidy reserved each year for future losses.[3] This is due to a variety of factors, including the availability of Community Development Block Grant (CDBG) funds as security for HUD's guarantee as provided in 24 CFR 570.705(b). As authorized by Section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308), borrowers may make payments on Section 108 loans using CDBG grant funds. Borrowers may also make Section 108 loan payments from other anticipated sources but continue to have CDBG funds available should they encounter shortfalls in the anticipated repayment source. Despite the program's history of no defaults, Federal credit budgeting principles require that the availability of CDBG funds to repay the guaranteed loans cannot be assumed in the development of the credit subsidy cost estimate (see 80 FR 67629, November 3, 2015). Thus, the estimate must incorporate the risk that alternative sources are used to repay the guaranteed loan in lieu of CDBG funds, and that those sources may be insufficient. Based on the rate that CDBG funds are used annually for repayment of loan guarantees, HUD's calculation of the credit subsidy cost must acknowledge the possibility of future defaults if those CDBG funds were not available. The fee of 0.94 percent of the principal amount of the loan will offset the expected cost to the Federal Government due to default, financing costs, and other relevant factors. To arrive at this measure, HUD analyzed data on comparable municipal debt over an extended period. The estimated rate is based on the default and recovery rates for general purpose municipal debt and industrial development bonds. The cumulative default rates on industrial development bonds were higher than the default rates on general purpose municipal debt during the period from which the data were taken. These two subsectors of municipal debt were chosen because their purposes and loan terms most closely resemble those of Section 108 guaranteed loans.

In this regard, Section 108 guaranteed loans can be broken down into two categories: (1) loans that finance public infrastructure and activities to support subsidized housing (other than financing new construction) and (2) other development projects (*e.g.,* retail, commercial, industrial). The 0.94 percent fee was derived by weighting the default and recovery data for general purpose municipal debt and the data for industrial development bonds according to the expected composition of the Section 108 portfolio by corresponding project type. Based on the dollar amount of Section 108 loan guarantee commitments awarded from FY 2017 through FY 2021, HUD expects that 70 percent of the Section 108 portfolio will be similar to general purpose municipal debt and 30 percent of the portfolio will be similar to industrial development bonds. In setting the fee at 0.94 percent

[1] Division A, Title II of H.R. 8294, 117th Cong., under the heading ''Community Development Loan Guarantees Program Account.''

[2] 80 FR 67634 (November 3, 2015), 81 FR 68297 (October 4, 2016), 82 FR 44518 (September 25, 2017), 83 FR 50257 (October 5, 2018), 84 FR 35299 (July 23, 2019), 85 FR 52479 (August 26, 2020), and 86 FR 59302 (October 27, 2021) respectively.

[3] U.S. Department of Housing and Urban Development, *Study of HUD's Section 108 Loan Guarantee Program,* (prepared by Econometrica, Inc. and The Urban Institute), September 2012, at pp. 73–74. This fact has not changed since the issuance of this report.

of the principal amount of the guaranteed loan, HUD expects that the amount generated will fully offset the cost to the Federal Government associated with making guarantee commitments awarded in FY 2023. Note that the FY 2023 fee represents a 1.06 percent decrease from the FY 2022 fee of 2.00 percent.

This document establishes a statutorily required fiscal requirement in the form of a fee based on rate and cost determinations that does not constitute a development decision that affects the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this document is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Marion M. McFadden,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2022–19009 Filed 8–31–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0737]

RIN 1625–AA00

Safety Zone; Fireworks Display, Lewis Bay, Hyannis, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 350-yard radius of the fireworks barge in the vicinity of Lewis Bay, Hyannis, MA. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the firework display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Southeastern New England.

DATES: This rule is effective from 8 p.m. through 11 p.m. on September 3, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0737 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or Petty Officer Robert Fetters, Sector Southeastern New England, U.S. Coast Guard; telephone 401–435–2342, email *SENEWWM@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Southeastern New England
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The Coast Guard was not provided the final details for this event sufficient time to execute the full NPRM process. Any delay encountered in this regulation's effective date by publishing a NPRM would be contrary to public interest since immediate action is needed to facilitate the safety of the persons and vessels involved in the fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to ensure the safety of people and vessels during the Barnstable Fireworks display on September 3, 2022.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Southeastern New England (COTP) has determined that potential hazards associated with the Barnstable Fireworks display on September 3, 2022 will be a safety concern for anyone within a 350-yard radius of the fireworks barge in the vicinity of Lewis Bay, Hyannis, MA. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the Barnstable Fireworks display is occurring.

IV. Discussion of the Rule

This rule establishes a safety zone from 8 p.m. through 11 p.m. on September 3, 2022. The safety zone will cover all navigable waters within a 350-yard radius of the fireworks barge in the vicinity of Lewis Bay, Hyannis, MA. The duration of the zone is intended to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the Barnstable Fireworks display is occurring. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this 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 rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. The Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

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 rule will 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 V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 rule. If the 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.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will 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 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 rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this 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 determined 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 rule involves a safety zone lasting only 3 hours that will prohibit entry within a 350-yard radius of the fireworks barge in the vicinity of Lewis Bay, Hyannis, MA. It is 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 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.

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.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 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.T01–0737 to read as follows:

§ 165.T01–0737 Safety Zone; Fireworks Display, Lewis Bay, Hyannis, MA.

(a) *Location.* The following area is a safety zone: All waters within a 350-yard radius of the fireworks barge in the vicinity of Lewis Bay, Hyannis, MA.

(b) *Definitions.* As used in this section, *Designated representative* 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 Sector Southeastern New England (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF–FM radio channel 16 or phone at 508–457–3211. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This rule will be enforced from 8 p.m. through 11 p.m. on September 3, 2022.

Dated: August 26, 2022.

Clint J. Prindle,

Captain, U.S. Coast Guard, Captain of the Port Sector Southeastern New England.

[FR Doc. 2022–18844 Filed 8–31–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0740]

RIN 1625–AA00

Safety Zone; Kanawha River Mile Marker 58 to Mile Marker 59, Charleston, WV

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for all navigable waters of the Kanawha River between mile markers 58 and 59. The safety zone is needed to protect personnel, vessels, and the marine environment from the potential hazards created by a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective from 9 p.m. through 10 p.m. on September 2, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0740 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST2 Justin Selan, Marine Safety Unit Huntington, U.S. Coast Guard; (304) 733–0198, *Justin.K.Selan@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 Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because we must establish the safety zone by September 2, 2022 and lack sufficient time to request public comments and respond to these comments before the safety zone must be established.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the Charleston Live on the Levee Fireworks Display taking place on the Kanawha River between mile marker 58 and mile marker 59.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Ohio Valley (COTP) has determined that potential hazards associated with Charleston Live on the Levee Fireworks Display starting September 2, 2022, will be a safety concern for anyone on the Kanawha River from mile marker 58 to mile marker 59. This rule is needed to protect personnel, vessels, and the marine environment from potential hazards associated with a fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone from 9:00 p.m. through 10:00 p.m. on September 2, 2022. The safety zone will cover all navigable waters between mile markers 58 and 59 on the Kanawha River. The duration of the safety zone is intended to protect personnel, vessels, and the marine environment from potential hazards created by a fireworks display.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of the COTP. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through Marine Safety Unit Huntington at 304–733–0198. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

V. Regulatory Analyses

We developed this 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 rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone impacts a 1-mile stretch of the Kanawha River for a limited duration of less than 2 hours. Vessel traffic will be informed about the safety zone through local notices to mariners. Moreover, the Coast Guard will issue Broadcast Notices to Mariners via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to transit the zone.

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 rule will 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 V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 rule. If the 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.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to

the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will 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 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 rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this 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 determined 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 rule involves a safety zone lasting from 9 p.m. through 10 p.m. on September 2, 2022, that will limit access of the Kanawha River from mile marker 58 to mile marker 59. It is 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 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.

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.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 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.T08–0740 to read as follows:

§ 165.T08–0740 Safety Zone; Kanawha River, Charleston, WV.

(a) *Regulated area.* The regulations in this section apply to the following area: all navigable waters of the Kanawha River from mile marker 58 to mile marker 59 near Haddad Riverfront Park, Charleston, WV.

(b) *Definitions. Designated representative* means a Coast Guard Patrol Commander (PATCOM), 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 Ohio Valley (COTP) in the enforcement of the regulations in this section.

Participant means all persons and vessels registered with the event sponsor as a participants in the race.

(c) *Regulations.* 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 assigned or approved by the Commander, Eighth Coast Guard District, 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 participants or 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 area specified above, 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) To seek permission to enter, contact the COTP or the COTP's representative by VHF–FM marine radio channel 16 or phone at 1–800–253–7465. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the designated representative.

(9) The COTP will provide notice of the regulated area through advanced notice via local notice to mariners and broadcast notice to mariners and by on-scene designated representatives.

(d) *Enforcement periods.* This safety zone will be enforced from 9 p.m. to 10 p.m. on September 2, 2022.

Dated: August 25, 2022.

H.R. Mattern,

Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.

[FR Doc. 2022–18883 Filed 8–31–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0687]

RIN 1625–AA00

Safety Zone; Ohio River Mile Marker 317.5 to Mile Marker 318.5, Catlettsburg, KY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for all navigable waters of the Ohio River between mile markers 317.5 and 318.5. The safety zone is needed to protect personnel, vessels, and the marine environment from the potential hazards created by a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective from 8:15 p.m. through 9:15 p.m. on September 2, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0687 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST2 Justin Selan, Marine Safety Unit Huntington, U.S. Coast Guard; (304)733–0198, *Justin.K.Selan@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 Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because we must establish the safety zone by September 2, 2022 and lack sufficient time to request public comments and respond to these comments before the safety zone must be established.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the Catlettsburg Labor Day Fireworks Display taking place on the Ohio River between mile marker 317.5 and mile marker 318.5.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Ohio Valley (COTP) has determined that potential hazards associated with Catlettsburg Labor Day Fireworks Display starting September 2, 2022, will be a safety concern for anyone on the Ohio River from mile marker 317.5 to mile marker 318.5. This rule is needed to protect personnel, vessels, and the marine environment from potential hazards associated with a fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone from 8:15 p.m. through 9:15 p.m. on September 2, 2022. The safety zone will cover all navigable waters between mile markers 317.5 and 318.5 on the Ohio River. The duration of the safety zone is intended to protect personnel, vessels, and the marine environment from potential hazards created by a fireworks display.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of the COTP. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through Marine Safety Unit Huntington at 304–733–0198. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

V. Regulatory Analyses

We developed this 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 rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone impacts a 1-mile stretch of the Ohio River for a limited duration of less than 2 hours. Vessel traffic will be informed about the safety zone through local notices to mariners. Moreover, the Coast Guard will issue Broadcast Notices to Mariners via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to transit the zone.

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 rule will 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 V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 rule. If the 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.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will 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 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 rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this 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 determined 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 rule involves a safety zone lasting from 8:15 p.m. through 9:15 p.m. on September 2, 2022, that will limit access of the Ohio River from mile marker 317.5 to mile marker 318.5. It is 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 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.

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.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 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.T08–0687 to read as follows:

§ 165.T08–0687 Safety Zone; Ohio River, Catlettsburg, KY.

(a) *Regulated area.* The regulations in this section apply to the following area: all navigable waters of the Ohio River from mile marker 317.5 to mile marker 318.5 near 26th Street Catlettsburg, KY.

(b) *Definitions. Designated representative* means a Coast Guard Patrol Commander (PATCOM), 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 Ohio Valley (COTP) in the enforcement of the regulations in this section.

Participant means all persons and vessels registered with the event sponsor as a participants in the race.

(c) *Regulations.* (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 assigned or approved by the Commander, Eighth Coast Guard District, 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 participants or 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 area specified above, 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) To seek permission to enter, contact the COTP or the COTP's representative by VHF–FM marine radio channel 16 or phone at 1–800–253–7465. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the designated representative.

(9) The COTP will provide notice of the regulated area through advanced notice via local notice to mariners and broadcast notice to mariners and by on-scene designated representatives.

(d) *Enforcement periods.* This safety zone will be enforced from 8:15 p.m. to 9:15 p.m. on September 2, 2022.

Dated: August 25, 2022.

H.R. Mattern,

Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.

[FR Doc. 2022–18913 Filed 8–31–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0623]

RIN 1625–AA00

Safety Zone; Swim, Columbia River, Cascade Locks, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Columbia River. This action is necessary to provide for the safety of participants and the maritime public during a cross-channel swim on the Columbia River near Cascade Locks, Oregon, to Stevenson, Washington, on the morning of September 5, 2022. This regulation prohibits non-participant persons and vessels from being in the safety zone unless authorized by the Captain of the Port Columbia River or a designated representative.

DATES: This rule is effective from 7 to 11 a.m. on September 5, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0623 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email LT Carlie Gilligan, Waterways Management Division, Marine Safety Unit Portland, U.S. Coast Guard; telephone 503–240–9319, email *D13-SMB-MSUPortlandWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Columbia River
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On April 20, 2022, True West LLC with Visit Hood River notified the Coast Guard that the Roy Webster Cross Channel Swim, an annually recurring marine event, will be occurring at Cascade Locks to Stevenson. The event consists of a cross-channel swim from 7:30 to 10:30 a.m. on September 5, 2022. In response, on August 3, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Swim, Columbia River, Cascade Locks, OR (87 FR 47661). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this swim event. During the comment period that ended August 19, 2022, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to protect persons and vessels from the safety hazards associated with the planned swim event on September 5, 2022.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Columbia River (COTP) has determined that potential hazards associated with the swim event will be a concern for those in and on the waterway during the event. The purpose of this rule is to ensure safety of participants in the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

As noted above, we received no comments on our NPRM published August 3, 2022. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 7 to 11 a.m. on September 5, 2022. The safety zone covers all navigable waters of the Columbia River between RM 149 and RM 150 near Cascade Locks, Oregon. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 7:30 to 10:30 a.m. swim. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this 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 rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the safety zone. The safety zone created by this proposed rule is designed to minimize its impact on navigable waters. This proposed rule would prohibit entry into certain navigable waters of the Columbia River and is not anticipated to exceed four hours in duration. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Moreover, under certain conditions, vessels may still transit through the safety zone when permitted by the COTP. The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

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 received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will 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 V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 rule. If the rule affects 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.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule does 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 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 rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this 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 determined 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 rule involves safety zone lasting 4 hours that would prohibit entry between RM 149 to RM 150 on the Columbia River. 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 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.

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.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 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.T13–0623 to read as follows:

§ 165.T13–0623 Safety Zone; Columbia River, Cascade Locks, OR.

(a) *Location.* The following area is a safety zone: All navigable waters of the Columbia River, from surface to bottom, starting approximately RM 150 to RM 149.

(b) *Definitions.* As used in this section—

Designated representative 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 Columbia River (COTP) in the enforcement of the regulations in this section.

Participant means all persons and vessels registered with the event sponsor as a participant in the race.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by calling (503) 209–2468 or the Sector Columbia River Command Center on Channel 16 VHF–FM. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the designated representative.

(3) The COTP will provide advance notice of the regulated area via broadcast notice to mariners. The COTP may also designate on-scene

representatives to provide such advance notice.

(d) *Enforcement period.* This section will be enforced from 7 until 11 a.m. on September 5, 2022. It will be subject to enforcement this entire period unless the COTP determines it is no longer needed, in which case the Coast Guard will inform mariners via Notice to Mariners.

Dated: August 24, 2022.

M. Scott Jackson,

Captain, U.S. Coast Guard, Captain of the Port Sector Columbia River.

[FR Doc. 2022–18880 Filed 8–31–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0366]

RIN 1625–AA00

Safety Zone; Jon Cotton Wedding Fireworks, Round Island Channel, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 600-foot radius of a fireworks display in Round Island Channel near Mackinac Island. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sault Sainte Marie.

DATES: This rule is effective from 8 p.m. through 11 p.m. on September 17, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0366 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Deaven Palenzuela, U.S. Coast Guard Sector Sault Sainte Marie Waterways Management, U.S. Coast Guard; telephone 906–635–3223, email *ssmprevention@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 Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard did not receive sufficient notice of this event to undergo notice and comment and this safety zone must be established by September 17, 2022 in order to protect the public from the dangers associated with a fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because action is needed to ensure that the potential safety hazards associated with the fireworks display are effectively mitigated.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sault Sainte Marie (COTP) has determined that potential hazards associated with a fireworks display on September 17, 2022 will be a safety concern for anyone within a 600-foot radius of the navigable waters surrounding the fireworks launch site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone from 8 p.m. through 11 p.m. on September 17, 2022. The safety zone will cover all navigable waters within 600 feet of a fireworks display in Round Island Channel near Mackinac Island, MI. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the bridge is being repaired. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this 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 rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of Round Island Channel. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

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 rule will 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 V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 rule. If the 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.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will 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 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 rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this 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 determined 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 rule involves a safety zone lasting only 3 hours that will prohibit entry within a 600-foot radius of a fireworks display in Round Island Channel. It is categorically excluded from further review under paragraph L[60(a)] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A 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.

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.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 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. 0170.1.

■ 2. Add § 165.T09–0366 to read as follows:

§ 165.T09–0366 Safety Zone; Jon Cotton Wedding Fireworks, Round Island Channel, MI.

(a) *Location.* The following area is a safety zone: All navigable water within 600 feet of the fireworks launching location in position 45°50′38.95 N, 84°37′7.39 W (NAD 83). The back-up launch site will be in located in position 45°50′19.11 N, 84°36′20.8 W (NAD 83) in case it is unsafe to launch fireworks from the primary location.

(b) *Definitions.* As used in this section, *designated representative* 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 Sault Sainte Marie (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within the safety zone described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port, Sault Sainte Marie or his designated representative.

(2) Before a vessel operator may enter or operate within the safety zone, they must obtain permission from the Captain of the Port, Sault Sainte Marie, or his designated representative via VHF Channel 16 or telephone at (906) 635–3233. Vessel operators given permission to enter or operate in the safety zone must comply with all orders given to them by the Captain of the Port, Sault Sainte Marie or his designated representative.

(d) *Enforcement period.* This section will be enforced from 8 p.m. through 11 p.m. on September 17, 2022.

A.R. Jones,

Captain of the Port Sault Sainte Marie.

[FR Doc. 2022–18871 Filed 8–31–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0748]

Safety Zones; Annual Events in the Captain of the Port Detroit Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the annual Lakeside

fireworks in the Captain of the Port Detroit zone. Enforcement of the safety zone is necessary to protect the safety of life and property on the navigable waters immediately prior to, during, and immediately after this event. During each enforcement period, no person or vessel may enter the safety zone without permission of the Captain of the Port Detroit or his designated representative.

DATES: The regulations in 33 CFR 165.941, Table 1, will be enforced from 9 p.m. until 10:30 p.m. September 3, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email Karl Dirksmeyer, MSU Toledo, U.S. Coast Guard; telephone (419) 392–0324, email *Karl.E.Dirksmeyer@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone listed in 33 CFR 165.941, Table 1 (44) for the End of Season Fireworks in Lakeside, OH. All waters of Lake Erie within a 200-yard radius of the fireworks launch site located on the Lakeside Association Dock at position 41°32.52′ N, 082°45.03′ W.

Under the provisions of 33 CFR 165.23, entry into, transiting, or anchoring within these safety zones during the enforcement period is prohibited unless authorized by the Captain of the Port Detroit or his designated representative. Vessels that wish to transit through the safety zones may request permission from the Captain of the Port Detroit or his designated representative. Requests must be made in advance and approved by the Captain of Port Detroit before transits will be authorized. Approvals will be granted on a case-by-case basis. The Captain of the Port Detroit may be contacted via U.S. Coast Guard Sector Detroit on channel 16, VHF–FM or by calling (313) 568–9564. The Coast Guard will give notice to the public via Local Notice to Mariners and VHF radio broadcasts that the regulation is in effect.

This notice of enforcement is issued under authority of 33 CFR 165.941 Table 1 and 5 U.S.C. 552(a). If the Captain of the Port Detroit determines that any of these safety zones need not be enforced for the full duration stated in this notice, he may suspend such enforcement and notify the public of the suspension via a Broadcast Notice to Mariners.

Dated: August 29, 2022.

Brad W. Kelly,

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

[FR Doc. 2022–18954 Filed 8–31–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0745]

RIN 1625–AA00

Safety Zone; Gulf of Mexico, South Padre Island, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of Gulf of Mexico within a 1,000-foot radius of a fireworks barge launching fireworks in South Padre Island, Texas. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the fireworks display. Entry of vessels or persons into this temporary zone is prohibited unless specifically authorized by the Captain of the Port Sector Corpus Christi or a designated representative.

DATES: This rule is effective from 9 p.m. through 10 p.m. on September 1, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0745 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Anthony Garofalo, Sector Corpus Christi Waterways Management Division, U.S. Coast Guard; telephone 361–939–5130, email *CCWaterways@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 Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this safety zone by September 1, 2022 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with a fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector Corpus Christi (COTP) has determined that potential hazards associated with a fireworks display on September 1, 2022, will be a safety concern for anyone in the navigable waters of Gulf of Mexico within a 1,000-foot radius of a fireworks barge launching fireworks in South Padre Island, Texas. The purpose of this rule is to ensure safety of vessels and persons on these navigable waters in the safety zone during the fireworks show.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 9:00 p.m. through 10:00 p.m. on September 1, 2022. The fireworks barge will launch fireworks in position 26°5′11.86″ N, 097°9′17.23″ W. No vessel or person is permitted to enter the temporary safety zone during the effective period without obtaining permission from the COTP or a designated representative, who may be contacted on Channel 16 VHF–FM (156.8 MHz) or by telephone at 361–939–0450. The Coast Guard will issue Local Notices to Mariners, Safety Marine Information Broadcasts, and Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

V. Regulatory Analyses

We developed this 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 rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone covers a 1,000-foot radius of a fireworks barge in South Padre Island, Texas. The temporary safety zone will be enforced for a short period of only one hour on September 1, 2022. The rule does not completely restrict the traffic within a waterway and allows mariners to request permission to enter the zone.

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 rule will not have a significant economic impact on a substantial number of small entities.

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

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 rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will 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 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 rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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 rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 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 determined 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 rule involves establishment of a temporary safety zone for navigable waters of Gulf of Mexico within an 1,000-foot radius of a fireworks barge launching fireworks in position 26°5′11.86″ N, 097°9′17.23″ W, in South Padre Island, Texas. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a fireworks display. It is categorically excluded from further review under paragraph L60(a) Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 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.T08–0745 to read as follows:

§ 165.T08–0745 Safety Zone; Gulf of Mexico, South Padre Island, TX

(a) *Location.* The following area is a safety zone: all navigable waters of Gulf

of Mexico within a 1,000-foot radius of a fireworks barge launching fireworks in position 26°5′11.86″ N, 097°9′17.23″ W, in South Padre Island, Texas.

(b) *Enforcement period.* This section will be enforced from 9 p.m. through 10 p.m. on September 1, 2022.

(c) *Regulations.* (1) According to the general regulations in § 165.23 of this part, entry into the temporary safety zone described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative.

(2) Persons or vessels seeking to enter the safety zone must request permission from the COTP on VHF–FM channel 16 (156.8 MHz) or by telephone at 361–939–0450.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Safety Marine Information Broadcasts, as appropriate.

J.B. Gunning,

Captain, U.S. Coast Guard, Captain of the Port Sector Corpus Christi.

[FR Doc. 2022–18922 Filed 8–31–22; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0230; FRL–9602–02–R9]

Air Plans; Arizona; Revised Format for Materials Incorporated by Reference; Correcting Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On November 23, 2016, the Environmental Protection Agency (EPA) issued a final rule titled ''Approval and Promulgation of Implementation Plans; State of Arizona; Revised Format for Materials Incorporated by Reference.'' That publication inadvertently omitted an entry for a regulation approved as part of the Maricopa County portion of the Arizona State Implementation Plan (SIP) and contained certain other errors. The EPA is taking direct final action to correct this omission and to correct the other errors. The regulations affected by this correcting amendment have all been previously submitted by the State of Arizona and approved by the EPA.

DATES: This rule is effective on October 31, 2022 without further notice unless the EPA receives adverse comments by October 3, 2022. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0230 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: Kevin Gong, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3073 or by email at *gong.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'', ''us'' or ''our'' are used, we mean the EPA. Information is organized as follows:

Table of Contents

I. Background
II. What the EPA Is Doing in This Action
III. Incorporation by Reference
IV. Statutory and Executive Order Reviews

I. Background

Each State has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

On November 23, 2016 (81 FR 85038), the EPA revised the format for materials submitted by the State of Arizona that are approved by the EPA as part of the Arizona SIP and incorporated by reference (IBR) into the Code of Federal Regulations. In revising the format, we changed how we identify the contents of the applicable Arizona SIP from a paragraph format to a table format. The change can be seen by comparing the table format in the ''identification of plan'' section set forth at 40 CFR 52.120(c), (d) and (e) with the paragraph format in the original ''identification of plan'' section set forth at 40 CFR 52.152.

In the November 23, 2016 final rule, we made the following errors that we are correcting through this action:

- Inadvertent omission of an entry for Maricopa County Air Quality Department (MCAQD) Rule 34 (''Organic Solvents—Volatile Organic Compounds (VOC)''), which the EPA approved at 47 FR 19326 (May 5, 1982). Certain paragraphs of MCAQD Rule 34 have been superseded by EPA approval of more recent VOC rules for Maricopa County or have been rescinded, but paragraphs F, G, H, I, J and K of Rule 34 remain in the applicable SIP.[1] We are adding the appropriate entry to the table of approved rules for Maricopa County.
- Inadvertent errors in the entries for Pima County Department of Environmental Quality (PCDEQ) Rules 7A (''Emission Limitation, Fuel Burning Equipment—Sulfur Dioxide'') and 7B (''Emission Limitation, Fuel Burning Equipment—Nitrogen Oxides''), which the EPA approved at 42 FR 36998 (July 19, 1977). With respect to Rule 7A, we indicated correctly that paragraphs 2 through 5 had been disapproved, but inadvertently failed to identify paragraph 6 of Rule 7A as part of the

[1] The EPA approved the rescission of paragraphs A, D.1, E.1, E.3 and L of Rule 34 as proposed at 87 FR 7784 (February 10, 2022). Paragraphs B and C were superseded by approval of MCAQD Rule 331 (Solvent Cleaning) at 61 FR 3578 (February 1, 1996). Paragraph D.2 was superseded by approval of MCAQD Rule 333 (Petroleum Solvent Dry Cleaning) at 61 FR 3578 (February 1, 1996). Paragraph E.2 was superseded by approval of MCAQD Rule 335 (Architectural Coatings) at 57 FR 354 (January 6, 1992). Paragraph E.4 was superseded by approval of MCAQD Rule 336 (Surface Coating Operations) at 63 FR 6487 (February 9, 1998).

applicable SIP. With respect to Rule 7B, the entry erroneously identified only paragraph 1 as part of the SIP, but the approval applies to paragraphs 1 through 4. In this action, we are amending the entries accordingly and are also correcting the title of the rules to match the rule titles as submitted.

• Lastly, in the entry for Arizona Revised Statutes (ARS) section 9–500.27 (excluding paragraphs D and E), we inadvertently added an equals (=) sign after the section number and accompanying parenthetical phrase, and we are correcting the typographical error in this action.

II. What the EPA Is Doing in This Action

Section 110(k)(6) of the Clean Air Act (CAA or ''Act''), as amended in 1990, provides that, whenever the EPA determines that the EPA's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification or reclassification was in error, the EPA may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the state. Such determination and the basis thereof must be provided to the state and the public. We interpret this provision to authorize the EPA to make corrections to a promulgated regulation when it is shown to our satisfaction (or we discover) that (1) we clearly erred by failing to consider or by inappropriately considering information made available to the EPA at the time of the promulgation, or the information made available at the time of promulgation is subsequently demonstrated to have been clearly inadequate, and (2) other information persuasively supports a change in the regulation. See 57 FR 56762, at 56763 (November 30, 1992) (correcting designations, boundaries, and classifications of ozone, carbon monoxide, particulate matter and lead areas).

In this action, pursuant to CAA section 110(k)(6), we are correcting the November 23, 2016 final rule revising the format of the Arizona SIP in part 52 to include a MCAQD rule that we inadvertently omitted and to fix certain other errors we made in that rulemaking. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this issue of the **Federal Register**, we are simultaneously proposing the same error corrections. If we receive adverse comments by October 3, 2022, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on October 31, 2022. This will incorporate these rules into the federally enforceable SIP.

Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the MCAQD and PCDEQ rules described in section I of the preamble and set forth below in the amendments to 40 CFR part 52. Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[2] The EPA has made, and will continue to make, these documents available electronically through *www.regulations.gov* and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this action merely corrects errors in a previous rulemaking 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 Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to 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. In those areas of Indian country, this 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).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will

[2] 62 FR 27968 (May 22, 1997)

submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 8, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of this issue of the **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: August 24, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

For the reasons discussed in the preamble, the Environmental Protection Agency amends Part 52, chapter I, title 40 of the Code of Federal Regulations as follows:

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 D—Arizona

■ 2. Amend § 52.120 as follows:

■ a. In paragraph (c), Table 1 under the table headings ''Title 9 (Cities and Towns),'' ''Chapter 4 (General Powers)'' and ''Article 8 (Miscellaneous),'' revise the entry for ''9–500.27, excluding paragraphs D and E.'';

■ b. In paragraph (c), Table 4 under the table headings ''Pre-July 1988 Rule Codification'' and ''Regulation III—Control of Air Contaminants,'' add an entry for ''Rule 34 (paragraphs F, G, H, I, J and K only)'' before the entry for ''Rule 35''; and

■ c. In paragraph (c), Table 7 under the table headings ''1976–1978 Rule Codification'' and ''Regulation II—Fuel Burning Equipment,'' revise the entries for ''Rule 7A (Paragraph 1)'' and ''Rule 7B (Paragraph 1)''.

The revisions and addition read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

TABLE 1—EPA-APPROVED ARIZONA STATUTES

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
Title 9 (Cities and Towns)				
Chapter 4 (General Powers) Article 8 (Miscellaneous)				
*	*	*	*	*
9–500.27, excluding paragraphs D and E.	Off-road vehicle ordinance; applicability; violation; classification.	September 19, 2007 ..	March 31, 2014, 79 FR 17878.	Arizona Revised Statutes (Thomson/West, 2008). Submitted on May 25, 2012. ADEQ clarified and revised the May 25, 2012 submittal by letter dated September 26, 2013.
*	*	*	*	*

* * * * *

TABLE 4 TO PARAGRAPH (c)—APPROVED MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

County citation	Title/subject	State effective date	EPA approval date	Additional explanation
Pre-July 1988 Rule Codification				

TABLE 4 TO PARAGRAPH (c)—APPROVED MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS—Continued

County citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
Regulation III—Control of Air Contaminants				
*	*	*	*	*
Rule 34 (paragraphs F, G, H, I, J and K only).	Organic Solvents—Volatile Organic Compounds (VOC).	June 23, 1980	May 5, 1982, 47 FR 19326.	Submitted on June 23, 1980. EPA approved the rescission of paragraphs A, D.1, E.1, E.3 and L. Paragraphs B and C were superseded by approval of Maricopa Rule 331; paragraph D.2 was superseded by approval of Maricopa Rule 333; paragraph E.2 was superseded by approval Maricopa Rule 335; and paragraph E.4 was superseded by approval of Maricopa Rule 336.
*	*	*	*	*

* * * * *

TABLE 7—EPA-APPROVED PIMA COUNTY AIR POLLUTION CONTROL REGULATIONS

County citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
1976–1978 Rule Codification				
*	*	*	*	*
Regulation II—Fuel Burning Equipment				
*	*	*	*	*
Rule 7A (Paragraphs 1 and 6).	Emission Limitation, Fuel Burning Equipment—Sulfur Dioxide.	June 21, 1976	July 19, 1977, 42 FR 36998.	Submitted on September 30, 1976. Paragraphs 2 to 5 were disapproved. See 42 FR 36998 (July 19, 1977).
Rule 7B (Paragraphs 1–4).	Emission Limitation, Fuel Burning Equipment—Nitrogen Oxides.	June 21, 1976	July 19, 1977, 42 FR 36998.	Submitted on September 30, 1976.
*	*	*	*	*

* * * * *

[FR Doc. 2022–18723 Filed 8–31–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 73

Select Agent: Determination That Vaccine Strain, TC–83(A3G) of Venezuelan Equine Encephalitis Virus (VEEV) Is a Regulated Strain of VEEV

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Regulatory determination.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), has determined that a modification to the attenuated, excluded strain Venezuelan Equine Encephalitis Virus (VEEV) TC–83 has been shown to increase its virulence. The modified VEEV strain TC–83(A3G) demonstrated increased pathogenicity and lethality. Therefore, the modified VEEV strain TC–83(A3G) is not an excluded strain but is a select agent and is subject to regulation.

DATES: This action is effective September 1, 2022.

FOR FURTHER INFORMATION CONTACT: Samuel S. Edwin Ph.D., Director, Division of Select Agents and Toxins, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H21–4, Atlanta, Georgia 30329, Telephone: (404) 718–2000.

SUPPLEMENTARY INFORMATION: VEEV is a member of the genus *Alphavirus* in the family *Togaviridae,* and is a small, enveloped virus with a genome consisting of a single strand of positive-sense RNA. VEEV is a mosquito-borne virus that causes encephalitis or encephalomyelitis in all equine species and humans.

The select agent regulations (42 CFR part 73) established a process by which

an attenuated strain of a select biological agent or toxin that does not pose a severe threat to public health and safety may be excluded from the requirements of the select agent regulations. On February 7, 2003, VEEV strain TC–83 was excluded from select agent regulations because mice vaccinated subcutaneously with the VEEV strain TC–83 rapidly developed immunity to subcutaneous or airborne challenge with virulent VEEV (*https://www.selectagents.gov/sat/exclusions/overlap.htm*). As such, CDC determined that the attenuated strain did not have the potential to pose a severe threat to public health and safety.

As set forth under 42 CFR 73.4(e)(2), if an excluded attenuated strain is subjected to any manipulation that restores or enhances its virulence, the resulting select agent will be subject to the requirements of the regulations. Based on review by subject matter experts, CDC has determined that a modification to the excluded attenuated VEEV vaccine strain TC–83 has been shown to increase its virulence and pathogenicity. An adenine (A) at position 3 in TC–83 has been shown to contribute to the attenuation of VEEV. In TC–83(A3G), the A has been changed to a guanine (G), which is found in all wild-type isolates of VEEV. The reversion of this nucleotide mutation to the wildtype nucleotide resulted in increased lethality in mice when compared to mice inoculated with the vaccine strain TC–83. Additional data determined that the pathogenic effects of TC–83(A3G) are more pronounced in young mice. As such, the modification of the excluded, attenuated VEEV vaccine strain TC–83 to create VEEV strain TC–83(A3G) restores the virus's virulence and therefore, VEEV strain TC–83(A3G) is subject to 42 CFR part 73.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2022–18973 Filed 8–30–22; 4:15 pm]

BILLING CODE 4163–18–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 367

[Docket No. FMCSA–2022–0001]

RIN 2126–AC51

Fees for the Unified Carrier Registration Plan and Agreement

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: FMCSA amends the regulations for the annual registration fees States collect from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration (UCR) Plan and Agreement for the 2023 registration year and subsequent registration years. The fees for the 2023 registration year would be reduced below the fees for 2022. The reduction in annual registration fees would be between $18 and $17,688 per entity, depending on the applicable fee bracket that is based on the number of vehicles owned or operated by the affected entity.

DATES: Effective September 1, 2022.

Petitions for Reconsideration of this final rule must be submitted to the FMCSA Administrator no later than October 3, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Riddle, Director, Office of Registration and Safety Information, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, *FMCSA-MCRS@dot.gov.* If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

FMCSA organizes this final rule as follows:

I. Availability of Rulemaking Documents
II. Executive Summary
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  B. Costs and Benefits
III. Abbreviations
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V. Discussion of Proposed Rulemaking and Comments
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IX. Section-by-Section Analysis
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  A. E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures
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  G. E.O. 13132 (Federalism)
  H. Privacy
  I. E.O. 13175 (Indian Tribal Governments)
  J. National Environmental Policy Act of 1969

I. Availability of Rulemaking Documents

To view any documents mentioned as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2022-0001/document* and choose the document to review. To view comments, click this final rule, then click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations at U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Executive Summary

A. Purpose and Summary of the Regulatory Action

Under the UCR Statute, the UCR Plan and the 41 States participating in the UCR Agreement collect fees from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The UCR Plan and Agreement are administered by a 15-member board of directors: 14 appointed from the participating States and the industry, plus the Deputy Administrator of FMCSA. Revenues collected are allocated to the participating States and the UCR Plan.

In accordance with 49 U.S.C. 14504a(d)(7) and (f)(1)(E)(ii), fee adjustments must be requested by the UCR Plan when annual revenues exceed the maximum allowed. Also, if there are excess funds after payments to the States and for administrative costs, they are retained in the UCR Plan's depository, and fees in subsequent fee years must be reduced as required by 49 U.S.C. 14504a(h)(4). These two distinct provisions each contribute to the fee adjustment in this final rule, which reduces the annual registration fees established pursuant to the UCR

Agreement for the 2023 registration year and subsequent years.

To determine the fee reduction recommendation for the 2023 registration year, the UCR Plan Board has estimated future period collections using an average of the collections of the past 3 closed years. It also considered that there has been no change to the authorized administrative allowance since 2020 and recommended a modest increase in the allowance.

B. Costs and Benefits

The changes in this final rule will reduce the fees paid by motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies to the UCR Plan and the participating States. While each motor carrier or other covered entity may realize a reduced burden, fees are considered by the Office of Management and Budget (OMB) Circular A–4, Regulatory Analysis, as transfer payments, not costs. Transfer payments are payments from one group to another that do not affect total resources available to society. Therefore, transfers are not considered in the monetization of societal costs and benefits of rulemakings.

III. Abbreviations

APA Administrative Procedure Act
CE Categorical Exclusion
CFR Code of Federal Regulations
CMV Commercial Motor Vehicle
DOT Department of Transportation
E.O. Executive Order
FMCSA Federal Motor Carrier Safety Administration
FR Federal Register
NPRM Notice of Proposed Rulemaking
OMB Office of Management and Budget
OOIDA Owner Operator Independent Drivers Association
PTA Privacy Threshold Assessment
RFA Regulatory Flexibility Act
RFI Request for Information
SBREFA Small Business Regulatory Enforcement Fairness Act of 1996
Secretary Secretary of Transportation
UCR Unified Carrier Registration
U.S.C. United States Code

IV. Legal Basis for the Rulemaking

This rule adjusts the annual registration fees required by the UCR Agreement established by 49 U.S.C. 14504a. The fee adjustments are authorized by 49 U.S.C. 14504a because the total revenues collected for previous registration years exceed the maximum annual revenue entitlements of $107.78 million distributed to the 41 participating States plus the amount established for the administrative costs associated with the UCR Plan and Agreement. The UCR Plan Board submitted the requested adjustments in accordance with 49 U.S.C. 14504a(f)(1)(E)(ii), which provides for the UCR Plan Board to request an adjustment by the Secretary of Transportation (the Secretary) when the annual revenues exceed the maximum allowed. In addition, 49 U.S.C. 14504a(h)(4) states that any excess funds from previous registration years held by the UCR Plan in its depository, after distribution to the States and for payment of administrative costs, shall be retained ''and the fees charged . . . shall be reduced by the Secretary accordingly.'' (49 U.S.C. 14504a(h)(4)).

The UCR Plan Board must also obtain DOT approval to revise the total revenue to be collected, in accordance with 49 U.S.C. 14504a(d)(7). This rule grants the UCR Plan Board's requested increase in total revenues to be collected to address anticipated increased costs of administering the UCR Agreement. No changes in the revenue allocations to the participating States were recommended by the UCR Plan Board or authorized by this rule.

The Secretary also has broad rulemaking authority in 49 U.S.C. 13301(a) to carry out 49 U.S.C. 14504a, which is part of 49 U.S.C. subtitle IV, part B. Authority to administer these statutory provisions has been delegated to the FMCSA Administrator by 49 CFR 1.87(a)(2) and (7).

The Administrative Procedure Act (APA) allows agencies to make rules effective immediately with good cause, instead of requiring publication 30 days prior to the effective date. 5 U.S.C. 553(d)(3). FMCSA finds there is good cause for this rule to be effective upon publication so that the UCR Plan and the participating States may begin collection of fees on and after October 1, 2022, for the registration year that will begin on January 1, 2023. The immediate commencement of fee collection will avoid delay in distributing the statutory entitlement revenues to the participating States.

V. Discussion of Proposed Rulemaking and Comments

A. The Proposed Rule

On January 24, 2022, FMCSA published in the **Federal Register** at 87 FR 3489 an NPRM titled ''Fees for the Unified Carrier Registration Plan and Agreement'' (Docket No. FMCSA–2022–0001). The NPRM proposed that the UCR Plan and the 41 States participating in the UCR Agreement establish and collect fees from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The UCR Plan and Agreement are administered by a 15-member board of directors: 14 appointed from the participating States and the industry, plus the Deputy Administrator of FMCSA (49 U.S.C. 14504a(d)(1)(B)(i)–(iv)). Revenues collected are allocated to the participating States and the UCR Plan. (49 U.S.C. 14504a(d)(7), (g), and (h)).

In accordance with 49 U.S.C. 14504a(f)(1)(E)(ii), fee adjustments may be requested by the UCR Plan when annual revenues exceed the maximum allowed. Also, if there are excess funds after payments to the States and for administrative costs, they are retained in the UCR Plan's depository, and subsequent fees must be reduced as required by 49 U.S.C. 14504a(h)(4). These two distinct statutory provisions both support the fee reduction adjustment that was proposed in the NPRM. The NPRM proposed a reduction in the annual registration fees pursuant to a recommendation of the UCR Plan Board for the 2023 registration year and all subsequent years until a change in fees is authorized pursuant to a new rulemaking by the Agency.

In its August 2021 Recommendation to FMCSA (the ''August 2021 Fee Recommendation''), the UCR Plan Board estimated future period collections using an average of the collections of the past 3 closed years.[1] It also acknowledged that the UCR Plan held excess fees from prior fee years that were available to further reduce fees. In preparing its fee recommendation, the UCR Plan Board also considered that there has been no change to the authorized administrative cost allowance since 2020 and recommended a modest increase in the allowance. The UCR Plan Board recommended that FMCSA reduce the fees for all fee brackets by approximately 27 percent, and FMCSA's NPRM proposed the fees as recommended by the UCR Plan Board.

B. Comments Received

FMCSA solicited comments concerning the NPRM for 30 days ending February 23, 2022. By that date, seven comments were received. This included the UCR Plan Board of Directors (UCR Plan Board), Owner-Operator Independent Drivers Association (OOIDA) (OOIDA's First Comment), the Truckers Auditor, a company, two individuals, and an anonymous commenter. Both individuals, the company, anonymous commenter, and Truckers Auditor all

[1] Available in the docket for this rulemaking at *https://www.regulations.gov/document/FMCSA-2022-0001-0001.*

commented in favor of reducing the fees and in favor of the proposal in general.

During the public comment period, on February 22, 2022, the UCR Plan Board submitted a comment to the docket with a new recommendation for the fees (the UCR Comment or February 2022 Updated Fee Recommendation), updating the August 2021 Fee Recommendation.[2] In the UCR Comment, the UCR Plan Board recommended a further fee reduction based upon updated actual collections and estimated fees. The February 2022 Updated Fee Recommendation proposed fee reductions of approximately 31 percent below the current fees.

After receiving and reviewing the issues raised in the comments submitted in response to the NPRM, on March 22, 2022, FMCSA transmitted a request for information (RFI) to the UCR Plan.[3] On May 9, 2022, the UCR Plan Board submitted to FMCSA a response (Information Response or IR) to the RFI.[4] On May 23, 2022, OOIDA, a commenter responding to the NPRM, requested an opportunity to comment on the IR. In a **Federal Register** notice published June 14, 2022 (87 FR 35940), FMCSA reopened the comment period for 14 days ''for the limited purpose of allowing comments on the UCR Plan's [Information Response].'' In response to this notice, OOIDA and a few other commenters submitted additional comments on or about June 28, 2022.[5] On July 11, 2022, the UCR Plan, relying on 49 CFR 389.23, submitted an additional comment responding to OOIDA's June 28 comment (''Second Comment'').[6] FMCSA has considered this additional information and comments in accordance with 49 CFR 5.5(a)(1).

1. Compliance With Legal Requirements

a. UCR Statute

Comment: OOIDA contended that the proposal would violate the UCR statute and offered several arguments.[7] OOIDA stated that the proposal does not apply the ''full $42 million revenue excess'' to lowering fees. OOIDA also believed that any excess funds from 2021 should have been allocated to 2022 fees, not to 2023 fees. OOIDA also stated that the 2020 fees could not be imposed in 2023 (and also should not be imposed in 2022).

Response: OOIDA's argument that the statute requires that 2021 excess funds should have been reflected in an adjustment in the fees for 2022 is discussed in more detail below. The short answer to this point is that reflecting such excess funds in the current adjustment for 2023 is warranted by the Fee Change Recommendation Policy adopted by the UCR Plan Board at its August 13, 2020, meeting and revised at a meeting on June 8, 2021. The Policy is in the docket (Tab K to the Information Response submitted to FMCSA by the UCR Plan Board on May 9, 2022). FMCSA finds that this policy is consistent with a reasonable interpretation of the relevant statutory provisions, namely 49 U.S.C. 14504a(d)(7), (f)(1) and (h)(4). FMCSA has no authority to address OOIDA's assertion that the fees should not be imposed in 2022 because, by statute, FMCSA proposes and makes UCR fee adjustments following a recommendation of the UCR Plan Board, and no fee adjustment recommendation was submitted for the 2022 registration year.

b. Administrative Procedure Act

Comment: OOIDA commented that the rulemaking did not comply with the APA because the UCR Plan Board did not explain in the fee recommendation how the proposed fees were calculated or why it complied with the law. OOIDA further commented that there was insufficient data or analysis in the rulemaking docket for the public to review, understand, and comment on the recommended fees, and therefore the rulemaking proceeding did not comply with the APA. Finally, OOIDA commented that the UCR Plan Board did not explain how the proposed fees were devised or that the fees would reduce current fees by $22 million in excess revenues.

Response: The Agency published an NPRM and shared with the public all information received from the UCR Plan Board. The notice-and-comment rulemaking process was completed in full compliance with the APA. As a preliminary matter, the statute governing the UCR Plan and associated fees, found at 49 U.S.C. 14504a, sets forth parameters for the UCR Plan Board to make fee recommendations, but it does not require the UCR Plan Board to explain in every fee recommendation to the Secretary and FMCSA how the recommendation complies with the statute. The UCR Plan submitted the fee recommendation in accordance with the statute.

The UCR Plan's August 2021 Fee Recommendation and the Agency's subsequent NPRM provided enough information for OOIDA to provide meaningful comment, including raising questions about the calculations. The August 2021 Fee Recommendation was in the rulemaking docket and included the existing fees and the proposed fees which reflected a reduction of approximately 27 percent for all fee brackets. It provided an explanation as to how the Fee Recommendation was developed by the Plan, including that the fee reduction was expected to result in an under-collection of fees, with the effect, essentially, of refunding excess collections in real time to UCR registrants. The UCR Plan Board also explained in the August 2021 Fee Proposal that it had changed the methodology for projecting future collections in light of the overcollections in several registration years. The APA requires an NPRM to include ''either the terms or substance of the proposed rule or a description of the subjects and issues involved'' (5 U.S.C. 553(b)(3)). The NPRM complied with both requirements, and OOIDA was able to examine and comment on the issues involved in great detail.

The Agency also notes that an OOIDA employee is a member of the UCR Plan Board and is thus a participant in the organization making the recommendation. If OOIDA believes there are procedural or substantive errors in the UCR Plan Board submission, OOIDA, as a sitting member on the Board, should have raised those deficiencies (and most of the substantive issues discussed below) directly with the UCR Plan Board. The Agency finds no deficiency with the information submitted or with the notice provided in the NPRM.

c. Suspending Fees for the UCR Plan and Agreement Currently in Effect Would Require a Recommendation From the Plan and a New Rulemaking

Comment: OOIDA also claimed that the current fees in effect are higher than allowed under the statute, because the fees were authorized for registration year 2020, and subsequent years have resulted in excess revenues collected in the 2020 and 2021 registration years with no reduction in 2021 and 2022 fees. OOIDA thus contends that FMCSA must ''immediately suspend'' the UCR fees. OOIDA also suggests that the UCR Plan should apply all excess revenue collected from prior years to reducing

[2] First UCR Plan Board Comment submitted on Feb. 22, 2022 (February 2022 UCR Plan Board Recommendation), available at: *https://www.regulations.gov/comment/FMCSA-2022-0001-0006.*

[3] Both the RFI and the transmittal to the UCR Plan are available in the docket for this rulemaking. FMCSA–2022–0001–010_Attachment_2.pdf and attachment_3.pdf.

[4] Available in the docket for this rulemaking. FMCSA–2022–0001–010_Attachment_1.pdf.

[5] FMCSA–2022–0001–011_Attachment_1.pdf.

[6] FMCSA–2022–0001–0116_Attachment_1.pdf.

[7] Available in the docket for this rulemaking at *https://www.regulations.gov/comment/FMCSA-2022-0001-0008.*

the fee scale for registration year 2023 or to refund amounts already paid for registration year 2022 to fee payers.

Response: By statute, the Secretary sets the registration fees based on a recommendation from the UCR Plan Board and only after providing opportunity for notice and public comment. (49 U.S.C. 14504a(d)(7)(B), 14504a(f)(1)(B)). Accordingly, FMCSA believes that any change in fees, including suspension of fees, would require notice and comment rulemaking pursuant to the APA, with an NPRM that includes such action within its scope. The fees currently in effect, which have been applied to registration years 2020, 2021, and 2022, were properly adopted in a final rule for registration year 2020 and all succeeding years until a new fee is adopted. *Fees for the United Carrier Registration Plan and Agreement,* 85 FR 8192 (Feb. 13, 2020). No other fee has been recommended by the UCR Plan Board or authorized by the Secretary since the fee for the 2020 registration year, and subsequent years, was adopted.

The UCR statute does not authorize direct refunding of fees after the fees have been established in a final rule but does explicitly provide for reduction of future fees based on excess collections in prior years. (49 U.S.C. 14504a(h)(4)). The statute does not provide any authority for suspension or reduction of current fees, certainly not without a rulemaking based on a recommendation from the UCR Plan Board. The UCR Plan Board now requests a fee reduction, which is the subject of this rulemaking. As addressed more fully elsewhere in this final rule, collection periods for each registration year span three calendar years, and excess or shortfalls in fees cannot be known, and thus cannot be applied, for potential fee changes in the next calendar year. Instead, excess (or shortfalls in) fees are applied to adjustments in fees for subsequent fee years. This creates a single calendar year gap between fee adjustments, with odd year collections available for adjusting (increasing or decreasing) future odd year fees and even year collections affecting possible adjustments to future even year fees. This is spelled out in the UCR Plan's Fee Change Recommendation Policy, which the UCR Plan Board adopted at the August 31, 2020, Board meeting, and revised at the June 8, 2021, Board meeting.[8] FMCSA notes again that OOIDA is a voting member of the UCR Plan Board and was present at the UCR Plan Board meetings when the Fee Change Recommendation Policy was adopted and revised.

2. Fees and Fee Structure

a. The Fee Structure of the UCR Plan and Agreement Is Progressive

Comment: OOIDA also contended that the current and proposed fee structure for the UCR Plan and Agreement is not ''progressive.'' OOIDA pointed out, through an elaborate mathematical exercise, that a carrier with a vehicle fleet size at the lower end of a fee bracket will pay less per vehicle than a carrier at the upper end of the next lower bracket. OOIDA relied on a definition of ''progressive'' that requires the tax rate to increase when one's income increases.[9]

OOIDA also stated that the fees were not fairly allocated, and that expected noncompliance by some who should pay led to higher fees for those who do pay. OOIDA suggested that this could be avoided through better State enforcement, which it thought FMCSA and the UCR Plan Board could compel.

OOIDA also requested that FMCSA adopt a fee structure it deemed ''constitutional'' that proportionately divided revenue collections by everyone required to pay, and also only collecting sufficient funds to cover entitlement distributions and administrative costs (without any reserves).

Response: The starting point for any analysis of this issue is the statute, which contains several requirements for the fee structure. The fees are based either on the number of commercial motor vehicles (CMVs) operated by motor carriers, motor private carriers and freight forwarders or, for brokers and leasing companies, on the smallest fee charged. There must be not less than four and not more than six fee brackets. Brackets must be based on the size of the fleet of CMVs owned and operated. The fees are recommended to the Secretary by the UCR Plan Board. The fee scale shall be progressive in the amount of the fee. 49 U.S.C. 14504a(f)(1)(A)–(D).

The structure of the fees for the UCR Plan and Agreement was developed by the Plan and carefully considered and approved by FMCSA in a 2007 final rule. *Fees for the Unified Carrier Registration Plan and Agreement,* 72 FR 48585 (Aug. 24, 2007). That final rule explained the need to reflect all the statutory requirements in the fees and fee structure, even if in some situations the result appeared to be inequitable. For example, it was recognized that the fee structure must ensure that the fee scale is progressive across the brackets, such that the individual carrier fee increases as the size of the carrier increases. The fact that a registrant at the top of one bracket may pay less per vehicle than a registrant at the bottom of the next higher bracket is structurally embedded in the statute. The statute requires that the ''fee scale shall be progressive in the amount of the fee'' (49 U.S.C. 14504a(f)(1)(D)), across at least four and not more than six fee brackets, where the brackets are based on fleet size, (49 U.S.C. 14504a(f)(1)(C)). The fee scale is clearly ''progressive'' in this sense, because the fee scale increases with each bracket containing a larger number of CMVs for the motor carrier entities included. Moreover, the statute also requires that the fees be applied uniformly to entities in each bracket ''based on the size of the fleet.'' (49 U.S.C. 14504a(f)(1)(C)). For particular entities, the fee may or may not be progressive as compared to a carrier in another bracket that is close in size, or that has almost the same number of CMVs in its fleet, but that is an expected result of the fee scale under the UCR statute. (72 FR at 48586).

Another appropriate consideration in determining whether the fees are progressive is whether the structure shifts the burden of paying the fees to those entities most likely to be able to pay. The fees are also progressive in this sense because all the motor carriers and other smaller entities, such as freight forwarders, brokers and leasing companies, in the lower brackets provide a smaller proportion of the total revenues than the larger motor carriers in the higher fee brackets. As shown in the following table, for the 2021 registration year motor carriers with 0–2 vehicles in their fleet, and brokers, freight forwarders and leasing companies paying fees in the same bracket were 73.02 percent of the total number of registrants but provided only 23.07 percent of the revenues collected for the UCR Plan. Entities in bracket 2 (3–5 vehicles in their fleets) were 13.63 percent of the total number of registrants and provided 12.84 percent of the revenues. On the other hand, in the 2021 registration year, motor carriers with large fleet sizes that placed them

[8] Available in the docket for this rulemaking at *https://www.regulations.gov/document/FMCSA-2022-0001-0010,* titled ''Response of the Unified Carrier Registration Plan'', 5–6 (May 9, 2022).

[9] OOIDA focuses on fee per truck in its analysis, but the fee is based on the number of CMVs that are self-propelled (*i.e.,* not including trailers) in the carrier's fleet (see 49 U.S.C. 14504a(a)(1)(A)(ii) and (f)(1)). For its definition of *progressive,* OOIDA relies on a paper by an anonymous contributor to an online tax software product, Intuit TurboTax. *https://turbotax.intuit.com/tax-tips/general/understanding-progressive-regressive-and-flat-taxes/L917X2gBs* (retrieved May 19, 2022).

in the last two brackets provided a proportionally much larger share of the revenues. In bracket 5 (101–1000 vehicles in their fleets), the number of registrants was 0.52 percent of the total number of registrations, and these entities provided 19.51 percent of the revenues. Motor carriers in bracket 6 (1001 or more vehicles) were only 0.03 percent of the total registrants and provided 9.90 percent of the total revenues. Very similar distributions of registered entities and fee revenues are shown in the table for registration year 2020 and for 2022, to date.

2022 REGISTRATION YEAR

UCR fee bracket	Number of fee-paying registrants	Total fee revenue	Percentage of fee-paying registrants	Percentage of fee revenue
1 (0–2 vehicles)	377,390	$22,266,010	69.32	19.47
2 (3–5 vehicles)	83,015	14,610,640	15.25	12.77
3 (6–20 vehicles)	60,981	21,404,331	11.20	18.71
4 (21–100 vehicles)	19,322	23,650,128	3.55	20.68
5 (101–1000 vehicles)	3,531	20,603,385	0.65	18.01
6 (1001 or more vehicles)	208	11,851,216	0.04	10.36
Totals	544,447	114,385,710		

2021 REGISTRATION YEAR

UCR fee bracket	Number of fee-paying registrants	Total fee revenue	Percentage of fee-paying registrants	Percentage of fee revenue
1 (0–2 vehicles)	481,497	$28,408,323	73.02	23.07
2 (3–5 vehicles)	89,859	15,815,184	13.63	12.84
3 (6–20 vehicles)	64,836	22,757,436	9.83	18.48
4 (21–100 vehicles)	19,627	24,023,448	2.98	19.51
5 (101–1000 vehicles)	3,416	19,932,360	0.52	16.19
6 (1001 or more vehicles)	214	12,193,078	0.03	9.90
Totals	659,449	123,129,829		

2020 REGISTRATION YEAR

UCR fee bracket	Number of fee-paying registrants	Total fee revenue	Percentage of fee-paying registrants	Percentage of fee revenue
1 (0–2 vehicles)	376,868	$22,235,212	69.13	19.37
2 (3–5 vehicles)	83,211	14,645,136	15.26	12.76
3 (6–20 vehicles)	62,589	21,968,739	11.48	19.14
4 (21–100 vehicles)	18,810	23,023,440	3.45	20.05
5 (101–1000 vehicles)	3,466	20,224,110	0.64	17.62
6 (1001 or more vehicles)	223	12,705,871	0.04	11.07
Totals	545,167	114,802,508		

As shown in the discussion and analysis above, the fee structure satisfies the statutory requirement that it be progressive. The fees increase as the carriers' fleet sizes increase, and the fee amounts place a proportionally larger burden on those carriers with larger fleets that are more likely to be able to pay the fees.[10]

b. Timing of Fee Adjustments and the Meaning of ''Fee Year''

Comment: OOIDA contends that the fee adjustment is contrary to the statute (specifically 49 U.S.C. 14504a(f)(1)(E)(ii)) because, under the adopted procedures, excess funds are used to adjust the fees in alternating calendar years (with a one calendar year gap). For example, under the UCR Plan Board's policy, excess funds collected for 2021 registrations are used to adjust the fees in 2023 and fees collected for 2022 registrations will be used to adjust fees for 2024. OOIDA states that the statute requires excess fee collections be used to reduce the fee charged in the next calendar year.

Response: The statute is ambiguous because of its use of the term ''next fee year'' in section 14504a(h)(4). In FMCSA's view, the statute allows an interpretation of the required timing for using excess funds to adjust the UCR Agreement fees. The UCR Plan's procedures, adopted by the UCR Plan Board, properly establish a 2-calendar year cycle for each ''fee year.'' As OOIDA points out,[11] the UCR statute provides that excess funds must be used to reduce the fees charged in the next ''fee year.'' 49 U.S.C. 14504a(h)(4). The term ''fee year'' is used only in that one instance and is undefined by the statute. Again, without definition, the statute uses the term ''calendar year'' in two instances: once for the limited purpose of defining *commercial motor vehicle* during calendar years 2008 and 2009, 49 U.S.C. 14504a(a)(1)(A)(i), and the second, for setting forth the allocation of

[10] This table is based on information provided by the UCR Plan in the IR to FMCSA's RFI, at p. 17 and Tab I. The request and the response have been posted in the docket.

[11] OOIDA's First Comment, p. 5.

fee payments under the new UCR Agreement structure, 49 U.S.C. 14504a(g)(2). In five instances, the statute refers to ''registration year'' to explain the counting of the number of CMVs for registration purposes, (49 U.S.C. 14504a(f)(2), (3)), and setting the allocation of fee payments under the new UCR Agreement structure, (49 U.S.C. 14504a(g)(1), (3)). Once more, the statute does not define ''registration year.'' The use of various terms throughout the statute suggests nuance between the three, and that the terms are not unambiguously the same.

The implemented ''fee year'' timeline is explained by the UCR Plan Board in both its Information Response [12] and the UCR Plan's Fee Recommendation Policy,[13] which was adopted by the UCR Plan Board on August 13, 2020, and revised on June 8, 2021. The Agency again notes that an OOIDA representative is a member of the UCR Plan Board and was present at the Board meetings when the Fee Recommendation Policy was adopted and revised. While phrased differently in different places, in practice, the registration year aligns with the calendar year for that registration. However, the ''administrative period'' during which fees are collected (in other words, the ''fee year'') spans more than two calendar years. The ''fee year'' begins on October 1 of the year prior to the ''registration year,'' continues through the calendar year that is the ''registration year,'' concluding on December 31 of the year after the ''registration year.'' This timeline provides a 3-month pre-registration window before the date on which the fees are due (which is January 1 of the ''registration year''), as well as an audit and dispute resolution period in the calendar year following the registration year. Moreover, this timeline ensures sufficient fee collection data to reasonably and accurately determine whether fee reductions or increases are necessary.[14] The timeline also provides a steady and consistent framework for the UCR Plan Board to calculate and submit a fee adjustment recommendation supported by accurate data to the Secretary, and for FMCSA to conduct the statutorily required notice-and-comment rulemaking and then publish a final rule setting the new fees sufficiently in advance of the start of the applicable fee year.[15] In OOIDA's Second Comment (which is addressed at length below), it continues to miss the distinction between calendar year and fee year even while citing the UCR Plan's clear explanation of the timeline, and practical reasons of time and data collection that led to the distinction.[16]

Further, in its Second Comment, OOIDA resumed questioning the validity of the ''fee year'' structure adopted by the UCR Plan Board.[17] OOIDA again argued that the fee schedule does not comply with the statute and quoted at length from the IR wherein the UCR Plan Board explained the need for ''sufficient data'' on the actual revenues collected to be able to make a reasonable projection of the excess revenues for the registration year at the end of the fee year.[18] OOIDA then argued that the record held no data on when in a calendar year sufficient registration data would be available to determine future fees with reasonable accuracy.[19] While OOIDA raises an interesting idea, that perhaps sufficient data to make excess revenue projections is available earlier in the year, which in turn might enable a faster timeline for fee setting, OOIDA undermines its own argument by pointing out there is no data on that very point.[20] Although OOIDA states that it was ''not proposing that the UCR Plan adopt any specific procedures that might best comply with the statute,'' it speculates that ''one can easily envision collection and accounting standards that would better serve the statute's requirements.'' [21] As a member of the UCR Plan Board, OOIDA's comment rings hollow. Members of the UCR Plan Board are responsible for implementing the UCR Agreement in accordance with the statute. There are challenges to developing, implementing, and administering any program; that does not excuse members of the Board from speaking up when possible problems are identified and then working to develop, offer, and implement solutions.

FMCSA concludes that the UCR Plan's alternating calendar-year fee adjustment schedule, which OOIDA contests, does comply with a reasonable interpretation of all the statutory requirements. The requirement to adjust fees in the next ''fee year'' in section 14504a(h)(4) must be read together with the provisions of sections 14504a(d)(7) and 14504a(f)(1)(E)(ii). Those paragraphs provide the UCR Plan and the Agency the opportunity, and, indeed the obligation, to adopt and implement a statutory interpretation that reflects the unique circumstances of the administration of the UCR Agreement.

3. Proper Use of Revenue

a. Reserve Accounts Are an Appropriate Means of Administering the UCR Agreement and Are Not Excess Funds

Comment: OOIDA claims that the UCR Plan is ''not authorized'' by either the statute or the UCR Handbook to establish financial reserve accounts and allocate funds to such accounts. It claims that the UCR Plan needs specific authorization to establish and maintain such reserve accounts. As a corollary to this contention, OOIDA claims that the funds allocated by the UCR Plan to the reserve accounts over the past several years should be considered excess funds and instead be applied to adjust the fees.

Response: The statute provides that the UCR Plan is the organization of State, Federal, and industry representatives responsible for developing, implementing, and administering the unified carrier registration agreement. 49 U.S.C. 14504a(a)(9). It also includes specific authority to provide for the administration of the UCR Agreement (established by 49 U.S.C. 14504(a)(8), (9)) by adopting rules and regulations. 49 U.S.C. 14504a(d)(2)(B). In addition, the UCR Plan Board is authorized to include in the structure of the fees charged to motor carriers, freight forwarders, brokers, and leasing companies an amount to pay the costs of administering the UCR Agreement. (49 U.S.C. 14504a(d)(7)(A)(i)). Accordingly, within the scope of the UCR Plan's statutory responsibility to administer the UCR Agreement is the need to adopt and apply appropriate policies and procedures to manage the funds collected by the UCR Plan that are then distributed both to the participating States and to the UCR Plan to be applied to the administrative costs of carrying out the UCR Agreement. However, a quirk of the statute states that revenues collected may not be used to pay administrative costs until all the participating States have received all their revenue entitlements. 49 U.S.C. 14504a(h)(3)(B). As a practical matter, during a registration year, no funds

[12] Available in the docket for this rulemaking at *https://www.regulations.gov/document/FMCSA-2022-0001-0010,* titled ''Response of the Unified Carrier Registration Plan'', p. 5.

[13] Available in the docket for this rulemaking at *https://www.regulations.gov/document/FMCSA-2022-0001-0020,* Tab K.

[14] Information Response, Docket No. 2022–FMCSA–0001–0010 at 5–6, and Tab K.

[15] Available in the docket for this rulemaking at *https://www.regulations.gov/document/FMCSA-2022-0001-0010,* titled ''Response of the Unified Carrier Registration Plan'', p. 5–6, tab K.

[16] OOIDA's Second comment, *https://www.regulations.gov/comment/FMCSA-2022-0001-0113,* p. 12.

[17] OOIDA's Second comment, p. 6–8.

[18] OOIDA's Second comment, p. 7.

[19] OOIDA's Second comment, p. 7.

[20] OOIDA's Second comment, p. 7.

[21] OOIDA's Second comment, p. 8.

collected can be used for current operations of the UCR Plan in administering the UCR Agreement until all the distributions have been made from the depository to the States that have not achieved their revenue entitlements. As a result of complying with this statutory requirement, at the beginning of each year's operations, the Plan is not receiving any funds budgeted for the administration of the UCR Agreement and cannot carry out its statutory obligations unless funds are available and held elsewhere.

In order to administer the Agreement and to address this situation, at a meeting of the Board of Directors on December 14, 2017, the UCR Plan adopted a financial reserve policy, effective on January 1, 2018, to sustain financial operations in the unanticipated event of significant unbudgeted increases in operating expenses and/or losses in operating revenues.[22] The financial reserve policy was adopted without objection or negative vote from any member of the Board, including all industry members and the representative from OOIDA. With regard to administrative costs, the policy provides for: (1) a liquidity reserve to address the lack of operating cash flow from fee collections during the registration period while all revenues are retained by or distributed to the participating States; (2) a reserve to address a shortfall in fee collections such that the participating States do not receive their revenue entitlements in full and the UCR Plan does not receive any funds for its administrative costs; and (3) a special or capital projects reserve to support future large capital projects.[23] The liquidity reserve is limited to the current year's operating budget for administrative costs. The reserve for any shortfall in revenues is limited to the operating budget for the next two years. Funding for the capital projects reserve requires a majority vote at a meeting of the UCR Plan Board and is limited to one-half of any year's operating budget.

The funds held in the reserve accounts by the UCR Plan are set out in the table below. The data are derived from the UCR Plan's statements of financial position provided in the IR at Tabs A, B, and C.

Reserve name	Dec. 31, 2020	Dec. 31, 2021	Feb. 28, 2022
Capital	$0	$288,575	$288,575
Unbudgeted Expense	2,500,000	1,750,000	1,750,000
Financial	12,000,000	12,000,000	12,000,000
Insurance	0	1,750,000	1,750,000
Totals	14,500,000	15,788,575	15,788,575

These reserve funds are a portion of unrestricted net assets of the UCR Plan that are available for use in emergencies to sustain financial operations in the unanticipated event of significant unbudgeted increases in operating expenses and/or losses in operating revenues. FMCSA finds that this is a prudent and reasonable use of the funds available to the UCR Plan to prepare for and meet potential future events. This is especially appropriate considering that due to planned repeated reductions in fees, there is an increasing possibility that in upcoming years there may be a shortfall in the fee revenues. (February 2022 Updated Fee Recommendation at 2.)

Ensuring the availability of reserve funds to meet possible contingencies is an appropriate action for the UCR Plan Board to take in implementing the statute. As FMCSA found in the 2010 final rule that its responsibilities under 49 U.S.C. 14504a in setting fees for the UCR Plan and Agreement are guided by the primacy the statute places on the need both to set and to adjust the fees so that they ''provide the revenues to which the States are entitled.'' The statute links the requirement that the fees be adjusted ''within a reasonable range'' to the provision of sufficient revenues to meet the entitlements of the participating States (49 U.S.C. 14504a(f)(1)(E); see also 49 U.S.C. 14504a(d)(7)(A)(ii)). (Fees for United Carrier Registration Plan and Agreement, 75 FR 21993 (Apr. 27, 2010) at 21995.)

Because the allocation of funds to reserve accounts by the UCR Plan Board is proper, these funds are not available for adjustment of the fees in accordance with the statute. The statute provides that the UCR Plan Board and FMCSA shall consider whether the revenues generated in the previous fee year and any surplus or shortage from that or prior years enable the participating States to achieve in future registration years the revenue levels set by the UCR Plan Board. (49 U.S.C. 14504a(d)(7)(A)(ii)). As the Plan explained in the Information Response (at 4, note 2):

> The amounts [in reserve accounts] are part of what the Board holds in reserve to cover the Plan's administrative costs for up to three registration years. As explained in the Plan's January 1, 2018 Reserve Fund Policy . . . these administrative reserves (1) provide liquidity to the Plan during the current registration year (since, under the Unified Carrier Registration Act, participating states must receive their revenue entitlements in full before any collected fees are used to pay the Plan's administrative costs, 49 U.S.C. 14504a(h)(3)); and (2) safeguard against the contingency that the Plan's collection of fees for a given registration year under the extant fee schedule produces a revenue shortfall (*i.e.,* collections do not exceed the total revenue entitlement for participating states), which means that the Plan receives no funds to cover its administrative costs for that year, and the Board can rectify the problem only by recommending that the Agency increase the fees in a future registration year.

The funds allocated to the reserve accounts, as part of the administrative costs of administering the UCR Agreement, are not available for reducing the fees, as the UCR Plan correctly states. (49 U.S.C. 14504a(h)(3)(B)). The reserved funds are not ''excess funds'' within the meaning of section 14504a(h)(4). OOIDA's assertion that the funds in the reserve accounts are excess funds to be used to reduce the fees is therefore without merit.

b. Lawfulness and Oversight of UCR Plan and UCR Plan Board Expenses

Comment: OOIDA also challenged the lawfulness of the proposed fees for the 2023 registration year because, it argued, the UCR Plan Board has authorized excessive administrative expenses, has improperly expended money engaging in enforcement activities, and has unfairly focused on

[22] Available in the docket for this rulemaking at *https://www.regulations.gov/document/FMCSA-2022-0001-0010, Tab 1.* The minutes of the December 14, 2017, meeting are available on the UCR Plan's website and have also been posted in the docket.

[23] The UCR Plan Board also later adopted an insurance reserve to provide contingency funds for the self-insurance plan for its officers and directors. See minutes of UCR Plan Board meeting of December 10, 2020, available in the docket for this rulemaking.

enforcement on motor carriers. As examples of unlawful administrative expenses, OOIDA cited the use of outside contractors to aid in carrying out the UCR Agreement, to support in-person meetings of the UCR Plan Board, and for other expenses. In support of the claim that the UCR Plan Board has improperly expended funds on enforcement efforts, OOIDA asserted that the UCR Plan Board's authority is limited to administering funds collected and distributed to states under the UCR statute. OOIDA further asserted that the Board has no authority to write rules, conduct enforcement related activities, or spend UCR fee revenues to improve enforcement. OOIDA also contended that only the States may engage in any enforcement efforts, and that such effort is allowed by the UCR statute, but not required. OOIDA asserted that to comply with the UCR statute, FMCSA must review the appropriateness of UCR administrative expenses before approving updated UCR Agreement fees.

Response: FMCSA agrees with OOIDA that the Agency can consider the appropriateness of the costs incurred by the UCR Plan Board. Section 14504a(d)(7)(A)(i) explicitly states that the UCR Plan Board and the Secretary must consider the administrative costs of the UCR Plan and UCR Agreement in setting the fee level. However, the Agency has no evidence that any of the costs identified by OOIDA are improper or fall outside the bounds authorized by the UCR statute.

Preliminarily, OOIDA's comment misunderstands or misstates the authorities granted and reserved in the UCR statute. The statute provides that the UCR Plan is responsible for developing, implementing, and administering the UCR Agreement. (49 U.S.C. 14504a(a)(9)). The UCR Agreement is the agreement developed by the UCR Plan for governing the collection and distribution of fees paid, registration, and financial responsibility information by regulated entities. (49 U.S.C. 14504a(a)(8)). Reading its requirements together, the UCR statute establishes a framework that presumes compliance via the payment of fees and efforts at ensuring compliance. (49 U.S.C. 14504a(f)(4)). Contrary to OOIDA's assertion that the UCR Plan Board's authority to issue rules and regulations is expressly limited by the statute, the provision OOIDA cited instead directs items for which the UCR Plan must issue rules and regulations. (49 U.S.C. 14504a(d)(2)). The statute says the UCR Plan Board ''shall'' issue rules and regulations to govern the UCR Agreement and that those rules and regulations ''shall'' include the items that follow. (49 U.S.C. 14504a(d)(2)). The rules and regulations the UCR Plan Board must issue include providing for the administration, in other words, the functioning, carrying out, or operation, of the UCR Agreement. (49 U.S.C. 14504a(d)(2)(B)). This explicitly includes procedures for amending the UCR Agreement and obtaining clarification of any provision of the UCR Agreement but does not preclude or prohibit other rules or regulations that ''provide for the administration'' of the UCR Agreement. (49 U.S.C. 14504a(d)(2)(B)).

The additional enforcement provisions in section 14504a(i) relate to specific legal mechanisms and proceedings by other governmental entities to enforce the UCR Agreement but have no impact on efforts by the UCR Plan and the UCR Plan Board to ensure, or improve, compliance with the UCR Agreement, which is required by statute. Indeed, ensuring and improving compliance fall squarely within the purpose of the UCR Agreement and the responsibilities of the UCR Plan Board. Moreover, contrary to the assertion that section 14504a(i)(4) reserves enforcement solely to the participating States, section 14504a(i) begins by explicitly providing for civil lawsuits to be brought by the Attorney General of the United States to compel compliance. The provision OOIDA cites regarding State enforcement authority simply makes clear that State enforcement jurisdiction is not precluded by such Federal jurisdiction and the UCR statute. This provision does not preclude the UCR Plan from assisting the participating 41 States in improving compliance with the requirements of the UCR statute and the UCR Agreement.

FMCSA agrees that much of the enforcement programing by the States has been focused on motor carriers. However, that does not inherently make it unfair. Motor carriers make up the vast majority of potential fee-payors in the UCR Agreement. It is not unreasonable that the UCR Plan and UCR Plan Board would first target compliance efforts at the largest group. As evidence of alleged unfair enforcement efforts directed at motor carriers OOIDA pointed to a report to the UCR Plan Board about the efforts to increase State UCR enforcement.[24] To gain a fuller picture, in the RFI questions the Agency requested information about all enforcement initiative proposals received by the UCR Plan or UCR Plan Board since the start of 2020.[25] In response, the UCR Plan provided details on four enforcement proposals: (1) adding an Auditor/Enforcement Manager position, proposed by the UCR Plan Board Audit Chairperson; (2) mailing postcards to unregistered motor carriers, proposed by the UCR Plan Executive Director; (3) engaging a contractor to conduct three pilot programs targeting unregistered- and new-entrant motor carriers domiciled in non-participating States and roadside violations audits, proposed by the UCR Plan Executive Director and the outside contractor; and (4) developing, hosting, and maintaining a centralized International Registration Plan (IRP) fee calculator, proposed by the UCR Plan Executive Director.[26] The first three proposals were discussed at UCR Plan Board meetings and adopted. The fourth proposal was discussed at a UCR Plan Board meeting, and approval was given to engage in discussions with the IRP (which rejected the idea).[27] The UCR Plan noted in its response that the only mechanism for receiving suggestions and proposals is through the diverse UCR Plan Board membership and the UCR Plan itself.[28] The UCR Plan has no employees and is staffed by contractors engaged by the UCR Plan Board under its statutory authority.

In response, OOIDA complained that the UCR Plan had not provided a complete response and proceeded to list five items that were all non-responsive to FMCSA's original RFI question, which sought information on proposals or suggestions submitted to the UCR Plan.[29] In the one item close to on-point, OOIDA raised concerns that the UCR Plan and UCR Plan Board were consistently not doing enough to enforce UCR fee compliance by brokers, freight forwarders, and leasing companies, and OOIDA even provided exhibits of emails and meeting minutes as evidence that its concerns were being deliberately ignored.[30] Contrary to OOIDA's assertion of being ignored, however, the email chain shows other UCR Plan Board members and FMCSA working together to answer questions and attempt to identify the root of the problem of non-compliance by these

[24] Exhibit 1 of the first OOIDA comment available at *https://www.regulations.gov/comment/FMCSA-2022-0001-0008.*

[25] See FMCSA RFI, Q9.

[26] The Second UCR Plan Board response available at *https://www.regulations.gov/comment/FMCSA-2022-0001-0116* on p. 27–30 (Q9).

[27] The UCR Plan Board RFI response available at *https://www.regulations.gov/comment/FMCSA-2022-0001-0116* on p. 27–30 (Q9), and OOIDA's June 28 comment available at *https://www.regulations.gov/comment/FMCSA-2022-0001-0113,* p. 18–19.

[28] UCR Plan RFI Response, p. 27 (Q9).

[29] OOIDA's Second comment, p. 15–17.

[30] OOIDA's Second comment, p. 16, Ex. A.

non-motor carrier entities.[31] A significant number of new brokers have entered the industry in the last few years. But brokers do not operate CMVs and are therefore not subject to roadside inspections that would disclose whether they have paid UCR fees. The most recent data from FMCSA and the UCR Plan shows that there are 24.615 active brokers registered at FMCSA, compared to the 22,508 mentioned in OOIDA's First Comment. FMCSA appreciates the difficulties that the UCR Plan has experienced in obtaining compliance by the significant number of brokers that have entered the industry recently. In any event, the impact of non-compliance by brokers is minimal. Even if all of the 15,538 non-compliant active brokers paid the established fees in either 2022 or during the upcoming 2023 registration year, the revenue contributed would be less than 1 percent.[32] The UCR Plan Board has approved several initiatives presented by its contractors to assist the States in improving compliance by the large number of new brokers, and FMCSA expects that these efforts to improve compliance by brokers with be successful.

However, while OOIDA notes that enforcement towards brokers, freight forwarders, and leasing companies would ''require some creativity, careful thought, and actual effort, since enforcement of these entities cannot be carried out via roadside inspections,'' the record provides no evidence that OOIDA has offered any proposals or suggestions for pilots or programs that could provide a solution. OOIDA concludes the section complaining about the pilots and initiatives undertaken by the UCR Plan Board and assails the Plan's Executive Director for improperly engaging in enforcement efforts. FMCSA notes that not all pilot programs will be successful but are tests, to try something new and see if it works. Upon the available record, the efforts of the UCR Plan's Executive Director might more accurately be viewed as those of an engaged organizational leader researching and developing potential solutions and presenting solution proposals to the Board of Directors, which oversees the UCR Plan's work and has the authority to remove him should he fail to adequately achieve the Board's goals.

The Agency notes that OOIDA objects that insufficient enforcement efforts are targeted at brokers, freight forwarders, and leasing companies, yet OOIDA (unlike other industry members of the UCR Plan Board) did not support initiatives intended to improve compliance among this group.[33] Further, based on the information provided by both OOIDA and the UCR Plan, OOIDA has not offered specific solutions, pilot programs, or projects to address the issue that all parties seem to agree is a problem.[34] FMCSA does not see any improper expenditures of funds for enforcement activities in any of the materials submitted, nor any contravention of the UCR statute on such matters. The Agency also observes that OOIDA inconsistently objects to the UCR Plan's use of administrative funds to support efforts by the participating States to enforce compliance with registration requirements while simultaneously complaining about the alleged lack of such compliance.

Elsewhere OOIDA expressed concern that fees are too high because of insufficient compliance and enforcement, but the association also objected to the Plan's efforts to improve UCR Agreement compliance through education and training by UCR contractors. OODIA cannot have it both ways. The UCR statute explicitly authorizes the UCR Plan Board to ''contract with any person or any agency of a State to perform administrative functions required under the unified carrier registration agreement.'' (49 U.S.C. 14504a(d)(6)). The programs administered by all of the UCR contractors, including the operator of the online national registration system, have been implemented on behalf of, and at the direction of, the UCR Plan Board, and will result in greater fee-paying compliance generally. As more revenues are collected due to increased compliance, future UCR fees will be further reduced. Indeed, the 2010 final rule set targets for compliance by the States in order to justify the increased fees adopted. (75 FR 21993 at 22003).

It is also important to recognize that 100 percent compliance is not feasible for motor carriers and other entities such as brokers and freight forwarders, as FMCSA recognized in the 2010 final rule. The fee structure and fee levels were established in that final rule based on a compliance rate of 86.42 percent. (75 FR at 21997) The UCR Plan's support of the enforcement efforts by the States is an important element for ensuring compliance with the registration and fee payment requirements set out in the statute.

Finally, OOIDA asserted in its comment that certain UCR Plan Board spending is inappropriate. Specifically, OOIDA objects to UCR Plan Board members' travel to Board meetings in different locations and other efforts to increase awareness in the industry (such as hats and shirts bearing the UCR logo) and the States (particularly the 10 non-participating jurisdictions) about the Plan and the registration requirements imposed by the statute. The UCR statute specifies that the UCR Plan Board must meet at least once per year, and additional meetings may be called by the Board's Chairperson, a majority of the directors, or the Secretary. (49 U.S.C. 14504a(d)(4)). The UCR statute further explicitly requires that all directors on the UCR Plan Board be reimbursed for those travel expenses. (49 U.S.C. 14504a(d)(3)(B)). OOIDA submitted a copy of the UCR Plan Board's proposed meeting schedule for 2022 seemingly to show the misuse of UCR Agreement money.[35] However, the planned schedule showed three planned Board meetings by teleconference and five at locations around the country. Similarly, subcommittee meetings were planned throughout 2022, with eleven scheduled via teleconference and seven in-person around the country (two of which were in conjunction with full UCR Plan Board meetings in the same location). The Agency is mindful that open public meetings held at different locations around the country provide an opportunity to increase awareness of the UCR Plan and its activities, and to enhance State enforcement with on-site training. These are common practices for national groups with geographically disbursed membership, and OOIDA has provided no data to support a decision that these expenditures are improper, excessive, or beyond the authority explicitly granted in the UCR statute. Indeed, the statute expressly provides that, even though board members do not receive any compensation from the U.S. government, board members and subcommittee members are reimbursed for travel expenses. (49 U.S.C. 14504a(d)(3)). This clearly indicates that in-person meetings at convenient locations are contemplated by the statute for all board members, including the OOIDA representative.

In OOIDA's Second Comment it explicitly challenged, for the first time, the proposed $250,000 UCR Plan budget increase contained in both the UCR Plan Board's August 2021 Fee Recommendation and February 2022

[31] OOIDA's 28Second comment, p. 16, Ex. A.

[32] This analysis is based on data presented to the UCR Plan Board at a meeting on August 11, 2022. When this data is made available in the minutes of the meeting, it will be added to the docket.

[33] OOIDA's Second comment, p. 16, Ex. A, Ex. B.

[34] OOIDA's Second comment, p. 16, Ex. A, Ex. B.

[35] OOIDA's First Comment, Ex. K. In any event, FMCSA understands that the UCR Plan is reducing the number of planned in-person meetings for 2023.

Updated Fee Recommendation, and it challenged the UCR Plan Board's description of ''cost escalations of various vendors'' as ''questionable.'' [36] In calling this budget increase request into question OOIDA noted that the UCR Plan has not fully used its authorized budget in recent years. However, the Agency cannot ignore the recent inflation occurring in the U.S. and global economy.[37] The reason provided for the requested increase is anticipated increased costs. Particularly given the high inflation rates earlier this year, nothing in the record credibly calls into question the UCR Plan Board's request for additional funds due to anticipated increased costs in the next registration year. Moreover, the most recent allowance of administrative costs of $4,000,000 is a significant reduction from the $5,000,000 allowance initially approved in 2007. See Fees for Unified Carrier Registration Plan and Agreement, 72 FR 48585, 48587 (Aug 24, 2007) (adopting proposal from NPRM, 72 FR 29472, 29474 (May 29, 2007)). In setting the UCR fees, the Secretary is required by statute to consider the costs associated with administering the UCR Plan and UCR Agreement and upon this record has determined that the proposed UCR Plan budget increase of $250,000, or 6.25 percent, is appropriate and lawful.

FMCSA has reviewed the appropriateness of the expenses authorized by the UCR Plan Board and questioned by OOIDA, as well as the requested increase in funds for the upcoming registration year. Upon this review, the Agency finds no evidence that the expenditures and requested budget increase exceed the authority established in the UCR statute.

Finally, the Agency must address OOIDA's contentions regarding contractors working for the UCR Plan Board and the UCR Plan's Executive Director. The statute explicitly allows the UCR Plan Board, upon which a representative of OOIDA sits, to enter into contracts with any person or State agency to carry out administrative functions under the UCR Agreement, so long as the UCR Plan Board retains its decision or policy-making responsibilities. (49 U.S.C. 14504a(d)(6)). OOIDA inaccurately accused the UCR Plan Executive Director of improperly answering the Agency's RFI questions on behalf of the UCR Plan Board. The UCR Plan submitted an additional comment on July 11, 2022, that fully explained the Executive Director's role in submitting the Information Response requested by FMCSA:

> The preparation of the responses was thus purely an administrative task for the Plan, appropriately delegated to and overseen by . . . the Executive Director. The responses referred back to and supported the Board's August 26, 2021 and February 22, 2022 fee change recommendations to the Agency; they did not change those recommendations in any way. The responses also referred the Agency to policies that the Board had duly voted on and passed (*i.e.,* the January 1, 2018 Reserve Fund Policy and the June 8, 2021 Fee Change Recommendation Policy, (Docket ID FMCSA–2022–0001–0010, at Tabs I and K, respectively)); they did not articulate or rely on any new or updated policy that would have required Board approval.

As a member of the UCR Plan Board, OOIDA has the opportunity to engage in the oversight of the UCR Plan and the development, implementation, and administration of the UCR Agreement. However, OOIDA expressed concern that ''volunteer Board members do not have sufficient time to provide detailed oversight'' of the various contractors.[38] FMCSA is unable to address these concerns, as the UCR statute establishes the structure wherein an unpaid Board of Directors implements and oversees the UCR Agreement and UCR Plan. (49 U.S.C. 14504a(a)(8)–(9), (d)(3), (d)(7)). However, FMCSA urges all members of the UCR Plan Board to become knowledgeable about their individual and collective duties as members of the UCR Plan Board and to personally assess, periodically, whether they have the time and ability to fulfill those obligations.

4. Issues Beyond the Scope of This Rulemaking

Comment: OOIDA commented about what it contends are FMCSA's past incorrect actions or inactions. OOIDA stated that FMCSA should have taken action to adjust the fees for 2021 and 2022.

Response: These concerns, insofar as they might involve the fees that were in effect in 2021 and 2022 (as maintained in effect by 49 CFR 367.60) are beyond the scope of this proceeding, which involves a recommended fee adjustment for 2023.

C. Reopening of Comment Period

As discussed above, on March 22, 2022, FMCSA sent an RFI to the UCR Plan. On May 9, 2022, the UCR Plan provided an IR with the additional responsive information to FMCSA,[39] which was posted to the public docket. Thereafter OOIDA requested an extension of the comment period,[40] and on June 14, 2022, FMCSA announced the reopening of the public comment period in a **Federal Register** notice [41] (87 FR 35941) with comments due June 28, 2022. FMCSA reopened the NPRM comment period for the limited purpose of allowing comments on the UCR Plan's IR (87 FR 35940, June 14, 2022).

Comments During the Reopened Comment Period

By the close of the reopened comment period on June 28, 2022, more than 100 comments were received, including OOIDA's Second Comment, and comments from the Western States Trucking Association. The UCR Plan Board submitted a late comment on July 11, responding to OOIDA's Second Comment, which FMCSA has considered, along with other submissions made after the comment period, in accordance with 49 CFR 5.5(a)(1). To the extent that comments OOIDA made in its Second Comment were directly relevant to the preceding discussion, those comments have already been addressed and will not be repeated here. The remaining issues in OOIDA's Second Comment are addressed below.

Several of these comments contained similar language, and one included the full appeal an organization made to its members, which contained the language that was repeatedly submitted by other commenters. There were several identical comments submitted that were not germane to this rule, as they discussed or criticized the UCR Plan as a program and go far beyond the scope of the proposal at hand. Many, if not all such comments, were addressed to matters that would require a statutory change.

OOIDA's Second Comment is far-ranging in scope, and the Agency has determined it would be useful to address the issues and concerns raised. Despite the objections voiced in OOIDA's Second Comment, the UCR Plan Board has complied with the law in providing the 2023 fee reduction recommendation. Further, many of the issues OOIDA raised in its Second Comment were out of scope for this comment period and, also, are not within FMCSA's authority to address under the UCR statute. In recurring objections to the UCR Plan Board's

[36] OOIDA's Second comment, p. 11.

[37] *https://www.washingtonpost.com/business/2022/07/13/inflation-june-cpi/.*

[38] OOIDA's Second comment, p. 2.

[39] The request and the response are available in the docket at *https://www.regulations.gov/document/FMCSA-2022-0001-0010.*

[40] Available in the docket at *https://www.regulations.gov/document/FMCSA-2022-0001-0011.*

[41] Available in the docket at *https://www.regulations.gov/document/FMCSA-2022-0001-0012.*

proposed downward fee adjustment of nearly 31 percent, OOIDA's comment conveys significant criticisms of the UCR statute and OOIDA's displeasure with both the UCR Plan's business accounting practices, and the duties and time commitment involved with Board membership. Some of OOIDA's comments also indicate that it may not fully understand the legal obligations of volunteer members of a Board of Directors to collectively manage and conduct oversight of an organization. The Agency now addresses the issues raised in OOIDA's Second Comment.

Comment: OOIDA complained that UCR Plan Executive Director did not address the legal arguments OOIDA made in its First Comment.

Response: Again, this comment is out of scope. However, in this instance, the Agency has determined that a response is appropriate. OOIDA fails to recognize that FMCSA did not ask the UCR Plan to provide that information in the RFI questions. FMCSA only sought UCR Plan data and information that was factual and administrative in nature that would further enhance the administrative record for this rulemaking. Substantively, as discussed above regarding OOIDA's First Comment, the UCR Plan Board has adopted schedules and procedures that comply with the framework established by the UCR statute.

Comment: OOIDA asserted that the UCR Fee adjustment is the government's only real oversight authority over the UCR Plan, without which, ''the administration of the UCR Plan is left entirely to its contractors.''

Response: Again, this comment is out of scope. However, in this instance, the Agency has determined that a response is appropriate. It appears, through this comment, that OOIDA does not fully understand the role of the UCR Plan nor acknowledge or accept the authority and responsibility of the UCR Plan Board, upon which OOIDA holds a seat. By statute the UCR Plan Board may contract with individuals to carry out the work of the UCR Plan and underlying UCR Agreement, including administrative tasks. It is the statutory responsibility of the UCR Plan Board to conduct oversight of the UCR Plan and its contractors.

Comment: OOIDA took issue with the Agency's 14-day re-opening of the comment period and noted the statutory timeline for FMCSA to publish the Fee Adjustment Final Rule is 90 days from receipt of the UCR Plan Board's recommendation.

Response: Again, this comment is out of scope. However, it raises procedural issues, and, in this instance, the Agency has determined that a response is appropriate. FMCSA is aware of the statutory provision setting the deadline to issue fee adjustments following receipt of a UCR Plan Board recommendation. *See* 49 U.S.C. 14504a(d)(7). That provision requires notice and comment rulemaking and directs that fees be set within 90 days of receiving the Board's recommendation. *See* 49 U.S.C. 14504a(d)(7)(B). FMCSA also recognizes that the UCR fee collection schedule, adopted and implemented by the UCR Plan Board and UCR Plan, is best administered if FMCSA's fee adjustment rulemaking is finalized sufficiently in advance of the opening of a new UCR fee collection window, or ''fee year,'' which opens October 1 of each year.

FMCSA acknowledges that it was slow to initiate this rulemaking. FMCSA did not anticipate that, unlike previous UCR fee reduction rulemakings, this nearly 31 percent fee reduction would be contested and controversial. FMCSA is committed, whenever possible, to ensuring that UCR fees are finalized and published sufficiently in advance of the opening of the registration fee collection window to provide certainty to registrants, the UCR Plan Board, and the participating States that have statutory rights to UCR revenues.

Comment: OOIDA reasserted its contention that the UCR Plan Board's adoption of policies establishing reserve funds exceeds the authority granted in the UCR statute. Further, OOIDA reasserted that the alternating year schedule for a UCR ''fee year'' violates the UCR statute.

Response: Again, this comment is out of scope. However, in the interest of thoroughness, the Agency has determined that in this instance a response is appropriate. The Agency responds that both issues were previously raised in OOIDA's First Comment and substantively addressed by FMCSA above.

Comment: In response to the UCR Plan's IR answers addressing FMCSA's RFI Questions 1 and 2, OOIDA reasserted the claim from its First Comment that the UCR Plan was improperly holding excess funds in violation of the UCR statute.

Response: OOIDA's discussion of these UCR Plan responses restates arguments previously raised and does not provide new information. The comments do not enhance the Agency's understanding of the issue at hand. The issues raised regarding accounting, availability of funds for an adjustment in a specific fee year, and the legality of a reserve fund policy are all addressed above in response to OOIDA's First Comment, and nothing in OOIDA's Second Comment alters that analysis.

Comment: In response to the UCR Plan's IR answers addressing FMCSA's RFI Question 3, OOIDA contests for the first time the UCR Plan Board's proposed budget increase of $250,000.00 for the UCR Plan. OOIDA also reiterates arguments it previously raised, and FMCSA has addressed, that contest the Board's authority to establish a ''fee year'' based on alternating calendar years.

Response: OOIDA's objection to the requested UCR Plan budget increase is untimely. Nonetheless, FMCSA has addressed the argument substantively in the discussion above of OOIDA's First Comment regarding the ''Lawfulness and Oversight of UCR Plan and UCR Plan Board Expenses.'' Similarly, in Response to OOIDA's First Comment, FMCSA has already addressed the UCR Plan Board's authority to establish the alternating calendar year schedule for establishing ''fee years'' under the statute.

Comment: In response to the UCR Plan's IR answers addressing FMCSA's RFI Question 4, OOIDA argued that the UCR Plan response did not follow FMCSA's directions to use plain language that could be understood by a non-technical audience.

Response: OOIDA's comment is non-substantive, but for the sake of completeness, FMCSA will address it. The issues being discussed are technical in nature and require some technical language. However, to aid readers without technical training, FMCSA sought to obtain through RFI number four data, with a corresponding ''narrative explanation,'' to more clearly lay out what the UCR Plan Board was requesting and how the numbers and data supported that request. The Agency directed the UCR to avoid ''shorthand, abbreviations, or acronyms,'' as these queues may not be readily understood by those not active on the UCR Plan Board or employed in math-related fields. The UCR response satisfied the request to further explain the data in the Fee Calculations spreadsheet.

Comment: In response to the UCR Plan's IR answers addressing FMCSA's RFI Question 5, OOIDA reiterated its contention that the UCR Plan Board cannot implement a ''fee year'' schedule that differs from a ''calendar year.''

Response: This comment is redundant with arguments made in OOIDA's First Comment. Accordingly, the Agency has substantively addressed it above in the response under the heading ''Timing of Fee Adjustments and the Meaning of ''Fee Year.''

Comment: In response to the UCR Plan's IR answers addressing FMCSA's RFI Questions 6 and 7, OOIDA noted that the UCR Plan had already collected fees for the 2022 registration year that surpassed the revenue needed to fulfill the UCR Agreement's statutory obligations, and that the UCR Plan had provided the requested information.

Response: In the sixth and seventh RFI questions, which sought revenues and registrants broken down by UCR Fee brackets, FMCSA sought to gather data to examine the claim in OOIDA's First Comment that the fees are not adequately ''progressive'' as required by statute. OOIDA did not recognize the Agency's effort on this point, as evidenced by OOIDA's (incorrect) assertion that the Agency did not seek information on this topic in the RFI. *See* OOIDA's Second Comment, pg. 22.

To the extent these comments relate to the argument in OOIDA's First Comment, that the fees are not progressive as required by statute, the Agency has addressed the issue substantively above.

Regarding OOIDA's assertion that the fees collected for the 2022 registration year have already exceeded the UCR's statutory obligations, as discussed above, the UCR statute explicitly contemplates the possibility of overcollection of UCR fees and subsequent adjustments of fees in the next ''fee year,'' which has lawfully been established as the second, or alternating, calendar year.

Comment: In response to the UCR Plan's IR answers addressing FMCSA's RFI Question 8, OOIDA contended that the data provided by the UCR Plan demonstrated the consistent under-enforcement of UCR fees against brokers, freight forwarders, and leasing companies, and resulted in ''indefensibly higher'' fees for motor carriers. The UCR Plan's IR response showed total freight forwarder and broker registrations for 2020 as 22,638, and for 2021 as 29,476. OOIDA next referred to its First Comment to say that there were 22,508 freight forwarders and brokers registered with the Agency in calendar year 2020 (based on the date of emails in OOIDA's Ex. L). OOIDA again complained that enforcement efforts are unfairly focused on motor carriers.

Response: According to the numbers provided, the UCR Plan collected fees from more than 100% of FMCSA's registered brokers and freight forwarders for calendar year 2020. This is clearly an issue that deserves further attention from all parties. However, the data and information provided does not support OOIDA's claim of egregious under-compliance and under-enforcement of UCR fee payment by freight forwarders and brokers. FMCSA also notes that adding the numbers OOIDA cited (*see* OOIDA's First Comments, Ex. L) regarding freight forwarder and broker registrations produces a total of 22,587 registered entities, not 22,508 as OOIDA asserted.

OOIDA's repeated complaint that enforcement efforts unfairly target motor carriers is addressed above in response to its First Comment.

Comment: In response to the UCR Plan's IR answers addressing FMCSA's RFI Question 9, OOIDA asserted that the UCR Plan response was incomplete. OOIDA then provided a listing and discussion of items that it presumably believed were responsive to the question asked.

Response: OOIDA's comment responding to the UCR Plan's response to the ninth RFI question was largely non-responsive but is otherwise addressed above in the section entitled ''Lawfulness and Oversight of UCR Plan and UCR Plan Board Expenses.'' In short, OOIDA complains that the UCR Plan unfairly focuses enforcement on motor carriers. Yet the available record does not show any meaningful efforts by OOIDA to use its position on the UCR Plan Board to suggest and advocate for pilots or programs to improve enforcement targeting non-MC registrants.

Comment: OOIDA also raised, for the first time, the idea that the UCR Plan Board may not consider any matter unless it has first been considered by the Industry Advisory Subcommittee (IAS) and the IAS has provided a recommendation to the Board. OOIDA contended that any action by the UCR Plan Board that was not first considered by the IAS was contrary to law and thus invalid. OOIDA contends that the IAS had lapsed after the prior Chairperson stepped down, that the UCR fee adjustment recommendations had thus not been considered by the IAS, and therefore any fee adjustment would be unlawful. In support, OOIDA cited 49 U.S.C. 14504a(d)(5)(A), which states that the UCR Plan Board must appoint an IAS and that the IAS ''shall consider any matter before the board and make recommendations to the board.'' 49 U.S.C. 14504a(d)(5)(A). OOIDA further complained that every other UCR Plan Board subcommittee is statutorily required to have at least one member representing the motor carrier industry, 49 U.S.C. 14504a(d)(5)(D), but that in practice, this is not followed and, specifically, no motor carrier representative sat on the Audit Subcommittee during development of the 2023 fee proposal.

Response: OOIDA's comment is out of scope for the second comment period. However, it raises issues of procedure and statutory authority, and, in this instance, the Agency has determined it is appropriate to address. OOIDA claimed for the first time that the industry advisory subcommittee authorized by 49 U.S.C. 14504a(d)(5)(A) has not considered the current fee adjustment. The statute, however, contains no express language prohibiting the UCR Plan Board from considering matters that have not first been considered by the IAS, and FMCSA does not infer congressional intent to create such a prohibition. The Plan Board is the principal governing body for implementation of the URC Agreement. The IAS is, by definition and statute, its subcommittee. Therefore a more logical inference of congressional intent, consistent with the ordinary functioning of subcommittees, is that through section 14504a(d)(5)(A) Congress intended to restrict the universe of matters the *subcommittee* could consider to just those matters that come before the Plan Board. If the committee decides not to consider such a matter, or is unable to do so, the UCR Plan Board nevertheless may consider and act on the matter. During such consideration by the UCR Plan Board, the five industry members, including a member from OOIDA, have an opportunity to consider the matter and express the industry's views. Regarding composition of the other subcommittees and any absence of a motor carrier representative, the OOIDA representative and other members could have raised any issue about the activities of the IAS or other subcommittees during any board meeting.

The statute explicitly directs the Chairperson to appoint an IAS. The statute also states that the chair of each subcommittee must be a director on the UCR Plan Board and that for the IAS, membership is reserved exclusively to representatives of entities that are required to pay the UCR fees. 49 U.S.C. 14504a(d)(5)(C), (D). For the IAS then, the chairperson must be one of the five directors representing the fee-paying industry. This point was also highlighted in an exchange OOIDA provided in its Second Comment, that when OOIDA asked why the IAS had lapsed the response was that ''it hadn't'' but that the IAS's role had diminished since the former IAS chair retired—this was viewed as acceptable since everyone on the IAS was also already a member of the UCR Plan Board. It followed, then, that the IAS work was

simply occurring within the larger Board meetings. OOIDA finds this answer unsatisfactory, and so does the Agency. However, there is scant evidence in the record that any member of the UCR Plan Board or professional contractors identified this issue for some time. However, the failure of the IAS to be formally appointed, meet, consider matters before the UCR Plan Board and provide recommendations does not render all actions of the UCR Plan Board unlawful, as OOIDA suggested. The instructions that the IAS consider any matter before the UCR Plan Board is a directive to the IAS, spelling out its obligations to those who would hold a seat on that subcommittee. The alternative reading that OOIDA advocates would have the absurd result that the IAS could prevent the UCR Plan Board from taking action on any matter simply by declining to consider it. The statute does not state that the UCR Plan Board has an obligation to receive a recommendation from the IAS before acting. FMCSA does agree, however, that the IAS should be formally reconstituted and understands that this process has begun with the May 19, 2022, initial organization meeting.

FMCSA also agrees with OOIDA regarding the concern that the motor carrier industry is not consistently represented on all subcommittees. Consistent compliance with this statutory requirement would provide additional oversight on the UCR Plan activities. FMCSA believes it is appropriate for OOIDA and all other industry representatives on the Board to use their positions to ensure that such participation happens, whether by UCR directors representing the motor carrier industry or non-directors, as allowed by statute. (49 U.S.C. 14504a(d)(5)(C)). Again though, a mere opportunity for improved motor carrier representation on UCR subcommittees does not render actions of the Plan Board, including these proposed fee adjustments, unlawful or invalid.

VI. Changes From the NPRM

The proposed fees in the NPRM are modified based upon the UCR Plan Board's updated recommendation submitted in its February 2022 Fee Recommendation. Instead of a fee reduction for the 2023 registration year of approximately 27 percent for all fee brackets, as proposed in the NPRM, this final rule adopts an even greater fee reduction of approximately 31 percent for all fee brackets. See the section-by-section discussion below for additional detail.

VII. International Impacts

Motor carriers and other entities involved in interstate and foreign transportation in the United States that do not have a principal office in the United States are nonetheless subject to the fees for the UCR Plan. They are required to designate a participating State as a base State and pay the appropriate fees to that State (49 U.S.C. 14504a(a)(2)(B)(ii) and (f)(4)).

VIII. Final 2023 State UCR Revenue Entitlements and Revenue Targets

The recommendation from the UCR Plan, as indicated above, is an adjustment from $4,000,000 to $4,250,000 for administrative costs, resulting in a total revenue target of $112,027,060. The adjustment is based on an analysis approved by the board of directors that indicated that legal expenses for the administration of the UCR Agreement will be higher on an ongoing basis. Therefore, in accordance with 49 U.S.C. 14504a(d)(7) and (g)(4), FMCSA approves the following table of State revenue entitlements, administrative costs, and the total revenue target under the UCR Agreement, as proposed in the NPRM. These State revenue entitlements, the administrative costs, and the total revenue target will remain in effect for 2023 and subsequent years unless and until approval of a revision occurs.

STATE UCR REVENUE ENTITLEMENTS AND FINAL 2023 TOTAL REVENUE TARGET

State	Total 2023 UCR revenue entitlements
Alabama	$2,939,964.00
Arkansas	1,817,360.00
California	2,131,710.00
Colorado	1,801,615.00
Connecticut	3,129,840.00
Georgia	2,660,060.00
Idaho	547,696.68
Illinois	3,516,993.00
Indiana	2,364,879.00
Iowa	474,742.00
Kansas	4,344,290.00
Kentucky	5,365,980.00
Louisiana	4,063,836.00
Maine	1,555,672.00
Massachusetts	2,282,887.00
Michigan	7,520,717.00
Minnesota	1,137,132.30
Missouri	2,342,000.00
Mississippi	4,322,100.00
Montana	1,049,063.00
Nebraska	741,974.00
New Hampshire	2,273,299.00
New Mexico	3,292,233.00
New York	4,414,538.00
North Carolina	372,007.00
North Dakota	2,010,434.00

STATE UCR REVENUE ENTITLEMENTS AND FINAL 2023 TOTAL REVENUE TARGET—Continued

State	Total 2023 UCR revenue entitlements
Ohio	4,813,877.74
Oklahoma	2,457,796.00
Pennsylvania	4,945,527.00
Rhode Island	2,285,486.00
South Carolina	2,420,120.00
South Dakota	855,623.00
Tennessee	4,759,329.00
Texas	2,718,628.06
Utah	2,098,408.00
Virginia	4,852,865.00
Washington	2,467,971.00
West Virginia	1,431,727.03
Wisconsin	2,196,680.00
Subtotal	106,777,059.81
Alaska	500,000.00
Delaware	500,000.00
Total State Revenue Entitlement	107,777,060.00
Administrative Costs	4,250,000.00
Total Revenue Target	112,027,060.00

IX. Section-by-Section Analysis

In this rule, FMCSA removes 49 CFR 367.20, 367.30, 367.40, and 367.50. These sections established fees applicable for registration years from 2007 to and including 2019. The UCR Plan is no longer collecting fees for those registration years, and these sections are removed to avoid confusion or uncertainty about the applicable fees.

FMCSA redesignates 49 CFR 367.60 as 49 CFR 367.20 and revises the provisions of that section (which were adopted in the 2020 final rule) so that the fees apply to registration years 2020, 2021, and 2022 only. A new 49 CFR 367.30 establishes new reduced fees applicable beginning in registration year 2023, based on the revised recommendation submitted by the UCR Plan Board in its February 2022 Updated Fee Recommendation, which it submitted as a comment to the public docket for the NPRM. These fees will remain in effect for subsequent registration years after 2023 unless revised by a future rulemaking. The fees in this section are lower than proposed in the NPRM in recognition of the updated recommendation submitted by the UCR Plan Board in its February 2022 Updated Fee Recommendation.

X. Regulatory Analyses

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, and DOT's regulatory policies and procedures. The Office of Information and Regulatory Affairs within OMB determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Accordingly, OMB has not reviewed it under these Orders.

The changes in this rule reduce the registration fees paid by motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies to the UCR Plan and the participating States. While each motor carrier will realize a reduced burden, fees are considered by OMB Circular A–4, Regulatory Analysis as transfer payments, not costs. Transfer payments are payments from one group to another that do not affect total resources available to society. By definition, transfers are not considered in the monetization of societal costs and benefits of rulemakings.

This rule reduces annual registration fees for the UCR Plan and Agreement. The entities affected by this rule are the participating States, motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies, and the fee reduction for these entities is the rule's primary impact. Because the State UCR revenue entitlements remain unchanged by this rule, the participating States are not economically impacted. The recommended reduction from the current 2020 registration year fees (approved by the Board on August 12, 2021) and modified in February 2022, is just under 31 percent, or about $18 in the lowest bracket and $17,688 in the highest bracket, per entity, depending on the number of vehicles owned or operated.

B. Congressional Review Act

This rule is not a *major rule* as defined under the Congressional Review Act (5 U.S.C. 801–808).'' [42]

C. Regulatory Flexibility Act (Small Entities)

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA),[43] requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term *small entities* comprises small businesses and 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 (5 U.S.C. 601(6)). Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses.

This rule directly affects the participating States, motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. Under the standards of the RFA, as amended by the SBREFA, the participating States are not small entities. States are not considered small entities because they do not meet the definition of a small entity in section 601 of the RFA. Specifically, States are not considered small governmental jurisdictions under section 601(5) of the RFA, both because State government is not included among the various levels of government listed in section 601(5), and because, even if this were the case, no State or the District of Columbia has a population of less than 50,000, which is the criterion by which a governmental jurisdiction is considered small under section 601(5) of the RFA.

The Small Business Administration's (SBA) size standard for a small entity (13 CFR 121.201) differs by industry code. The entities affected by this rule fall into many different industry codes. In order to determine if this rule impacts a significant number of small entities, FMCSA examined the 2017 Economic Census data [44] for two different industries, truck transportation (Subsector 484) and transit and ground transportation (Subsector 485).

According to the 2017 Economic Census, approximately 99.4 percent of truck transportation firms, and approximately 99.2 percent of transit and ground transportation firms, had annual revenue less than the SBA's revenue thresholds of $30 million and $16.5 million, respectively, to be defined as a small entity. Therefore, FMCSA has determined that this rule impacts a substantial number of small entities. However, FMCSA has determined that this rule will not have a significant impact on the affected entities. The effect of this rule is to reduce the annual registration fee motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies are currently required to pay. The reduction will range from $18 to $17,688 per entity, depending on the number of vehicles owned and/or operated by the affected entities.

Consequently, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996,[45] FMCSA wants to assist small entities in understanding this final rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the final rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman (Office of the National Ombudsman, see *https://www.sba.gov/about-sba/oversight-advocacy/office-national-ombudsman*) and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–

[42] A ''major rule'' means any rule that OMB finds has resulted in or is likely to result in (a) an annual effect on the economy of $100 million or more; (b) a major increase in costs or prices for consumers, individual industries, geographic regions, Federal, State, or local government agencies; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (49 CFR 389.3).

[43] Public Law 104–121, 110 Stat. 857, (Mar. 29, 1996).

[44] U.S. Census Bureau, *2017 US Economic Census.* Available at *https://data.census.gov/cedsci/table?q=United%20States&t=Value%20of%20Sales,%20Receipts,%20Revenue,%20or%20Shipments&n=484&tid=ECNSIZE2017.EC1700SIZEREVEST&hidePreview=true* (accessed Dec. 28, 2021).

[45] Public Law 104–121, 110 Stat. 857, (Mar. 29, 1996).

FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

E. Unfunded Mandates Reform Act of 1995

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 $170 million (which is the value equivalent of $100 million in 1995, adjusted for inflation to 2020 levels) or more in any 1 year. Although this rule would not result in such an expenditure, the Agency discusses the effects of this rule elsewhere in this preamble.

F. Paperwork Reduction Act

This rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

G. E.O. 13132 (Federalism)

A rule has implications for federalism under section 1(a) of E.O. 13132 if it has ''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.''

FMCSA has determined that this rule would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

H. Privacy

The Consolidated Appropriations Act, 2005, requires the Agency to assess the privacy impact of a regulation that will affect the privacy of individuals. This final rule would not require the collection of personally identifiable information.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program.

The E-Government Act of 2002, requires Federal agencies to conduct a Privacy Impact Assessment (PIA) for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a PIA.

I. E.O. 13175 (Indian Tribal Governments)

This rule does not have Tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

J. National Environmental Policy Act of 1969

FMCSA analyzed this rule pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680), Appendix 2, paragraph 6.h. The Categorical Exclusion (CE) in paragraph 6.h. covers regulations and actions taken pursuant to regulation implementing procedures to collect fees that will be charged for motor carrier registrations. The requirements in this rule are covered by this CE and do not have any effect on the quality of the environment.

List of Subjects in 49 CFR Part 367

Intergovernmental relations, Motor carriers, Brokers, Freight Forwarders.

■ In consideration of the foregoing, FMCSA revises 49 CFR chapter III, part 367 to read as follows:

PART 367—STANDARDS FOR REGISTRATION WITH STATES

Sec.
367.20 Fees under the Unified Carrier Registration Plan and Agreement for registration years beginning in 2020 and ending in 2022
367.30 Fees under the Unified Carrier Registration Plan and Agreement for Registration Years Beginning in 2023 and Each Subsequent Registration Year Thereafter.

Authority: 49 U.S.C. 13301, 14504a; and 49 CFR 1.87. §§ 367.20, 367.30 367.40, 367.50.

§ 367.20 Fees under the Unified Carrier Registration Plan and Agreement for registration years beginning in 2020 and ending in 2022.

TABLE 1 TO § 367.20—FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEARS BEGINNING IN 2020 AND ENDING IN 2022

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for broker or leasing company
B1	0–2	$59	$59
B2	3–5	176	
B3	6–20	351	
B4	21–100	1,224	
B5	101–1,000	5,835	
B6	1,001 and above	56,977	

§ 367.30 Fees under the Unified Carrier Registration Plan and Agreement for Registration Years Beginning in 2023 and Each Subsequent Registration Year Thereafter.

TABLE 1 TO § 367.30—FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEARS BEGINNING IN 2023 AND EACH SUBSEQUENT REGISTRATION YEAR THEREAFTER

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for broker or leasing company
B1	0–2	$41	$41
B2	3–5	121	
B3	6–20	242	
B4	21–100	844	
B5	101–1,000	4,024	
B6	1,001 and above	39,289	

Issued under authority delegated in 49 CFR 1.87.

Robin Hutcheson,

Deputy Administrator.

[FR Doc. 2022–18944 Filed 8–31–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220829–0175]

RIN 0648–BL40

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Fishing Year 2022 Recreational Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This rule implements changes to fishing year 2022 recreational management measures for Gulf of Maine cod and haddock. The measures are intended to ensure the recreational fishery achieves, but does not exceed, fishing year 2022 catch limits. This action is required to help achieve optimum yield, prevent overfishing, and ensure management measures are based on the best scientific information available.

DATES: The measures in this rule are effective August 30, 2022.

ADDRESSES: To review **Federal Register** documents referenced in this rule, you can visit: *https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan.*

FOR FURTHER INFORMATION CONTACT: Kyle Molton, Fishery Management Specialist, (978) 281–9236.

SUPPLEMENTARY INFORMATION:

Background

The recreational fishery for Gulf of Maine (GOM) cod and GOM haddock is managed under the Northeast Multispecies Fishery Management Plan (FMP). The multispecies fishing year starts on May 1 and runs through April 30 of the following calendar year. The FMP sets sub-annual catch limits (sub-ACL) for the recreational fishery each fishing year for both stocks. These sub-ACLs are a fixed proportion of the overall catch limit for each stock. The FMP also includes proactive recreational accountability measures (AMs) to prevent the recreational sub-ACLs from being exceeded and reactive AMs to correct the cause or mitigate the effects of an overage if one occurs.

The proactive AM provision in the FMP provides a process for the Regional Administrator, in consultation with the New England Fishery Management Council, to adjust recreational management measures for the upcoming fishing year to ensure that the recreational sub-ACL is achieved, but not exceeded. The provisions governing this action can be found in the FMP's implementing regulations at 50 CFR 648.89(f)(3).

The 2022 recreational sub-ACL set by Framework Adjustment 63 (87 FR 42375; July 15, 2022) for GOM cod is 192 mt, and the 2022 recreational sub-ACL for GOM haddock is 3,634 mt, as set by Framework Adjustment 59 (85 FR 45794; July 30, 2020).

Using the GOM cod and GOM haddock 2022 sub-ACLs and a peer-reviewed bioeconomic model developed by NMFS's Northeast Fisheries Science Center that predicts fishing behavior under different management measures, we estimated 2022 recreational GOM cod and haddock removals under several combinations of minimum sizes, slot limits, possession limits, and closed seasons. The bioeconomic model considers measures for the two stocks in conjunction because cod are commonly caught while recreational participants are targeting haddock, linking the catch and effort for each stock to the other. The bioeconomic model results suggest that measures for both GOM cod and haddock can be slightly liberalized without the 2022 recreational fishery's sub-ACLs being exceeded. With any given model, there exists some level of uncertainty in the accuracy of model predictions. While a number of parameters and unpredicted events may impact the differences between model predictions and real-world catch, in recent years the bioeconomic model has performed well in terms of model-predicted versus actual catch estimates, which suggests the model is a good tool for assessing the potential impacts of regulatory changes. As in past years, we used preliminary data for the most recent fishing year from the Marine Recreational Information Program (MRIP) to calibrate the model. Incorporation of new waves, or data updates, may result in changes in model estimates. MRIP data can be uncertain and highly variable from year to year.

For each of the sets of management measures, 100 simulations of the bioeconomic model were conducted, and the number of simulations which yielded recreational mortality estimates under the sub-ACL was used as an estimate of the probability that the simulated set of measures will not result

in an overage of the sub-ACL. All sets of measures analyzed resulted in model-estimated removals under the sub-ACL greater than 50 percent of the time. The results of the bioeconomic model simulations were shared with the Council and its Recreational Advisory Panel and Groundfish Committee for review.

At its February 2022 meeting, the Council recommended a set of measures that would increase the minimum size for GOM cod from 21 inches (53.3 cm) to 22 inches (55.9 cm) and include no maximum size. The Council discussed options for GOM cod slot limits that would match those for Georges Bank cod included in Framework Adjustment 63 (87 FR 42375; July 15, 2022). However, the Council did not recommend a maximum size for GOM cod because model simulations suggested it was not necessary to adequately constrain catch. The minimum size requirements apply to all private recreational anglers and for-hire vessels not fishing under a groundfish day-at-sea or sector operations plan. The Council also recommended synchronizing the open season for GOM cod for both for-hire and private recreational modes, with a spring open season from April 1–14, and a fall open season from September 1–October 7. The Council recommended increasing the GOM haddock possession limit from 15 fish to 20 to increase opportunities to harvest haddock. The bag limit for GOM cod during open season would remain 1 fish per angler. Based on model simulations, these measures are expected to result in catch of cod and haddock that would not exceed the sub-ACL for either stock (Table 1). On August 2, 2022, we published a rule (87 FR 47177) that proposed changes to the recreational regulations for GOM cod and GOM haddock for fishing year 2022, consistent with the recommendations of the Council.

TABLE 1—SUMMARY OF THE STATUS QUO AND 2022 MEASURES, WITH MODEL ESTIMATES OF CATCH AND THE PROBABILITY OF CATCH REMAINING BELOW THE SUB-ACLS

	Haddock					Cod					
	Possession limit	Minimum size	Open season	Predicted catch (mt)	% Simulations under haddock sub-ACL	Possession limit	Minimum size	Open season (for hire)	Open season (private)	Predicted catch (mt)	% Simulations under cod sub-ACL
Status Quo Measures.	15	17 inches (43.2 cm).	May 1–February 28, April 1–30.	875	100	1	21 inches (53.3 cm).	September 8–October 7, April 1–14.	September 15–30, April 1–14.	116	100
2022 Measures.	20		May 1–February 28, April 1–30.	1020	100		22 inches (55.9 cm).	September 1–October 7, April 1–14.	September 1–October 7, April 1–14.	146	84

We are implementing the Council's recommended recreational measures for the remainder of fishing year 2022. These measures are expected to adequately constrain total catch to prevent an overage of both the GOM cod and GOM haddock recreational sub-ACL's, while increasing recreational fishing opportunities and harvest of the GOM haddock stock by the recreational and for-hire fleets. Synchronizing the open seasons for GOM cod is also prudent, because the longer for-hire season under status quo measures was previously established to offset the impacts of 2020 social distancing restrictions on for-hire businesses, which are no longer in place. Synchronized measures should also improve regulatory compliance by minimizing confusion among the angling public.

Comments and Responses

We received three comments on the proposed rule, from three members of the public. All three commenters opposed increasing the GOM haddock bag limit from 15 fish to 20 fish, and supported either keeping the 15-fish bag limit or reducing the bag limit to 10 fish.

Comment 1: Three individuals opposed increasing the recreational bag limit for GOM haddock from 15 fish to 20 fish. All three supported either retaining the 15-fish bag limit, or reducing the limit to 10 fish, and commented that a more conservative approach would result in a healthier haddock stock and improved recreational fishing opportunities.

Response: Sub-ACLs are designed to prevent overfishing while allowing catch at levels that over the long-term help achieve optimum yield. In recent years, the recreational and for-hire fleets have harvested far fewer GOM haddock than the available sub-ACL for the recreational fishery, in part because of regulations restricting GOM haddock harvest opportunities with the goal of indirectly reducing recreational mortality of GOM cod, as predicted in the bioeconomic model. The bioeconomic model attempts to describe the impact that directed haddock fishing has on cod mortality in the Gulf of Maine, as the two stocks are often found together.

For fishing year 2022, the bioeconomic model simulation results suggest that the 20-fish GOM haddock limit combined with the modified GOM cod measures will not result in exceeding the recreational GOM haddock or GOM cod sub-ACLs. The changes resulting from increasing the GOM haddock limit from 15 fish to 20 fish are expected to be small as few anglers catch the 15-fish bag limit. However, increasing the limit to 20 fish provides additional harvest opportunity while still appropriately constraining GOM cod catch. The model simulation results suggest that a reduction in the GOM haddock limit to 10 fish would unnecessarily limit harvest of GOM haddock by recreational anglers. Additionally, the model predictions for GOM cod and GOM haddock mortality in fishing year 2022 were based on these measures being implemented for the entire 2022 fishing year. Although unintentional, the implementation of the measures late in the fishing year is expected to limit additional recreational harvest of GOM haddock. Therefore, increasing the GOM haddock limit should allow greater utilization of the recreational sub-ACL for GOM haddock without jeopardizing GOM cod or GOM haddock.

Changes From the Proposed Rule

This rule implements regulations outlined in the proposed rule, and there are no changes from the proposed measures in this final rule.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this final rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Assistant Administrator for Fisheries finds that there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the date of effectiveness for this action. This final rule must be implemented as soon as possible to allow recreational and for-hire anglers greater benefits from measures in the rule, avoid potentially adverse economic impacts, and preserve the intended outcomes of the measures for the fishery.

A delay in implementation of this rule would have negative economic effects for regulated entities in both the short term and the long term, and would prevent the recreational fishery from realizing the full intended benefits of the proposed measures. For-hire operators have already booked trips with prospective anglers based on the expectation that these measures would be implemented and take effect prior to September 1, 2022, which is the beginning of the recreational open season for GOM cod. If the measures in this rule have not taken effect prior to September 1, 2022, anglers may cancel reservations or try to reschedule trips for other dates; some operators may have to reimburse clients for trips already booked, reserved, or paid for. This could also hurt the business relationships between for-hire operators and their clients, leading to longer term economic impacts for operators.

In addition, providing for the 30-day delay in the date of implementation for this final rule is unnecessary because this final rule contains no new measures (*e.g.,* it does not require new equipment) for which regulated entities would otherwise need time to prepare for or to revise their current practices. Furthermore, anglers and for-hire operators who are subject to this action expect timely implementation to avoid adverse economic impacts. This final rule is straightforward and includes changes to recreational measures that were discussed during a series of public meetings. This final rule contains yearly measures that are familiar to and anticipated by fishery participants. A 30-day delay in the date of implementation for the measures in this action would undermine the economic benefits of the expanded GOM cod recreational season; would delay the benefits of the expanded GOM haddock limit, especially for for-hire vessels; and could lead to considerable confusion among the recreational community about the effective date of these measures, resulting in unintentional non-compliance with recreational regulations. For these reasons, a 30-day delay in the date of effectiveness for this final rule is unnecessary, impracticable and contrary to the public interest.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification, which was published in the proposed rule, has not changed and is not repeated here. No comments were received regarding this certification. As a result, a final regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: August 29, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.89:

■ a. Revise Table 1 to Paragraph (b)(1);

■ b. Amend paragraph (c)(1) introductory text by removing the phrase ''Table 2 to this paragraph (c)'' and adding, in its place, the phrase ''Table 2 to paragraph (c)(1)(i)'';

■ c. Amend paragraph (c)(1)(i) by removing the phrase ''Table 2 to paragraph (c)'' and adding, in its place, the phrase ''Table 2 to paragraph (c)(1)(i)'';

■ d. Revise Table 2 to Paragraph (c)(i);

■ e. Amend paragraph (c)(2) by removing the phrase ''Table 3 to this paragraph (c)'' and adding, in its place, ''Table 3 to paragraph (c)(2)'';

■ f. Revise Table 3 to Paragraph (c)(2).

The revisions read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(b) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (b)(1)

Species	Minimum size		Maximum size	
	Inches	cm	Inches	cm
Cod:				
Inside GOM Regulated Mesh Area [1]	22	55.9	N/A	N/A
Outside GOM Regulated Mesh Area [1]	22	55.9	28	71.1
Haddock:				
Inside GOM Regulated Mesh Area [1]	17	43.2	N/A	N/A
Outside GOM Regulated Mesh Area [1]	18	45.7	N/A	N/A
Pollock	19	48.3	N/A	N/A
Witch Flounder (gray sole)	14	35.6	N/A	N/A
Yellowtail Flounder	13	33.0	N/A	N/A
American Plaice (dab)	14	35.6	N/A	N/A
Atlantic Halibut	41	104.1	N/A	N/A
Winter Flounder (black back)	12	30.5	N/A	N/A
Redfish	9	22.9	N/A	N/A

[1] GOM Regulated Mesh Area specified in § 648.80(a).

* * * * *

(c) * * *

(1) * * *

(i) * * *

TABLE 2 TO PARAGRAPH (c)(1)(i)

Stock	Open season	Possession limit	Closed season
GB Cod	August 1–April 30	5	May 1–July 31.
GOM Cod	September 1–October 7, April 1–14	1	April 15–August 31, October 8–March 31.
GB Haddock	All Year	Unlimited	N/A.
GOM Haddock	May 1–February 28 (or 29), April 1–30	20	March 1–March 31.
GB Yellowtail Flounder	All Year	Unlimited	N/A.
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
N. Windowpane Flounder	CLOSED	No retention	All Year.
S. Windowpane Flounder	CLOSED	No retention	All Year.
Ocean Pout	CLOSED	No retention	All Year.
Atlantic Halibut	See paragraph (c)(3)		
Atlantic Wolffish	CLOSED	No retention	All Year.

* * * * *

(2) * * *

TABLE 3 TO PARAGRAPH (c)(2)

Stock	Open season	Possession limit	Closed season
GB Cod	August 1–April 30	5	May 1–July 31.
GOM Cod	September 1–October 7, April 1–14	1	April 15–August 31, October 8–March 31.
GB Haddock	All Year	Unlimited	N/A.
GOM Haddock	May 1–February 28 (or 29), April 1–30	20	March 1–March 31.
GB Yellowtail Flounder	All Year	Unlimited	N/A.
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
N. Windowpane Flounder	CLOSED	No retention	All Year.
S. Windowpane Flounder	CLOSED	No retention	All Year.
Ocean Pout	CLOSED	No retention	All Year.
Atlantic Halibut	See Paragraph (c)(3)		
Atlantic Wolffish	CLOSED	No retention	All Year.

* * * * *

[FR Doc. 2022–18996 Filed 8–30–22; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 87, No. 169
Thursday, September 1, 2022

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

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2022–BT–STD–0015]

Appliance Standards and Rulemaking Federal Advisory Committee: Notice of Open Meetings of the Commercial Unitary Air Conditioner and Commercial Unitary Heat Pump Working Group

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

ACTION: Notice of open meetings.

SUMMARY: This notice announces initial open meetings of the Commercial Unitary Air Conditioner (''CUAC'') and Commercial Unitary Heat Pump (''CUHP'') Working Group (''CUAC and CUHP Working Group''). The purpose of the CUAC and CUHP Working Group is to undertake a negotiated rulemaking to discuss and, if possible, reach consensus on a proposed rule for test procedures and energy conservation standards for CUAC and CUHP equipment, as authorized by the Energy Policy and Conservation Act of 1975, as amended.

DATES: The first meetings of the CUAC and CUHP Working Group will be held on Tuesday, September 20, 2022, and Wednesday, September 21, 2022.

ADDRESSES: All meetings will be held at the U.S. Department of Energy, Forrestal Building, 1000 Independence Ave. SW, Washington, DC 20585 in Room 1E–245.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas Adin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–5904. Email *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Membership: The members of the CUAC and CUHP Working Group were chosen from nominations submitted in response to the Department of Energy's (''DOE'') notice of solicitation for membership published in the **Federal Register** on July 29, 2022. 87 FR 45703. The selections of the members were designed to ensure a broad and balanced array of stakeholder interests and expertise on the negotiating working group for the purpose of developing a rule that is legally and economically justified, technically sound, fair to all parties, and in the public interest. All meetings are open to all stakeholders and the public, and participation by all is welcome within boundaries as required by the orderly conduct of business. The members of the CUAC and CUHP Working Group are as follows.

DOE and Appliance Standards and Rulemaking Federal Advisory Committee (''ASRAC'') Representatives

- Ashley Armstrong (U.S. Department of Energy)
- Joanna Mauer (Appliance Standards Awareness Project)
- Dave Winningham (Lennox International)

Other Selected Members

- Michael Adams (Glumac)
- Mark Alatorre (Pacific Gas and Electric Company)
- Curtis Caskey (Johnson Controls, Inc.)
- Jill Hootman (Trane Technologies)
- Amy Kasson-Muzio (New York State Energy Research and Development Authority)
- Kyle Krueger (National Electrical Contractors Association)
- Patrick Riley (Carrier Global Corporation)
- Kevin Rose (Northwest Energy Efficiency Alliance)
- Allison Skidd (Rheem Manufacturing Company)
- Kevin Teakell (AAON, Inc.)
- Rusty Tharp (Daikin Comfort Technologies Manufacturing, L.P.)
- Joseph Vukovich (Natural Resources Defense Council)

Purpose of Meeting: To provide advice and recommendations to ASRAC on test procedures and energy conservation standards for CUAC and CUHP equipment under the authority of the Negotiated Rulemaking Act (5 U.S.C. 561–570, Pub. L. 104–320).

Public Participation: Open meetings will be held on: Tuesday, September 20, 2022, from 10 a.m. to 5 p.m. EDT and Wednesday, September 21, 2022, from 9 a.m. to 3 p.m. EDT. To attend the meetings and/or to make oral statements regarding any of the items on the agenda, email *asrac@ee.doe.gov.* In the email, please indicate your name, organization (if appropriate), citizenship, and contact information. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meetings, please notify DOE as soon as possible by contacting Ms. Regina Washington at (202) 586–1214 or by email: *regina.washington@ee.doe.gov* so that the necessary procedures can be completed. Anyone attending the meetings will be required to present a government photo identification, such as a passport, driver's license, or government identification. Due to the required security screening upon entry, individuals attending should arrive early to allow for the extra time needed.

Members of the public will be heard in the order in which they sign up for the Public Comment Period. Time allotted per speaker will depend on the number of individuals who wish to speak but will not exceed five minutes. Reasonable provision will be made to include the scheduled oral statements on the agenda. A third-party neutral facilitator will make every effort to allow the presentations of views of all interested parties and to facilitate the orderly conduct of business.

Participation in the meetings is not a prerequisite for submission of written comments. Written comments are welcome from all interested parties. Any comments submitted must identify the CUAC and CUHP Working Group, and provide docket number EERE–2022–BT–STD–0015. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: CommPkgACHP2022STDandTP0015@ee.doe.gov.* Include docket number EERE–2022–BT–STD–0015 in the subject line of the message.

3. *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Program, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. If

possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW, 6th Floor, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted.

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *www.regulations.gov/docket/EERE-2022-BT-STD-0015.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

Approval of the Office of the Secretary

The Secretary of Energy has approved publication of notice of open meetings.

Signing Authority

This document of the Department of Energy was signed on August 26, 2022, Dr. Geraldine L. Richmond, Undersecretary of Science and Innovation, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 26, 2022.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2022–18864 Filed 8–31–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2022–0698]

RIN 1625–AA08

Special Local Regulation; San Diego Fleet Week Veterans Day Boat Parade; San Diego Bay, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend its special local regulations for recurring marine parades, regattas, and other events in Southern California Annual Marine Events for the San Diego Captain of the Port Zone. This proposed rule would add one new recurring special local regulation for the San Diego Fleet Week Veterans Day Boat Parade. This action is necessary to provide for the safety of life on the navigable waters during the annual event. This proposed rulemaking would restrict vessel traffic in the designated areas during the event unless authorized by the Captain of the Port San Diego 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 October 3, 2022.

ADDRESSES: You may submit comments identified by docket number USCG–2022–0698 using the Federal Decision Making 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 Lieutenant Junior Grade Shera Kim, Waterways Management, U.S. Coast Guard; telephone 619–278–7656, email *MarineEventsSD@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 Coast Guard is proposing to amend 33 CFR 100.1101 by adding a new reoccurring marine event to Table 1 of Section § 100.1101 for a boat parade in San Diego Bay, CA.

The San Diego Fleet Week Foundation notified the Coast Guard that it will be hosting the San Diego Fleet Week Veterans Day Boat Parade annually on a single day during the month of November. The regulated area would cover all navigable waters of San Diego Bay, beginning at Shelter Island, proceeding northeast to Harbor Island, proceeding southeast along the shoreline to Tenth Avenue Marine Terminal, crossing the Federal navigable channel prior to the Coronado Bridge, then northwest along the shoreline of Coronado Island to the Coronado Ferry Landing.

The proposed annually reoccurring special local regulation is necessary to provide for the safety of life on navigable waters during the event. Based on the nature of this marine event, the large number of participants, and event location, the COTP has determined that the event listed in this proposed rule could pose a risk to participants or waterways users if the normal vessel traffic were to interfere with the event. Possible hazards include risks of injury or death from near or actual contact among participants and mariners traversing through the regulated area. In order to protect the safety of all waterway users, including event participants and spectators, this proposed rule would establish a special local regulation for the time and location of the marine event. Vessels would not be permitted to enter the regulated areas unless authorized by the COTP or a designated representative. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70041.

III. Discussion of Proposed Rule

The Coast Guard proposes to add one new recurring special local regulation in Table 1 to § 100.1101 for the San Diego Fleet Week Veterans Day Boat Parade. The event and special local regulation would occur on one day in November. The duration of the regulated area is intended to ensure the safety of the public during the parade. Non-participant vessels are not permitted to enter, transit through, anchor in, or remain within the regulated area without obtaining permission from the Captain of the Port San Diego or a designated representative. Annually before the event, the Coast Guard would

publish a notice of enforcement in the **Federal Register** identifying the exact date and times the special local regulation would be enforced. The Coast Guard will also provide notice of the regulated area by Broadcast Notice to Mariners and on-scene designated representatives. 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 the size, location, and duration of the special local regulation. Vessel traffic would be able to safely transit around this special local regulation, which would impact a small-designated area of the San Diego Bay. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the areas, and the rulemaking would allow vessels to seek permission to enter the areas.

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 special local regulation 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 rulemaking 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 regulated area that would prohibit persons and vessels from transiting the regulated area during the parade. Normally such actions are categorically excluded from further review under paragraph L[61] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. 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 Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2022–0698 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 100

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. In § 100.1101, amend Table 1 to § 100.1101 by adding an entry for ''17. San Diego Fleet Week Veterans Day Boat Parade'' to read as follows:

§ 100.1101 Southern California Annual Marine Events for the San Diego Captain of the Port Zone.

TABLE 1 TO § 100.1101

* * * * * * *

17. San Diego Fleet Week Veterans Day Boat Parade

Sponsor	San Diego Fleet Week Foundation.
Event Description	SS Boat parade.
Date	One weekend in November.
Location	San Diego Bay, CA.
Regulated Area	All waters of San Diego Bay, from surface to bottom, beginning at Shelter Island, proceeding northeast to Harbor Island, proceeding southeast along the shoreline to Tenth Avenue Marine Terminal, crossing the Federal navigable channel prior to the Coronado Bridge, then northwest along the shoreline of Coronado Island to the Coronado Ferry Landing.

Dated: August 25, 2022.

J.W. Spitler,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2022–18907 Filed 8–31–22; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0230; FRL–9602–01–R9]

Air Plans; Arizona; Revised Format for Materials Incorporated by Reference; Correcting Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 23, 2016, the Environmental Protection Agency (EPA) issued a final rule titled ''Approval and Promulgation of Implementation Plans; State of Arizona; Revised Format for Materials Incorporated by Reference.'' That publication inadvertently omitted an entry for a regulation approved as part of the Maricopa County portion of the Arizona State Implementation Plan (SIP) and contained certain other errors. The EPA is proposing to correct this omission and to correct the other errors. The regulations affected by this correcting amendment have all been previously submitted by the State of Arizona and approved by the EPA.

DATES: Comments from be received on or before October 3, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0230 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: Kevin Gong, EPA Region IX, 75 Hawthorne St., San Francisco, CA

94105. By phone: (415) 972–3073 or by email at *gong.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'', ''us'' or ''our'' are used, we mean the EPA. In the Rules and Regulations section of this **Federal Register**, we are correcting the omission of the Maricopa County rule and correcting the other errors in a direct final action without prior proposal because we believe this error correction action is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in a subsequent action based on this proposed rule.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: August 24, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2022–18698 Filed 8–31–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2022–0722; FRL–10156–01–R7]

Air Plan Approval; Missouri; Ameren Sioux Sulfur Dioxide Consent Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of source-specific revisions to the Missouri State Implementation Plan (SIP) received on April 21, 2022. In the submission, Missouri requests that the EPA incorporate into the SIP an additional sulfur dioxide (SO_2) emissions limit for the Ameren Missouri (Ameren)—Sioux Energy Center (Sioux). Specifically, the EPA is proposing to approve, into the SIP, an additional SO_2 emissions limit and associated operating restrictions, monitoring, recordkeeping, reporting (MRR) and testing compliance requirements established in a consent agreement as permanent and enforceable SO_2 control measures.

DATES: Comments must be received on or before October 3, 2022.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2022–0722 to *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 *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: Jason Heitman, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7664; email address: *heitman.jason@epa.gov.*

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

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2022–0722, at *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 *www.epa.gov/dockets/commenting-epa-dockets.*

II. What is the background for this proposed action?

The Ameren Sioux facility is located in St. Charles County, Missouri, along the Mississippi River, just north of the City of St. Louis. The EPA designated the area surrounding Ameren Sioux as attainment/unclassifiable for the 2010 1-hour SO_2 NAAQS in early 2018 (83 FR 1098, January 9, 2018). Unlike with a nonattainment designation, a designation of attainment/unclassifiable does not impose any new SO_2 planning requirements on the Missouri Department of Natural Resources (MoDNR) for Ameren Sioux in Missouri's SIP.

Ameren Sioux operates two coal-fired boilers that generate electricity for use in the region. In 2010, Ameren Sioux installed wet flue-gas desulfurization control technology at their two boilers. The existing enforceable SO_2 emissions limit in the Missouri SIP for Sioux is much higher than recent actual emissions and therefore does not reflect operation of the control technology. This control technology reduced the actual SO_2 emissions at Ameren Sioux by nearly 90 percent.

Ameren Sioux is required to operate a continuous emission monitoring system (CEMS) for SO_2 on both of their boilers.[1] This allows for the reporting of actual hourly emissions levels coming from the two boilers at the facility. The Consent Agreement included in this proposed SIP revision also requires the use of their CEMS to demonstrate compliance with the additional enforceable limit in the Consent Agreement.

III. Have the requirements for approval of a SIP revision 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 December 27, 2021 to February 3, 2022 and received one comment. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

IV. What did Missouri submit in the source-specific SIP revision for Ameren Sioux?

The SO_2 emissions limit and averaging time included in the Consent

[1] See 40 CFR part 75.

Agreement for Ameren Sioux are provided in Table 1. The limit is listed as a facility-wide limit, but only applies to Boilers 1 and 2 at the facility.

TABLE 1—AMEREN MISSOURI SIOUX ENERGY CENTER SO_2 EMISSION LIMIT

Source	Source ID	Emission limit per source (pounds SO_2 per hour)	Averaging time
Ameren Missouri—Sioux Energy Center	1830001	7,342	24-hour block average.

Ameren will maintain all hourly data and computations related to demonstrating compliance with the 24-hour block average emissions limit and keep this data for a period of at least five years. Ameren shall report on compliance with the emissions limit in Table 1 on the same schedule as the annual compliance certification required in accordance with the operating permits issued under 40 CFR part 70.

V. What is the EPA's analysis of Missouri's source-specific SIP revision?

The EPA is proposing to determine that the limit in the Consent Agreement is practically enforceable through the following analysis. The Consent Agreement requires Ameren to determine compliance with the emissions restrictions by use of the SO_2 CEMS installed on Boilers 1 and 2 at Sioux. The CEMS will be operated in accordance with 40 CFR part 75. The limit in the Consent Agreement is based on 24-hour block averages. The total pounds of SO_2 emitted during each calendar day, as measured by the CEMS, is first summed for the subject units, then divided by the number of actual operating hours in that day. If this is less than or equal to the limit in Table 1, the facility is in compliance with the emissions limit. Only hours that meet the primary equipment hourly operating requirements of 40 CFR 75.10(d) are used in calculating the daily 24-hour block average. For example, if the source only meets 40 CFR 75.10(d) operational requirements for one hour in a particular 24-hour block period, the compliance with the emissions limit would be calculated by the total emissions divided by the one hour of operation that meets 40 CFR 75.10(d). Therefore, any day with at least one hour that meets operational requirements will have a calculated block average that will be used to demonstrate compliance with the emissions limit.

While the Consent Agreement may be terminated under state law by mutual agreement by both parties at the current time, this action, once finalized, would approve that Agreement into the SIP. At that point the requirements of the Consent Agreement would be permanent and federally enforceable and would remain applicable until Missouri submits a SIP revision and the EPA approves that revision. That revision would be subject to CAA section 110(l), *i.e.,* the state must demonstrate that the revision would not interfere with the attainment or maintenance of any NAAQS.

VI. What action is the EPA proposing?

The EPA is proposing to approve Missouri's April 21, 2022, source-specific SIP revision into the Missouri SIP. This revision includes a specific SO_2 emissions limit and associated operating restrictions, MRR, and testing compliance requirements for the Ameren Sioux Facility as contained in Consent Agreement number APCP–2021–018. A copy of the Consent Agreement is included in the docket for this rulemaking.

The purpose of the Consent Agreement is to provide for the new SO_2 emissions limit at Ameren Sioux to be credited as an additional permanent and federally enforceable measure in Missouri's SIP. Ameren has voluntarily agreed to enter into this Consent Agreement to strengthen Missouri's SIP.

The Consent Agreement includes a facility-wide 24-hour block average emissions limit. The additional SO_2 emissions limit that the EPA proposes to approve is in addition to the SO_2 requirements currently in the SIP for Ameren Sioux. Incorporating an additional specific SO_2 limit and associated operating restrictions, MRR, and testing compliance parameters for Ameren Sioux into the Missouri SIP would establish this additional specific SO_2 limit and associated operating and compliance parameters as permanent and federally enforceable control measures and strengthen the Missouri SIP.

The purpose of this rulemaking is to act on Missouri's request to approve into the SIP an additional specific facility-wide SO_2 limit (listed in Table 1), and associated operating, MRR, and testing requirements established in a Consent Agreement, thereby making this limit permanent and federally enforceable to strengthen the Missouri SIP.

VII. Environmental Justice Concerns

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as either nonattainment, attainment, or unclassifiable. Area designations address environmental justice concerns by ensuring that the public is properly informed about the air quality in an area. In this action, the EPA is proposing to approve an additional emissions limit for a source into the Missouri SIP.

The EPA utilized the EJSCREEN tool to evaluate environmental and demographic indicators within the area. The tool outputs report is contained in the docket for this action. While the EPA's EJSCREEN tool demonstrates that demographic indicators are consistent or lower than national averages, there are vulnerable populations in the area including low-income populations and persons over 64 years of age.

Based on the information presented in this document, this proposed action does not result in disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples.

VIII. 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 the Missouri Consent Agreement discussed in section VI of this preamble and as set forth below in the proposed revision 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).

IX. 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
- This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The basis for this determination is contained in section VII of this action, ''Environmental Justice Concerns.''

The SIP is not approved to 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. In those areas of Indian country, the proposed 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 24, 2022.

Meghan A. McCollister,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 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 AA—Missouri

■ 2. In § 52.1320, the table in paragraph (d) is amended by adding the entry ''(37)'' in numerical order to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/permit No.	State effective date	EPA approval date	Explanation
*	*	*	*	*
(37) Ameren Missouri—Sioux Energy Center.	Consent Agreement No. APCP–2021–018.	3/31/2022	[Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule].	

* * * * *

[FR Doc. 2022–18724 Filed 8–31–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 17–97; DA 22–831; FR ID 100507]

Call Authentication Trust Anchor

AGENCY: Federal Communications Commission.

ACTION: Proposed rule and request for comments.

SUMMARY: In this document, the Wireline Competition Bureau (Bureau) of the Federal Communications Commission (Commission) addresses two recurring statutory obligations under the TRACED Act relating to the Commission's caller ID authentication rules. First, the Bureau seeks comment for its annual reevaluation of the STIR/SHAKEN implementation extensions granted by the Commission for implementation of the STIR/SHAKEN call authentication framework. Second, the Bureau seeks comment for its first triennial assessment of the efficacy of STIR/SHAKEN call authentication framework as a tool in our work combating illegal robocalls.

DATES: Comments are due on or before October 3, 2022; reply comments are due on or before October 21, 2022.

ADDRESSES: 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 in this document. Comments and reply 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). Interested parties may file comments or reply comments, identified by WC Docket No. 17–97 by any of the following methods:

• *Electronic Filers:* Comments may be filed electronically using the internet by accessing 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. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, 35 FCC Rcd 2788 (March 19, 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

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: For further information, please contact Jonathan Lechter, Competition Policy Division, Wireline Competition Bureau, at (202) 418–2343 or by email at *Jonathan.Lechter@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Public Notice seeking comment on two recurring statutory obligations under the TRACED Act in WC Docket No. 17–97, DA 22–831, released on August 5, 2022. The full text of this document is available for public inspection at the following internet address: *https://docs.fcc.gov/public/attachments/DA-22-831A1.pdf.* To request materials in accessible formats for people with disabilities (*e.g.,* braille, large print, electronic files, audio format, etc.), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), or (202) 418–0432 (TTY).

Synopsis

I. Comments Sought on STIR/SHAKEN Implementation Extensions for Annual Review, Pursuant to Section 4(b)(5) of the TRACED Act

When Congress directed the Commission to mandate implementation of STIR/SHAKEN in the TRACED Act, it also required the Commission to assess burdens and barriers to implementation, and it gave the Commission discretion to extend compliance with the implementation mandate upon a public finding of undue hardship. The Commission performed this assessment and granted three categorical extensions of the STIR/SHAKEN mandate on the basis of undue hardship: (1) small voice service providers; (2) voice service providers unable to obtain the ''token'' necessary to participate in STIR/SHAKEN; and (3) services scheduled for section 214 discontinuance. *See Second Caller ID Authentication Report and Order,* 85 FR 73360 (Nov. 17, 2020). (As directed by a separate provision of the TRACED Act, TRACED Act § 4(b)(5)(B), the Commission also granted an extension for those portions of the network that rely on technology that cannot initiate, maintain, and terminate SIP calls. Because this extension was not granted on the basis of undue hardship, we do not seek comment on it in this Public Notice.)

The TRACED Act further requires the Commission to assess burdens and barriers to implementation ''as appropriate'' after that initial assessment, and directs the Commission to, ''not less frequently than annually after the first [extension] is granted,'' reevaluate and potentially revise any extensions granted on the basis of undue hardship. It requires the Commission to issue a public notice explaining ''why such [extension] remains necessary'' and ''when the Commission expects to achieve the goal of full participation'' in caller ID authentication. To comply with these obligations, the Commission directed the Bureau in the *Second Caller ID Authentication Report and Order* to annually reevaluate the Commission's granted extensions for undue hardship and revise or extend those extensions as necessary. (The Commission determined that the Bureau is in the best position to undertake this fact-intensive, case-by-case evaluation.) In its directions to the Bureau, the Commission permitted the Bureau to further extend an extension to which voice service providers are already subject, but prohibited the Bureau from terminating an extension prior to the extension's originally set end date. The Commission did not permit the Bureau to grant extensions to any voice service providers or services not already subject to one. Should we further extend a granted extension, we are permitted to decrease, but not expand, the scope of entities entitled to that extension based on our assessment of burdens and barriers.

In September 2021, we released a Public Notice seeking comment on the Commission's three granted extensions and any associated burdens and barriers to the implementation of STIR/SHAKEN. 86 FR 56705 (Oct. 12, 2021). In December 2021, we issued our first annual reevaluation and declined to modify any of the existing extensions. The extension for services scheduled for section 214 discontinuance ended on June 30, 2022. We now seek comment to enable our second annual reevaluation of the two remaining STIR/SHAKEN implementation extensions—

for small voice service providers and for providers unable to obtain the required token—granted based on undue hardship.

Small Voice Service Provider Extension. We seek comment on the Commission's extension for facilities-based small voice service providers. In September 2020, the Commission granted a two-year extension for all small voice service providers, defined as ''a provider that has 100,000 or fewer voice service subscriber lines.'' *Second Caller ID Authentication Report and Order.* Under this extension, small voice service providers were given until June 30, 2023 to implement STIR/SHAKEN. The Commission found that this extension was appropriate because small voice service providers may face substantial costs—in addition to resource constraints—to implement STIR/SHAKEN and confront unique equipment availability issues. In December 2021, the Commission shortened the extension for a subset of small voice service providers likely to be the source of illegal robocalls. 87 FR 3684 (Jan. 25, 2022) It shortened the extension to one year—until June 30, 2022—for non-facilities-based small voice service providers based on overwhelming record support and available evidence showing that this subset of providers were originating a large and disproportionate amount of robocalls. It also required small voice service providers suspected of originating illegal robocalls to implement STIR/SHAKEN on an accelerated timeline. The Commission maintained the two-year extension for facilities-based small voice service providers because it found they were less likely to be the source of illegal robocalls. When we considered this remaining extension in the 2021 annual reevaluation, we declined to lengthen it beyond June 30, 2023, noting that the Commission's guiding principle in establishing the extension was ''to achieve ubiquitous STIR/SHAKEN implementation to combat the scourge of illegal caller ID spoofing as quickly as possible.''

We seek comment on the burdens and barriers to facilities-based small voice service provider implementation and whether we should revise their STIR/SHAKEN extension. Have the burdens or barriers affecting small providers originally discussed in the *Second Caller ID Authentication Report and Order,* changed since last year's evaluation and, if so, how? Should any Commission actions in the previous year inform or impact our reevaluation of the small voice service provider extension? Have any new burdens or barriers emerged that the Commission did not consider or could not have been aware of when it initially gave small voice service providers a two-year extension? If so, do these burdens or barriers warrant an extension beyond the current June 30, 2023 date, and if so, how long of an extension is necessary and appropriate? How would any additional extension be consistent with the Commission's goal of ubiquitous STIR/SHAKEN implementation?

In response to our Public Notice seeking comment for the 2021 annual extension reevaluation, the Satellite Industry Association (SIA) requested an ''indefinite'' extension for satellite voice service providers'' in light of the ''challenging circumstances facing small satellite VSPs, combined with their unique economic, operational, and technical characteristics.'' The Bureau determined that the record was insufficient to evaluate SIA's request at that time, but stated it would seek further comment on the request as part of the instant 2022 reevaluation. In the interim, as part of its May 2022 *Further Notice of Proposed Rulemaking,* 87 FR 42670 (July 18, 2022), the Commission sought comment on the larger questions of the applicability of the TRACED Act to small satellite providers and whether it should grant such providers an extension for implementing STIR/SHAKEN.

Should the Bureau further extend the small provider implementation extension just for small satellite voice service providers as part of this inquiry or should we leave this issue to the full Commission to consider more generally? Do small satellite voice service providers face unique challenges in implementing STIR/SHAKEN? What are these challenges? How do they impact this subset of providers' ability to implement STIR/SHAKEN? What is a realistic time frame for any extension we grant? What impact would an extension for small satellite voice service providers have on other providers or the public? What impact would such an extension have on the Commission's longstanding goal of ubiquitous deployment of STIR/SHAKEN?

Extension for Voice Service Providers That Cannot Obtain a SPC Token. We seek comment on the Commission's extension for voice service providers that cannot obtain the Service Provider Code (SPC) token necessary to participate in STIR/SHAKEN. In the *Second Caller ID Authentication Report and Order,* the Commission granted voice service providers that are incapable of obtaining a SPC token due to Governance Authority policy an extension until they are capable of obtaining said token. (Recognizing that ''a voice service provider may not be able to immediately come into compliance with its caller ID authentication obligations after it becomes eligible to receive'' a SPC token, the Commission stated that it ''will not consider a voice service provider that diligently pursues a certificate once it is able to receive one in violation of [its] rules.''). In May 2021, the Governance Authority revised the STI–GA Token Access Policy to enable token access by some voice service providers previously unable to receive a token. In the 2021 annual reevaluation, we found that this policy revision had resolved the main practical concern underlying this extension and that token access no longer stood as a significant barrier to full participation in STIR/SHAKEN. We nonetheless declined to revise this extension on the basis that it remains necessary for the reason the Commission previously identified: ''[A]n entity that meets the definition of a provider of 'voice service' cannot comply with the STIR/SHAKEN rules if it is unable to receive a token.''

We seek comment on this extension and whether it remains necessary. Is it still true that a provider cannot comply with the STIR/SHAKEN rules if it is unable to receive a token? Has anything changed that has made a token unnecessary to participate in STIR/SHAKEN, making this extension no longer needed? Even if it remains theoretically necessary, are all practical impediments presented by token access resolved, such that we should consider recommending terminating this extension? If we did recommend terminating this extension, when is an appropriate end date? If the extension remains necessary, is token access an impediment to ubiquitous STIR/SHAKEN? Are there steps the Commission or the Governance Authority could take regarding token access to better promote full participation in STIR/SHAKEN?

II. Comments Sought on STIR/SHAKEN Efficacy, Pursuant to Section 4(b)(4) of the TRACED Act

When Congress mandated that the Commission require voice service providers to implement STIR/SHAKEN in the TRACED Act, it also directed the Commission to ''assess the efficacy of the technologies used for [the] call authentication frameworks'' no later than three years after the December 30, 2019 enactment date of the Act. The Commission was also directed to ''revise or replace the call authentication frameworks'' if the Commission

determines it is in the public interest to do so based on the assessment and to submit a report to Congress ''on the findings of the assessment . . . and on any actions to revise or replace the call authentication frameworks.''

Pursuant to this Congressional mandate, we seek comment to inform our analysis of the efficacy of the STIR/SHAKEN caller ID authentication framework that the Commission required voice service providers to implement on their IP networks. (We do not, in this Public Notification, seek comment on caller ID authentication in non-IP networks. In the September 2020 *Second Caller ID Authentication Report and Order,* the Commission determined that no standardized framework for non-IP networks existed and consequently required providers to work to develop a solution rather than implement a framework. The Commission recently sought comment on whether we should require providers to implement a non-IP caller ID authentication solution. Because the Commission has not yet mandated providers implement any particular non-IP caller ID authentication technology, there is no implemented technology to assess in this required reevaluation.) We start by seeking comment on the standard by which we should assess the efficacy of STIR/SHAKEN. We propose to assess the efficacy of STIR/SHAKEN based on how well it effectuates the authentication of caller ID information. We believe this is the best standard because it evaluates the effectiveness of the STIR/SHAKEN framework at executing the function of the technology mandated under section 4: performing caller ID authentication. We seek comment on this proposal. Is there another way to interpret this statutory language and assess the STIR/SHAKEN framework? For example, should we measure the impact of STIR/SHAKEN on preventing illegally spoofed robocalls, or preventing all illegal robocalls, to determine its efficacy? How would such an approach be consistent with the text of the statute? Would it be an appropriate measure of STIR/SHAKEN's effectiveness as a caller ID authentication framework? Or would such an approach only measure the impact and limitations of caller ID authentication generally, regardless of ''the technologies used''? Could different caller ID authentication frameworks more or less effectively combat illegally spoofed or all illegal robocalls?

We next seek comment on the efficacy of the STIR/SHAKEN framework under this standard. Has STIR/SHAKEN proven to effectively authenticate caller ID information? Are there ways it could be more effective at that task and, if so, how? Do any specific factors limit its efficacy, and what solutions might resolve those issues? Will any identified concerns be addressed by further deployment across the voice network? In the Bureau's December 2020 Report to Congress, we stated that, without widespread implementation, it was ''premature to assess the efficacy of STIR/SHAKEN in practice'' at that time. (The TRACED Act required the Commission to submit that report ''not later than 12 months after'' enactment.) Since that date, many voice service providers have been required to implement, and have implemented, STIR/SHAKEN. Is it still premature to evaluate the efficacy of STIR/SHAKEN in practice? If so, we seek comment on whether commenters continue to believe that the framework is effective as designed. And if commenters believe we should evaluate STIR/SHAKEN under a different or additional standard, we seek comment on the efficacy of STIR/SHAKEN under any alternative standards proposed. Under any standard, we seek comment on whether the efficacy of STIR/SHAKEN would improve when the framework is paired with other tools or if there are additional steps that the Bureau, Commission, or stakeholders such as voice service providers or the Governance Authority could take to improve the efficacy of STIR/SHAKEN. (Recognizing the benefits of pairing caller ID authentication with call analytics, the Commission adopted a safe harbor enabling voice service providers to block unwanted calls by default based on reasonable analytics that incorporate caller ID authentication information, so long as consumers are given the opportunity to opt out.)

Should the Commission consider whether it is in the public interest to revise or replace the STIR/SHAKEN framework? Would revising or replacing the framework at this time be premature, as providers continue to take steps to implement the technology consistent with the Commission's efforts to bolster its caller ID authentication rule scheme? How would the costs of such revision or replacement compare to the benefits? We ask that any comments indicating that the STIR/SHAKEN framework is ineffective at authenticating caller ID information identify alternatives that would more effectively authenticate caller ID information.

Federal Communications Commission.

Pamela Arluk,

Chief, Competition Policy Division.

[FR Doc. 2022–18380 Filed 8–31–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

49 CFR Parts 23 and 26

[Docket No. DOT–OST–2022–0051]

RIN 2105–AE98

Disadvantaged Business Enterprise and Airport Concession Disadvantaged Business Enterprise Program Implementation Modifications

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The U.S. Department of Transportation is extending the comment period for its Disadvantaged Business Enterprise (DBE) and Airport Concession DBE (ACDBE) notice of proposed rulemaking. The original comment period was scheduled to close on September 19, 2022. The extension is granted in response to requests received from stakeholders, who have stated the September 19 closing date does not provide sufficient time for them to prepare and submit of comments to the docket. The Department agrees to extend the comment period by 60 days. Therefore, the closing date for submission of comments is extended to October 31, 2022, which will provide those entities interested in commenting on the proposed rulemaking additional time to submit comments to the docket.

DATES: The comment period for the proposed rule published July 21, 2022, at 87 FR 43620 is extended. Comments must be received on or before October 31, 2022.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov/docket/DOT-OST-2022-0051/document* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W–12–140, 1200 New Jersey Ave. SE, between 9 a.m. and

5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

Instructions: To ensure proper docketing of your comment, please include the agency name and docket number DOT–OST–2022–0051 or the Regulatory Identification Number (RIN), 2105–AE98 for the rulemaking at the beginning of your comments. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Marc D. Pentino, Departmental Office of Civil Rights, Office of the Secretary, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone number 202–366–6968; *marc.pentino@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 21, 2022, at 87 FR 43620, DOT published in the **Federal Register** a notice of proposed rulemaking proposing to amend its Disadvantaged Business Enterprise and Airport Concession Disadvantaged Business Enterprise regulations at 49 CFR part 26 and part 23. The proposal includes other provisions to update and strengthen the Department's regulation, and to modernize the program's eligibility and procedural requirements. In addition, the rulemaking proposed technical corrections that have led to substantive misinterpretations of the rules by recipients, program applicants and participants.

The original comment period for the proposal would have closed September 19, 2022. However, DOT stakeholders have expressed concern that this closing date does not provide sufficient time to coordinate with their respective members and working groups to develop comments to the NPRM and/or to submit comments to the docket, particularly on provisions they view are of a complex nature and impact operations.

The Department has carefully considered the requests to extend the comment period on the NPRM and agrees that given the length and breadth of topics covered, a period beyond the 60-day comment period is warranted. The Department finds that there is a strong interest in timely issuance of this priority rulemaking but is interested in providing the public with additional time to comment.

To allow time for interested parties to submit comments, the closing date is changed from September 19, 2022, to October 31, 2022. All members of the public, including DOT recipients and sponsors, prime contractors, small businesses, trade organizations, and consultants are invited to submit comments.

Signed in Washington, DC, on or around August 26, 2022 under authority delegated in 49 CFR 1.27(a):

John Putnam,

General Counsel.

[FR Doc. 2022–18850 Filed 8–31–22; 8:45 am]

BILLING CODE 4910–9X–P

Notices

Federal Register

Vol. 87, No. 169

Thursday, September 1, 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; Notice of Request for Emergency Approval

In compliance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Department of Agriculture (USDA) has submitted a request to the Office of Management and Budget (OMB) for a six-month emergency approval of the following information collection: ICR 0575–NEW, American Rescue Plan Act, 2021 (ARPA)—7 CFR PART 3550, ''DIRECT SINGLE FAMILY HOUSING SECTIONS 502 and 504 LOAN PROGRAMS. The requested approval would enable the implementation of this program to begin to extend funds available to borrowers to refinancing loans with a lower interest rate and extended terms.

Rural Housing Service

Title: American Rescue Plan Act, 2021 (ARPA)—7 CFR PART 3550, ''DIRECT SINGLE FAMILY HOUSING SECTIONS 502 and 504 LOAN PROGRAMS.

OMB Control Number: 0575–NEW.

Summary of Collection: The Rural Housing Service is requesting emergency clearance approval for this information collection due to the need to effectively implement the program as quickly as possible to administer The American Rescue Plan's (ARPA) Act of 2021 (Pub. L. 117–2; H.R. 1319, section 3207) additional $39 million of Budget Authority (BA) for Single Family Housing (SFH) Section 502 and 504 Direct Loan Program borrowers. Funds remain available until September 30, 2023. The Agency's initial objective under the ARP Act is to refinance the existing 23,000 Section 502 direct and Section 504 borrowers who have been granted and received a COVID–19 payment moratorium. Refinancing these loans with a lower interest rate and extended terms will help provide needed relief to borrowers, so that mortgage payments are more affordable post-moratorium.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–18893 Filed 8–31–22; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Census Bureau

[Docket Number 220715–0157]

Request for Comment on Inflation Measures for Adjusting Historical Income

AGENCY: Census Bureau, Commerce.

ACTION: Notice of solicitation of comments.

SUMMARY: The Census Bureau is seeking comments on the use of alternative price indices to adjust dollar-denominated income values to reflect changes in the price level over time (inflation adjustment). Currently, historical estimates of income and earnings are inflation-adjusted using the Consumer Price Index for All Urban Consumers Research Series (R–CPI–U–RS) produced by the Bureau of Labor Statistics. The Census Bureau is considering adopting alternative chain-type price indices produced by the Bureau of Labor Statistics (BLS) and the Bureau of Economic Analysis (BEA) for the inflation adjustment in the future. Based on comments received, the Census Bureau will weigh the advantages and disadvantages of these alternative price indices in choosing the optimal index for inflation adjustment.

DATES: Comments must be submitted in writing. To ensure consideration of comments, they must be received by October 31, 2022. Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to send comments electronically (see **ADDRESSES**, below)

ADDRESSES: Comments may be addressed to: Matthew Unrath, Economist, Income Statistics Branch, Social, Economic and Housing Statistics Division, U.S. Census Bureau, 301–763–0863. Email comments may be sent to *sehsd.isb.inflation.comments@census.gov* with the subject ''Inflation Index.'' You may also submit comments, identified by Docket Number USBC–2022–0010, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

Electronic Availability: This notice is available on the internet at the Census Bureau's website at *https://www.census.gov/topics/income-poverty/income/guidance/alternative-inflation.html.* **Federal Register** notices are also available electronically at *https://www.federalregister.gov/.*

FOR FURTHER INFORMATION CONTACT: For further information about this request for comments, contact Matthew Unrath, Economist, Income Statistics Branch, Social, Economic and Housing Statistics Division, U.S. Census Bureau, 301–763–0863, or email *sehsd.isb.inflation.comments@census.gov* with the subject ''Inflation Index''.

SUPPLEMENTARY INFORMATION: The Census Bureau is seeking public comments on the strengths, weaknesses, and best practices for the application of chain-type price indices used for the inflation adjustment of historical income and earnings estimates. Currently, the Census Bureau uses the CPI–U Research Series (R–CPI–U–RS) produced by BLS for the inflation adjustment. The Census Bureau is considering the following alternative chain-type price indices: the Chained Consumer Price Index for All Urban Consumers (C–CPI–U) produced by BLS, and the Personal Consumption Expenditures Price Index (PCEPI) produced by BEA. More information about the potential change, the alternative chain-type price indices, and Census Bureau's research on this topic can be found at the Census Bureau's website: *https://www.census.gov/topics/income-poverty/income/guidance/alternative-inflation.html.*

Background

The Census Bureau has considered using a chained-type price index to inflation adjust its historical and earnings estimates for several years. The *Income and Poverty in the United States* reports from 2019 and 2020 both contain appendices documenting how applying alternative inflation indices would affect historical income and earnings estimates. These reports can be found on the Census website: Appendix C in the 2019 report (*https://www.census.gov/library/publications/2020/demo/p60-270.html*) and Appendix D in the 2020 report (*https://www.census.gov/library/publications/2021/demo/p60-273.html*). The *Income in the United States, 2021* report will also contain a similar appendix. Furthermore, Census Bureau is especially motivated to seek public comment on this change now due to a recent report issued by the Interagency Technical Working Group on Consumer Inflation Measures (ITWG). As discussed more below, the ITWG report included a set of principles to help guide federal agencies in their selection of the most appropriate inflation index for their specific purpose. Census Bureau's use of the two chained-type price indices would be consistent with the ITWG's guidance and framework.

Inflation Adjustment of Historical Income Statistics

Inflation is defined as a rise in the general level of prices (and deflation as a decline in the general level of prices). Adjusting income statistics for inflation better reflects changes in purchasing power over time. In its annual report, *Income in the United States,* the Census Bureau presents historical income and earnings statistics from the Current Population Survey's Annual Social and Economic Supplement (CPS ASEC) that are adjusted for inflation.

Current Method

The current method for the inflation adjustment that the Census Bureau uses in its annual income report relies on the Consumer Price Index Research Series (R–CPI–U–RS) produced by BLS. The R–CPI–U–RS presents an estimate of the CPI for all Urban Consumers (CPI–U) from 1978 to the present that incorporates the numerous improvements made over that time span into the entire series. For years 1967–1977, the Census Bureau uses inflation estimates from the CPI–U–X1 series, an experimental series that preceded the R–CPI–U–RS. For years before 1967, the Census Bureau uses a backwards projection, assuming the same ratio between the R–CPI–U–RS and CPI–U as there was in 1967.

Chain-Type Price Indices

Despite the improvements made to the CPI–U and incorporated into the R–CPI–U–RS, both of these measures have weights that are based on a base period of consumer expenditures that are a few years old, and therefore both measures risk overstating increases in the cost of living. Inflation measures that use weights contemporaneous to the months involved in the calculation better account for consumer substitution and are known as ''chained'' measures. Examples include the C–CPI–U produced by BLS and the PCEPI produced by BEA. Each are explained below.

The Chained Consumer Price Index for All Urban Consumers (C–CPI–U)

Like the CPI–U, the C–CPI–U is designed to measure price changes faced by urban consumers. BLS uses the same data on prices and spending patterns, as well as the same sample of U.S. residents, to construct the C–CPI–U and the CPI–U. The difference between the two indices is that the C–CPI–U is designed to more rapidly account for how consumers adjust spending when relative prices change. More information can be found at the BLS website: *www.bls.gov/cpi/additional-resources/chained-cpi-questions-and-answers.htm.* The C–CPI–U aggregates price changes using a formula and weights based on consumers' *current* expenditures, as opposed to the CPI–U which weights items based on expenditure shares from a specified base period. By weighting price changes according to consumers' current expenditures, the C–CPI–U better reflects changes in consumers' actual cost of living. Since expenditure data for the reference month are not immediately available from the Consumer Expenditure Survey, BLS releases preliminary estimates of the C–CPI–U which are revised later after the expenditure data are available. Final estimates of the C–CPI–U are typically produced 10 to 12 months after the initial publication of the preliminary estimates. The C–CPI–U was first published in 2002 and is available for years 2000 and later.

The Personal Consumption Expenditures Price Index (PCEPI)

The PCEPI tracks changes in the prices of a wide array of goods and services purchased by consumers and by nonprofit institutions that serve households. More information about the PCEPI can be found at the BEA website: *www.bea.gov/data/personal-consumption-expenditures-price-index.* To create the PCEPI, BEA uses data collected by BLS to construct the CPIs and Producer Price Indices (PPIs). The PCEPI differs from the C–CPI–U in weighting, formula, and scope. A summary of these differences can be found at the BEA website: *https://www.bea.gov/help/faq/555.* The PCEPI incorporates expenditure data from non-consumers and tracks spending patterns using the PPI. Like the C–CPI–U, the PCEPI accounts for substitution when relative prices change, although the PCEPI uses a different formula for aggregating price change. The PCEPI is available for years 1959 and later.

Alternative Price Index Series to the Census Bureau's Current Method

In 2019, the Office of Management and Budget convened the Interagency Technical Working Group on Consumer Inflation Measures (ITWG). In 2021, the ITWG issued a report to OMB, in which it outlined a list of principles related to the proper application of alternative price indices. The appendix to the report included an ''All purpose index decision-making flowchart'' as a tool for applying these principles. In the documentation accompanying that flowchart, the example chosen to demonstrate how this flowchart can be used was the Census Bureau decision about which index to use to adjust historical median nominal household income for inflation. Per this example, consistency with the ITWG principles would suggest the Census Bureau select the C–CPI–U for the periods for which that is available (2000 and forward) and select the PCEPI for periods for which the C–CPI–U is not available (prior to 2000). The ITWG published a **Federal Register** Notice in May 2019 requesting comments on, among other things, ''the strengths and weaknesses of the different indexes for making annual adjustments to the historical income figures produced by the Census Bureau.'' Only one comment, out of more than 57,000 comments received, addressed this issue. The ITWG's final report can be found on the BLS website: *https://www.bls.gov/evaluation/technical-recommendations-for-the-consumer-inflation-measure-best-suited-for-conducting-annual-adjustments-to-the-official-poverty-measure.pdf.*

The Census Bureau is considering two price index series as alternatives to the current method: (1) the C–CPI–U for years 2000 and later combined with the current method for years prior to 2000; (2) the C–CPI–U for years 2000 and later combined with the PCEPI for years prior to 2000. By relying solely on chained

indices, the latter series may best align with the ITWG's principles. The Census Bureau has provided a technical working paper that documents the implications of using these two alternative series for CPS ASEC historical estimates of median income and earnings. This technical working paper can be found on the Census Bureau's website: *https://www.census.gov/library/working-papers/2022/demo/SEHSD-wp2022-10.html.*

Request for Public Comment

The Census Bureau is seeking comment from the public on (1) for the period 2000 to the present, the strengths and weaknesses of using the C–CPI–U for inflation adjusting historical income and earnings estimates relative to the current method (2) in the event the C–CPI–U is selected for the period 2000 to the present, the strengths and weaknesses of using the PCEPI for periods prior to 2000 (for which the C–CPI–U is not available) 3) the strengths and weaknesses of using the current method for periods prior to 2000; (4) recommendations for the use of the preliminary C–CPI–U for the production of official income statistics, considering that it is subject to revision after initial release.

Robert L. Santos, Director, Census Bureau, approved the publication of this Notice in the **Federal Register**.

Dated: August 29, 2022.

Shannon Wink,

Program Analyst, Policy Coordination Office, U.S. Census Bureau.

[FR Doc. 2022–18938 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

National Advisory Committee

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice of public virtual meeting.

SUMMARY: The Census Bureau is giving notice of a virtual meeting of the National Advisory Committee (NAC). This special session will provide an opportunity for the NAC to submit additional recommendations related to the 2020 Demographic and Housing Characteristics File (DHC) prior to the October 2022 Data Stewardship Executive Policy Committee (DSEP) meeting where the final privacy-loss budget and parameter settings will be determined for the 2020 DHC. Additionally, the Census Bureau SMEs will present metrics from the Round II 2010 Demonstration Data Product and summarize what they tell us about data accuracy and change from previous demonstration products. There will also be a presentation on the simulated re-identification attack on the Round II 2010 Demonstration Data Product. Last-minute changes to the schedule are possible, which could prevent giving advance public notice of schedule adjustments.

DATES: The virtual meeting will be held on:

- Friday, September 23, 2022, from 1 p.m. to 5 p.m. ET.

ADDRESSES: Please visit the Census Advisory Committees website at *https://www.census.gov/about/cac/nac/meetings/2022-09-special-session.html* for the NAC meeting information, including the agenda, and how to join the meeting.

FOR FURTHER INFORMATION CONTACT: Shana Banks, Advisory Committee Branch Chief, Office of Program, Performance and Stakeholder Integration (PPSI), *shana.j.banks@census.gov,* Department of Commerce, U.S. Census Bureau, telephone 301–763–3815. For TTY callers, please use the Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The NAC provides technical expertise to address Census Bureau program needs and objectives. The members of the NAC are appointed by the Director of the Census Bureau. The NAC has been established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, appendix 2, section 10).

All meetings are open to the public. Public comments will be accepted via email and should be addressed to *shana.j.banks@census.gov,* (subject line ''NAC Differential Privacy Virtual Meeting Public Comment''). A brief period will be set aside during the meeting to read public comments received in advance of noon ET September 23, 2022. Any public comment received after the noon deadline will be added to the other public comments posted on the NAC website listed in the **ADDRESSES** section.

Robert L. Santos, Director, Census Bureau, approved the publication of this Notice in the **Federal Register**.

Dated: August 29, 2022.

Shannon Wink,

Program Analyst, Policy Coordination Office, U.S. Census Bureau.

[FR Doc. 2022–18943 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2130]

Approval of Subzone Status, Patheon API, Inc., Florence, South Carolina

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of subzones for specific uses;

Whereas, the South Carolina State Ports Authority, grantee of Foreign-Trade Zone 21, has made application to the Board for the establishment of a subzone at the facilities of Patheon API, Inc., located in Florence, South Carolina (FTZ Docket B–16–2022, docketed April 25, 2022);

Whereas, notice inviting public comment has been given in the **Federal Register** (87 FR 25443–25444, April 29, 2022) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiners' memorandum, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby approves subzone status at the facilities of Patheon API, Inc., located in Florence, South Carolina (Subzone 21J), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Dated: August 26, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance, Alternate Chairperson, Foreign-Trade Zones Board.

[FR Doc. 2022–18901 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2133]

Approval of Subzone Status; Petro Air Corporation, Carolina, Puerto Rico

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of subzones for specific uses;

Whereas, CODEZOL, C.D., grantee of Foreign-Trade Zone 163, has made application to the Board for the establishment of a subzone at the facility of Petro Air Corporation, located in Carolina, Puerto Rico (FTZ Docket B–23–2022, docketed May 31, 2022);

Whereas, notice inviting public comment has been given in the **Federal Register** (87 FR 34240–34241, June 6, 2022) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiners' memorandum, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby approves subzone status at the facility of Petro Air Corporation, located in Carolina, Puerto Rico (Subzone 163M), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including section 400.13.

Dated: August 26, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance, Alternate Chairperson, Foreign-Trade Zones Board.

[FR Doc. 2022–18903 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2131]

Approval of Subzone Status; González Trading, LLC, Toa Baja, Puerto Rico

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of subzones for specific uses;

Whereas, the Department of Economic Development and Commerce, grantee of Foreign-Trade Zone 61, has made application to the Board for the establishment of a subzone at the facility of González Trading, LLC, located in Toa Baja, Puerto Rico (FTZ Docket B–14–2022, docketed April 13, 2022);

Whereas, notice inviting public comment has been given in the **Federal Register** (87 FR 23165, April 19, 2022) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiners' memorandum, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby approves subzone status at the facility of González Trading, LLC, located in Toa Baja, Puerto Rico (Subzone 61AA), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including section 400.13.

Dated: August 25, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance, Alternate Chairperson, Foreign-Trade Zones Board.

[FR Doc. 2022–18902 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2132]

Approval of Subzone Status; DB Research Group, LLC, Caguas, Puerto Rico

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of subzones for specific uses;

Whereas, the Department of Economic Development and Commerce, grantee of Foreign-Trade Zone 61, has made application to the Board for the establishment of a subzone at the facility of DB Research Group, LLC, located in Caguas, Puerto Rico (FTZ Docket B–17–2022, docketed April 26, 2022);

Whereas, notice inviting public comment has been given in the **Federal Register** (87 FR 25617, May 2, 2022) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiners' memorandum, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby approves subzone status at the facility of DB Research Group, LLC, located in Caguas, Puerto Rico (Subzone 61AB), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including section 400.13.

Dated: August 26, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance, Alternate Chairperson, Foreign-Trade Zones Board.

[FR Doc. 2022–18904 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–18–2022]

Foreign-Trade Zone (FTZ) 22—Chicago, Illinois, Authorization of Production Activity, AbbVie, Inc. (Pharmaceutical Products), Chicago, Illinois

On April 29, 2022, AbbVie, Inc., submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 22S, in Chicago, Illinois.

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 27563, May 9, 2022). On August 29, 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: August 29, 2022.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2022–18900 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Nicolas Armando Quintana-Saenz, 4806 Calle Lilas, Colonia Granjas Cerro Grande, Chihuahua, 31000, Mexico; Order Denying Export Privileges

On June 2, 2020, in the U.S. District Court for the Western District of Texas, Nicolas Armando Quintana-Saenz (''Quintana-Saenz'') was convicted of violating 18 U.S.C. 554(a). Specifically, Quintana-Saenz was convicted of knowingly and unlawfully concealing, buying, or facilitating the transportation and concealment of any merchandise, article and object, prior to exportation, knowing the same to be intended for exportation from the United States, to wit: approximately 3,860 rounds of ammunition of various calibers, in violation of 18 U.S.C. 554. As a result of his conviction, the Court sentenced Quintana-Saenz to 46 months in prison, with credit for time served, three years of supervised release, and a $100 court assessment.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Quintana-Saenz's conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), BIS provided notice and opportunity for Quintana-Saenz to make a written submission to BIS. 15 CFR 766.25.[2] BIS has not received a written submission from Quintana-Saenz.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Quintana-Saenz's export privileges under the Regulations for a period of nine years from the date of Quintana-Saenz's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Quintana-Saenz had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until June 2, 2029, Nicolas Armando Quintana-Saenz, with a last known address of 4806 Calle Lilas,Colonia Granjas Cerro Grande, Chihuahua, 31000, Mexico, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Quintana-Saenz by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to recent amendments to the Regulations (85 FR 73411, November 18, 2020).

Fourth, in accordance with part 756 of the Regulations, Quintana-Saenz may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Quintana-Saenz and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until June 2, 2029.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2022–18891 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Michael Justin Huynh, 8529 Ardennes Way, Elk Grove, CA 95758; Order Denying Export Privileges

On September 3, 2019, in the U.S. District Court for the District of Arizona, Michael Justin Huynh (''Huynh'') was convicted of violating 18 U.S.C. 554(a). Specifically, Huynh was convicted of knowingly exporting and attempting to export from the United States to Mexico, sixteen (16) AK-type semiautomatic rifles and three (3) .50 caliber semiautomatic rifles, and received, concealed, bought, sold, and in any manner facilitated the transportation, concealment, and sale of such merchandise, in violation of 18 U.S.C. 554.

As a result of his conviction, the Court sentenced Huynh to 63 months in prison with credit for time served, three years of supervised release, and a $100 court assessment.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Huynh's conviction for violating 18 U.S.C. 554 and, as provided in section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), has provided notice and opportunity for Huynh to make a written submission to BIS. 15 CFR 766.25.[2] BIS has not received a submission from Huynh.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Huynh's export privileges under the Regulations for a period of 10 years from the date of Huynh's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Huynh had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until September 3, 2029, Michael Justin Huynh, with a last known address of 8529 Ardennes Way, Elk Grove, CA 95758, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession, or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed, or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed, or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

Third, pursuant to section 1760(e) of ECRA (50 U.S.C. 4819(e)) and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to the Denied Person by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, the Denied Person may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to the Denied Person and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until September 3, 2029.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2022–18892 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–DT–P

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 and, as amended, is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders, pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Hans De Geetere, Paul Parmentierlaan 121, 8300 Knokke Heist, Belgium and Nyckeesstraat 4, 8300 Knokke Heist, Belgium; Knokke-Heist Support Corporation Management a/k/a Hasa-Invest, Paul Parmentierlaan 121, 8300 Knokke Heist, Belgium and Nyckeesstraat 4, 8300 Knokke Heist, Belgium; Order Temporarily Denying Export Privileges

Pursuant to section 766.24 of the Export Administration Regulations (the ''Regulations'' or ''EAR''),[1] the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, through its Office of Export Enforcement (''OEE''), has requested the issuance of an Order temporarily denying, for a period of 180 days, the export privileges under the Regulations of: Hans De Geetere of Belgium (''De Geetere'') and his company Knokke-Heist Support Corporation Management, also known as Hasa-Invest (''Knokke-Heist'') (collectively ''Respondents'').

I. Legal Standard

Pursuant to section 766.24, BIS may issue an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations. 15 CFR 766.24(b)(1) and 766.24(d). ''A violation may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge ''is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' *Id.* A ''[l]ack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

II. OEE's Request for a Temporary Denial Order

As further detailed below, OEE's request and investigation are based, *inter alia,* upon facts indicating that De Geetere engaged in conduct prohibited by the Regulations by acquiring or attempting to acquire under false pretenses accelerometers, items subject to the Regulations, from the United States on behalf of prohibited end-users or for prohibited end-uses in China. The use of accelerometers by the aerospace and defense industries, and Respondents' false statements made to U.S. companies to obtain the items, raises significant concerns of future violations absent the issuance of a TDO.

A. Providing False End-User Information To Obtain U.S.-Origin Accelerometers

OEE's request and its broader investigation outline numerous attempts by Respondents to obtain U.S.-origin accelerometers from a U.S. vendor (''U.S. Company 1''). For instance, in or about April 2021, OEE detained a shipment of accelerometers being exported to a German company. OEE obtained sales documentation for this shipment from U.S. Company 1, including an end-user statement wherein Knokke-Heist asserted that the items were being purchased on behalf of a Belgian Government agency. Respondents provided U.S. Company 1 a letter in support of the end-user statement that was purportedly signed by the Belgian Government. In an attempt to get the accelerometers released, U.S. authorities were provided a BIS Form 711 dated April 15, 2021, and signed by ''De Geetere H,'' identified as the CEO of Knokke-Heist, asserting that the end-user was a Belgian Government agency.

OEE subsequently informed Respondents that they were unable to confirm the alleged Belgian Government end-user and planned to advise U.S. Company 1 not to proceed with the transaction. Despite this warning, OEE received an email purportedly written by Knokke-Heist's Belgian Government customer, copying De Geetere. The email states in relevant part:

> I can hereby confirm that the order the BV—KHSCM—with enclosed reference letter KN0212807–KN (Paul Parmentierlaan 121—8300 Knokke Heist) is about a project that is financed and purchased by our services. This concerns the current trial order 81 pieces of [U.S. Company No. 1 accelerometers] and an open order that still needs to be completed according to the needs of 20,000 pieces [U.S. Company No. 1 accelerometers] (Year 2021).
>
> We have included a support letter with the end user document to confirm the order. There is also a confirmation from the Ministry of Foreign Affairs. The document is drawn up in one of the three national languages of Belgium with which we officially communicate. I can only send you this letter in Flemish.

OEE was able to confirm this was a fraudulent email and that it did not come from the Belgian Government.

B. Respondent Prior Orders of Accelerometers and Entity List Connections

OEE's investigation later revealed that prior to the April 2021 detained shipment described above, De Geetere, via Knokke-Heist, had ordered approximately $360,000 worth of accelerometers via U.S. Company 1's German distributor starting in or about July 2020. Notably, these orders started shortly after a Chinese distributor for U.S. Company 1, Shanghai Nova Instruments Company, Ltd, was placed on the Entity List on June 5, 2020, for being ''involved in the procurement of items subject to the EAR for possible use in missile and unmanned aerial vehicle applications in China without the licenses required pursuant to §§ 744.3 and 744.21 of the EAR.'' [2]

OEE's on-going investigation obtained evidence suggesting that at least some of Respondents' orders were placed on behalf of China Aerospace Research Institute, an entity BIS has reason to believe is connected to or is an alias for the China Aerospace Science and Technology Corporation (''CASC'') 1st Academy 12 Research Institute, a party also on BIS' Entity List and the recipient of at least some earlier shipments from entity listed Shanghai Nova Instruments.[3] In or about November

[1] On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. app. 2401 *et seq.* (''EAA''), (except for three sections which are inapplicable here), section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (''IEEPA''), and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

[2] See 85 FR 34495 (June 5, 2020). Given the concerns that Chinese military end-users would continue to try and acquire U.S. Company 1's accelerometers, BIS issued US Company 1 an ''is-informed'' letter pursuant to section 744.21(b) of the Regulations imposing a license requirement for the export of accelerometers to China. An ''is-informed'' letter is specific notification provided by BIS ''that a license is required for specific exports, reexports, or transfers (in-country) of any item because there is an unacceptable risk of use in or diversion to a 'military end use' or 'military end user'' in certain destinations including China. 15 CFR 744.21.(b).

[3] On August 14, 2019, BIS modified the Entity List entry for Beijing Aerospace Automatic Control Institute (BICD), which was first added to the Entity List on May 28, 1999 (64 FR 28909). This rule changes the existing entity name to China

2020, shortly after an order for China Aerospace Research Institute was rejected by U.S. Company 1, Respondents attempted to obtain the same quantity and model of accelerometers from U.S. Company 1's German distributor.

C. Later Attempts To Acquire Accelerometers via Additional Countries and Distributors

OEE later became aware of two June 2021 shipments of accelerometers by U.S. Company 1 to a recently incorporated United Arab Emirates-based company (''UAE Company 1''). Given the size of the second shipment and UAE Company 1's recent incorporation, the second shipment was detained to verify its bona fides and conduct a post-shipment verification (''PSV'') of the first and smaller shipment of accelerometers to UAE Company 1. Among other things, the PSV determined UAE Company 1 did not possess the type of equipment that could utilize the accelerometers at issue and did not make available either the items or records confirming their ultimate destination. Additionally, the PSV found that a fictitious name was used by UAE Company 1 when dealing with U.S. Company 1.

Further investigation revealed that UAE Company 1 purchased the items on behalf of Knokke-Heist and had forwarded the first shipment to Respondents using an address in the Netherlands. Moreover, other evidence gathered indicates that De Geetere was assisting UAE Company 1 in responding to the detention and subsequent seizure of the second shipment by the U.S. Government. The investigation also uncovered facts that indicate that De Geetere led UAE Company 1 to believe that the items were for ultimate use by a Belgian Government entity; the same fraudulent scheme De Geetere and Knokke-Heist employed directly with U.S. Company 1 several months earlier.

Additional attempts by the Knokke-Heist to acquire the same model of accelerometers were made to several other European distributors of U.S. Company 1 along with a separate September 2021 attempt to acquire the items directly from a U.S. company located in Florida, which identified De Geetere as the buyer's point of contact. Most recently, Belgian authorities identified a mid-August 2022 shipment of accelerometers from the United States to the Respondents. Given the sheer number and nature of attempts by Respondents to acquire U.S.-origin items under false pretenses on behalf of prohibited end-users or for prohibited end-uses, conduct which OEE's investigation reveals has continued, renders a TDO necessary to prevent future violations.

III. Findings

I find that the evidence presented by BIS demonstrates a clear pattern of Respondents attempting to obtain items subject to the EAR by knowingly providing false information in an attempt to conceal the true identity of their customers for which BIS authorization otherwise would be required, and that a violation of the Regulations by the above-captioned parties is imminent in degree of likelihood. As such, a TDO is needed to give notice to persons and companies in the United States and abroad that they should cease dealing with De Geetere and Knokke-Heist in export or reexport transactions involving items subject to the EAR. Such a TDO is consistent with the public interest to preclude future violations of the Regulations given the serious national security concerns impacted by the misconduct and the clear disregard for complying with U.S. export control laws.

This Order is being issued on an *ex parte* basis without a hearing based upon BIS's showing of an imminent violation in accordance with section 766.24 of the Regulations.

It is therefore ordered:

First, that Hans De Geetere, with an addresses at Paul Parmentierlaan 121, 8300 Knokke Heist, Belgium, and Nyckeesstraat 4, 8300 Knokke Heist, Belgium; and Knokke-Heist Support Corporation Management, a/k/a Hasa-Invest, with an addresses at Paul Parmentierlaan 121, 8300 Knokke Heist, Belgium, and Nyckeesstraat 4, 8300 Knokke Heist, Belgium, and when acting for or on their behalf, any successors or assigns, agents, or employees (each a ''Denied Person'' and collectively the ''Denied Persons'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of a Denied Person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

Third, that, after notice and opportunity for response as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to De Geetere or Knokke-Heist, by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

In accordance with the provisions of section 766.24(e) of the EAR, De Geetere or Knokke-Heist, may, at any time, appeal this Order by filing a full written

Aerospace Science and Technology Corporation (CASC) 1st Academy 12 Research Institute. 84 FR 40237 (Aug. 14, 2019). Additionally, on June 3, 2021, the Office of Foreign Assets Control (OFAC) named CASC to its list of Non-SDN Chinese Military-Industrial Complex Companies (NS–CMIC List). *See https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20210603.*

statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. Respondents De Geetere or Knokke-Heist, may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on each denied person and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

Matthew S. Axelrod,

Assistant Secretary for Export Enforcement.

[FR Doc. 2022–18874 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Transportation and Related Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Transportation and Related Equipment Technical Advisory Committee will meet on September 21, 2022, at 11:30 a.m., eastern daylight time, via teleconference. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

Agenda

Public Session

1. Welcome and Introductions.
2. Status reports by working group chairs.
3. Public comments and Proposals.

Closed Session

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than September 14, 2022.

To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on August 18, 2022, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. (10)(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, contact Yvette Springer via email.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2022–18896 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Review

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

Background

Every five years, pursuant to the Tariff Act of 1930, as amended (the Act), the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission automatically initiate and conduct reviews to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for October 2022

Pursuant to section 751(c) of the Act, the following Sunset Reviews are scheduled for initiation in October 2022 and will appear in that month's *Notice of Initiation of Five-Year Sunset Reviews* (Sunset Review).

	Department contact
Antidumping Duty Proceedings	
Fresh Garlic from China, A–570–831 (5th Review)	Jacky Arrowsmith (202) 482–5255.
Stilbenic Optical Brightening Agents from China, A–570–972 (2nd Review)	Mary Kolberg (202) 482–1785.
Stilbenic Optical Brightening Agents from Taiwan, A–583–848 (2nd Review)	Mary Kolberg (202) 482–1785.
Large Diameter Carbon and Alloy Seamless, Standard, Line, and Pressure Pipe from Japan, A–588–850 (4th Review).	Mary Kolberg (202) 482–1785.
Small Diameter Carbon and Alloy Seamless, Standard, Line and Pressure Pipe from Japan, A–588–851 (4th Review).	Mary Kolberg (202) 482–1785.
Certain Small Diameter Carbon and Alloy Seamless, Standard, Line and Pressure Pipe from Romania, A–485–805 (4th Review).	Mary Kolberg (202) 482–1785.

Countervailing Duty Proceedings

No Sunset Review of Countervailing duty orders is scheduled for initiation in October 2022.

Suspended Investigations

No Sunset Review of suspended investigations is scheduled for initiation in October 2022.

Commerce's procedures for the conduct of Sunset Review are set forth in 19 CFR 351.218. The *Notice of Initiation of Five-Year* (*Sunset*) *Review* provides further information regarding what is required of all parties to participate in Sunset Review.

Pursuant to 19 CFR 351.103(c), Commerce will maintain and make

available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact Commerce in writing within 10 days of the publication of the Notice of Initiation.

Please note that if Commerce receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue.

Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation. Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information, until further notice.[1]

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 11, 2022.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–18921 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–DS–P

[1] *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

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (Commerce) conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below,

Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. Commerce invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, Commerce finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of a review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to a review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to: (a) identify which companies subject to review previously were collapsed; and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete a Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of a proceeding where Commerce considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[1] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

[1] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial Section D responses.

Opportunity To Request a Review: Not later than the last day of September 2022,[2] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in September for the following periods:

Antidumping Duty Proceedings	
BELARUS: Steel Concrete Reinforcing Bars A–822–804	9/1/21–8/31/22
BRAZIL:	
Cold-Rolled Steel Flat Products A–351–843	9/1/21–8/31/22
Emulsion Styrene-Butadiene Rubber A–351–849	9/1/21–8/31/22
INDIA:	
Cold-Rolled Steel Flat Products A–533–865	9/1/21–8/31/22
Lined Paper Products A–533–843	9/1/21–8/31/22
Oil Country Tubular Goods A–533–857	9/1/21–8/31/22
INDONESIA: Steel Concrete Reinforcing Bars A–560–811	9/1/21–8/31/22
JAPAN:	
Methionine A–588–879	3/4/21–8/31/22
Stainless Steel Wire Rod A–588–843	9/1/21–8/31/22
LATVIA: Stainless Concrete Reinforcing Bars A–449–804	9/1/21–8/31/22
MEXICO:	
Emulsion Styrene-Butadiene Rubber A–201–848	9/1/21–8/31/22
Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes A–201–847	9/1/21–8/31/22
Magnesia Carbon Bricks A–201–837	9/1/21–8/31/22
MOLDOVA: Steel Concrete Reinforcing Bars A–841–804	9/1/21–8/31/22
POLAND:	
Emulsion Styrene-Butadiene Rubber A–455–805	9/1/21–8/31/22
Steel Concrete Reinforcing Bars A–455–803	9/1/21–8/31/22
REPUBLIC OF KOREA:	
Certain Cold-Rolled Steel Flat Products A–580–881	9/1/21–8/31/22
Emulsion Styrene-Butadiene Rubber A–580–890	9/1/21–8/31/22
Heavy Walled Rectangular Welded Carbon Pipes and Tubes A–580–880	9/1/21–8/31/22
Certain Oil Country Tubular Goods A–580–870	9/1/21–8/31/22
Polyethylene Terephthalate (PET) Sheet A–580–903	9/1/21–8/31/22
Stainless Steel Wire Rod A–580–829	9/1/21–8/31/22
SOCIALIST REPUBLIC OF VIETNAM: Certain Oil Country Tubular Goods A–552–817	9/1/21–8/31/22
SULTANATE OF OMAN: Polyethylene Terephthalate (PET) Sheet A–523–813	9/1/21–8/31/22
TAIWAN:	
Forged Steel Fittings A–583–863	9/1/21–8/31/22
Narrow Woven Ribbons With Woven Selvedge A–583–844	9/1/21–8/31/22
Raw Flexible Magnets A–583–842	9/1/21–8/31/22
Stainless Steel Wire Rod A–583–828	9/1/21–8/31/22
THE PEOPLE'S REPUBLIC OF CHINA:	
Certain Steel Wheels 12 to 16.5 Inches in Diameter A–570–090	9/1/21–8/31/22
Foundry Coke A–570–862	9/1/21–8/31/22
Kitchen Appliance Shelving and Racks A–570–941	9/1/21–8/31/22
Lined Paper Products A–570–901	9/1/21–8/31/22
Certain Magnesia Carbon Bricks A–570–954	9/1/21–8/31/22
Narrow Woven Ribbons With Woven Selvedge A–570–952	9/1/21–8/31/22
Raw Flexible Magnets A–570–922	9/1/21–8/31/22
Steel Concrete Reinforcing Bars A–570–860	9/1/21–8/31/22
Steel Racks A–570–088	9/1/21–8/31/22
SPAIN: METHIONINE A–469–822	3/4/21–8/31/22
TURKEY:	
Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes A–489–824	9/1/21–8/31/22
Oil Country Tubular Goods A–489–816	9/1/21–8/31/22
UKRAINE: Steel Concrete Reinforcing Bars A–823–809	9/1/21–8/31/22
UNITED KINGDOM: Cold-Rolled Steel Flat Products A–412–824	9/1/21–8/31/22
Countervailing Duty Proceedings	
BRAZIL: Cold-Rolled Steel Flat Products C–351–844	1/1/21–12/31/21
INDIA:	
Cold-Rolled Steel Flat Products C–533–866	1/1/21–12/31/21
Lined Paper Products C–533–844	1/1/21–12/31/21
Oil Country Tubular Goods C–533–858	1/1/21–12/31/21
REPUBLIC OF KOREA: Cold-Rolled Steel Flat Products C–580–882	1/1/21–12/31/21
THE PEOPLE'S REPUBLIC OF CHINA:	
Certain Steel Wheels 12 to 16.5 Inches in Diameter C–570–091	1/1/21–12/31/21

[2] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when Commerce is closed.

Kitchen Appliance Shelving and Racks C–570–942	1/1/21–12/31/21
Certain Magnesia Carbon Bricks C–570–955	1/1/21–12/31/21
Narrow Woven Ribbons With Woven Selvedge C–570–953	1/1/21–12/31/21
Raw Flexible Magnets C–570–923	1/1/21–12/31/21
Steel Racks C–570–089	1/1/21–12/31/21
TURKEY:	
Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes C–489–825	1/1/21–12/31/21
Oil Country Tubular Goods C–489–817	1/1/21–12/31/21
Suspension Agreements	
Fresh Tomatoes A–201–820	9/1/21–8/31/22

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party Commerce was unable to locate in prior segments, Commerce will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), Commerce clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[3]

Commerce no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an antidumping duty administrative reviews.[4] Accordingly, the NME entity will not be under review unless Commerce specifically receives a request for, or self-initiates, a review of the NME entity.[5] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, Commerce will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity). Following initiation of an antidumping administrative review when there is no review requested of the NME entity, Commerce will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on Enforcement and Compliance's ACCESS website at *https://access.trade.gov.*[6] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[7]

Commerce will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of September 2022. If Commerce does not receive, by the last day of September 2022, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, Commerce will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

Establishment of and Updates to the Annual Inquiry Service List

On September 20, 2021, Commerce published the final rule titled ''*Regulations to Improve Administration*

[3] *See* the Enforcement and Compliance website at *https://www.trade.gov/us-antidumping-and-countervailing-duties.*

[4] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[5] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

[6] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[7] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 41363 (July 10, 2020).

and Enforcement of Antidumping and Countervailing Duty Laws'' in the **Federal Register**.[8] On September 27, 2021, Commerce also published the notice entitled ''*Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*'' in the **Federal Register**.[9] The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.[10]

In accordance with the *Procedural Guidance,* for orders published in the **Federal Register** before November 4, 2021, Commerce created an annual inquiry service list segment for each order and suspended investigation. Interested parties who wished to be added to the annual inquiry service list for an order submitted an entry of appearance to the annual inquiry service list segment for the order in ACCESS, and on November 4, 2021, Commerce finalized the initial annual inquiry service lists for each order and suspended investigation. Each annual inquiry service list has been saved as a public service list in ACCESS, under each case number, and under a specific segment type called ''AISL—Annual Inquiry Service List.'' [11]

As mentioned in the *Procedural Guidance,* beginning in January 2022, Commerce will update these annual inquiry service lists on an annual basis when the *Opportunity Notice* for the anniversary month of the order or suspended investigation is published in the **Federal Register**.[12] Accordingly, Commerce will update the annual inquiry service lists for the above-listed antidumping and countervailing duty proceedings. All interested parties wishing to appear on the updated annual inquiry service list must take one of the two following actions: (1) New interested parties who did not previously submit an entry of appearance must submit a new entry of appearance at this time; (2) Interested parties who were included in the preceding annual inquiry service list must submit an amended entry of appearance to be included in the next year's annual inquiry service list. For these interested parties, Commerce will change the entry of appearance status from ''Active'' to ''Needs Amendment'' for the annual inquiry service lists corresponding to the above-listed proceedings. This will allow those interested parties to make any necessary amendments and resubmit their entries of appearance. If no amendments need to be made, the interested party should indicate in the area on the ACCESS form requesting an explanation for the amendment that it is resubmitting its entry of appearance for inclusion in the annual inquiry service list for the following year. As mentioned in the *Final Rule,*[13] once the petitioners and foreign governments have submitted an entry of appearance for the first time, they will automatically be added to the updated annual inquiry service list each year.

Interested parties have 30 days after the date of this notice to submit new or amended entries of appearance. Commerce will then finalize the annual inquiry service lists five business days thereafter. For ease of administration, please note that Commerce requests that law firms with more than one attorney representing interested parties in a proceeding designate a lead attorney to be included on the annual inquiry service list.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website at *https://access.trade.gov.*

Special Instructions for Petitioners and Foreign Governments

In the *Final Rule,* Commerce stated that, ''after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.'' [14] Accordingly, as stated above and pursuant to 19 CFR 351.225(n)(3), the petitioners and foreign governments will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioners and foreign governments are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 19, 2022.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–18920 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–872]

Finished Carbon Steel Flanges From India: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order

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

SUMMARY: As a result of this expedited sunset review, the U.S. Department of Commerce (Commerce) finds that revocation of the countervailing duty order on finished carbon steel flanges from India would be likely to lead to continuation or recurrence of countervailable subsidies at the levels as indicated in the ''Final Results of Sunset Review'' section of this notice.

DATES: Applicable September 1, 2022.

FOR FURTHER INFORMATION CONTACT: James R. Hepburn and Preston Cox, 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) 482–1882 and (202) 482–5041, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 24, 2017, Commerce published the countervailing duty order

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[8] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 20, 2021) (*Final Rule*).

[9] *See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

[10] *Id.*

[11] This segment has been combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A–000–000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as ''AISL—January Anniversary.'' Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

[12] *See Procedural Guidance,* 86 FR at 53206.

[13] *See Final Rule,* 86 FR at 52335.

[14] *Id.*

on finished carbon steel flanges from India.[1] On May 2, 2022, Commerce published the notice of initiation of the first sunset review of the *Order,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] Commerce received a notice of intent to participate from Weldbend Corporation and Boltex Manufacturing Company, Inc. (collectively, domestic interested parties) within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] The domestic interested parties claimed interested party status within the meaning of section 771(9)(C) of the Act and 19 CFR 351.102(b)(29)(v) as domestic producers of finished carbon steel flanges in the United States.

On June 1, 2022, Commerce received an adequate substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[4] Commerce did not receive a substantive response from either the Government of India or a respondent interested party to this proceeding. On July 22, 2021, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.[5] As a result, Commerce conducted an expedited (120-day) sunset review of the *Order,* pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)(2) and (C)(2).

Scope of the Order

The products covered by the *Order* are finished carbon steel flanges. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.[6]

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of subsidization in the event of revocation of the *Order* and the countervailable subsidy rates likely to prevail if the *Order* were to be revoked, is provided in the Issues and Decision Memorandum. A list of the topics discussed in it in the Issues and Decision Memorandum is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Services System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(b) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to the continuation or recurrence of countervailable subsidies at the following rates:

Producer/exporter	Subsidy rate (percent *ad valorem*)
Norma (India) Ltd[7]	7.64
R.N. Gupta & Co., Ltd	9.40
All Others	7.49

Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results and this notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act, and 19 CFR 351.218.

Dated: August 25, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. History of the *Order*
V. Legal Framework
VI. Discussion of the Issues
  1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
  2. Net Countervailable Subsidy Rates Likely to Prevail
  3. Nature of the Subsidies
VII. Final Results of Sunset Review
VIII. Recommendation

[FR Doc. 2022–18917 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Finished Carbon Steel Flanges from India: Countervailing Duty Order,* 82 FR 40138 (August 24, 2017) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 87 FR 25617 (May 2, 2021).

[3] *See* Domestic Interested Parties' Letter, ''Finished Carbon Steel Flanges from India: Notice of Intent to Participate by Weldbend Corporation & Boltex Corporation,'' dated May 17, 2022.

[4] *See* Domestic Interested Parties' Letter, ''Finished Carbon Steel Flanges from India: Substantive Response of Domestic Interested Parties,'' dated June 1, 2022 (Substantive Response).

[5] *See* Commerce's Letter, ''Sunset Reviews Initiated on May 2, 2022,'' dated June 21, 2022.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Countervailing Duty Order of Finished Carbon Steel Flanges from India,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] In the investigation and three subsequent reviews, Commerce found Norma (India) Ltd. to be cross-owned with USK Exports Private Limited; Uma Shanker Khandelwal & Co.; and Bansidhar Chirnajilal. *See, e.g., Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination,* 82 FR 29479 (June 29, 2017) at 29480; and *Finished Carbon Steel Flanges from India: Final Results of Countervailing Duty Administrative Review; 2019,* 86 FR 67909 (November 30, 2021) at 67910.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–842]

Prestressed Concrete Steel Wire Strand From the Republic of Turkey: Preliminary Results of the Antidumping Duty Administrative Review; 2020–2022

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that the sole producer/exporter subject to this administrative review made sales of subject merchandise at less than fair value (LTFV) during the period of review (POR) September 30, 2020, through January 31, 2022. Interested parties are invited to comment on these preliminary results.

DATES: Applicable September 1, 2022.

FOR FURTHER INFORMATION CONTACT: Ajay Menon or Macey Mayes, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0208 or (202) 482–4473, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 12, 2022, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on prestressed concrete steel wire strand (PC strand)

from the Republic of Turkey (Turkey).[1] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[2]

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of topics included in the Preliminary Decision Memorandum is attached in the appendix 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 Order [3]

The products covered by the *Order* include prestressed concrete steel wire strand from Turkey. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). In reaching these preliminary results, Commerce relied on facts otherwise available, with the application of adverse inferences, in accordance with sections 776(a) and (b) of the Act. For further information, *see* ''Application of Facts Otherwise Available and Use of Adverse Inferences'' in the accompanying Preliminary Decision Memorandum.

Preliminary Results of Review

We preliminarily determine that the following estimated dumping margin exists for Celik Halat ve Tel Sanayi A.S. for the period September 30, 2020, through January 31, 2022:

Producer/exporter	Estimated dumping margin (percent)	Cash deposit rate adjusted for subsidy offset (percent) [4]
Celik Halat ve Tel Sanayi A.S	53.65	53.16

Public Comment

Interested parties may submit case briefs or other written comments to Commerce no later than 30 days after the date of publication of these preliminary results of review in the **Federal Register**.[5] Rebuttal comments, limited to issues raised in the case briefs, may be filed no later than seven days after the deadline for filing case briefs.[6] Parties who submit case briefs or rebuttal briefs in this proceeding 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.[7] Case and rebuttal briefs should be filed using ACCESS.[8] An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information.[9]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically via ACCESS within 30 days after the date of publication of this notice.[10] Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues addressed at the hearing will be limited to those raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.[11]

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, we intend to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their case briefs, with 120 days after the date of publication of this notice.[12]

Assessment Rates

Upon completion of the final results of this administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[13] We intend to instruct CBP to take into account the ''provisional measures deposit cap,'' in accordance with 19 CFR 351.212(d). The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[14]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 21619 (April 12, 2022).

[2] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2020–2022 Administrative Review of the Antidumping Duty Order on Prestressed Concrete Steel Wire Strand from the Republic of Turkey,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[3] *See Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, the Netherlands, Saudi Arabia, Taiwan, the Republic of Turkey, and the United Arab Emirates: Antidumping Duty Orders,* 86 FR 7703 (February 1, 2021) (*Order*).

[4] We subtracted 0.49 percent, the amount of export subsidies Commerce calculated in the most recently completed segment of the companion countervailing duty proceeding, from the dumping margin of 53.65 percent. *See Prestressed Concrete Steel Wire Strand from the Republic of Turkey: Notice of Court Decision Not in Harmony With the Final Determination of Countervailing Duty Investigation; Notice of Amended Final Determination,* 87 FR 34653 (June 7, 2022); *see also Prestressed Concrete Steel Wire Strand from the Republic of Turkey: Notice of Court Decision Not in Harmony With the Final Determination of Antidumping Investigation; Notice of Amended Final Determination,* 87 FR 34241 (June 6, 2022) (*Amended Final Determination*).

[5] *See* 19 CFR 351.309(c).

[6] *See* 19 CFR 351.309(d).

[7] *See* 19 CFR 351.309(c)(2) and (d)(2).

[8] *See* 19 CFR 351.303.

[9] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[10] *See* 19 CFR 351.310(c).

[11] *See* 19 CFR 351.310(d).

[12] *See* section 751(a)(3)(A) of the Act.

[13] *See* 19 CFR 351.212(b).

[14] *See* section 751(a)(2)(C) of the Act.

entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company listed above will be equal to the weighted-average dumping margin established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for companies not participating in this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the producer is, then the cash deposit rate will be the cash deposit rate established for the most recently completed segment for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 17.39 percent, the all-others rate established in the *Amended Final Determination,* adjusted for export subsidies.[15] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

Commerce is issuing and publishing these results in accordance with sections 751(a)(1) of the Act, and 19 CFR 351.213(d).

Dated: August 25, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Application of Facts Available and Use of Adverse Inference
V. Recommendation

[FR Doc. 2022–18916 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–DS–P

[15] *See Amended Final Determination,* 87 FR at 34241.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–880]

Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Korea: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2020–2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding this administrative review with respect to one company for which the request for review was timely withdrawn. Additionally, Commerce preliminarily determines that the sole producer/exporter that remains subject to this administrative review made sales of subject merchandise at less than normal value (NV) during the period of review (POR) September 1, 2020, through August 31, 2021. Interested parties are invited to comment on these preliminary results.

DATES: Applicable September 1, 2022.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4682.

SUPPLEMENTARY INFORMATION:

Background

On November 5, 2021, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review on heavy walled rectangular welded carbon steel pipes and tubes from the Republic of Korea (Korea).[1] We initiated this review with respect to two producers and exporters of the subject merchandise. However, on December 22, 2021, Dong-A-Steel Co., Ltd. and SeAH Steel Corporation (collectively, DOSCO/SeAH) withdrew its request for an administrative review.[2] Thus, we conducted a review with respect to the sole remaining company subject to the administrative review, HiSteel Co., Ltd, (HiSteel).

On May 11, 2022, Commerce extended the preliminary results of this review by 90 days, until August 31, 2021.[3] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[4]

Scope of the Order

The products covered by the order are certain heavy walled rectangular welded steel pipes and tubes from Korea. Products subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) item number 7306.61.1000. Subject merchandise may also be classified under 7306.61.3000. Although the HTSUS numbers and ASTM specification are provided for convenience and for customs purposes, the written product description remains dispositive.[5]

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix 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

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 61121 (November 5, 2021).

[2] *See* Letter, ''Withdrawal of Request for Administrative Review for DOSCO and SeAH Steel,'' dated December 220, 2021. In a prior administrative review, Commerce collapsed Dong-A Steel Co., Ltd. with its affiliated producer, SeAH Steel Corporation, and we continue to treat these companies as a single entity, in accordance with 19 CFR 351.401(f). *See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2018–2019,* 86 FR 35060, 35061 (July 1, 2021).

[3] *See* Memorandum, ''Extension of Deadline for Preliminary Results of the 5th Antidumping Duty Administrative Review,'' dated May 11, 2022.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2020–2021 Administrative Review of the Antidumping Duty Order on Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] For a complete description of the scope of the order, *see* Preliminary Decision Memorandum.

version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. On December 22, 2021, DOSCO/SeAH withdrew its request for an administrative review. No other party requested a review of this company. Accordingly, we are rescinding this review, in part, with respect to DOSCO/SeAH, pursuant to 19 CFR 351.213(d)(1).

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists for the period September 1, 2020, through August 31, 2021:

Producers/exporters	Weighted-average dumping margin (percent)
HiSteel Co., Ltd	2.80

Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days after the date of publication of this notice.[6] Case briefs or other written comments may be submitted to Commerce no later than 30 days after the date of publication of this notice.[7] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the deadline for filing case briefs.[8] Parties who submit case briefs or rebuttal briefs in this proceeding 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.[9] Case and rebuttal briefs should be filed using ACCESS.[10]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically via ACCESS within 30 days after the date of publication of this notice.[11] Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing.[12]

An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, unless otherwise extended.[13]

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries.[14] If the weighted average dumping margin for HiSteel is not zero or *de minimis* (*i.e.,* less than 0.5 percent), we will calculate importer-specific *ad valorem* antidumping duty assessment rates based on the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[15] If the weighted-average dumping margin for the respondent listed above is zero or *de minimis* in the final results, or an importer-specific assessment rate is zero or *de minimis* in the final results, we will instruct CBP not to assess antidumping duties on any of its entries, in accordance with the *Final Modification for Reviews*.[16] The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Commerce's ''automatic assessment'' will apply to entries of subject merchandise during the POR produced by HiSteel for which HiSteel did not know that the merchandise it sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[17]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

For DOSCO/SeAH, the company for which we are rescinding this administrative review, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period September 1, 2020, through August 31, 2021, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions directly to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the exporter listed above will be equal to the weighted-average dumping margin established in the final results of this review, except if the rate is less than 0.50 percent and therefore *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for companies not covered in this review, the cash deposit rate will continue to be the company-specific

[6] *See* 19 CFR 351.224(b).

[7] *See* 19 CFR 351.309(c).

[8] Commerce is exercising its discretion, under 19 CFR 351.309(d)(1), to alter the time limit for filing of rebuttal briefs.

[9] *See* 19 CFR 351.309(c)(2) and (d)(2).

[10] *See* 19 CFR 351.303.

[11] *See* 19 CFR 351.310(c).

[12] *See* 19 CFR 351.310(d).

[13] *See* section 751(a)(3)(A) of the Act.

[14] *See* 19 CFR 351.212(b).

[15] In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[16] *Id.* at 8102.

[17] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

cash deposit rate published for the most recently completed segment; (3) if the exporter is not a firm covered in this review, or a previous segment, but the producer is, then the cash deposit rate will be the cash deposit rate established for the most recently completed segment for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 3.24 percent, the all-others rate established in the less-than-fair-value investigation.[18] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 26, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Partial Rescission of Administrative Review
V. Discussion of the Methodology
VI. Recommendation

[FR Doc. 2022–18918 Filed 8–31–22; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (Sunset) Reviews

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

SUMMARY: In accordance with the Tariff Act of 1930, as amended (the Act), the U.S. Department of Commerce (Commerce) is automatically initiating the five-year reviews (Sunset Reviews) of the antidumping and countervailing duty (AD/CVD) order(s) and suspended investigation(s) listed below. The International Trade Commission (ITC) is publishing concurrently with this notice its notice of *Institution of Five-Year Reviews* which covers the same order(s) and suspended investigation(s).

DATES: Applicable September 1, 2022.

FOR FURTHER INFORMATION CONTACT: Commerce official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. For information from the ITC, contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

Commerce's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to Commerce's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with section 751(c) of the Act and 19 CFR 351.218(c), we are initiating the Sunset Reviews of the following AD and CVD order(s) and suspended investigation(s):

DOC Case No.	ITC Case No.	Country	Product	Commerce contact
A–570–826	731–TA–663	China	Paper Clips (5th Review)	Thomas Martin, (202) 482–3936.
A–427–602	731–TA–313	France	Brass Sheet & Strip (5th Review)	Mary Kolberg, (202) 482–1785.
A–428–602	731–TA–317	Germany	Brass Sheet & Strip (5th Review)	Mary Kolberg, (202) 482–1785.
A–475–601	731–TA–314	Italy	Brass Sheet & Strip (5th Review)	Mary Kolberg, (202) 482–1785.
A–588–704	731–TA–379	Japan	Brass Sheet & Strip (5th Review)	Mary Kolberg, (202) 482–1785.
A–588–845	731–TA–800	Japan	SS Sheet & Strip (4th Review)	Mary Kolberg, (202) 482–1785.
A–580–834	731–TA–801	South Korea	SS Sheet & Strip (4th Review)	Mary Kolberg, (202) 482–1785.
A–583–831	731–TA–803	Taiwan	SS Sheet & Strip (4th Review)	Mary Kolberg, (202) 482–1785.
A–520–804	731–TA–1185	UAE	Steel Nails (2nd Review)	Thomas Martin, (202) 482–3936.
C–580–835	701–TA–382	South Korea	SS Sheet & Strip (4th Review)	Mary Kolberg, (202) 482–1785.
A–821–802	731–TA–539–C	Russia	Uranium (5th Review)	Jacky Arrowsmith, (202) 482–5255.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Commerce's regulations, Commerce's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on Commerce's website at the following address: *https://enforcement.trade.gov/sunset/.* All submissions in these Sunset Reviews must be filed in accordance with Commerce's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), can be found at 19 CFR 351.303.

In accordance with section 782(b) of the Act, any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. Parties must use the certification formats provided in 19 CFR 351.303(g). Commerce intends to reject factual

[18] *See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Mexico, and the Republic of Turkey: Antidumping Duty Orders,* 81 FR 62865, 62866 (September 13, 2016).

submissions if the submitting party does not comply with applicable revised certification requirements.

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), Commerce will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation. Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (APO) to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. Commerce's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[1]

Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with Commerce's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, Commerce will automatically revoke the order without further review.[2]

If we receive an order-specific notice of intent to participate from a domestic interested party, Commerce's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that Commerce's information requirements are distinct from the ITC 's information requirements. Consult Commerce's regulations for information regarding Commerce's conduct of Sunset Reviews. Consult Commerce's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at Commerce.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: August 11, 2022.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–18925 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Temporary Rule Modifying AD/CVD Service Requirements Due to* COVID–19, 85 FR 41363 (July 10, 2020).

[2] *See* 19 CFR 351.218(d)(1)(iii).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–837]

Certain Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea: Final Results, and Rescission, in Part, of Countervailing Duty Administrative Review; 2020

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are not being provided to certain producers and exporters of certain cut-to-length carbon-quality steel plate from the Republic of Korea (Korea). The period of review (POR) is January 1, 2020, through December 31, 2020.

DATES: Applicable September 1, 2022.

FOR FURTHER INFORMATION CONTACT: David Lindgren, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1671.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* of this review on March 2, 2022 and, subsequently, on May 12, 2022, issued its post-preliminary analysis.[1] On June 8, 2022, Commerce extended the final results of review to August 26, 2022.[2] For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[3]

Scope of the Order[4]

The product covered by this order is certain cut-to-length carbon-quality steel plate. For a complete description of the scope of this order, *see* the Issues and Decision Memorandum.

Rescission of Administrative Review, In Part

Based on our analysis of U.S. Customs and Border Protection (CBP) data and comments received from interested parties, we determine that two companies, BDP International and Sung Jin Steel Co., Ltd had no reviewable shipments, sales, or entries of subject merchandise during the POR. Absent evidence of shipments on the record, we are rescinding the administrative review of these companies, pursuant to 19 CFR 351.213(d)(3). For further information, *see* ''Rescission of Administrative Review, in Part'' in the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in interested parties' briefs are addressed in the Issues and Decision Memorandum. A list of topics discussed in the Issues and Decision Memorandum is included as an appendix to this notice. The Issues and 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

[1] *See Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Preliminary Results and Preliminary Intent To Rescind, in Part, the Countervailing Duty Administrative Review; 2020,* 87 FR 11688 (March 2, 2022) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum; *see also* Memorandum, ''Countervailing Duty Administrative Review of Certain Cut-To Length Carbon-Quality Steel Plate from the Republic of Korea; 2020: Post-Preliminary Analysis Memorandum,'' dated May 12, 2022.

[2] *See* Memorandum, ''Extension of Deadline for Final Results,'' dated June 8, 2022.

[3] *See* Memorandum, ''Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review, 2020: Certain Cut-To-Length Carbon-Quality Steel Plate from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See Notice of Amended Final Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut-to-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea,* 65 FR 6587 (February 10, 2000) (*Order*).

registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Methodology

Commerce conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[5] For a description of the methodology underlying all of Commerce's conclusions, *see* the Issues and Decision Memorandum.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* and for the reasons explained in the Issues and Decision Memorandum, we made certain changes for these final results of review.

Companies Not Selected for Individual Review

To determine the rate for companies not selected for individual examination, Commerce's practice is to weight average the net countervailable subsidy rates for the selected mandatory companies, excluding rates that are zero, *de minimis,* or based entirely on facts available.[6] In this review, we calculated a *de minimis* net countervailable subsidy rate for the sole mandatory respondent Hyundai Steel Co., Ltd. (Hyundai Steel). In countervailing duty proceedings, where the number of respondents individually examined has been limited, Commerce has determined that a ''reasonable method'' to use to determine the rate applicable to companies not individually examined when all the rates of selected mandatory respondents are zero or *de minimis* is to assign to the non-selected respondents the average of the most recently determined rates that are not zero, *de minimis,* or based entirely on facts available.[7] However, as discussed in the Issues and Decisions Memorandum, where a non-selected respondent has a calculated rate in a prior segment of the proceeding, Commerce finds it appropriate to apply the most recently calculated rate for that respondent (even when that rate is zero or *de minimis*) unless Commerce determines that rate to be obsolete.[8]

In the 2018 administrative review of the *Order,* we calculated a net countervailable subsidy rate of 0.28 percent *ad valorem* (*de minimis*) for Dongkuk Steel Mill Co., Ltd. (DSM),[9] which was not individually examined in this review. Therefore, consistent with Commerce's practice, described above, we are assigning the rate of 0.28 percent *ad valorem* to DSM, based on the company's most recent calculated rate. *See* the Issues and Decisions Memorandum for a discussion of assigning this rate to DSM.

Final Results of Administrative Review

We determine that, for the period January 1, 2020, through December 31, 2020, the following net countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Hyundai Steel Co., Ltd.	0.25 (*de minimis*).
Dongkuk Steel Mill Co., Ltd.	0.28 (*de minimis*).

Disclosure

Commerce intends to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rate

In accordance with 19 CFR 351.212(b)(2), Commerce intends to issue assessment instructions to CBP to liquidate shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 2020, through December 31, 2020, for the above-listed companies (to which a *de minimis* rate is assigned) without regard to countervailing duties. For the companies for which this review is rescinded, we will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2020, through December 31, 2020, in accordance with 19 CFR 351.212(c)(l)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Rates

For the companies listed above for which the subsidy rates are *de minimis,* no cash deposit will be required of these companies on shipments of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate (*i.e.,* 3.26 percent)[10] applicable to the company, as appropriate. These cash deposits, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notice to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4) and 19 CFR 351.221(b)(5).

[5] *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.

[6] *See, e.g., Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review,* 75 FR 37386, 37387 (June 29, 2010).

[7] *See, e.g., Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2012 and Rescission of Countervailing Duty Administrative Review, in Part,* 79 FR 51140, 51141 (August 27, 2014); and *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012,* 79 FR 46770 (August 11, 2014), and accompanying Issues and Decision Memorandum, at ''Non-Selected Rate.''

[8] *Id.*

[9] *See Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; Calendar Year 2018,* 85 FR 84296 (December 28, 2020).

[10] *See Order,* 65 FR 6589.

Dated: August 26, 2022

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. List of Issues
III. Background
IV. Scope of the Order
V. Period of Review
VI. Rescission of Administrative Review, In Part
VII. Subsidies Valuation Information
VIII. Analysis of Programs
IX. Discussion of Comments
Comment 1: Whether the Korea Emissions Trading System is Countervailable
Comment 2: Whether the Preliminary Korea Emissions Trading System Benefit Calculation was Incorrect
Comment 3: Whether Provision of Port Usage Rights at the Port of Incheon is Countervailable
Comment 4: Whether Electricity is Subsidized by the Government of Korea
Comment 5: Whether Hyundai Steel and Hyundai Green Power are Cross-Owned
Comment 6: Whether the Reduction of Sewerage Usage Fees in Pohang Constitutes a Countervailable Subsidy
Comment 7: Selection of a Final Rate for Dongkuk Steel Mill Co., Ltd.
X. Recommendation

[FR Doc. 2022–18952 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Online Customer Relationship Management (CRM)/ Performance Databases

AGENCY: Minority Business Development Agency (MBDA), 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 October 31, 2022.

ADDRESSES: Interested persons are invited to submit written comments to Ms. Andrala Walker, Chief, Grants Management, Office of Business Development, Minority Business Development Agency, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230 (or via the internet at *awalker@doc.gov*). Please reference OMB Control Number 0640–0002 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 Ms. Andrala Walker, Chief, Grants Management, Office of Business Development, Minority Business Development Agency, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, (202) 482–5678, and email: *awalker@mbda.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

As part of its national service delivery system, MBDA awards cooperative agreements and grant awards through broad agency announcements each year to fund the provision of business development services to eligible minority business enterprises (MBEs). The recipient of each grant award is competitively selected to participate in one of the MBDA's programs. In accordance with the Government Performance and Results Act/ Modernization Act (GPRA/MA), and the Foundations for Evidence-based Policymaking Act of 2018 (Evidence Act), MBDA requires all grant participants to report basic client information, service activities and progress on attainment of program goals via the Online CRM/Performance Database. The data inputs into the Online CRM/Performance Database originate from client intake forms used by each participant to collect information about each minority business enterprise that receives technical business assistance from the servicing grant participants. This data provides the baseline from which the Online CRM/Performance Database is populated. The Online CRM/ Performance Database is used to regularly monitor and evaluate the progress of the MBDA programs, to provide the Department and OMB with a summary of the quantitative information required to be submitted about government supported programs, to implement the GPRA/MA, conduct program evaluation in support of the Evidence Act. This information is also summarized and included in the MBDA Annual Performance Report, which is made available to the public.

The MBDA grant programs continue to use the Online CRM/Performance Database. The client transaction and verification forms in use for the business center program are used to collect information about the effectiveness of other grant programs funded by the agency. The forms include a statement regarding MBDA's intended use and transfer of the information collected to other federal agencies for the purpose of conducting research and studies on minority businesses.

II. Method of Collection

Information will be collected manually and electronically.

III. Data

OMB Control Number: 0640–0002.

Form Number(s): None.

Type of Review: Regular submission. Revision of a currently approved collection.

Affected Public: Individuals or households; Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government; Federal government.

Estimated Number of Respondents: 6,035.

Estimated Time per Response: 1 minute to 150 minutes, varies depending on instrument.

Estimated Total Annual Burden Hours: 5,032.

Estimated Total Annual Cost to Public: 0.

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. 2022–18899 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC321]

Advisory Committee Open Session on Management Strategy Evaluation for Atlantic Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meeting.

SUMMARY: NMFS is holding a public meeting via webinar session for the Advisory Committee to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT) and all interested stakeholders to receive an update and provide input on the development of the management strategy evaluation (MSE) for Atlantic Bluefin tuna. NMFS staff will also provide an update on the Marine Recreational Information Program Atlantic HMS Regional Implementation Plan.

DATES: A virtual meeting that is open to the public will be held by webinar session on September 16, 2022, from 1 p.m. to 5 p.m. EDT.

ADDRESSES: Please register to attend the meeting at: *https://forms.gle/SvV5b9ijaBgTbe3R7.* Registration will close on September 14, 2022, at 5 p.m. EDT. Instructions for accessing the webinar session will be emailed to registered participants.

FOR FURTHER INFORMATION CONTACT: Bryan Keller, Office of International Affairs, Trade, and Commerce, (202) 897–9208 or at *Bryan.Keller@noaa.gov.*

SUPPLEMENTARY INFORMATION: MSE is a process that allows fishery managers and stakeholders (*e.g.,* industry, scientists, and non-governmental organizations) to assess how well different strategies achieve specified management objectives for a fishery. After several years of work, ICCAT expects to finalize its Bluefin tuna MSE in 2022 and anticipates adopting a management procedure in November 2022 to set Total Allowable Catch (TACs) for 2023 and future years for both the western Atlantic and the eastern Atlantic and Mediterranean stocks of Bluefin tuna. NMFS and the United States more broadly participate in this MSE development process and have been engaging stakeholders and considering their input throughout the process through various means, including consultation with the Advisory Committee to the U.S. Section to ICCAT. The United States also participates in the development of the Bluefin tuna MSE through active engagement by U.S. scientists in ICCAT's Standing Committee on Research and Statistics (SCRS).

The September 16 meeting is intended to update stakeholders and solicit their input on the MSE approach being developed by ICCAT. This includes SCRS progress in developing initial candidate management procedures (CMPs) illustrating potential management tradeoffs and the related process by ICCAT to refine management objectives to assist the SCRS in further refining and narrowing those CMPs. This open session Advisory Committee meeting is primarily informational in nature and is intended to increase the opportunity for stakeholder awareness and input on the Bluefin tuna MSE process. Discussions at the meeting will help inform U.S. scientists who are participating in the work of the SCRS, including the SCRS Species Group and Plenary meetings, scheduled for September 19–30, 2022.

In addition to MSE updates, NMFS staff will provide an update on the Marine Recreational Information Program Atlantic HMS Regional Implementation Plan for the IAC's and the public's information and background. There will be dedicated time for questions and discussion related to this plan.

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

Dated: August 26, 2022.

Alexa Cole,

Director, Office of International Affairs, Trade, and Commerce, National Marine Fisheries Service.

[FR Doc. 2022–18868 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC259]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Navy Construction at Portsmouth Naval Shipyard, Kittery, Maine

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take small numbers of marine mammals incidental to construction activities associated with the multifunctional expansion and modification of Dry Dock 1 at Portsmouth Naval Shipyard in Kittery, Maine over the course of 5 years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the Navy's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on the Navy's application and request.

DATES: Comments and information must be received no later than October 3, 2022.

ADDRESSES: Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.renytysonmoore@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all

attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/node/23111* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Reny Tyson Moore, Office of Protected Resources, NMFS, (301) 427–8401. An electronic copy of the Navy's application may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On May 9, 2022, NMFS received an application from the Navy requesting authorization for take of marine mammals incidental to construction activities related to the multifunctional expansion and modification of Dry Dock 1 at Portsmouth Naval Shipyard in Kittery, Maine. We provided comments on the application and the Navy submitted revised versions and responses to our comments on July 5, 2022, August 15, 2022, August 19, 2022, and August 25, 2022. We determined the application was adequate and complete on August 25, 2022. The requested regulations would be valid for 5 years, from April 1, 2023 through March 21, 2028. The Navy plans to conduct necessary work, including impact and vibratory pile driving, hydraulic rock hammering, rotary drilling, and mono and cluster down-the-hole drilling (DTH), to expand and modify Dry Dock 1. The proposed action may incidentally expose marine mammals occurring in the vicinity to elevated levels of underwater sound, thereby resulting in incidental take, by Level A and Level B harassment. Therefore, the Navy requests authorization to incidentally take marine mammals.

Specified Activities

Multifunctional Expansion of Dry Dock 1 (P–381) is one of three projects that support the overall expansion and modification of Dry Dock 1, located in the western extent of the Shipyard. The previous two projects, construction of a super flood basin (P–310) and extension of portal crane rail and utilities (P–1074) are currently under construction. In-water work associated with these projects was completed under separate IHAs issued by NMFS. The projects have been phased to support Navy mission schedules. P–381 will be constructed within the same footprint of the super flood basin over an approximated 7-year period, of which 5-years of in-water work would occur. An IHA was issued by NMFS for the first year of P–381 construction activities between April 1, 2022 and March 31, 2023 (87 FR 19866, April 6, 2022). This Letters or Authorization (LOA) request is for the remaining 4 years of P–381 in-water construction activities occurring from April 1, 2023 through March 31, 2028 as well as for additional in-water construction activities associated with the removal of emergency repair components of the super flood basin that will occur during the LOA period. Although the in-water construction described in this LOA application is anticipated to be completed by December 2026, the LOA application includes the full 5-year term through March 31, 2028 in the event of unanticipated schedule delays. Construction activities will include the excavation and/or installation of 1,118 holes, 180 shafts, and 520 sheet piles via impact and vibratory pile driving, hydraulic rock hammering, rotary drilling, and mono and cluster DTH. The construction activities are expected to require approximately 2,037 days over the 5-year period; however, overlapping activities are estimated to reduce the number of construction days to within 4 years. Harbor porpoises (*Phocoena phocoena*), harbor seals (*Phoca vitulina vitulina*), gray seals (*Halichoerus grypus*), hooded seals (*Crystphora cristata*), and harp seals (*Pagophilus groenlandicus*) have been observed in the proposed action area.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the Navy, if appropriate.

Dated: August 29, 2022.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–18877 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC287]

Western Pacific Fishery Management Council; Public Meetings; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of correction of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 145th Scientific and Statistical Committee (SSC), Pelagic and International Standing Committee, Fishery Rights of Indigenous People Standing Committee, Executive and Budget Standing Committee, and 192nd Council meetings to take actions on fishery management issues in the Western Pacific Region. This notice announces a closed session for the Executive and Budget Standing Committee meeting not included in the original notice and corrects the agendas for the 145th SSC meeting and the 192nd Council meeting.

DATES: The meetings will be held between September 13 and September 22, 2022. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The SSC and Standing Committee meetings will be held in a hybrid format with in-person and remote participation (Webex) options available for the Council and SSC members, and public attendance limited to web conference via Webex. For the SSC and Standing Committee meetings, in-person attendance for Council and advisory body members will be hosted at the Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI, 96813.

The 192nd Council Meeting will be held as a hybrid meeting for Council members and public. The in-person portion of the Council Meeting will be held at the Hilton Hawaiian Village, 2005 Kalia Road, Honolulu, HI, 96815. Remote participation option will be available via Webex.

Specific information on joining the meeting, connecting to the web conference and providing oral public comments will be posted on the Council website at *www.wpcouncil.org.* For assistance with the web conference connection, contact the Council office at (808) 522–8220.

Council address: Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; phone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The original notice published in the **Federal Register** on August 25, 2022 (87 FR 52366). The notice is being re-published in its entirety.

All times shown are in Hawaii Standard Time. The 145th SSC meeting will be held between 9 a.m. and 5 p.m. on September 13–15, 2022. The Pelagic and International Standing Committee meeting will be held between 8:30 a.m. and 11:30 a.m. on September 19, 2022. The Fishery Rights of Indigenous People Standing Committee meeting will be held between 12:30 p.m. and 2:30 p.m. on September 19, 2022. The Executive and Budget Standing Committee meeting will be held between 2:30 p.m. and 5:30 p.m. on September 19, 2022. The portion of the Executive and Budget Standing Committee from 5 p.m. to 5:30 p.m. will be closed to the public for a briefing on litigation in accordance with section 302(i)(3) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The 192nd Council meeting will be held between 9 a.m. and 5 p.m. on September 20–21, 2022, and between 9 a.m. and 1 p.m. on September 22, 2022.

Please note that the evolving public health situation regarding COVID–19 may affect the conduct of the September Council and its associated meetings. At the time this notice was submitted for publication, the Council anticipated convening the SSC and Standing Committee meetings as a hybrid format for members and by web conference for public attendance, and the Council meeting as an in-person meeting with a web conference attendance option. If public participation options will be modified, the Council will post notice on its website at *www.wpcouncil.org* by, to the extent practicable, 5 calendar days before each meeting.

Agenda items noted as ''Final Action'' refer to actions that may result in Council transmittal of a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under Sections 304 or 305 of the MSA. In addition to the agenda items listed here, the Council and its advisory bodies will hear recommendations from Council advisors. An opportunity to submit public comment will be provided throughout the agendas. The order in which agenda items are addressed may change and will be announced in advance at the Council meeting. The meetings will run as late as necessary to complete scheduled business.

Background documents for the 192nd Council meeting will be available at *www.wpcouncil.org.* Written public comments on final action items at the 192nd Council meeting should be received at the Council office by 5 p.m. HST, September 16, 2022, and should be sent to Kitty M. Simonds, Executive Director; Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813, phone: (808) 522–8220 or fax: (808) 522–8226; or email: *info@wpcouncil.org.* Written public comments on all other agenda items may be submitted for the record by email throughout the duration of the meeting. Instructions for providing oral public comments during the meeting will be posted on the Council website. This meeting will be recorded (audio only) for the purposes of generating the minutes of the meeting.

Agenda for the 145th SSC Meeting

Tuesday, September 13, 2022, 9 a.m. to 5 p.m.

1. Introductions
2. Approval of Draft Agenda and Assignment of Rapporteurs
3. Status of the 144th SSC Meeting Recommendations
4. Pacific Islands Fisheries Science Center Director Report
5. Protected Species
   - A. False Killer Whale Interaction and Depredation Analysis
   - B. Protected Species Interaction Estimation
   - C. Endangered Species Act (ESA) Section 7 Consultations
1. Status of the Hawaii Deep-set and American Samoa Longline Fishery Draft Biological Opinions
2. Final Bottomfish Fishery Biological Opinion
   - D. Public Comment
   - E. SSC Discussion and Recommendations
6. Island Fisheries
   - A. Development of Status Determination Criteria for the Hawaii Kona Crab Fishery
   - B. Report on Uku Essential Fish Habitat (EFH) Western Pacific Stock Assessment Review (WPSAR)
   - C. Report on Ecosystem-Based Fisheries Management Thresholds for Hawai'i Nearshore Fisheries
   - D. Improving the Collection of Hawaii Recreational Catch and Effort Data
   - E. Public Comment
   - F. SSC Discussion and Recommendations
7. Program Planning and Research
   - A. Alternatives for Fishing Regulations in the Northwestern Hawaiian Islands (NWHI) (Action Item)
   - B. Alternatives for an Aquaculture Management Framework in the Western Pacific (Action Item)
   - C. Status Update on Territorial Bottomfish Management Unit Species (BMUS) Revision
   - D. Report of the 7th National

Scientific Coordination Subcommittee Meeting
E. Preparations for the Ecosystem-based Fisheries Management Workshop
F. University of Hawaii Fisheries Program Development
G. Public Comment
J. SSC Discussion and Recommendations

Wednesday, September 14, 2022, 9 a.m. to 5 p.m.

8. Pelagic and International Fisheries

A. Longline Fishery Reports

1. Hawaii Longline Fishery Report
2. American Samoa Longline Fishery Report
3. American Samoa Large Vessel Prohibited Area (LVPA) Performance Review
B. Longline Gear Modifications and Impacts on Catch of Target and Non-Target Species
C. Pacific Islands Ocean Observing System (PacIOOS)
1. Updates to PacIOOS Scientific Products and Voyager Data Portal
2. Pacific Islands Region Acoustic Telemetry Network
D. International Fisheries
1. United Nations (UN) Ocean Conference
2. International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean 2022 (ISC22) Working Groups and Plenary
3. Western and Central Pacific Fisheries Commission (WCPFC) 18th Science Committee
4. Recommendations to the Permanent Advisory Committee (PAC)
E. South Pacific Albacore Fishery Forecasting
F. Proposal to Expand the Pacific Remote Islands Marine National Monument
G. Public Comment
H. SSC Discussion and Recommendations

Thursday, September 15, 2022, 9 a.m. to 5 p.m.

9. Other Business
A. Inter-American Tropical Tuna Commission (IATTC) Representative to SSC
B. December SSC Meetings Dates
10. Summary of SSC Recommendations to the Council

Agenda for the Pelagic and International Standing Committee

Monday, September 19, 2022, 8:30 a.m. to 11:30 a.m.

1. Status and Review of the Hawaii Deep-set and American Samoa Longline Fishery Biological Opinions
2. Opportunities for Fishery Development for U.S. Pacific Territories
3. U.S. Commitments through South Pacific Tuna Treaty
4. Outcomes of Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction (BBNJ) Fifth Session
5. Issues Leading into U.S. PAC to WCPFC
6. Advisory Group Report and Recommendations
7. Other Business
8. Public Comment
9. Discussion and Recommendations

Agenda for the Fishery Rights of Indigenous People Standing Committee

Monday, September 19, 2022, 12:30 p.m. to 2:30 p.m.

1. Alternatives for Fishing Regulations in the NWHI
2. Alternatives for an Aquaculture Management Framework in the Western Pacific
3. Equity and Environmental Justice
4. Fisheries Development Plan in the Territories
5. Marine Conservation Plans
A. Guam (2023–26)
B. Commonwealth of the Northern Mariana Islands (CNMI) (2023–26)
C. Pacific Remote Island Areas (PRIA)/Sustainable Fisheries Fund (2023–26)
6. Advisory Group Report and Recommendations
7. Other Business
8. Public Comment
9. Discussion and Recommendations

Agenda for the Executive and Budget Standing Committee

Monday, September 19, 2022, 2:30 p.m. to 5:30 p.m. (5 p.m. to 5:30 p.m. Closed)

1. Financial Reports
2. Administrative Reports
3. Council Program Plan Update
4. Council Family Changes
5. Meetings and Workshops
6. Other Issues
7. Public Comment
8. Discussion and Recommendations
9. Briefing on Litigation (Closed Session—pursuant to MSA section 302(i)(3)

Agenda for the 192nd Council Meeting

Tuesday, September 20, 2022, 9 a.m. to 5 p.m.

1. Welcome and Introductions
2. Opening Remarks
3. Oath of Office—New Council Members
4. Approval of the 192nd CM Agenda
5. Approval of the 191st CM Meeting Minutes
6. Executive Director's Report
7. Agency Reports
A. NMFS
1. NMFS Headquarters
2. Pacific Islands Regional Office
3. Pacific Islands Fisheries Science Center
B. NOAA Office of General Counsel Pacific Islands Section
C. Enforcement
1. U.S. Coast Guard
2. NOAA Office of Law Enforcement
3. NOAA Office of General Counsel Enforcement Section
D. U.S. State Department
E. U.S. Fish and Wildlife Service
F. Public Comment
G. Council Discussion and Action
8. Protected Species
A. ESA Section 7 Consultations
1. Status of the Hawaii Deep-Set and American Samoa Longline Fishery Draft Biological Opinions
2. Final Bottomfish Fishery Biological Opinion
B. False Killer Whales Interaction and Depredation Analysis
C. ESA and Marine Mammal Protection Act Updates
D. Advisory Group Report and Recommendations
1. Advisory Panel
2. Fishing Industry Advisory Committee
3. Non-Commercial Fishing Advisory Committee
4. Scientific & Statistical Committee
5. Pelagic and International Standing Committee
E. Public Comment
F. Council Discussion and Action
9. Hawai'i Archipelago & Pacific Remote Island Areas (PRIA)
A. Moku Pepa
B. Department of Land and Natural Resources/Division of Aquatic Resources Report (Legislation, Enforcement)
C. Alternatives for Fisheries Management Measures in the NWHI (Initial Action)
D. Development of Status Determination Criteria for the Hawaii Kona Crab Fishery
E. Report on Uku EFH WPSAR
F. Update on Green Turtle Management
G. Proposal to Expand the Pacific Remote Islands Marine National Monument
H. Advisory Group Report and Recommendations
1. Advisory Panel
2. Fishing Industry Advisory Committee
3. Non-Commercial Fishing Advisory Committee
4. Scientific & Statistical Committee
5. Fishing Rights of Indigenous Peoples Standing Committee
I. Public Comment

J. Council Discussion and Action

Wednesday, September 21, 2022, 9 a.m. to 5 p.m.

10. Program Planning and Research
A. National Legislative Report
1. Inflation Reduction Act of 2022
2. American Fisheries Advisory Committee Nominations
B. Alternatives for an Aquaculture Management Framework in the Western Pacific (Final Action)
C. Status Update on Territorial BMUS Revision
D. Update on the National Saltwater Recreational Fishing Policy
E. Improving the Collection of Hawaii Recreational Catch and Effort Data
F. Report of the 7th National Scientific Coordination Subcommittee Meeting
G. Preparations for the Ecosystem-based Fisheries Management Workshop
H. Regional Communications & Outreach Report
I. Advisory Group Report and Recommendations
1. Advisory Panel
2. Fishing Industry Advisory Committee
3. Non-Commercial Fishing Advisory Committee
4. Scientific & Statistical Committee
5. Fishing Rights of Indigenous Peoples Standing Committee
J. Public Comment
K. Council Discussion and Action
11. Pelagic & International Fisheries
A. PacIOOS Updates
B. Hawaii Longline Semi-Annual Report
C. American Samoa Longline Semi-Annual Report
D. American Samoa LVPA Performance Review
E. International Fisheries Issues
1. Increasing Influence of China in Pacific Islands
2. UN Ocean Conference and BBNJ
3. ISC22 Working Groups and Plenary
4. WCPFC 18th Science Committee
5. U.S. PAC to WCPFC
F. Advisory Group Report and Recommendations
1. Advisory Panel
2. Fishing Industry Advisory Committee
3. Non-Commercial Fishing Advisory Committee
4. Scientific & Statistical Committee
5. Pelagic and International Standing Committee
G. Public Comment
H. Council Discussion and Action
12. American Samoa Archipelago
A. Motu Lipoti
B. Department of Marine and Wildlife Resources Report
C. Advisory Group Report and Recommendations
1. Advisory Panel
2. Fishing Industry Advisory Committee
3. Scientific & Statistical Committee
4. Fishing Rights of Indigenous Peoples Standing Committee
D. Public Comment
E. Council Discussion and Action

Wednesday, September 21, 2022, 4:30 p.m. to 5 p.m.

Public Comment on Non-Agenda Items

Thursday, September 22, 2022, 9 a.m. to 1 p.m.

13. Mariana Archipelago
A. Commonwealth of the Northern Mariana Islands
1. Arongol Falú
2. Department of Land and Natural Resources/Division of Fish and Wildlife Report
B. Guam
1. Department of Agriculture/Division of Aquatic and Wildlife Resources Report
2. Isla Informe
C. Advisory Group Report and Recommendations
1. Advisory Panel
2. Fishing Industry Advisory Committee
3. Non-Commercial Fishing Advisory Committee
4. Scientific & Statistical Committee
5. Fishing Rights of Indigenous Peoples Standing Committee
D. Public Comment
E. Council Discussion and Action
14. Administrative Matters
A. Financial Reports
B. Administrative Reports
C. Council Program Planning Update
D. Council Family Changes
1. Advisory Panel Solicitation Review
E. Meetings and Workshops
F. Standing Committee Reports
1. Fishing Rights of Indigenous Peoples Standing Committee
2. Executive and Budget Standing Committee
G. Public Comment
H. Council Discussion and Action
15. Other Business

Non-emergency issues not contained in this agenda may come before the Council for discussion and formal Council action during its 192nd meeting. However, Council action on regulatory issues will be restricted to those issues specifically listed in this document and any regulatory issue arising after publication of this document that requires emergency action under section 305(c) of the MSA, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 29, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–18919 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC327]

East Coast Fishery Management Councils; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meetings.

SUMMARY: Several fishery management bodies on the East Coast of the U.S. are convening three webinar meetings of fishery management representatives to continue work on the East Coast Climate Change Scenario Planning initiative. This is a joint effort of the Atlantic States Marine Fisheries Commission, the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, and NOAA Fisheries. See **SUPPLEMENTARY INFORMATION** for agenda details.

DATES: These webinars will be held on Monday, September 19, 2022, from 1 p.m. to 3:30 p.m., on Tuesday, September 20, 2022, from 1 p.m. to 3:30 p.m., and on Monday, October 3, 2022, from 10 a.m. to 12:30 p.m.

ADDRESSES: The meetings will be held via webinar. Connection information will be posted to the calendar prior to the meeting at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION:

Background: Over the past year, East Coast fishery management bodies have been collaborating on a climate change scenario planning initiative designed to prepare fishing communities and fishery managers for an era of climate change. The goals of this project are to assess how climate change might affect stock

distribution and availability of East Coast marine fisheries over the next 20 years and to identify the implications for fishery management and governance.

In June 2022, a group of about 70 stakeholders attended a workshop to develop an initial set of scenarios, describing several different possible futures facing East Coast fisheries out to 2042. These scenarios are currently being refined and finalized with feedback received from a set of ''scenario deepening'' webinars. The next step in this process is to hold a series of virtual meetings of small groups of fishery management representatives from participating organizations. The purpose of these webinars is for these groups to brainstorm issues, ideas, and options that should be discussed at scenario planning conversations at meetings of the East Coast Fishery Management Councils and the Atlantic States Marine Fisheries Commission in late 2022, and subsequently at a Summit Meeting in early 2023. These upcoming small group manager conversations will be focused around applications of the scenarios, discussing which aspects of governance and management may need to change, and how, given the possible conditions described in the scenarios.

These meetings will be open to the public and public comment may be taken at designated times during the webinars. The final scenarios to be discussed, as well as additional information about potential applications, will be made available at: *https://www.mafmc.org/climate-change-scenario-planning.*

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 29, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–18924 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2022–0026]

Submission of Comments Regarding the Patent Subject Matter Eligibility Guidance

AGENCY: Patent and Trademark Office, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is seeking public feedback on its existing patent subject matter eligibility guidance. The existing guidance, put in place in 2019, has contributed to more consistent examination. But there is more work to be done to impart clarity and certainty into patent eligibility. In addition to working with Congress on potential changes to the law and looking for opportunities in the courts, the USPTO is updating its guidance and has been seeking public input on the same. Given the overwhelming interest in the guidance, the USPTO will now accept feedback via the Federal eRulemaking Portal until October 15, 2022.

DATES: Comments on the USPTO's patent subject matter eligibility guidance must be received by October 15, 2022, to ensure consideration.

ADDRESSES: For reasons of government efficiency, comments on the USPTO's patent subject matter eligibility guidance must be submitted through the Federal eRulemaking Portal at *www.regulations.gov.* To submit comments via the portal, enter docket number PTO–P–2022–0026 on the homepage and click ''Search.'' The site will provide a search results page listing all documents associated with this docket. Find a reference to this document and click on the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments. Attachments to electronic comments will be accepted in Adobe® portable document format or Microsoft Word® format. Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address, a phone number, or other personally identifiable information (PII), should not be included in the comments.

Visit the Federal eRulemaking Portal for additional instructions on providing comments via the portal. If electronic submission of comments is not feasible due to a lack of access to a computer and/or the internet, please contact the USPTO using the contact information below (at **FOR FURTHER INFORMATION CONTACT**) for special instructions. Comments already submitted to the USPTO mailbox designated in the blog should be resubmitted through the Federal eRulemaking Portal at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patents, at 571–272–7728.

SUPPLEMENTARY INFORMATION: On July 25, 2022, the USPTO published a blog titled ''Providing clear guidance on patent subject matter eligibility'' at *www.uspto.gov/blog/director/entry/providing-clear-guidance-on-patent.* As noted in the blog, the 2019 revisions to the USPTO's eligibility guidance resulted in a 25% decrease in the likelihood of *Alice*-affected technologies receiving a first office action with a rejection for patent ineligible subject matter. See *Alice Corp. Pty. Ltd.* v. *CLS Bank Int'l,* 573 U.S. 208 (2014). Uncertainty about determinations of patent subject matter eligibility for the relevant technologies also decreased by a remarkable 44% as compared to the previous year. Despite this progress to achieve more consistent examination under section 101, there is more work to be done. As part of its multi-pronged approach to imparting more clarity and certainty into patent eligibility, in addition to working with Congress and looking for opportunities in the courts, the USPTO is revising its subject matter eligibility guidance.

In the July 25 blog post, the USPTO initially encouraged the public to email thoughts or comments on the guidance specified in Manual of Patent Examining Procedure 2106 to a uspto.gov mailbox by September 15, 2022. However, given the overwhelming interest in this subject matter, the USPTO is extending the deadline, and the public may now submit feedback until the new deadline of October 15, 2022. In addition, comments may now be submitted through the Federal eRulemaking Portal at *www.regulations.gov.* Comments are no longer being received at the *uspto.gov* mailbox, though any previously-submitted comments through the mailbox will be given equal consideration. Please see the information provided earlier in this notice (at **ADDRESSES**) for instructions on submitting feedback via the portal. This new method of submitting feedback will facilitate making comments publicly

accessible through the Federal eRulemaking Portal.

Katherine K. Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2022–18895 Filed 8–31–22; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committee—Board of Visitors, National Defense University

AGENCY: Department of Defense (DoD).

ACTION: Renewal of federal advisory committee.

SUMMARY: The DoD is publishing this notice to announce that it is renewing the Board of Visitors, National Defense University (BoV NDU).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, DoD Advisory Committee Management Officer, 703–692–5952.

SUPPLEMENTARY INFORMATION: The BoV NDU is being renewed in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. appendix) and 41 CFR 102–3.50(d). The charter and contact information for the BoV NDU's Designated Federal Officer (DFO) are found at *https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation.*

The BOV NDU provides the Secretary of Defense and Deputy Secretary of Defense (''the DoD Appointing Authority''), or the Chairman of the Joint Chiefs of Staff (CJCS) with independent advice and recommendations on matters pertaining to the National Defense University specifically on matters pertaining to educate joint warfighters and other national security leaders in critical thinking and the creative application of military power to inform national strategy and globally integrated operations, under conditions of disruptive change, in order to prevail in war, peace, and competition. The BOV NDU is composed of no more than 12 members. Individual members are appointed according to DoD policy and procedures, and serve a term of service of one-to-four years with annual renewals. One member will be appointed as Chair of the BoV NDU. No member, unless approved according to DoD policy and procedures, may serve more than two consecutive terms of service on the BoV NDU, or serve on more than two DoD Federal advisory committees at one time.

BoV NDU members who are not full-time or permanent part-time Federal civilian officers or employees, or active duty members of the Uniformed Services, are appointed as experts or consultants, pursuant to 5 U.S.C. 3109, to serve as special government employee members. BoV NDU members who are full-time or permanent part-time Federal civilian officers or employees, or active duty members of the Uniformed Services are appointed pursuant to 41 CFR 102–3.130(a), to serve as regular government employee members.

All BoV NDU members are appointed to provide advice based on their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official BoV NDU-related travel and per diem, members serve without compensation.

The public or interested organizations may submit written statements about the BoV NDU's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the BoV NDU. All written statements shall be submitted to the DFO for the BoV NDU, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: August 29, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2022–18942 Filed 8–31–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Reserve Forces Policy Board (RFPB) will take place.

DATES: The RFPB will hold an open meeting to the public Wednesday, September 28, 2022 from 8:30 a.m. to 4:15 p.m.

ADDRESSES: The RFPB meeting address is the Army Navy Country Club, 1700 Army Navy Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Alexander Sabol, (703) 681–0577 (Voice), 703–681–0002 (Facsimile), *Alexander.J.Sabol.Civ@Mail.Mil* (Email). Mailing address is Reserve Forces Policy Board, 5109 Leesburg Pike, Suite 501, Falls Church, VA 22041. Website: *http://rfpb.defense.gov/.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to obtain, review and evaluate information related to strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the Reserve Components.

Agenda: The RFPB will hold an open meeting to the public Wednesday, September 28, 2022 from 8:30 a.m. to 4:15 p.m. The meeting will focus on discussions with: the Deputy Assistant Secretary of Defense for Reserve Integration who will address current Reserve Component programs, challenges, and readiness issues within Reserve Integration and the Total Force Integration; the Total Force Integration Subcommittee Chair who will address Total Force Policy as it pertains to the current Reserve Component programs, challenges, and readiness issues; the Chief National Guard Bureau, the Reserve Component Chiefs, and Senior Enlisted Leaders who will discuss perspectives on the Reserve Components' priorities and related connectivity with the lines of efforts from the National Defense Strategy followed by a Question & Answer discussion; the Deputy Assistant Secretary for Military Personnel Policy who will provide an update on the Reserve Component Recruiting & Retention data; the RFPB Subcommittee chairs of the Subcommittee for Integration of Total Force Personnel Policy, the Subcommittee for the Reserve Components' Role in Homeland Defense and Support to Civil Authorities, and the Subcommittee for Total Force Integration Chairs who will conduct discussions on the subcommittees' priorities and focus areas received from the meeting's discussions and other areas where the Board can use its role to best provide recommended support to the taskings of the Secretary of Defense and the

Sponsor, USD P&R; the Board's deliberation and vote on Terms of Reference for key issues & RFPB priorities; and the Chairman's closing remarks.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, the meeting is open to the public from 8:30 a.m. to 4:15 p.m. Seating is based on a first-come, first-served basis. All members of the public who wish to attend the public meeting must contact Mr. Alex Sabol, the Designated Federal Officer, not later than 12:00 p.m. on Monday, September 26, 2022, as listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the FACA, interested persons may submit written statements to the RFPB at any time about its approved agenda or at any time on the Board's mission. Written statements should be submitted to the RFPB's Designated Federal Officer at the address or facsimile number listed in the **FOR FURTHER INFORMATION CONTACT** section. If statements pertain to a specific topic being discussed at the planned meeting, then these statements must be submitted no later than five (5) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the RFPB until its next meeting. The Designated Federal Officer will review all timely submitted written statements and provide copies to all the committee members before the meeting that is the subject of this notice. Please note that since the RFPB operates under the provisions of the FACA, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the RFPB's website.

Dated: August 29, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–18953 Filed 8–31–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, Department of Defense (DoD).

ACTION: Notice of partially closed meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the U.S. Naval Academy Board of Visitors, hereafter ''Board,'' will take place.

DATES: Open to the public, September 19, 2022, from 9 a.m. to 11 a.m. Closed to the public, September 19, 2022, from 11 a.m. to noon (12 p.m.).

ADDRESSES: This meeting will be held at the House Members' Room, Library of Congress, Washington, DC. Pending prevailing health directives, the meeting will be handicap accessible. Escort is required.

FOR FURTHER INFORMATION CONTACT: Major Alexandra Fitzgerald, USMC, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, 410–293–1503, *afitzger@usna.edu,* or visit *https://www.usna.edu/PAO/Superintendent/bov.php.*

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C. appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), the General Services Administration's (GSA) Federal Advisory Committee Management Final Rule (41 CFR part 102–3).

Purpose of Meeting: The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the Board deems necessary, into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy.

Agenda: Proposed meeting agenda for September 19, 2022.

0830–0900 Members Assemble
0900 Call to Order (Open to Public)
0900–1055 Business Session (Open to Public)
1055–1100 Break (Open to Public)
1100–1200 Executive Session (Closed to Public)

Current details on the board of visitors may be found at *https://www.usna.edu/PAO/Superintendent/bov.php.*

The executive session of the meeting from 11:00 a.m. to 12:00 p.m. on September 19, 2022, will consist of discussions of new and pending administrative or minor disciplinary infractions and non-judicial punishments involving midshipmen attending the Naval Academy to include but not limited to, individual honor or conduct violations within the Brigade, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For this reason, the executive session of this meeting will be closed to the public, as the discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. Accordingly, the Secretary of the Navy, in consultation with the Department of the Navy General Counsel, has determined in writing that the meeting shall be partially closed to the public because the discussions during the executive session from 11 a.m. to noon (12 p.m.) will be concerned with matters protected under sections 552b(c) (5), (6), and (7) of title 5, United States Code.

Authority: 5 U.S.C. 552b.

Meeting Accessibility: Pursuant to FACA and 41 CFR 102–3.140, this meeting is open to the public. Any public attendance at the meeting will be governed by prevailing health directives at the Library of Congress. Please contact the Executive Secretary ten business days prior the meeting to coordinate access to the meeting.

Written Statements: Per Section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration at any time, but should be received by the Designated Federal Officer at least 15 business days prior to the meeting date so that the comments may be made available to the Board for their consideration prior to the meeting. Written statements should be submitted via mail to 121 Blake Rd, Annapolis MD 21402. Please note that since the Board operates under the provisions of the FACA, as amended, all submitted comments and public presentations may be treated as public documents and may be made available for public inspection, including, but not limited to, being posted on the board website. In the event that prevailing medical/public health directives require a virtual meeting, the meeting will be virtually broadcasted live from the United States Naval Academy. The broadcast will be close captioned for the duration of the public portion of the meeting. If, and only if, prevailing/public health directives require a virtual meeting, the link to view the meeting will be posted at *https://www.usna.edu/PAO/Superintendent/bov.php* forty-eight hours prior to the meeting. A virtual event will preclude accommodation of the public to attend the meeting in person.

Dated: August 29, 2022.

J.M. Pike,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2022–18888 Filed 8–31–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF EDUCATION

Applications for New Awards; Project Prevent; Correction

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice; correction.

SUMMARY: On August 19, 2022, the Department of Education (Department) published in the **Federal Register** a notice inviting applications (NIA) for the fiscal year 2022 Project Prevent competition, Assistance Listing Number 84.184M. This notice corrects the maximum award amount for a single budget period from $600,000 to $800,000. All other information in the NIA remains the same.

DATES: These corrections are applicable September 1, 2022.

FOR FURTHER INFORMATION CONTACT: Nicole White. Telephone: (202) 453–6732. Email: *Project.Prevent@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION: On August 19, 2022, we published the NIA in the **Federal Register** (87 FR 51072). We are correcting the August 19, 2022, NIA by changing the Maximum Award from $600,000 to $800,000, to align it with the maximum amount in the Estimated Range of Awards.

Corrections

In FR Doc. No. 2022–17932, published in the **Federal Register** on August 19, 2022 (87 FR 51072), we make the following correction:

On Page 51075, in the third column, under the heading *II. Award Information,* revise the text after ''Maximum Award:'' to read as follows:

''We will not make an award exceeding $800,000 for a single budget period of 12 months.''

Program Authority: 20 U.S.C. 7281.

Accessible Format: On request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this notice, the NIA, and a copy of the application 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.

James F. Lane,

Senior Advisor, Office of the Secretary, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2022–18872 Filed 8–31–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

DOE/NSF Nuclear Science Advisory Committee

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open virtual meeting of the DOE/NSF Nuclear Science Advisory Committee (NSAC). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, September 28, 2022; 3 p.m. to 5 p.m. EDT

ADDRESSES: Information to participate virtually can be found on the NSAC website closer to the meeting at: *https://science.osti.gov/np/nsac/meetings.*

FOR FURTHER INFORMATION CONTACT: Brenda L. May, Committee Manager, NSAC, email: *brenda.may@science.doe.gov; telephone (*301) 903–0536.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to provide advice and guidance on a continuing basis to the Department of Energy and the National Science Foundation on scientific priorities within the field of basic nuclear science research.

Tentative Agenda:

- Call to Order, Introductions, Review of the Agenda
- Update from the Department of Energy and National Science Foundation's Nuclear Physics Offices
- Presentation of the Interim Report of the Nuclear Data Charge
- Discussion of the Nuclear Data Interim Report
- Long Range Plan Update & Discussion
- NSAC Business/Discussions
- Public Comment

Public Participation: The meeting is open to the public. Please check the website below for updates and information on how to view the meeting. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Brenda L. May at *Brenda.May@science.doe.gov.* You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for review on the U.S. Department of Energy's Office of Nuclear Physics website at *https://science.osti.gov/np/nsac/meetings.*

Signed in Washington, DC, on August 26, 2022.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2022–18881 Filed 8–31–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–92–000]

Venture Global Calcasieu Pass, LLC; Notice of Schedule for the Preparation of an Environmental Assessment for the Venture Global Plaquemines LNG Uprate Amendment Project

On March 11, 2022, Venture Global Plaquemines LNG, LLC (Plaquemines LNG) filed an application in Docket No. CP22–92–000 requesting an amendment to its Section 3 of the Natural Gas Act authorization granted by the

Commission on September 30, 2019 in Docket No. CP17–66–000. The proposed amendment is known as the Venture Global Plaquemines LNG Uprate Amendment Project (Project). Plaquemines LNG's proposed Project would increase the authorized peak liquefaction capacity of the Plaquemines LNG Export Terminal from 24.0 million metric tons per annum (MTPA) to 27.2 MTPA of liquified natural gas (LNG)—or from approximately 1,240 billion cubic feet to 1,405 billion cubic feet per year (gas equivalence).

On March 25, 2022, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's environmental document for the Project.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the Project and the planned schedule for the completion of the environmental review.[1]

Schedule for Environmental Review

Issuance of EA January 6, 2023

90-Day Federal Authorization Decision Deadline[2] April 6, 2023

This schedule is dependent upon the applicant providing complete responses to information requested by staff in the timeframe identified in staff's environmental information requests. If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Plaquemines LNG proposes to increase the Export Terminal's authorized peak liquefaction capacity achievable under optimal conditions from 24.0 MTPA to 27.2 MTPA of LNG. According to Plaquemines LNG, this proposed increase in the peak liquefaction capacity reflects refinements in the conditions and assumptions concerning the maximum potential operations. The requested increase does not involve the construction of any new facilities nor any modification of the previously authorized facilities. There would be no land disturbance required for the Project.

Background

On May 11, 2022, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Venture Global Plaquemines LNG Uprate Amendment Project.* The Notice of Scoping was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. Comments were filed by the Choctaw Nation of Oklahoma, Louisiana Bucket Brigade, the Deep South Center for Environmental Justice, and Sierra Club, stating concerns with air quality impacts, climate change, environmental justice, and economic impacts. All substantive comments received will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

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, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP22–92), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: August 26, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–18947 Filed 8–31–22; 8:45 am]

BILLING CODE 6717–01–P

[1] 40 CFR 1501.10 (2020).

[2] The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC22–16–000]

Commission Information Collection Activities (FERC–542); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collections, FERC–542 (Gas Pipeline Rates: Rate Tracking). The Commission published a 60-day notice in the **Federal Register** on June 15, 2022, and received no comments.

DATES: Comments on the collection of information are due October 3, 2022.

ADDRESSES: Send written comments on FERC 542 to OMB through *www.reginfo.gov/public/do/PRAMain,* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Number 1902–0070 (Gas Pipeline Rates: Rate Tracking) in the subject line. Your comments should be sent within 30 days of publication of this notice in the **Federal Register**.

Please submit copies of your comments (identified by Docket No. IC22–16–000 and the form) to the Commission as noted below. Electronic filing through *https://www.ferc.gov,* is preferred.

- Electronic Filing: Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.
  - ○ Mail via U.S. Postal Service only, addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
  - ○ Hand (including courier) delivery to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Please reference the specific collection number(s) and/or title(s) in your comments.

Instructions: OMB submissions must be formatted and filed in accordance

with submission guidelines at: *www.reginfo.gov/public/do/PRAMain.* Using the search function under the ''Currently Under Review field,'' select Federal Energy Regulatory Commission; click ''submit'' and select ''comment'' to the right of the subject collection. FERC submissions must be formatted and filed in accordance with submission guidelines at: *https://www.ferc.gov.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov* and telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–542 (Gas Pipeline Rates: Rate Tracking).

OMB Control No.: 1902–0070.

Type of Request: Three-year extension of the FERC–542 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission uses FERC–542 filings to verify that costs which are passed through to pipeline customers as rate adjustments are consistent with the Natural Gas Policy Act (NGPA), 15 U.S.C. 3301–3432, and sections 4 and 5 of the Natural Gas Act (NGA), 15 U.S.C. 717c and 717d. These statutory provisions require FERC to regulate the transmission and sale of natural gas for resale in interstate commerce at just and reasonable rates. This collection of information is also in accordance with section 16 of the NGA, 15 U.S.C. 717*o,* which authorizes FERC to implement the NGA through its rules and regulations.

The regulations at 18 CFR part 154 include provisions that allow an interstate natural gas pipeline to submit filings seeking to:

- Recover research, development and demonstration expenditures (18 CFR 154.401);
- Recover annual charges assessed by the Commission under 18 CFR part 382 (18 CFR 154.402); and
- Pass through, on a periodic basis, a single cost or revenue item such as fuel use and unaccounted-for natural gas in kind (18 CFR 154.403).

FERC–542 filings may be submitted at any time or on a regularly scheduled basis in accordance with the pipeline company's tariff. Filings may be: (1) accepted or rejected; (2) suspended and set for hearing; (3) minimal suspension; or (4) suspended for further review, such as technical conference or some other type of Commission action. The Commission implements these filing requirements under 18 CFR part 154.

Type of Respondents: Jurisdictional Natural Gas Pipelines.

Estimate of Annual Burden: [1] The Commission estimates the total burden and cost for this information collection as follows:

FERC 542—GAS PIPELINE RATES: RATE TRACKING

Type of response	Annual number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours & cost per respondent (4) [2]	Total annual burden hours & total annual cost (rounded) (3) * (4) = (5)	Cost per respondent (rounded) (5) ÷ (1)
Request to Recover Costs from Customers	94	2	188	2 hrs; $174	376 hrs; $32,712.	$174

[2] The Commission staff estimates that the industry's hourly cost for wages plus benefits is similar to the Commission's $87.00 FY 2021 average hourly cost for wages and benefits.

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: August 26, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–18946 Filed 8–31–22; 8:45 am]

BILLING CODE 6717–01–P

[1] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TX22–6–000]

Nighthawk Energy Storage, LLC; Notice of Filing

Take notice that on July 1, 2022, pursuant to section 211 of the Federal Power Act,[1] and Section 9.3.3 of the San Diego Gas & Electric Company (SDG&E) Transmission Owner Tariff (SDG&E TO Tariff), Nighthawk Energy Storage, LLC filed an application requesting that the Federal Energy Regulatory Commission (Commission) issue an order requiring SDG&E to provide interconnection and transmission service for the proposed Nighthawk battery energy storage facility under the terms and conditions of the Transmission Control Agreement between SDG&E and the California Independent System Operator Corporation (CAISO), the SDG&E TO Tariff, CAISO's Fifth Replacement FERC Electric Tariff,[2] and the Large Generator Interconnection Agreement among Nighthawk Energy Storage, LLC, SDG&E, and CAISO, dated July 15, 2021, as they may be in effect from time to time.

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

[1] 16 U.S.C. 824j (2018).

[2] Capitalized terms that are not otherwise defined herein have the meanings set forth in the CAISO Tariff.

protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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://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 ''eFiling'' link at *http://www.ferc.gov.* 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.

Comment Date: 5:00 p.m. Eastern Time on September 16, 2022.

Dated: August 26, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–18950 Filed 8–31–22; 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 Instituting Proceedings

Docket Numbers: RP22–1148–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Morg Stanley to UGI 8972268 eff 8–25–22 to be effective 10/1/2022.
Filed Date: 8/25/22.
Accession Number: 20220825–5091.
Comment Date: 5 p.m. ET 9/6/22.

Docket Numbers: RP22–1149–000.
Applicants: Southern LNG Company, L.L.C.
Description: § 4(d) Rate Filing: Prepayment to be effective 9/26/2022.
Filed Date: 8/26/22.
Accession Number: 20220826–5012.
Comment Date: 5 p.m. ET 9/7/22.

Docket Numbers: RP22–1151–000.
Applicants: Carolina Gas Transmission, LLC.
Description: Compliance filing: CGT—2022 Penalty Revenue Crediting Report to be effective N/A.
Filed Date: 8/26/22.
Accession Number: 20220826–5045.
Comment Date: 5 p.m. ET 9/7/22.

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: August 26, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–18948 Filed 8–31–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: ER22–2725–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to WMPA, SA No. 5875; Queue No. AE2–129 (amend) to be effective 12/3/2020.
Filed Date: 8/26/22.
Accession Number: 20220826–5037.
Comment Date: 5 p.m. ET 9/16/22.

Docket Numbers: ER22–2726–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX-Electric Transmission Texas Interconnection Agreement to be effective 7/29/2022.
Filed Date: 8/26/22.
Accession Number: 20220826–5052.
Comment Date: 5 p.m. ET 9/16/22.

Docket Numbers: ER22–2727–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 5995; Queue No. AD2–160/AE2–253 to be effective 3/3/2021.
Filed Date: 8/26/22.
Accession Number: 20220826–5069.
Comment Date: 5 p.m. ET 9/16/22.

Docket Numbers: ER22–2728–000.
Applicants: Viridian Energy Ohio LLC.
Description: § 205(d) Rate Filing: Notice of Succession to be effective 8/27/2022.
Filed Date: 8/26/22.
Accession Number: 20220826–5072.
Comment Date: 5 p.m. ET 9/16/22.

Docket Numbers: ER22–2729–000.
Applicants: Public Service Company of Colorado.
Description: § 205(d) Rate Filing: 2022–08–26 CORE–TIA–391 to be effective 10/26/2022.
Filed Date: 8/26/22.
Accession Number: 20220826–5090.
Comment Date: 5 p.m. ET 9/16/22.

Docket Numbers: ER22–2730–000.
Applicants: California Independent System Operator Corporation.
Description: Petition for Approval of Disposition of Penalty Assessment Proceeds and non-Refundable Interconnection Financial Security of the California Independent System Operator Corporation.
Filed Date: 8/24/22.
Accession Number: 20220824–5178.
Comment Date: 5 p.m. ET 9/14/22.

Docket Numbers: ER22–2731–000.
Applicants: The Narragansett Electric Company.
Description: Tariff Amendment: Notice of Cancellation of Amended IA with Pawtucket Generating Company LLC to be effective 10/26/2022.
Filed Date: 8/26/22.
Accession Number: 20220826–5106.
Comment Date: 5 p.m. ET 9/16/22.

Docket Numbers: ER22–2732–000.
Applicants: The Narragansett Electric Company.

Description: § 205(d) Rate Filing: Decommissioning Cost Reimbursement Agreement with Pawtucket to be effective 7/26/2022.

Filed Date: 8/26/22.

Accession Number: 20220826–5143.

Comment Date: 5 p.m. ET 9/16/22.

Docket Numbers: ER22–2733–000.

Applicants: Black Mesa Interconnection, LLC.

Description: Baseline eTariff Filing: Amended and Restated Shared Facilities Agreement to be effective 10/26/2022.

Filed Date: 8/26/22.

Accession Number: 20220826–5146.

Comment Date: 5 p.m. ET 9/16/22.

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: August 26, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–18949 Filed 8–31–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[P–14803–001]

Klamath River Renewal Corporation; PacifiCorp; Notice of Availability of the Final Environmental Impact Statement for the Surrender, Decommissioning, and Removal of the Lower Klamath Hydroelectric Project

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for surrender of license and removal of project works for the Lower Klamath Hydroelectric Project No. 14803 and has prepared a final environmental impact statement (EIS).[1] The project is located on the Klamath River in Klamath County, Oregon, and in Siskiyou County, California. The project occupies approximately 400 acres of federal lands. These federal lands are administered by the U.S. Department of the Interior, Bureau of Land Management (BLM).

The final EIS contains staff evaluations of the applicant's proposal and the alternatives for surrender of the Lower Klamath Project. The final EIS documents the views of governmental agencies, non-governmental organizations, affected Indian Tribes, the public, the applicants, and Commission staff.

In this notice, we acknowledge the number of pages in this final EIS exceeds the final EIS page limits set forth in CEQ's Final Rule for proposals of unusual scope or complexity. Noting the scope and complexity of this proposal, the Director of the Office of Energy Projects, as our senior agency official, has authorized this page limit exceedance for the final EIS.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons with an opportunity to view and/or print the final EIS 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), in a Presidential proclamation issued on March 13, 2020. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

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 that 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: August 26, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–18945 Filed 8–31–22; 8:45 am]

BILLING CODE 6717–01–P

[1] On April 20, 2022, the Council on Environmental Quality (CEQ) issued a final rule, National Environmental Policy Act Implementing Regulations Revisions (Final Rule, 87 FR 23453), which was effective as of May 20, 2022. Accordingly, Commission staff prepared this EIS in accordance with CEQ's new regulations.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10175–01–OW]

Notice of Public Meeting Webinar of the Environmental Financial Advisory Board (EFAB)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting webinar.

SUMMARY: The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold a public meeting webinar. The purpose of the webinar will be for the Opportunity Zones and Pollution Prevention Workgroups to present their draft deliverables to EFAB and solicit feedback on the drafts. The meeting will be shared in real-time via webinar and public comments may be provided in writing in advance.

DATES: The webinar will be held on Tuesday, September 20, 2022 from 1 p.m. to 2:30 p.m. (Eastern Time).

ADDRESSES: The meeting will be conducted via webinar only and is open to the public. Interested persons must register in advance at the weblink below to access the meeting.

FOR FURTHER INFORMATION CONTACT: Ed Chu, the Designated Federal Officer, via telephone/voice mail at (913) 551–7333 or email to *efab@epa.gov.* General information concerning the EFAB is available at *https://www.epa.gov/waterfinancecenter/efab.*

SUPPLEMENTARY INFORMATION:

Background: The EFAB is an EPA advisory committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2, to provide advice and recommendations to EPA on innovative approaches to funding environmental programs, projects, and

activities. Administrative support for the EFAB is provided by the Water Infrastructure and Resiliency Finance Center within EPA's Office of Water. Pursuant to FACA and EPA policy, notice is hereby given that the EFAB will hold a public webinar briefing. The purpose of the webinar will be for members of the EFAB to hear from the Opportunity Zones and Pollution Prevention Workgroups on the draft deliverable products and provide initial feedback on the drafts. The final Opportunity Zones and Pollution Prevention Workgroups deliverables will be voted on by EFAB during a future public meeting. The webinar is open to the public, but no oral public comments will be accepted during the briefing. Written public comments relating to the workgroups should be provided in accordance with the instructions below on written statements.

Registration for the Meeting: Register for the meeting at *https://epaefabworkgroupswebinar.eventbrite.com.*

Availability of Meeting Materials: Meeting materials (including the meeting agenda and briefing materials) will be available on EPA's website at *https://www.epa.gov/waterfinancecenter/efab.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees provide independent advice to EPA. Members of the public can submit comments on matters being considered by the EFAB for consideration by members as they develop their advice and recommendations to EPA.

Written Statements: Written statements for the webinar should be received by September 15, 2022, so that the information can be made available to the EFAB for its consideration. Written statements should be sent via email to *efab@epa.gov.* Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the EFAB website. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities or to request accommodations for a disability, please register for the webinar and list any special requirements or accommodations needed on the registration form at least 10 business days prior to the meeting to allow as much time as possible to process your request.

Andrew D. Sawyers,

Director, Office of Wastewater Management.

[FR Doc. 2022–18890 Filed 8–31–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0944 and OMB 3060–1163; FR ID 102655]

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

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act 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 October 31, 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 Number: 3060–0944.

Title: Cable Landing License Act—47 CFR 1.767; 1.768; Executive Order 10530.

Form Number: Submarine Cable Landing License Application.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 58 respondents; 99 responses.

Estimated Time per Response: 0.50 hour to 17 hours.

Frequency of Response: On occasion reporting requirement, Quarterly reporting requirement, Recordkeeping requirement and third-party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in the Submarine Cable Landing License Act of 1921, 47 U.S.C. 34–39, Executive Order 10530, section 5(a), and the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 155, 303(r), 309, 403.

Total Annual Burden: 413 hours.

Total Annual Cost: $106,860.

Needs and Uses: The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) approve a three-year extension of OMB Control No. 3060–0944.

The information will be used by the Commission staff in carrying out its duties under the Submarine Cable Landing License Act of 1921, 47 U.S.C. 34–39, Executive Order 10530, section 5(a), and the Communications Act of 1934, as amended. The information collections are necessary largely to determine whether and under what conditions the Commission should grant a license for proposed submarine cables landing in the United States, including applicants that are, or are affiliated with, foreign carriers in the destination market of the proposed submarine cable. Pursuant to Executive Order No. 10530, the Commission has been delegated the President's authority under the Cable Landing License Act to grant cable landing licenses, provided that the

Commission must obtain the approval of the State Department and seek advice from other government agencies as appropriate. If the collection is not conducted or is conducted less frequently, applicants will not obtain the authorizations necessary to provide telecommunications services and facilities, and the Commission will be unable to carry out its mandate under the Cable Landing License Act and Executive Order 10530. In addition, without the collection, the United States would jeopardize its ability to fulfill the U.S. obligations as negotiated under the World Trade Organization (WTO) Basic Telecom Agreement because certain of these information collection requirements are imperative to detecting and deterring anticompetitive conduct. They are also necessary to preserve the Executive Branch agencies' and the Commission's ability to review foreign investments for national security, law enforcement, foreign policy, and trade concerns.

OMB Control Number: 3060–1163.

Title: Regulations Applicable to Broadcast, Common Carrier, and Aeronautical Radio Licensees Under Section 310(b) of the Communications Act of 1934, as amended.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 26 respondents; 26 responses.

Estimated Time per Response: 2 hours–46 hours.

Frequency of Response: 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. 151, 152, 154(i), 154(j), 160, 303(r), 309, 310 and 403.

Total Annual Burden: 712 hours.

Total Annual Cost: $251,210.

Needs and Uses: The Federal Communications Commission (''Commission'') is requesting a three-year extension of OMB Control No. 3060–1163 titled, Regulations Applicable to Broadcast, Common Carrier and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act of 1934, as amended.

Section 310(b)(4) of the Act requires that the Commission pass upon the propriety of foreign ownership of U.S. parent companies that control common carrier and aeronautical radio licensees before such ownership exceeds 25 percent. The Commission's section 310(b)(3) forbearance approach (applicable to common carrier licensees only) requires that the Commission pass upon the propriety of foreign ownership of common carrier radio licensees before such ownership exceeds 20 percent. The information collection will preserve the Commission's ability to disallow foreign investment that may pose a risk of harm to competition or national security, law enforcement, foreign policy, or trade policy.

If the information collection were not conducted or were conducted less frequently than proposed, the Commission would not be able to carry out its statutory mandate under section 310(b) of the Act, and its section 310(b)(3) forbearance policy, to disallow foreign investment that the Commission finds would be contrary to the U.S. public interest. In particular, the Commission would lack the information it needs to determine whether proposed foreign investment in U.S. broadcast, common carrier, and aeronautical radio licensees may pose a risk of harm to competition or national security, law enforcement, foreign policy, or trade policy.

Federal Communications Commission.

Sheryl Todd,

Deputy Secretary, Office of the Secretary.

[FR Doc. 2022–18865 Filed 8–31–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 102757]

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

DATES: The agency must receive comments on or before October 31, 2022.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, 202–418–2054.

SUPPLEMENTARY INFORMATION: The following applicants filed AM or FM proposals to change the community of license: DESERT MOUNTAIN BROADCASTING LICENSES, LLC, KYWL(AM), Fac. ID No. 161553, FROM BOZEMAN, MT, TO BELGRADE, MT, File No: BP–20220422AAG; ZIMMER MIDWEST COMMUNICATIONS, INC., KBFL–FM, Fac. ID No. 33654, FROM BUFFALO, MO, TO FAIR GROVE, MO, File No. 0000197229; COCHISE MEDIA LICENSES LLC, KPSA–FM, Fac. ID No. 29027, FROM LORDSBURG, NM, TO MESCAL, AZ, File No. 0000196734; DELTA RADIO NETWORK, LLC, WIBT(FM), Fac. ID No. 25229, FROM GREENVILLE, MS, TO INVERNESS, MS, File No. 0000197194; EAGLE BROADCASTING LLC, WMXI(FM), Fac. ID No. 54655, FROM LAUREL, MS, TO ELLISVILLE, MS, File No. 0000197006; LOUD MEDIA LLC, WPLA(FM), Fac. ID No. 36230, FROM LA FOLLETTE, TN, TO GREENBACK, TN, File No. 0000197638; and SUTTON RADIOCASTING CORPORATION CLAYTON, WRBN(FM), Fac. ID No. 56201, FROM CLAYTON, GA, TO TOCCOA, GA, File No. 0000193534. The full text of these applications is available electronically via the Licensing and Management System (LMS), *https://apps2int.fcc.gov/dataentry/public/tv/publicAppSearch.html.*

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2022–18956 Filed 8–31–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS22–05]

Appraisal Subcommittee; Notice of Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of meeting.

Description: In accordance with section 1104 (b) of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in open session for its regular meeting:

Location: This will be a virtual meeting via Zoom. Please visit the agency's homepage (*www.asc.gov*) and access the provided registration link in the What's New box. You MUST register in advance to attend this Meeting.

Date: September 14, 2022.

Time: 10 a.m. ET.

Status: Open.

Reports

Chair
Executive Director
Grants Report
Financial Report

Action and Discussion Items

Approval of Minutes
June 8, 2022 Quarterly Meeting Minutes
Temporary Waiver Final Rule for publication in the **Federal Register**
FY23 ASC Budget Proposal

How To Attend and Observe an ASC Meeting:

The meeting will be open to the public via live webcast only. Visit the agency's homepage (*www.asc.gov*) and access the provided registration link in the What's New box. The meeting space is intended to accommodate public attendees. However, if the space will not accommodate all requests, the ASC may refuse attendance on that reasonable basis. The use of any video or audio tape recording device, photographing device, or any other electronic or mechanical device designed for similar purposes is prohibited at ASC Meetings.

James R. Park,

Executive Director.

[FR Doc. 2022–18848 Filed 8–31–22; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Hearing Health and Safety

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice.

SUMMARY: Beginning on January 3, 3022, the Federal Mine Safety and Health Review Commission (the ''Commission'' or ''FMSHRC'') resumed in-person hearings in the manner described in an Order dated December 3, 2021, appearing in the **Federal Register** on December 9, 2021, and posted on the Commission's website (*www.fmshrc.gov*). On July 11, 2022, Commission Chief Administrative Law Judge Glynn F. Voisin issued an order, which modified the December 3 Order. On August 26, 2022, the Chief Judge issued an order further modifying the July 11 order. The August 26 Order is posted on the Commission's website and contains hyperlinks not included within this notice.

DATES: *Applicable:* August 26, 2022.

FOR FURTHER INFORMATION CONTACT: Sarah Stewart, Deputy General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, at (202) 434–9935.

SUPPLEMENTARY INFORMATION: Federal Mine Safety and Health Review Commission Administrative Law Judges are committed to a high standard to protect the health and safety of all persons who may appear before them, during the Coronavirus 2019 (COVID–19) pandemic, while continuing the agency's mission. As of January 3, 2022, the Commission resumed in-person hearings as described in an order dated December 3, 2021. On July 11, 2022, the Chief Judge issued an order modifying the December 3 order. On August 26, 2022, the Chief Judge issued an order further modifying the July 11 order. The contents of the August 26 order are set forth in this notice, and for the duration of the August 26 order, all hearings are subject to its terms.

Commission Judges may, at their sole discretion, hold remote hearings (*e.g.*, via Zoom) and in-person hearings. Judges also have the discretion to hold a hybrid hearing, that includes both in-person and video participation. Commission Judges shall exercise this discretion within uniform parameters as set forth herein. Each Judge shall determine (1) when to use remote hearings in lieu of in-person hearings and (2) specific safety procedures to be used at a hybrid or in-person hearing.

In determining the type of hearing, Judges will consider current guidance and safety factors on a case-by-case basis. Judges will ensure all parties appearing pro se who are required to participate in a remote hearing have access to equipment, an internet connection, and other appropriate technology. Prior to conducting an in-person hearing, Judges will schedule a conference call with the attorneys and representatives of each of the parties to discuss, among other things, safety considerations for the in-person hearing. Persons who are not comfortable with travel or appearing in person, may request to attend the hearing via remote access (*e.g.,* via Zoom). Judges may discuss the agency's workplace safety plan that outlines travel guidelines, protocols, and safety measures in conjunction with the CDC Community Levels.

The Judge will set a hearing location after considering CDC Community Levels using the CDC COVID Data Tracker and the safety and health rules currently in place by the state and local public health entities. Where community levels are HIGH, Judges are discouraged from setting in-person hearings. If in-person participants are traveling to attend a hearing, the community levels of where they are traveling from need to be taken into account as well. In choosing a courtroom, the Judge will take into consideration the rules and requirements of the court or hearing facility, as well as all applicable federal, state, and local regulations and guidelines. If the hearing is to be a hybrid hearing, the Judge will also consider the availability of internet and technology needs in the courtroom.

During the prehearing conference, the Judge will consider federal, state, local and courtroom requirements and inform the parties of such requirements. The requirements apply to all persons attending the in-person hearing. The discussion will also address who may enter the courtroom, when, and what safety measures, such as masks and physical distancing, must be implemented. No person may enter the courtroom, or the witness room without the permission of the Judge.

In addition to any federal, state, local and facility safety and health rules, all persons attending in-person hearings are also subject to the below requirements:

- *FMSHRC employees:*

○ All FMSHRC employees must adhere to the agency's workplace safety plan, diagnostic testing policy, and CDC guidance on physical distancing, mask wearing, isolation in the event of symptoms or a positive test result, and official travel requirements.

- *Visitors, Contractors, Non-government Parties, Representatives and Witnesses:*

○ Contractors, for purposes of this order, are defined as individuals who have been contracted by FMSHRC to attend an in-person hearing for a specific purpose (*e.g.,* a court reporter creating a transcript).

○ Visitors, Contractors, Non-government Parties, Representatives and Witnesses who attend an in-person hearing must adhere to the agency's workplace safety plan and CDC guidance on physical distancing, mask wearing, and isolation in the event of symptoms or a positive test result. When CDC Community Levels are MEDIUM or HIGH, the same individuals must complete the COVID–19 Symptom Screening Tool form before entering a facility where an in-person hearing will be held.

The Judge may consider all factors, in totality, in determining if a remote hearing will be held and who may be present for the hearing. No single factor is dispositive.

These procedures shall remain in place until the August 26 order is vacated or otherwise modified by subsequent order.

(Authority: 30 U.S.C. 823; 29 CFR part 2700)

Dated: August 26, 2022.

Sarah L. Stewart,

Deputy General Counsel, Federal Mine Safety and Health Review Commission.

[FR Doc. 2022–18866 Filed 8–31–22; 8:45 am]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than September 16, 2022.

A. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Donald M. Thigpen, Vidalia, Georgia;* to retain voting shares of Heart of Georgia Bancshares, Inc., Vidalia, Georgia, and thereby indirectly retain voting shares of Mount Vernon Bank, Vidalia, Georgia, and Bank of Lumber City, Lumber City, Georgia.

In addition, D. Alan Thigpen and Thomas Conner Thigpen, both of Vidalia, Georgia, to join with Donald M. Thigpen as the Thigpen Family Group, a group acting in concert, to retain voting shares of Heart of Georgia Bancshares, Inc., and thereby indirectly retain voting shares of Mount Vernon Bank and Bank of Lumber City.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–18941 Filed 8–31–22; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0032; Docket No. 2022–0053; Sequence No. 19]

Information Collection; Contractor Use of Interagency Fleet Management System Vehicles

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on an extension concerning contractor use of interagency fleet management system (IFMS) vehicles. DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the 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 information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through February 28, 2023. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by October 31, 2022.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through *https://www.regulations.gov* and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

Instructions: All items submitted must cite OMB Control No. 9000–0032, Contractor Use of Interagency Fleet Management System Vehicles. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Marissa Ryba, Procurement Analyst, at telephone 314–586–1280, or *marissa.ryba@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0032, Contractor Use of Interagency Fleet Management System Vehicles.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the following FAR requirements:

FAR 52.202—For the contracting officer to authorize a contractor's use of Interagency Fleet Management System (IFMS)vehicles, this FAR section requires contractors to submit the following information:

(1) A written statement that the contractor will assume, without the right of reimbursement from the Government, the cost or expense of any use of the IFMS vehicles and services not related to the performance of the contract;

(2) Evidence that the contractor has obtained motor vehicle liability insurance covering bodily injury and property damage, with limits of liability as required or approved by the agency, protecting the contractor and the Government against third-party claims arising from the ownership, maintenance, or use of an IFMS vehicle; and

(3) Any recommendations.

FAR 51.203—Once authorized by the contracting officer, this FAR section requires contractors to submit their request for IFMS vehicles and related services in writing to the appropriate GSA point of contact and include the following information:

(1) Two copies of the agency authorization;

(2) The number of vehicles and related services required and period of use;

(3) A list of employees who are authorized to request the vehicles or related services;

(4) A listing of equipment authorized to be serviced; and

(5) Billing instructions and address.

The contracting officer will use the information to determine the contractor's eligibility to obtain IFMS vehicles and related services, and to authorize this use. The GSA will also use this information to determine whether appropriate authorization has been granted by the contracting officer.

C. Annual Burden

Respondents: 20.

Total Annual Responses: 1.

Total Burden Hours: 20.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 9000–0032, Contractor Use of Interagency Fleet Management System Vehicles.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2022–18889 Filed 8–31–22; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

[Notice MG–2022–03; Docket No. 2022–0002; Sequence No. 19]

Office of Federal High-Performance Green Buildings; Green Building Advisory Committee; Request for Membership Nominations

AGENCY: Office of Government-Wide Policy, General Services Administration (GSA).

ACTION: Notice of request for membership nominations.

SUMMARY: The Green Building Advisory Committee provides advice to GSA as a statutorily (see below for citations) required federal advisory committee. This notice invites qualified candidates to apply for an appointment to serve as a member of GSA's Green Building Advisory Committee. This is a competitive process for several open membership seats. Candidates who applied for the position with expertise in environmental justice, equity, and green buildings, in response to GSA's April 20, 2022 **Federal Register** notice, and who wish to be considered for this opportunity need not apply again, and can send an email to *bryan.steverson@gsa.gov* confirming their interest.

DATES: All nominations must be submitted to *bryan.steverson@gsa.gov* by 5:00 p.m., Eastern Time (ET), by October 3, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Steverson, Office of Federal High-Performance Green Buildings, GSA, at *bryan.steverson@gsa.gov* or 202–501–6115.

SUPPLEMENTARY INFORMATION:

Background

The Administrator of the GSA established the Green Building Advisory Committee (hereafter, ''the Committee'') on June 20, 2011 (76 FR 118) pursuant to Section 494 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17123, or EISA), in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. app. 2). Under this authority, the Committee advises GSA on how the Office of Federal High-Performance Green Buildings can most effectively accomplish its mission. Information about this Office is available online at *https://www.gsa.gov/hpb,* and information about the Committee may be found at *https://www.gsa.gov/gbac.* EISA requires the Committee to be represented by specific categories of members as well as ''other relevant agencies and entities, as determined by the Federal Director (EISA § 494(b)(1)(B)). The specific categories of members include:

''(i) State and local governmental green building programs;

(ii) Independent green building associations or councils;

(iii) Building experts, including architects, material suppliers, and construction contractors;

(iv) Security advisors focusing on national security needs, natural disasters, and other dire emergency situations;

(v) Public transportation industry experts; and

(vi) Environmental health experts, including those with experience in children's health.''

Member Responsibilities

New Committee members will be appointed to a two-year term. Membership is limited to the specific individuals appointed and is non-transferrable. Committee members are expected to personally attend all meetings, review all Committee materials, and actively provide their advice and input on topics covered by the Committee. Committee members will not receive compensation, nor will they receive travel reimbursements from the Government except where a need has been demonstrated and funds are available.

Request for Membership Nominations

This notice provides an opportunity for individuals, or others on their behalf, to present their qualifications to serve as a member on the Committee. GSA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, GSA encourages nominations from people of all communities, identities, races, ethnicities, backgrounds, abilities, cultures, and beliefs, including from underserved communities and all geographic locations of the United States of America. No person appointed to serve in an individual capacity shall be a federally registered lobbyist in accordance with the Presidential Memorandum ''Lobbyists on Agency Boards and Commissions'' (June 18, 2010) and OMB Final Guidance published in the **Federal Register** on October 5, 2011 and revised on August 13, 2014.

Nomination Process for Advisory Committee Appointment

Individuals may nominate themselves or others. All nominees should have:

- At least 5 years of high-performance building experience, which may include a combination of project-based, research and policy experience.
- Academic degrees, certifications and/or training demonstrating green building and related sustainability and real estate expertise;
- Knowledge of Federal sustainability and energy laws and programs;
- Proven ability to work effectively with a diverse group of professionals in a collaborative, multidisciplinary environment.
- Qualifications appropriate to a specific statutory category of members listed above.

A nomination package shall include the following information for each nominee:

(1) A letter of nomination stating the name, title and organization of the nominee, nominee's field(s) of expertise, specific qualifications to serve on the Committee, and description of interest and qualifications;

(2) A professional resume or CV; and

(3) Complete contact information including name, return address, email address, and daytime telephone number of the nominee and nominator.

GSA reserves the right to choose Committee members based on qualifications, experience, Committee balance, statutory requirements and all other factors deemed critical to the success of the Committee. Candidates under consideration may be asked to provide specific financial information to ensure that the interests and affiliations of advisory committee members are reviewed for conformance with applicable conflict of interest statutes and other federal ethics rules.

Kevin Kampschroer,

Federal Director, Office of Federal High-Performance Green Buildings, Office of Government-Wide Policy, General Services Administration.

[FR Doc. 2022–18897 Filed 8–31–22; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''*Hospital Survey on Patient Safety Culture Comparative Database.*'' This proposed information collection was previously published in the **Federal Register** on June 3rd, 2022 and allowed 60 days for public comment. AHRQ did not receive comments from members of the public during this period. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by October 3, 2022.

ADDRESSES: 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.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

''*Hospital Survey on Patient Safety Culture Comparative Database.*''

The Hospital Survey on Patient Safety Culture (Hospital SOPS) is designed to enable hospitals to assess provider and staff perspectives about patient safety issues, medical error, and error reporting. The Hospital SOPS includes 42 items that measure 12 composites of patient safety culture. AHRQ first made the Hospital SOPS publicly available, along with a Survey User's Guide and other toolkit materials, in November 2004, on the AHRQ website.

The Hospital SOPS Database consists of data from the AHRQ Hospital Survey on Patient Safety Culture and may include reportable, non-required supplemental items. Hospitals in the U.S. can voluntarily submit data from the survey to AHRQ, through its contractor, Westat. The Hospital SOPS Database (OMB No. 0935–0162, last approved on August 21, 2019) was developed by AHRQ in 2006 in response to requests from hospitals interested in tracking their own survey results. Those organizations submitting data receive a feedback report, as well as a report of the aggregated de-identified findings of the other hospitals submitting data. These reports are used to assist hospital staff in their efforts to improve patient safety culture in their organizations.

Rationale for the information collection. The Hospital SOPS and the Hospital SOPS Database support AHRQ's goals of promoting improvements in the quality and safety of health care in hospital settings. The survey, toolkit materials, and database results are all made publicly available on AHRQ's website. Technical assistance is provided by AHRQ through its contractor at no charge to hospitals, to facilitate the use of these materials for hospital patient safety and quality improvement. This database will:

(1) present results from hospitals that voluntarily submit their data,

(2) provide data to hospitals to facilitate internal assessment and learning in the patient safety improvement process, and

(3) provide supplemental information to help hospitals identify their strengths and areas with potential for improvement in patient safety culture.

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness, and value of healthcare services and with respect to surveys and database development. 42 U.S.C 299a(a)(1) and (8).

Method of Collection

(1) *Eligibility and Registration Form*—The hospital point-of-contact (POC) completes a number of data submission steps and forms, beginning with the completion of an online Eligibility and Registration Form. The purpose of this form is to collect basic demographic information about the hospital and initiate the registration process.

(2) *Data Use Agreement*—The purpose of the data use agreement, completed by the hospital POC, is to state how data submitted by hospitals will be used and provide privacy assurances.

(3) *Hospital Site Information Form*—The purpose of the site information form, also completed by the hospital POC, is to collect background characteristics of the hospital. This information will be used to analyze data collected with the Hospital SOPS survey.

(4) *Data Files Submission*—POCs upload their data file(s), using hospital data file specifications, to ensure that users submit standardized and consistent data in the way variables are named, coded, and formatted. The number of submissions to the database is likely to vary each year because hospitals do not administer the survey and submit data every year. Data submission is typically handled by one POC who is either a patient safety manager in the hospital or a survey vendor who contracts with a hospital to collect and submit their data. POCs submit data on behalf of 3 hospitals, on average, because many hospitals are part of a health system that includes many hospitals, or the POC is a vendor that is submitting data for multiple hospitals.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in the database. An estimated 340 POCs, representing an average of 3 individual hospitals each, will complete the database submission steps and forms annually. Each POC will submit the following:

- Eligibility and registration form (completion is estimated to take about 3 minutes).
- Data Use Agreement (completion is estimated to take about 3 minutes).

• Hospital Information Form (completion is estimated to take about 5 minutes).

• Survey data submission will take an average of one hour.

The total annual burden hours are estimated to be 459 hours.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to submit their data. The cost burden is estimated to be $28,044.90 annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/ POCs	Number of responses per POC	Hours per response	Total burden hours
Eligibility/Registration Form	340	1	3/60	17
Data Use Agreement	340	1	3/60	17
Hospital Information Form	340	3	5/60	85
Data Files Submission	340	1	1	340
Total	N/A	N/A	N/A	459

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents/ POCs	Total burden hours	Average hourly wage rate *	Total cost burden
Eligibility/Registration Form	340	17	$61.10	$1,038.70
Data Use Agreement	340	17	61.10	1,038.70
Hospital Information Form	340	85	61.10	5,193.50
Data Files Submission	340	340	61.10	20,744.00
Total	N/A	N/A	N/A	$28,044.90

* Mean hourly wage of $61.10 for Medical and Health Services Managers (SOC code 11–9111) was obtained from the May 2020 National Industry-Specific Occupational Employment and Wage Estimates NAICS 622000—Hospitals, located at *http://www.bls.gov/oes/current/naics3_622000.htm*.

Request for Comments

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, comments on AHRQ's information collection are requested with regard to any of the following: (a) whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: August 26, 2022.

Mamatha Pancholi,

Acting Chief of Staff, Chief Data Officer.

[FR Doc. 2022–18855 Filed 8–31–22; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Request for Information and Comments on the 2005 Public Health Service Policies on Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Request for Information (RFI).

SUMMARY: The Department of Health and Human Services (HHS), Office of Research Integrity (ORI) seeks the perspectives of individuals, research funding agencies, institutional officials, organizations, institutions, and other members of the general public on the 2005 Public Health Service Policies on Research Misconduct to help structure ORI's future plans to revise the regulation. To this end, ORI issues this RFI to collect input on the current regulation (see details in **SUPPLEMENTARY INFORMATION** section).

DATES: Responses to the RFI must be received electronically no later than 5:00 p.m. ET on October 31, 2022. Mailed paper submissions and submissions received after the deadline will not be reviewed.

ADDRESSES: Comments must be submitted electronically to *OASH-ORI-Public-Comments@hhs.gov.* Include ''Regulations RFI'' in the subject line of the email.

FOR FURTHER INFORMATION CONTACT: Wanda K. Jones, Dr., P.H., MT (ASCP), Acting Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 240, Rockville, MD 20852, (240) 453–8200.

SUPPLEMENTARY INFORMATION: ORI oversees and directs Public Health Service (PHS) research integrity activities on behalf of the Secretary of HHS, with the exception of the regulatory research integrity activities of the Food and Drug Administration (FDA). ORI's mission is to protect science and public health and to conserve public funds by ensuring the integrity of all PHS-supported biomedical and behavioral research.

The Public Health Service Policies on Research Misconduct, 42 CFR parts 50 and 93, established several requirements regarding the handling of allegations of possible research misconduct and

fostering of an environment that promotes research integrity and discourages research misconduct. Institutions receiving funding for research from any of the PHS funding components [1] must adhere to these requirements to receive PHS funding.

ORI conducts oversight of institutional research misconduct proceedings (inquiries and investigations) as well as institutional compliance with the PHS Policies on Research Misconduct at 42 CFR part 93. ORI also conducts outreach and develops educational resources that aid institutional efforts ''to teach the responsible conduct of research, promote research integrity, prevent research misconduct, and . . . respond effectively to allegations of research misconduct. . . .'' 65 FR 30600, 30601 (May 12, 2000).

The Public Health Service Policies on Research Misconduct (42 CFR part 93) [2] became effective in June 2005, replacing the Responsibilities of Awardee and Applicant Institutions for Dealing with and Reporting Possible Misconduct in Science (42 CFR part 50), which was promulgated in August 1989. ORI contemplates beginning a regulatory revision process for the 2005 ORI regulation at 42 CFR part 93 in the near future, using conventional rulemaking processes and channels for public notification and comment.

Input on the 2005 Public Health Service Policies on Research Misconduct

ORI seeks the perspectives of individuals, research funding agencies, institutional officials, organizations, institutions, and other members of the general public to help structure ORI's future work toward an updated regulation. To this end, ORI issues this RFI to collect input on the current regulation at 42 CFR part 93.

ORI is not seeking specific regulatory language at this time, only the identification of potential topic(s), issue(s), or area(s) that stakeholders and other members of the general public see as being important to consider when revising the 2005 ORI regulation at 42 CFR part 93. Responders may find it helpful to consider the following questions when preparing responses (the order of the questions below should not be taken to imply importance, priority, or precedence):

(1) Which section(s) should be changed or augmented when revising 42 CFR part 93? Why? How should the section(s) be changed or augmented?

(2) Which section(s) should be retained as it currently is in 42 CFR part 93? Why?

(3) Which section(s) should be considered for removal when revising 42 CFR part 93? Why?

ORI views this RFI as a brainstorming process. Short responses, limited to just a few words on a given topic, issue, or area will facilitate the organization and categorization of responses. If an idea specifically relates to a part of the current regulation, citing that section (*e.g.,* § 314.3) would be helpful.

Collection of Information Requirements

Please note: This RFI is issued solely for information and planning purposes. It does not constitute a solicitation for: Request for Proposals (RFPs), applications, proposal abstracts, or quotations. This RFI does not commit the U.S. Government to contract for any supplies or services or to make a grant award. Further, ORI is not seeking proposals through this RFI and will not accept unsolicited proposals. Responders are advised that the U.S. Government will not pay for any information or administrative costs incurred in responding to this RFI; all costs associated with responding to this RFI will be solely at the expense of the responding parties. ORI notes that not responding to this RFI does not preclude participation in future conventional rulemaking concerning 42 CFR part 93. It is the responsibility of the potential responders to monitor this RFI announcement for additional information pertaining to this request.

ORI will actively consider all input received as our office initiates the rule making process in the near future. ORI may or may not choose to contact individual responders. Such communications would be for the sole purpose of clarifying statements in the responders' written responses. Responses to this notice are not offers and cannot be accepted by the U.S. Government to form a binding contract or to issue a grant. Information obtained from this RFI may be used by the U.S. Government on a non-attribution basis. Responders should not include any information that might be considered proprietary or confidential. This RFI should not be construed as a commitment or authorization to incur cost for which reimbursement would be required or sought. All submissions become U.S. Government property and will not be returned.

Dated: August 29, 2022.

Wanda K. Jones,

Acting Director, Office of Research Integrity, Office of the Assistant Secretary for Health.

[FR Doc. 2022–18884 Filed 8–31–22; 8:45 am]

BILLING CODE 4150–31–P

[1] PHS funding components are ''any organizational unit of the PHS authorized to award grants, contracts, or cooperative agreements for any activity that involves the conduct of biomedical or behavioral research, research training or activities related to that research or research training, *e.g.,* agencies, bureaus, centers, institutes, divisions, or offices and other awarding units within the PHS.'' 42 CFR 93.209. This includes the: National Institutes of Health (NIH), Centers for Disease Control and Prevention (CDC), FDA, Substance Abuse and Mental Health Services Administration (SAMHSA), Health Resources and Services Administration (HRSA), Indian Health Service (IHS), Agency for Healthcare Research and Quality (AHRQ), Agency for Toxic Substances and Disease Registry (ATSDR), Office of the Assistant Secretary for Health (OASH), and Administration for Strategic Preparedness and Response (ASPR).

[2] Hereafter referred to as the ''2005 ORI regulation at 42 CFR part 93.''

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Initial Review Group; Effectiveness of Mental Health Interventions Study Section.

Date: September 30, 2022.

Time: 9:30 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: Marcy Ellen Burstein, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9606, Bethesda, MD 20892–9606, 301–443–9699, *bursteinme@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Initial Review Group; Mental Health Services Study Section.

Date: October 3–4, 2022.

Time: 12:00 p.m. to 5:00 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: Aileen Schulte, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Room 6136, MSC 9606, Bethesda, MD 20852, 301–443–1225, *aschulte@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: August 29, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–18955 Filed 8–31–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request Cancer Therapy Evaluation Program (CTEP) Branch and Support Contracts Forms and Surveys (National Cancer Institute)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: 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.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Michael Montello, Cancer Therapy Evaluation Program, Division of Cancer Treatment and Diagnosis, National Cancer Institute, 9609 Medical Center Drive, Bethesda, Maryland 20892 or call non-toll-free number (240) 276–6080 or email your request, including your address to: *montellom@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: This proposed information collection was published in the **Federal Register** on May 31, 2022 (Vol. 87, No. 104, P. 32427) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health (NIH), may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, NIH has submitted to OMB a request for review and approval of the information collection listed below.

Proposed Collection: Cancer Therapy Evaluation Program (CTEP) Support Contracts Forms and Survey (NCI) (0925–0753), Expiration Date 05/31/2024, REVISION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This revision removes one form, adds one new form, revises three forms, and includes an updated Privacy Impact Assessment. The National Cancer Institute (NCI) Cancer Therapy Evaluation Program (CTEP) and the Division of Cancer Prevention (DCP) fund an extensive national program of cancer research, sponsoring clinical trials in cancer prevention, symptom management, and treatment for qualified clinical investigators. As part of this effort, CTEP implements programs to register clinical site investigators and clinical site staff and to oversee the conduct of research at the clinical sites. CTEP and DCP also oversee two support programs, the NCI Central Institutional Review Board (CIRB) and the Cancer Trial Support Unit (CTSU). The combined systems and processes for initiating and managing clinical trials are termed the Clinical Oncology Research Enterprise (CORE) and represents an integrated set of information systems and processes which support investigator registration, trial oversight, patient enrollment, and clinical data collection. The information collected is required to ensure compliance with applicable federal regulations governing the conduct of human subjects research (45 CFR 46 and 21 CRF 50), and when CTEP acts as the Investigational New Drug (IND) holder (Food and Drug Administration (FDA) regulations pertaining to the sponsor of clinical trials and the selection of qualified investigators (21 CRF 312.53). Survey collections assess satisfaction and provide feedback to guide improvements with processes and technology. OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden is 151,769 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
CTSU IRB/Regulatory Approval Transmittal Form (Attachment A01).	Health Care Practitioner ..	2,444	12	2/60	978
CTSU IRB Certification Form (Attachment A02)	Health Care Practitioner ..	2,444	12	10/60	4,888
Withdrawal from Protocol Participation Form (Attachment A03).	Health Care Practitioner ..	279	1	10/60	47
Site Addition Form (Attachment A04)	Health Care Practitioner ..	80	12	10/60	160
CTSU Request for Clinical Brochure (Attachment A06).	Health Care Practitioner ..	360	1	10/60	60
CTSU Supply Request Form (Attachment A07)	Health Care Practitioner ..	90	12	10/60	180
RTOG 0834 CTSU Data Transmittal Form (Attachment A10).	Health Care Practitioner ..	12	76	10/60	152

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
CTSU Patient Enrollment Transmittal Form (Attachment A15).	Health Care Practitioner ..	12	12	10/60	24
CTSU Transfer Form (Attachment A16)	Health Care Practitioner ..	360	2	10/60	120
CTSU OPEN Rave Request Form (Attachment A18)	Health Care Practitioner ..	30	21	10/60	105
CTSU LPO Form Creation (Attachment A19)	Health Care Practitioner ..	5	2	120/60	20
CTSU Site Form Creation (Attachment A20)	Health Care Practitioner ..	400	10	30/60	2,000
CTSU Electronic Signature Form (Attachment A21)	Health Care Practitioner ..	400	10	10/60	667
CTSU CLASS Course Setup Form (Attachment A22).	Health Care Practitioner ..	10	2	20/60	7
NCI CIRB AA & DOR between the NCI CIRB and Signatory Institution (Attachment B01).	Participants	50	1	15/60	13
NCI CIRB Signatory Enrollment Form (Attachment B02).	Participants	50	1	15/60	13
CIRB Board Member Application (Attachment B03)	Board Member	100	1	30/60	50
CIRB Member COI Screening Worksheet (Attachment B08).	Board Members	100	1	15/60	25
CIRB COI Screening for CIRB meetings (Attachment B09).	Board Members	72	1	15/60	18
CIRB IR Application (Attachment B10)	Health Care Practitioner ..	80	1	60/60	80
CIRB IR Application for Exempt Studies (Attachment B11).	Health Care Practitioner ..	4	1	30/60	2
CIRB Amendment Review Application (Attachment B12).	Health Care Practitioner ..	400	1	15/60	100
CIRB Ancillary Studies Application (Attachment B13)	Health Care Practitioner ..	1	1	60/60	1
CIRB Continuing Review Application (Attachment B14).	Health Care Practitioner ..	400	1	15/60	100
Adult IR of Cooperative Group Protocol (Attachment B15).	Board Members	65	1	180/60	195
Pediatric IR of Cooperative Group Protocol (Attachment B16).	Board Members	15	1	180/60	45
Adult Continuing Review of Cooperative Group Protocol (Attachment B17).	Board Members	275	1	60/60	275
Adult Amendment of Cooperative Group Protocol (Attachment B19).	Board Members	40	1	120/60	80
Pediatric Amendment of Cooperative Group Protocol (Attachment B20).	Board Members	25	1	120/60	50
Pharmacist's Review of a Cooperative Group Study (Attachment B21).	Board Members	50	1	120/60	100
Adult Expedited Amendment Review (Attachment B23).	Board Members	348	1	30/60	174
Pediatric Expedited Amendment Review (Attachment B24).	Board Members	140	1	30/60	70
Adult Expedited Continuing Review (Attachment B25).	Board Members	140	1	30/60	70
Pediatric Expedited Continuing Review (Attachment B26).	Board Members	36	1	30/60	18
Adult Cooperative Group Response to CIRB Review (Attachment B27).	Health Care Practitioner ..	30	1	60/60	30
Pediatric Cooperative Group Response to CIRB Review (Attachment B28).	Health Care Practitioner ..	5	1	60/60	5
Adult Expedited Study Chair Response to Required Modifications (Attachment B29).	Board Members	40	1	30/60	20
Reviewer Worksheet—Determination of UP or SCN (Attachment B31).	Board Members	400	1	10/60	67
Reviewer Worksheet—CIRB Statistical Reviewer Form (Attachment B32).	Board Members	100	1	15/60	25
CIRB Application for Translated Documents (Attachment B33).	Health Care Practitioner ..	100	1	30/60	50
Reviewer Worksheet of Translated Documents (Attachment B34).	Board Members	100	1	15/60	25
Reviewer Worksheet of Recruitment Material (Attachment B35).	Board Members	20	1	15/60	5
Reviewer Worksheet Expedited Study Closure Review (Attachment B36).	Board Members	20	1	15/60	5
Reviewer Worksheet of Expedited IR (Attachment B38).	Board Members	5	1	30/60	3
Annual Signatory Institution Worksheet About Local Context (Attachment B40).	Health Care Practitioner ..	400	1	40/60	267

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Annual Principal Investigator Worksheet About Local Context (Attachment B41).	Health Care Practitioner ..	1,800	1	20/60	600
Study-Specific Worksheet About Local Context (Attachment B42).	Health Care Practitioner ..	4,800	1	15/60	1,200
Study Closure or Transfer of Study Review Responsibility (Attachment B43).	Health Care Practitioner ..	1,680	1	15/60	420
Unanticipated Problem or Serious or Continuing Noncompliance Reporting Form (Attachment B44).	Health Care Practitioner ..	360	1	20/60	120
Change of Signatory Institution PI Form (Attachment B45).	Health Care Practitioner ..	120	1	20/60	40
Request Waiver of Assent Form (Attachment B46) ..	Health Care Practitioner ..	35	1	20/60	12
CIRB Waiver of Consent Request Supplemental Form (Attachment B47).	Health Care Practitioner ..	20	1	15/60	5
Review Worksheet CIRB Review for Inclusion of Incarcerated Participants (Attachment B48).	Board Members	20	1	60/60	20
Notification of Incarcerated Participant Form (Attachment B49).	Health Care Practitioner ..	20	1	20/60	7
CTSU OPEN Survey (Attachment C03)	Health Care Practitioner ..	10	1	15/60	3
CIRB Customer Satisfaction Survey (Attachment C04).	Participants	600	1	15/60	150
Follow-up Survey (Communication Audit) (Attachment C05).	Participants/ ..... Board Members	300	1	15/60	75
CIRB Board Member Annual Assessment Survey (Attachment C07).	Board Members	60	1	15/60	15
PIO Customer Satisfaction Survey (Attachment C08)	Health Care Practitioner ..	60	1	5/60	5
Audit Scheduling Form (Attachment D01)	Health Care Practitioner ..	152	5	21/60	266
Preliminary Audit Finding Form (Attachment D02)	Health Care Practitioner ..	152	5	10/60	127
Audit Maintenance Form (Attachment D03)	Health Care Practitioner ..	152	5	9/60	114
Final Audit finding Report Form (Attachment D04) ...	Health Care Practitioner ..	75	11	1,098/60	15,098
Follow-up Form (Attachment D05)	Health Care Practitioner ..	75	7	27/60	236
Roster Maintenance Form (Attachment D06)	Health Care Practitioner ..	5	1	18/60	2
Final Report and CAPA Request Form (Attachment D07).	Health Care Practitioner ..	12	9	1,800/60	3,240
NCI/DCTD/CTEP FDA Form 1572 for Annual Submission (Attachment E01).	Physician	26,500	1	15/60	6,625
NCI/DCTD/CTE Biosketch (Attachment E02)	Physician; Health Care Practitioner.	48,000	1	120/60	96,000
NCI/DCTD/CTEP Financial Disclosure Form (Attachment E03).	Physician; Health Care Practitioner.	48,000	1	15/60	12,000
NCI/DCTD/CTEP Agent Shipment Form (ASF) (Attachment E04).	Physician	24,000	1	10/60	4,000
Totals	.....	167,545	235,510	.....	151,769

Dated: August 26, 2022.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2022–18853 Filed 8–31–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine and Oral Fluid Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs using Urine or Oral Fluid (Mandatory Guidelines).

FOR FURTHER INFORMATION CONTACT: Anastasia Donovan, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N06B, Rockville, Maryland 20857; 240–276–2600 (voice); *Anastasia.Donovan@samhsa.hhs.gov* (email).

SUPPLEMENTARY INFORMATION: In accordance with Section 9.19 of the Mandatory Guidelines, a notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted

from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at *https://www.samhsa.gov/workplace/resources/drug-testing/certified-lab-list.*

The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines) using Urine and of the laboratories currently certified to meet the standards of the Mandatory Guidelines using Oral Fluid.

The Mandatory Guidelines using Urine were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); April 30, 2010 (75 FR 22809); and on January 23, 2017 (82 FR 7920).

The Mandatory Guidelines using Oral Fluid were first published in the **Federal Register** on October 25, 2019 (84 FR 57554) with an effective date of January 1, 2020.

The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71 and allowed urine drug testing only. The Mandatory Guidelines using Urine have since been revised, and new Mandatory Guidelines allowing for oral fluid drug testing have been published. The Mandatory Guidelines require strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on specimens for federal agencies. HHS does not allow IITFs to conduct oral fluid testing.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines using Urine and/or Oral Fluid. An HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that the test facility has met minimum standards. HHS does not allow IITFs to conduct oral fluid testing.

HHS-Certified Laboratories Approved To Conduct Oral Fluid Drug Testing

In accordance with the Mandatory Guidelines using Oral Fluid dated October 25, 2019 (84 FR 57554), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on oral fluid specimens:

At this time, there are no laboratories certified to conduct drug and specimen validity tests on oral fluid specimens.

HHS-Certified Instrumented Initial Testing Facilities Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine dated January 23, 2017 (82 FR 7920), the following HHS-certified IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Dynacare, 6628 50th Street NW, Edmonton, AB Canada T6B 2N7, 780–784–1190, (Formerly: Gamma-Dynacare Medical Laboratories)

HHS-Certified Laboratories Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine dated January 23, 2017 (82 FR 7920), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

Desert Tox, LLC, 5425 E Bell Rd., Suite 125, Scottsdale, AZ 85254, 602–457–5411/623–748–5045

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

Dynacare*, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630, (Formerly: Gamma-Dynacare Medical Laboratories)

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 TW Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

Legacy Laboratory Services Toxicology, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

MedTox Laboratories, Inc., 402 W County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088. Testing for Veterans Affairs (VA) Employees Only

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085,

Testing for Department of Defense (DoD) Employees Only

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on January 23, 2017 (82 FR 7920). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Anastasia M. Donovan,

Public Health Advisor, Division of Workplace Programs.

[FR Doc. 2022–18876 Filed 8–31–22; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65. The currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Colorado: Arapahoe (FEMA Docket No.: B–2232).	City of Aurora (21–08–0396P).	The Honorable Mike Coffman, Mayor, City of Aurora, 15151 East Alameda Parkway, Aurora, CO 80012.	Public Works Department, 15151 East Alameda Parkway, Aurora, CO 80012.	Jul. 29, 2022	080002
Florida:					
Manatee (FEMA Docket No.: B–2232)	Unincorporated areas of Manatee County (21–04–3451P)	The Honorable Kevin Van Ostenbridge, Chair, Manatee County Board of Commissioners, P.O. Box 1000, Bradenton, FL 34206.	Manatee County Building and Development Services Department, 1112 Manatee Avenue West, Bradenton, FL 34205.	Aug. 2, 2022	120153

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Monroe (FEMA Docket No.: B–2232).	City of Marathon (22–04–2591P).	The Honorable John Bartus, Mayor, City of Marathon, 9805 Overseas Highway, Marathon, FL 33050.	Planning Department, 9805 Overseas Highway, Marathon, FL 33050.	Aug. 8, 2022	120681
Monroe (FEMA Docket No.: B–2232).	Unincorporated areas of Monroe County (22–04–1700P).	The Honorable David Rice, Mayor, Monroe County Board of Commissioners, 9400 Overseas Highway, Suite 210, Marathon, FL 33050.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Aug. 4, 2022	125129
Orange (FEMA Docket No.: B–2231).	City of Orlando (21–04–3916P).	The Honorable Buddy Dyer, Mayor, City of Orlando, 400 South Orange Avenue, Orlando, FL 32801.	Engineering Services Division, 400 South Orange Avenue, Orlando, FL 32801.	Jul. 19, 2022	120186
Sarasota (FEMA Docket No.: B–2239).	Unincorporated areas of Sarasota County (21-04-5591P).	The Honorable Alan Maio, Chair, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Planning and Development Services Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34240.	Aug. 1, 2022	125144
Sumter (FEMA Docket No.: B–2232).	City of Wildwood (21–04–1742P).	The Honorable Ed Wolf, Mayor, City of Wildwood, 100 North Main Street, Wildwood, FL 34785.	City Hall, 100 North Main Street, Wildwood, FL 34785.	Jul. 25, 2022	120299
Sumter (FEMA Docket No.: B–2232).	Unincorporated areas of Sumter County (21–04–1742P).	Bradley Arnold, Sumter County Administrator, 7375 Powell Road, Wildwood, FL 34785.	The Villages—Sumter County Service Center, 7375 Powell Road, Wildwood, FL 34785.	Jul. 25, 2022	120296
Kentucky:					
Hardin (FEMA Docket No.: B–2232).	City of Elizabethtown (21–04–4539P).	The Honorable Jeffrey H. Gregory, Mayor, City of Elizabethtown, 200 West Dixie Avenue, Elizabethtown, KY 42701.	Stormwater Department, 200 West Dixie Avenue, Elizabethtown, KY 42701.	Aug. 10, 2022	210095
Hardin (FEMA Docket No.: B–2232).	Unincorporated areas of Hardin County (21–04–4539P).	Harry L. Berry, Hardin County Executive, 150 North Provident Way, Suite 314 Elizabethtown, KY 42701.	Hardin County Engineering and GIS Department, 150 North Provident Way, Suite 223, Elizabethtown, KY 42701.	Aug. 10, 2022	210094
Mississippi: Harrison (FEMA Docket No.: B–2232).	City of Pass Christian (22–04–1912P).	The Honorable Jimmy Rafferty, Mayor, City of Pass Christian, 200 West Scenic Drive, Pass Christian, MS 39571.	City Hall, 200 West Scenic Drive, Pass Christian, MS 39571.	Aug. 8, 2022	285261
North Carolina:					
Durham (FEMA Docket No.: B–2259).	City of Durham (21–04–3214P).	The Honorable Elaine O'Neal, Mayor, City of Durham, 101 City Hall Plaza, Durham, NC 27701.	Durham City-County Hall, 101 City Hall Plaza, Durham, NC 27701.	Jul. 28, 2022	370086
Forsyth (FEMA Docket No.: B–2259).	City of Winston-Salem (21–04–4302P).	The Honorable Allen Joines, Mayor, City of Winston-Salem, P.O. Box 2511, Winston-Salem, NC 27102.	Winston-Salem Planning and Development Services Department, 100 East 1st Street, Winston-Salem, NC 27101.	Jul. 21, 2022	375360
Oklahoma:					
Oklahoma (FEMA Docket No.: B–2232).	City of Oklahoma City (21–06–2787P).	The Honorable David Holt, Mayor, City of Oklahoma City, 200 North Walker Avenue, 3rd Floor, Oklahoma City, OK 73102.	Public Works Department, 420 West Main Street, Suite 700, Oklahoma City, OK 73102.	Jul. 21, 2022	405378
Oklahoma (FEMA Docket No.: B–2232).	Unincorporated areas of Oklahoma County (21–06–2787P).	The Honorable Brian Maughan, Chair, Oklahoma County Board of Commissioners, 320 Robert S. Kerr Avenue, Suite 201, Oklahoma City, OK 73102.	Oklahoma County Engineering and Planning Department, 320 Robert S. Kerr Avenue, Suite 201, Oklahoma City, OK 73102.	Jul. 21, 2022	400466
Pennsylvania: Centre (FEMA Docket No.: B–2239).	Township of Ferguson (22-03-0002P).	Centrice Martin, Interim Manager, Township of Ferguson, 3147 Research Drive, State College, PA 16801.	Planning and Zoning Department, 3147 Research Drive, State College, PA 16801.	Aug. 2, 2022	420260
Tennessee: Hamblen (FEMA Docket No.: B–2239).	City of Morristown (21-04-1266P).	The Honorable Gary Chesney, Mayor, City of Morristown, 100 West 1st North Street, Morristown, TN 37814.	Geographic Information Systems (GIS) Department, 100 West 1st North Street, Morristown, TN 37814.	Aug. 10, 2022	470070
Texas:					
Bastrop (FEMA Docket No.: B–2232).	City of Elgin (21–06–2966P).	The Honorable Ron Ramirez, Mayor, City of Elgin, P.O. Box 591, Elgin, TX 78621.	City Hall, 310 North Main Street, Elgin, TX 78621.	Jul. 22, 2022	480023
Bastrop (FEMA Docket No.: B–2232).	Unincorporated areas of Bastrop County (21–06–2966P).	The Honorable Paul Pape, Bastrop County Judge, 804 Pecan Street, Bastrop, TX 78602.	Bastrop County Development Services Department, 211 South Jackson Street, Bastrop, TX 78602.	Jul. 22, 2022	481193
Brazos (FEMA Docket No.: B–2232).	City of Bryan (21–06–2790P).	The Honorable Andrew Nelson, Mayor, City of Bryan, P.O. Box 1000, Bryan, TX 77805.	City Hall, 300 South Texas Avenue, Bryan, TX 77803.	Aug. 10, 2022	480082

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Caldwell (FEMA Docket No.: B–2239).	City of Lockhart (21-06-2405P).	The Honorable Lew White, Mayor, City of Lockhart, P.O. Box 239, Lockhart, TX 78644.	City Hall, 308 West San Antonio Street, Lockhart, TX 78644.	Aug. 12, 2022	480095
Collin (FEMA Docket No.: B–2239).	City of Plano (21-06-3103P).	The Honorable John B. Muns, Mayor, City of Plano, 1520 K Avenue, Plano, TX 75074.	City Hall, 1520 K Avenue, Plano, TX 75074.	Aug. 15, 2022	480140
Dallas (FEMA Docket No.: B–2232).	City of Sachse (21–06–2964P).	The Honorable Mike Felix, Mayor, City of Sachse, 3815 Sachse Road, Building B, Sachse, TX 75048.	Engineering Department, 3815 Sachse Road, Building B, Sachse, TX 75048.	Aug. 5, 2022	480186
Fort Bend (FEMA Docket No.: B–2239).	Unincorporated areas of Fort Bend County (21-06-1165P).	The Honorable K.P. George, Fort Bend County Judge, 401 Jackson Street, Richmond, TX 77469.	Fort Bend County Engineering Department, 301 Jackson Street, 4th Floor, Richmond, TX 77469.	Aug. 10, 2022	480228
Harris (FEMA Docket No.: B–2239).	City of Houston (21-06-0193P).	The Honorable Sylvester Turner, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	Floodplain Management Department, 1002 Washington Avenue, Houston, TX 77251.	Aug. 8, 2022	480296
Harris (FEMA Docket No.: B–2239).	Unincorporated areas of Harris County (21-06-0193P).	The Honorable Lina Hidalgo, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	Aug. 8, 2022	480287
Kerr (FEMA Docket No.: B–2239).	Unincorporated areas of Kerr County (21-06-3101P).	The Honorable Rob Kelly, Kerr County Judge, 700 East Main Street, Kerrville, TX 78028.	Kerr County Engineering Department, 3766 State Highway 27, Kerrville, TX 78028.	Aug. 5, 2022	480419
McLennan (FEMA Docket No.: B–2232).	City of Bellmead (22–06–0249P).	The Honorable Gary Moore, Mayor, City of Bellmead, 3015 Bellmead Drive, Bellmead, TX 76705.	City Hall, 3015 Bellmead Drive, Bellmead, TX 76705.	Aug. 3, 2022	480457
McLennan (FEMA Docket No.: B–2232).	City of Waco (22–06–0249P).	The Honorable Dillon Meek, Mayor, City of Waco, P.O. Box 2570, Waco, TX 76702.	Public Works Department, 401 Franklin Avenue, Waco, TX 76701.	Aug. 3, 2022	480461
McLennan (FEMA Docket No.: B–2232).	Unincorporated areas of McLennan County (22–06–0249P).	The Honorable Scott M. Felton, McLennan County Judge, P.O. Box 1728, Waco, TX 76703.	McLennan County Engineering and Mapping Department, 215 North 5th Street, Suite 130, Waco, TX 76701.	Aug. 3, 2022	480456
Medina (FEMA Docket No.: B–2232).	City of Castroville (21–06–1723P).	The Honorable Darrin Schroeder, Mayor, City of Castroville, 1209 Fiorella Street, Castroville, TX 78009.	Public Works Department, 703 Paris Street, Castroville, TX 78009.	Aug. 5, 2022	480932
Medina (FEMA Docket No.: B–2232).	Unincorporated areas of Medina County (21–06–1723P).	The Honorable Chris Schuchart, Medina County Judge, 1300 Avenue M, Room 250, Hondo, TX 78861.	Medina County Environmental Health Department, 709 Avenue Y, Hondo, TX 78861.	Aug. 5, 2022	480472
Randall (FEMA Docket No.: B–2231).	City of Amarillo (22–06–0467P).	The Honorable Ginger Nelson, Mayor, City of Amarillo, P.O. Box 1971, Amarillo, TX 79105.	City Hall, 509 Southeast 7th Avenue, Amarillo, TX 79105.	Jul. 19, 2022	480529
Randall (FEMA Docket No.: B–2231).	Unincorporated areas of Randall County (22–06–0467P).	The Honorable Christy Dyer, Randall County Judge, 501 16th Street, Suite 303, Canyon, TX 79015.	Randall County Road and Bridge Department, 301 West Highway 60, Canyon, TX 79015.	Jul. 19, 2022	480532
Tarrant (FEMA Docket No.: B–2232).	City of Grapevine (21–06–2959P).	The Honorable William D. Tate, Mayor, City of Grapevine, P.O. Box 95104, Grapevine, TX 76099.	City Hall, 200 South Main Street, Grapevine, TX 76051.	Aug. 8, 2022	480598
Tarrant (FEMA Docket No.: B–2232).	Unincorporated areas of Tarrant County (21–06–2812P).	The Honorable B. Glen Whitley, Tarrant County Judge, 100 East Weatherford Street, Suite 501, Fort Worth, TX 76196.	Tarrant County Administration Building, 100 East Weatherford Street, Fort Worth, TX 76196.	Aug. 8, 2022	480582
Wise (FEMA Docket No.: B–2232).	Unincorporated areas of Wise County (21–06–2812P).	The Honorable J. D. Clark, Wise County Judge, 101 North Trinity Street, Decatur, TX 76234.	Wise County Public Works Department, 2901 South FM 51, Building 200, Decatur, TX 76234.	Aug. 8, 2022	481051
Virginia: Prince William (FEMA Docket No.: B–2232).	City of Manassas Park (21–03–1049P).	The Honorable Jeanette Rishell, Mayor, City of Manassas Park, 1 Park Center Court, Manassas Park, VA 20111.	City Hall, 1 Park Center Court, Manassas Park, VA 20111.	Aug. 5, 2022	510123

[FR Doc. 2022–18929 Filed 8–31–22; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2269]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before November 30, 2022.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2269, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Madison County, Ohio and Incorporated Areas Project: 14–05–4454S Preliminary Date: March 30, 2022	
Village of West Jefferson	Village Hall, 28 East Main Street, West Jefferson, OH 43162.
Kenosha County, Wisconsin and Incorporated Areas Project: 12–05–2816S Preliminary Date: March 28, 2022	
City of Kenosha	City Hall, 625 52nd Street, Kenosha, WI 53140.
Unincorporated Areas of Kenosha County	Kenosha County Center, 19600 75th Street, Suite 185–3, Bristol, WI 53104.
Village of Bristol	Bristol Municipal Building, 19801 83rd Street, Bristol, WI 53104.
Village of Paddock Lake	Village Hall, 6969 236th Avenue, Paddock Lake, WI 53168.
Village of Pleasant Prairie	Village Hall, 9915 39th Avenue, Pleasant Prairie, WI 53158.
Village of Salem Lakes	Salem Lakes Village Hall, 9814 Antioch Road, Salem, WI 53168.

Community	Community map repository address
Village of Somers	Somers Village Hall, 7511 12th Street, Kenosha, WI 53144.
Village of Twin Lakes	Village Hall, 105 East Main Street, Twin Lakes, WI 53181.

[FR Doc. 2022–18930 Filed 8–31–22; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2022–0026; OMB No. 1660–0023]

Agency Information Collection Activities: Proposed Collection; Comment Request; Community Assistance Contact (CAC) and Community Assistance Visits (CAV) Reports

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60-Day notice of revision and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the effectiveness of a community's implementation of the National Flood Insurance Program's Community Assistance Program (CAC) and Community Assistance Visits (CAV) Reports.

DATES: Comments must be submitted on or before October 31, 2022.

ADDRESSES: To avoid duplicate submissions to the docket, please submit comments at *www.regulations.gov* under Docket ID FEMA–2022–0026. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Security Notice that is available via a link on the homepage of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Sarah Owen, Program Specialist, Floodplain Management Division, Mitigation Directorate, Federal Insurance and Mitigation Administration, FEMA at *Sarah.Owen@fema.dhs.gov* or (510) 409–4818. You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP) codified as 42 U.S.C. 4001, *et seq.* is authorized by Public Law 90–448 (1968) and expanded by Public Law 93–234 (1973). The Department of Homeland Security, Federal Emergency Management Agency (FEMA) administers the NFIP. The NFIP's major objective is to assure that participating communities are achieving the flood loss reduction objectives through adoption and enforcement of adequate land use and control measures. Sections 1315 and 1361 provide the basis for FEMA's process to evaluate how well communities are implementing their floodplain management programs. Title 44 CFR 59.22 directs the respondent to submit evidence of the corrective and preventive measures taken to meet the flood loss reduction objectives.

The two key methods FEMA uses in determining community assistance needs are through the Community Assistance Contact (CAC) and Community Assistance Visit (CAV), which serve to provide a systematic means of monitoring community NFIP compliance. Through the CAC and CAV, FEMA can also determine to what extent communities are achieving the flood loss reduction objectives of the NFIP. By providing assistance to communities, the CAC and CAV also serve to enhance FEMA's goals of reducing future flood losses, thereby achieving the NFIP's cost-containment objective. The burden hours and costs associated with this collection were re-evaluated which led to the main revision in this extension request.

Collection of Information

Title: Community Assistance Contact (CAC) and Community Assistance Visits (CAV) Reports.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0023.

FEMA Forms: FEMA Form FF–206–FY–21–141 (formerly 086–0–28(E)), Community Assistance Visit (CAV) Report; FEMA Form FF–206–FY–21–142 (formerly 086–0–29(E)), Community Assistance Contact (CAC) Report.

Abstract: Through the use of a Community Assistance Contact (CAC) or Community Assistance Visit (CAV), FEMA can make a comprehensive assessment of a community's floodplain management program. Through this assessment, FEMA can assist the community to understand the NFIP's requirements, and implement effective flood loss reductions measures. Communities can achieve cost savings through flood mitigation actions by way of insurance premium discounts and reduced property damage.

Affected Public: State, Local or Tribal Government.

Estimated Number of Respondents: 100.

Estimated Number of Responses: 2,000.

Estimated Total Annual Burden Hours: 60,000.

Estimated Total Annual Respondent Cost: $2,505,600.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $2,181,968.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Millicent Brown Wilson,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2022–18931 Filed 8–31–22; 8:45 am]

BILLING CODE 9111–47–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6343–N–01]

Fair Market Rents for the Housing Choice Voucher Program, Moderate Rehabilitation Single Room Occupancy Program, and Other Programs, Fiscal Year 2023

AGENCY: Office of the Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development, HUD.

ACTION: Notice of Fiscal Year (FY) 2023 Fair Market Rents (FMRs).

SUMMARY: The United States Housing Act of 1937 (USHA), as amended by the Housing Opportunities Through Modernization Act of 2016 (HOTMA), requires the Secretary to publish FMRs not less than annually, adjusted to be effective on October 1 of each year. This notice announces the availability of FY 2023 FMRs, describes the methods used to calculate the FY 2023 FMRs, responds to comments submitted on the notice of Proposed Changes to the Methodology Used for Calculating Fair Market Rents, and enumerates the procedures for Public Housing Agencies (PHAs) and other interested parties to request reevaluations of their FMRs as required by HOTMA.

DATES:

Comment Due Date: October 3, 2022.

FY 2023 Fair Market Rents Effective Date: October 1, 2022, unless HUD receives a valid request for reevaluation of specific area FMRs as described below.

ADDRESSES: HUD invites interested persons to submit comments regarding the FMRs and to request reevaluation of the FY 2023 FMRs. Communications must refer to the above docket number and title and should contain the information specified in the ''Request for Public Comments and FMR Reevaluations'' section. There are two methods for submitting public comments:

1. Electronic Submission of Comments. Interested persons may submit comments or reevaluation requests electronically through the Federal eRulemaking Portal at *https://www.regulations.gov.* HUD strongly encourages commenters to submit comments or reevaluation requests electronically. Electronic submission of comments or reevaluation requests allows the author maximum time to prepare and submit a comment or reevaluation request, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments or reevaluation requests submitted electronically through the *https://www.regulations.gov* website can be viewed by other submitters and interested members of the public. Commenters or reevaluation requestors should follow instructions provided on that site to submit comments or reevaluation requests electronically.

2. Submission of Comments by Mail. Members of the public may submit comments or requests for reevaluation 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 standard mail often results in delayed delivery. To ensure timely receipt of comments or reevaluation requests, HUD recommends that comments or requests submitted by standard mail be submitted at least two weeks in advance of the deadline. HUD will make all comments or reevaluation requests received by mail available to the public at *https://www.regulations.gov.*

Note: To receive consideration as public comments or reevaluation requests, comments or requests must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

No Facsimile Comments or Reevaluation Requests. HUD does not accept facsimile (FAX) comments or requests for FMR reevaluation.

FOR FURTHER INFORMATION CONTACT: Questions on this notice may be addressed to Adam Bibler, Director, Program Parameters and Research Division, Office of Economic Affairs, Office of Policy Development and Research, HUD Headquarters, 451 7th Street SW, Room 8208, Washington, DC 20410, telephone number (202)–402–6057; or via email at *pprd@hud.gov.* Persons with hearing or speech impairments may access HUD numbers through TTY by calling the Federal Relay Service at 800–877–8339 (toll-free number). For technical information on the methodology used to develop FMRs or a listing of all FMRs, please call the HUD USER information line at 800–245–2691 or access the information on the HUD USER website at *https://www.huduser.gov/portal/datasets/fmr.html.*

Questions related to the use of FMRs or voucher payment standards should be directed to the respective local HUD program staff or the Office of Public and Indian Housing Customer Service Center at *https://www.hud.gov/program_offices/public_indian_housing/about/css.* Questions on how to conduct FMR surveys may be addressed to the electronic mailbox for the Program Parameters and Research Division at *pprd@hud.gov.*

Electronic Data Availability. This **Federal Register** notice and files containing FMR values will be available electronically from the HUD User page at *https://www.huduser.gov/portal/datasets/fmr.html.* **Federal Register** notices also are available electronically from *https://www.federalregister.gov/,* the U.S. Government Printing Office website. Complete documentation of the methods and data used to compute each area's FY 2023 FMRs is available at *https://www.huduser.gov/portal/datasets/fmr.html#2023_query.* FY 2023 FMRs are available in a variety of electronic formats at *https://www.huduser.gov/portal/datasets/fmr.html,* including in PDF and Microsoft Excel. Small Area FMRs for all metropolitan FMR areas are available in Microsoft Excel format at: *https://www.huduser.gov/portal/datasets/fmr/smallarea/index.html.* For informational purposes, HUD also publishes 50th percentile rents for all FMR areas at *https://www.huduser.gov/portal/datasets/50per.html.*

SUPPLEMENTARY INFORMATION: Section 8(c)(1) of the United States Housing Act of 1937 (USHA), as amended by the Housing Opportunities Through Modernization Act of 2016 (HOTMA), requires the Secretary to publish FMRs not less than annually, adjusted to be effective on October 1 of each year.

I. Background

Section 8 of the USHA (42 U.S.C. 1437f) authorizes housing assistance to aid lower-income families in renting safe and decent housing. Housing assistance payments are limited by FMRs established by HUD for different geographic areas. In the Housing Choice Voucher (HCV) program, the FMR is the basis for determining the ''payment standard amount'' used to calculate the maximum monthly subsidy for an assisted family. See 24 CFR 982.503. HUD also uses the FMRs to determine initial renewal rents for some expiring

project-based Section 8 contracts, initial rents for housing assistance payment contracts in the Moderate Rehabilitation Single Room Occupancy program, rent ceilings for rental units in both the HOME Investment Partnerships program and the Emergency Solution Grants program, calculation of maximum award amounts for Continuum of Care recipients and the maximum amount of rent a recipient may pay for property leased with Continuum of Care funds, and calculation of flat rents in Public Housing units. In general, the FMR for an area is the amount that a tenant would need to pay the gross rent (shelter rent plus utilities) of privately owned, decent, and safe rental housing of a modest (non-luxury) nature with suitable amenities. The FMR is also used to determine the Performance Based Contract Administration Fee in Multifamily Housing. HUD's FMR calculations represent HUD's best effort to estimate the 40th percentile gross rent [1] paid by recent movers into standard quality units in each FMR area. In addition, all rents subsidized under the HCV program must meet reasonable rent standards.

On July 13, 2022, HUD published a notice of Proposed Changes to the Methodology Used for Calculating Fair Market Rents.[2] For FY 2023 FMRs, HUD is implementing the two proposed changes described in that notice. The first affects how HUD determines the ''recent mover adjustment factor'' to meet its regulatory objective of setting the FMR from the distribution of rental units occupied by recent movers. The second change affects how HUD inflates the recent mover rent to the most recent full calendar year using a Gross Rent Inflation Adjustment Factor. The methodology used in each of these steps is described in more detail in the following section and will apply only to FY 2023 FMRs.

II. Procedures for the Development of FMRs

Section 8(c)(1) of the USHA,[3] as amended by HOTMA (Pub. L. 114–201, enacted July 29, 2016), requires the Secretary of HUD to publish FMRs not less than annually. Section 8(c)(1)(A) states that each FMR ''shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply. . . .'' Section 8(c)(1)(B) requires that HUD publish, not less than annually, new FMRs on the World Wide Web or in any other manner specified by the Secretary, and that HUD must also notify the public of when it publishes FMRs by **Federal Register** notice. After notification, the FMRs ''shall become effective no earlier than 30 days after the date of such publication,'' and HUD must provide a procedure for the public to comment and request a reevaluation of the FMRs in a jurisdiction before the FMRs become effective. Consistent with the statute, HUD is issuing this notice to notify the public that FY 2023 FMRs are available at *https://www.huduser.gov/portal/datasets/fmr.html* and will become effective on October 1, 2022. This notice also provides procedures for FMR reevaluation requests.

III. FMR Methodology

This section provides a brief overview of how HUD computes the FY 2023 FMRs. For complete information on how HUD derives each area's FMRs, see the online documentation at *https://www.huduser.gov/portal/datasets/fmr.html#2023_query*.

A. Geographic Area Definitions

The FY 2023 FMRs are based on the updated metropolitan area definitions published by the Office of Management and Budget (OMB) on September 14, 2018 and first incorporated by the Census Bureau into the 2019 American Community Survey (ACS) data, and the corresponding FY 2022 FMRs. The FY 2023 FMRs include two newly created non-metropolitan county-equivalents in Alaska: Chugach Census Area and Copper River Census Area; and the corresponding abolishment of the Valdez-Cordova Census Area, AK.

B. Base Year Rents

For FY 2023 FMRs, HUD uses the U.S. Census Bureau's 5-year ACS data collected between 2016 and 2020 as the ''base rents'' for the FMR calculations. These data are the most current ACS data available at the time that HUD calculates the FY 2023 FMRs. HUD pairs a ''margin of error'' test [4] with an additional requirement based on the number of survey observations supporting the estimate to improve the statistical reliability of the ACS data used in the FMR calculations. The Census Bureau does not provide HUD with an exact count of the number of observations supporting the ACS estimate; rather, the U.S. Census Bureau provides HUD with categories of the number of survey responses underlying the estimate, including whether the estimate is based on more than 100 observations. Using these categories, HUD requires that, in addition to the ''margin of error'' test, ACS rent estimates must be based on at least 100 observations to be used as base rents.

For areas in which the 5-year ACS data for two-bedroom, standard quality gross rents do not pass the statistical reliability tests (*i.e.,* have a margin of error ratio greater than 50 percent or fewer than 100 observations), HUD will use an average of the base rents over the three most recent years [5] (provided that there is data available for at least two of these years),[6] or if such data are not available, using the two-bedroom rent data within the next largest geographic area. For a metropolitan subarea, the next largest area is its containing metropolitan area. For a non-metropolitan area, the next largest area is the state non-metropolitan portion.

C. Measures of Rent Inflation Calculated From Private-Sector Data

As described in the following sections, HUD attempts to make the FMRs ''as of'' the current fiscal year by accounting for inflation from the vintage of the ACS estimates to the present. In previous years, HUD has only used rent inflation as measured by the Consumer Price Index, as reported by the Bureau of Labor Statistics. In its calculation of FY 2023 FMRs, however, HUD is using the CPI in conjunction with measures of rent as reported by several private companies to better capture local rent inflation dynamics, as the CPI is only available at the metropolitan level for the nation's largest metropolitan areas. The measures of rent used by HUD are the RealPage (formerly Axiometrics) average effective rent per unit, Moody's Analytics REIS average market rent, CoStar Group average effective rent, CoreLogic, Inc. single-family combined 3-bedroom median rent, ApartmentList Rent Estimates, and Zillow Observed Rent Index.

In calculating a measure of inflation from these data, HUD first takes the annual average of each statistic, then its year-to-year change. HUD then takes the

[1] HUD also calculates and posts 50th percentile rent estimates for the purposes of Success Rate Payment Standards as defined at 24 CFR 982.503(e) (estimates available at: *https://www.huduser.gov/portal/datasets/50per.html*).

[2] 87 FR 41739.

[3] 42 U.S.C. 1437f.

[4] HUD's margin of error test requires that the margin of error of the ACS estimate is less than half the size of the estimate itself.

[5] For FY 2023, the three years of ACS data in question are 2018, 2019 and 2020. HUD adjusts the 2018 and 2019 data to be denominated in 2020 dollars using the growth in Consumer Price Index (CPI)-based gross rents measured between 2018 and 2020.

[6] To be used in the three-year average calculation, the 5-year estimates must be minimally statistically qualified; that is, the margin of error of the estimates must be less than half the size of the estimate.

mean of changes from all available sources for each area. Next, HUD takes an average of this private-sector measure of rent inflation with rent inflation as captured by the CPI for the area, where the private-sector measure is weighted at 60 percent and the CPI rent inflation measure is weighted at 40 percent. Finally, HUD averages the result of this step with the year-to-year change in the CPI housing fuels and utilities index for the area in order to make the resulting inflation measure reflective of gross rents.

D. Recent-Mover Factors

Following the assignment of the standard quality two-bedroom rent described above, HUD applies a recent-mover factor to these rents. HUD traditionally calculates the recent-mover factor as the change between the 5-year ACS standard quality two-bedroom gross rent and the 1-year ACS recent mover gross rent for the recent mover factor area. HUD has changed the calculation of the FY 2023 recent mover factor from previous years due to the unavailability of ACS2020 1-year estimates. The U.S. Census Bureau did not release standard 1-year estimates from the 2020 American Community Survey (ACS) due to the impacts of the COVID–19 pandemic on data collection.

To replace missing 2020 ACS 1-year rent data, HUD uses a multi-prong approach. While the U.S. Census Bureau will not provide 1-year tabulations of 2020 ACS data at the FMR-area level, the U.S. Census Bureau does provide a special tabulation of the 5-year ACS data for 2020 of the rents paid for standard quality units by persons who moved into their units in 2019 and 2020 and responded to the 2019 or 2020 ACS surveys. This differs from the usual recent mover tabulation of 1-year ACS data as in the regular tabulation, in which all respondents come from a single ACS year and are included if they had moved into their unit during the prior 2 years. While the 40th percentile rents estimated from these two samples are similar, the estimates from the 5-year ACS sample tend to be slightly lower than those from the usual 1-year tabulations.

To correct for the tendency for the recent mover estimate derived from ACS 5-year data to be lower than that derived from ACS one-year data, as well as any error that may be introduced by relying heavily on the part of the 5-year ACS collected in 2020, HUD takes the average of the recent mover factor calculated with 2019 1-year ACS recent mover rent inflated by the 2019–2020 gross rent change, and the recent mover factor from the 2020 5-year ACS recent mover rent. HUD calculates the 2019–2020 gross rent change in different ways depending on the availability of data. For example, in areas where private sources of rental data provide sufficient coverage (3 or more sources), HUD uses the composite private sector and CPI inflation measure described in the previous section. For areas without private data coverage, HUD uses the 2019–2020 gross rent CPI change.

The ACS rent estimates used in the recent mover factor calculation must meet the same statistical quality checks used in evaluating the base rent estimate, specifically, it must have a margin of error of less than half the estimate, and a sample size of at least 100 survey cases. If an area's recent mover estimate does not meet these criteria, HUD uses the estimate for the next larger area of geography containing the FMR area.

HUD does not allow recent-mover factors to lower the standard quality base rent; therefore, the recent mover factor cannot be less than 1. Applying the recent-mover factor to the standard quality base rent produces an ''as of'' 2020 recent mover two-bedroom gross rent for the FMR area.

E. Other Rent Survey Data

HUD calculates base rents for the insular areas using data collected during the 2010 decennial census of American Samoa, the Northern Mariana Islands, and the Virgin Islands beginning with the FY 2016 FMRs.[7] HUD updates the 2010 base year data to 2020 using the growth in national ACS data for the FY 2023 FMRs. Note that while the 2010 decennial census also included Guam, HUD uses the result of a more recent rent survey in calculating the FMRs for Guam, as discussed in the following paragraph.

HUD does not use ACS data to establish the base rent or recent-mover factor in cases where it has locally collected survey data which are more recent than the 2019 ACS. For larger metropolitan areas that have valid ACS one-year recent-mover data, survey data may not be any older than the mid-point of the calendar year for the ACS one-year data. Since the ACS one-year data used for the FY 2023 FMRs is from 2019, larger areas with valid one-year recent mover data may not use other survey data collected before June 30, 2019 for the FY 2023 FMRs. Areas without statistically reliable 1-year ACS data may continue to use local survey data until the mid-point of the 5-year ACS data is more recent than the local survey. For FY 2023 FMRs, the following are Metropolitan Statistical Areas (MSAs), HUD Metro FMR Areas, or non-metropolitan counties that have FMRs based on local ad hoc surveys:

- HUD uses survey data from 2018 to calculate the FMRs for Coos County, OR; Curry County, OR; and Douglas County, OR.
- HUD uses survey data from 2019 to calculate the FMRs for Kauai County, HI; Eugene-Springfield, OR MSA; Worcester, MA HUD Metro FMR Area; and Guam.
- HUD uses survey data from 2020 to calculate the FMRs for Houston-The Woodlands-Sugar Land, TX HUD Metro FMR Area, Knox County, ME; Lincoln County, ME; and Waldo County, ME.
- HUD uses survey data from 2021 to calculate the FMRs for Asheville, NC HUD Metro FMR Area; Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area; Bremerton-Silverdale, WA MSA; Iron County, UT; New York, NY HUD Metro FMR Area; Portland, ME HUD Metro FMR Area; Portland-Vancouver-Hillsboro, OR-WA MSA; San Diego-Carlsbad, CA MSA; Santa Maria-Santa Barbara, CA MSA; Seattle-Bellevue, WA HUD Metro FMR Area; and Transylvania County, NC.
- HUD uses survey data from 2022 to calculate the FMRs for Salinas, CA MSA; San Benito County, CA HUD Metro FMR Area; and Santa Cruz-Watsonville, CA MSA.

F. Gross Rent Inflation Adjustment Factors

HUD ordinarily updates the latest ACS-based rent estimates with one year of gross rent inflation measured with the 23 local and 4 regional CPI components rent of primary residence and household fuels and utilities depending on the location of the FMR area. For FY 2023, HUD augments the CPI methodology by including available private data sources along with CPI data in calculating a weighted average gross rent inflation factor that is used to update the ACS-based ''as of'' 2020 rent through 2021. HUD applies a weight of 60 percent to the average of the change in private data sources and 40 percent to the annual change in CPI gross rents. For example, in areas without Bureau of Labor Statistics (BLS) metro CPI data but that do have a sufficient number of private sector data sources (at least 3), the calculation of the gross rent inflation factor includes the weighted average change in private rent data (60 percent) along with regional CPI data (40

[7] The ACS is not conducted in the Pacific Islands (Guam, Northern Mariana Islands and American Samoa) or the US Virgin Islands. As part of the 2010 Decennial Census, the Census Bureau conducted ''long-form'' sample surveys for these areas. HUD uses the results gathered by this long form survey for the FY 2023 FMRs.

percent). In areas covered by BLS Class A metropolitan CPI data, HUD calculates the inflation adjustment as the weighted average of changes in rents from all available private data sources for the area (60 percent) and the change in rents measured by the metropolitan CPI (40 percent). In places without sufficient private rent data sources, the actual inflation adjustment process using regional CPI data is unchanged from FY 2022 and prior FMR vintages. In all cases, rent change information is blended with CPI fuels and utilities changes to estimate changes in gross rents.

G. Trend Factor Forecasts

Following the application of the appropriate gross rent inflation factor, HUD trends the gross rent estimate from 2021 to FY 2023 using a trend factor which is based on local or regional forecasts of CPI gross rent data. HUD derived a trend factor for each Class A CPI area and Class B/C CPI region using time series models based on national inputs (National Input Model or NIM), local inputs (Local Input Model or LIM) and historical values of the predicted series (Pure Time Series—PTS). HUD chose the actual model used for each CPI area's trend factor based on which model generates the lowest Root Mean Square Error (RMSE) statistic and applied the trend factors to the corresponding FMR areas. HUD established the type of model for each forecast (NIM, LIM, or PTS) for the FY 2020 FMRs and is keeping it constant for 5 years. HUD will reassess the model selections during the calculation of the FY 2025 FMRs. More details on the trend factor forecasts are available in the June 5, 2019 **Federal Register** notice (84 FR 26141) and are available at *https://www.federalregister.gov/documents/2019/06/05/2019-11763/proposed-changes-to-the-methodology-used-for-estimating-fair-market-rents.*

H. Bedroom Rent Adjustments

HUD updates the bedroom ratios used in the calculation of FMRs annually. The bedroom ratios HUD uses in the calculation of FY 2023 FMRs are calculated from three, five-year ACS data series (2014–2018, 2015–2019, and 2016–2020). HUD only uses estimates with a margin of error ratio of less than 50 percent. If an area does not have reliable estimates in at least two of the previous three ACS releases, HUD uses the bedroom ratios for the area's larger parent geography.

HUD uses two-bedroom units for its primary calculation of FMR estimates. This is generally the most common size of rental unit and, therefore, the most reliable to survey and analyze. After estimating two-bedroom FMRs, HUD calculates bedroom ratios for each FMR area which relate the prices of smaller and larger units to the cost of two-bedroom units. To ensure an adequate distributional fit in these bedroom ratio calculations for individual FMR areas, HUD establishes bedroom interval ranges which set upper and lower limits for bedroom ratios nationwide, based on an analysis of the range of such intervals for all areas with large enough samples to permit accurate bedroom ratio determinations.

In the calculation of FY 2023 FMR estimates, HUD sets the bedroom interval ranges as follows: efficiency FMRs are constrained to fall between 0.67 and 0.87 of the two-bedroom FMR; one-bedroom FMRs must be between 0.76 and 0.89 of the two-bedroom FMR; three-bedroom FMRs (prior to the adjustments described below) must be between 1.12 and 1.31 of the two-bedroom FMR; and four-bedroom FMRs (again, prior to adjustment) must be between 1.25 and 1.58 of the two-bedroom FMR. Given that these interval ranges partially overlap across unit bedroom counts, HUD further adjusts bedroom ratios for a given FMR area, if necessary, to ensure that higher bedroom-count units have higher rents than lower bedroom-count units within that area.

HUD also further adjusts the rents for three-bedroom and larger units to reflect HUD's policy to set higher rents for these units.[8] This adjustment is intended to increase the likelihood that the largest families, who have the most difficulty in leasing units, will be successful in finding eligible program units. The adjustment adds 8.7 percent to the unadjusted three-bedroom FMR estimates and adds 7.7 percent to the unadjusted four-bedroom FMR estimates.

HUD derives FMRs for units with more than four bedrooms by adding 15 percent to the four-bedroom FMR for each extra bedroom. For example, the FMR for a five-bedroom unit is 1.15 times the four-bedroom FMR, and the FMR for a six-bedroom unit is 1.30 times the four-bedroom FMR. Similarly, HUD derives FMRs for single-room occupancy units by subtracting 25 percent from the zero-bedroom FMR (*i.e.,* they are set at 0.75 times the zero-bedroom (efficiency) FMR).[9]

I. Minimum FMRs

All FMRs are subject to a minimum rent based on state or national non-metropolitan area median rent. HUD calculates a population-weighted median two-bedroom FMR across all non-metropolitan counties or county-equivalents of each state, which, for the purposes of FMRs, is the state minimum rent. State-minimum rents for each FMR area are available in the FY 2023 FMR Documentation System, available at *https://www.huduser.gov/portal/datasets/fmr.html#2023_query.* HUD also calculates the population-weighted median FMR rent across all non-metropolitan areas of the country, which, for the purposes of FMRs, is the national non-metropolitan rent. For FY 2023, the national non-metropolitan rent is $826. The applicable minimum rent for a particular area is the *lower* of the state or national non-metropolitan median. Each area's two-bedroom FMR must be no less than the applicable minimum rent.

J. Limit on FMR Decreases

Within the Small Area FMR final rule published on November 16, 2016,[10] HUD amended 24 CFR 888.113 to include a limit on the amount that FMRs may annually decrease. The current year's FMRs resulting from the application of the bedroom ratios, as discussed in section (E) above, may be no less than 90 percent of the prior year's FMRs for units with the same number of bedrooms. Accordingly, if the current year's FMRs are less than 90 percent of the prior year's FMRs as calculated by the above methodology, HUD sets the current year's FMRs equal to 90 percent of the prior year's FMRs. For areas where use of Small Area FMRs in the administration of their voucher programs is required, the FY 2023 Small Area FMRs may be no less than 90 percent of the FY 2022 Small Area FMRs. For all other metropolitan areas, the FY 2023 Small Area FMRs may be no less than 90 percent of the greater of the FY 2022 metropolitan area wide FMRs or the applicable FY 2022 Small Area FMR.

PHAs operating in areas where the calculated FMR is lower than the published FMR (*i.e.,* those areas where HUD has limited the decrease in the annual change in the FMR to 10

[8] As mentioned above, HUD applies the interval ranges for the three-bedroom and four-bedroom FMR ratios prior to making these adjustments. In other words, the adjusted three- and four-bedroom FMRs can exceed the interval ranges but the unadjusted FMRs cannot.

[9] As established in the interim rules implementing the provisions of the Quality Housing and Work Responsibility Act of 1998 (Title V of the FY 1999 HUD Appropriations Act; Pub. L. 105–276) in 24 CFR 982.604.

[10] 81 FR 80567.

percent) may request payment standards below the basic range (24 CFR 982.503(d)) and reference the ''unfloored'' rents (*i.e.,* the unfinalized FMRs calculated by HUD prior to application of the 10-percent-decrease limit) depicted in the FY 2023 FMR Documentation System (available at: *https://www.huduser.gov/portal/datasets/fmr.html#2023_query).*

IV. Small Area FMRs

HUD lists Small Area FMRs for all metropolitan areas in the Small Area FMR Schedule. Metropolitan PHAs operating in areas where the use of Small Area FMRs is not mandated should contact their local HUD field office to request approval for using Small Area FMRs in the operation of their Housing Choice Voucher program.

HUD calculates Small Area FMRs directly from the standard quality gross rents provided to HUD by the Census Bureau for ZIP Code Tabulation Areas (ZCTAs) when such data are statistically reliable. The ZCTA two-bedroom equivalent 40th percentile gross rent is analogous to the standard quality base rents set for metropolitan areas and non-metropolitan counties. For each ZCTA with statistically reliable gross rent estimates, using the expanded test of statistical reliability first used in FY 2018 (*i.e.,* estimates with margins of error ratios below 50 percent and based on at least 100 observations), HUD calculates a two-bedroom equivalent 40th percentile gross rent using the first statistically reliable gross rent distribution data from the following data sets (in this order): two-bedroom gross rents, one-bedroom gross rents, and three-bedroom gross rents. If either the one-bedroom or three-bedroom gross rent data are used because the two-bedroom gross rent data are not statistically reliable, HUD converts the one-bedroom or three-bedroom 40th percentile gross rent to a two-bedroom equivalent rent using the bedroom ratios for the ZCTA's parent metropolitan area. To increase stability to these Small Area FMR estimates, HUD averages the latest three years of gross rent estimates.[11]

For ZCTAs without usable gross rent data by bedroom size, HUD calculates Small Area FMRs using the rent ratio method. To calculate Small Area FMRs using a rent ratio, HUD divides the median gross rent across all bedrooms for the ZCTA by the similar median gross rent for the metropolitan area of the ZCTA. If a ZCTA does not have reliable rent data at the all-bedroom level, HUD will then check to see if the ZCTA borders other ZCTAs that themselves have reliable rent data. If at least half of a ZCTA's ''neighbors'' have such data, HUD will use the weighted average of those estimates as the basis for the Small Area FMR rather than a county proxy, where the weight is the length of the shared boundary between the ZCTA and its neighbor. In small areas where the neighboring ZCTA median gross rents are not statistically reliable, HUD substitutes the median gross rent for the county containing the ZIP code in the numerator of the rent ratio calculation. HUD multiplies this rent ratio by the current two-bedroom FMR for the metropolitan area containing the small area to generate the current year two-bedroom FMR for the small area.

HUD continues to use a rolling average of ACS data in calculating the Small Area FMR rent ratios. HUD believes coupling the most current data with previous year's data minimizes excessive year-to-year variability in Small Area FMR rent ratios due to sampling variance. Therefore, for FY 2023 Small Area FMRs, HUD has updated the rent ratios to use an average of the rent ratios calculated from the 2014–2018, 2015–2019, and 2016–2020 5-year ACS estimates.

HUD limits each two-bedroom Small Area FMR to be no more than 150 percent of the two-bedroom FMR for the metropolitan area where the ZIP code is located.

V. Response to Comments on Proposed Changes to FMR Calculation

In response to HUD's July 13, 2022, notice of Proposed Changes to the Methodology Used for Calculating Fair Market Rents, HUD received 67 public comments. HUD responds to the public comments received below.

A. Public Comments Supporting the Proposed Changes to the Methodology Used for Calculating FMRs

Numerous commenters expressed support of the proposed changes to utilize private data sources in the methodology used for calculating FY 2023 FMRs, with some commenters supporting the use of private data sources in subsequent FMR calculations after FY 2023. Other commenters expressed general support of changing the methodology used for calculating FMRs without commenting substantively on the proposed methodology used for calculating FMRs.

Some commenters expressly stated their belief that private data sources more accurately reflect the current prices in the rental market. Other commenters supported the proposed changes to the methodology used for calculating FMRs because the commenters believe that current calculation methods cause FMR amounts to consistently lag behind actual rent amounts. Multiple commenters recommended that HUD use the proposed inflation adjustment of the average of changes in rents from all available private data sources for the area and the change in rents measured by the Bureau of Labor Statistics (BLS) metropolitan CPI.

One commenter expressed agreement with HUD's proposed strategy to replace the missing 2020 ACS 1-year rent data. The commenter also expressed that the 5-year ACS sample tends to be lower than the usual 1-year tabulation and that private data sources can provide sufficient coverage to more accurately track changes in certain types of rental markets than CPI. The commenter further stated its agreement with HUD's proposed strategy to augment the CPI methodology by including private data sources, along with CPI, in the calculation of the average gross rent inflation factor in the limited situations proposed by HUD.

HUD Response: For the calculation of FY 2023 FMRs, HUD is augmenting inflation data from the CPI with measures of rent inflation calculated from private-sector data. HUD is making this change in response to the lack of availability of ACS 2020 data and the changes in rental markets that have occurred following the COVID–19 pandemic. HUD feels that inflation factors based on the CPI and, where available, at least three and up to six of the private-sector data sources previously mentioned will provide the best estimate of the 40th percentile gross rent paid by recent movers for FY 2023. HUD will continue to evaluate both the impacts of these specific changes and its overall FMR calculation methodology and determine the best methodology to use in future years.

B. Public Comments Recommending Additional Changes or Alterations to the Proposed Changes to the Methodology Used for Calculating FMRs

i. Suggestions To Use Additional Private Data Sources

Multiple commenters expressed support for the use of additional private data sources beyond those proposed in the Notice of Proposed Changes for Calculating Fair Market Rents. Some commenters specifically requested that HUD consider using additional private

[11] For example, for FY 2023 Small Area FMRs, HUD averages the gross rents from 2018, 2019, and 2020 5-Year ACS estimates. The 2018 and 2019 gross rent estimates would be adjusted to 2020 dollars using the metropolitan area's gross rent CPI adjustment factors.

data sources for both large metropolitan statistical areas (MSA) and submarkets to MSAs.

HUD Response: The six sources considered by HUD represent a range of metrics which, when taken together and augmented with the CPI, should provide a reasonable measure of rent inflation. The measures of rent used by HUD are the RealPage (formerly Axiometrics) average effective rent per unit, Moody's Analytics REIS average market rent, CoStar Group average effective rent, CoreLogic, Inc. single-family combined 3-bedroom median rent, ApartmentList Rent Estimates, and Zillow Observed Rent Index. HUD requires at least three private data sources to ensure that no single source unduly influences the FMR calculation.

ii. Suggestions To Use Alternative Private Data Sources

One commenter, citing a study conducted by 2M Research (2019), suggested that HUD use Axiometrics (RealPage) data, rather than Zillow data, to estimate the Autoregressive Integrated Moving Average. The commenter advised that this approach lends more geographic resolution to trend factors and could lead to more accurate FMRs. Further citing the 2M Research study, the commenter stated that the Axiometrics (RealPage) data, compared to American Community Survey (ACS) data, provided results that indicate the Axiometrics (Real Page) measure ''*erent*'' is a viable option for estimating trends in FMR.

One commenter recommended the use of data produced by Zillow for setting FMR amounts, while another commenter suggested that data from Zillow be excluded from use with FMR calculations. One commenter recommended the use of data sourced from Craigslist for calculating FMR amounts.

Commenters stated that each year several HCV programs conduct local rental housing costs surveys to contest HUD's published FMRs. The commenter suggested that HUD allow these studies to be used for FMR calculation methodology. Commenters also encouraged HUD to assess the feasibility of using observed CPI data or private data sources to adjust rents forward from the 2020 ACS to 2022, rather than 2021.

Another commenter stated that HUD should consider using the commenter's data in the methodology used for calculating FMRs. The commenter stated that it collects extensive data that includes hundreds of data points that corroborate all nine factors required for comparability in determining if rent is reasonable, as described in 24 CFR 982. The commenter also advised that its data is used by hundreds of public housing agencies in determining rent reasonableness in the HCV Program.

HUD Response: As previously stated, the six sources HUD uses in its FY 2023 FMR calculation should provide a broad measure of rent inflation. HUD will continue to evaluate these and other sources of rent data to assess the accuracy of its FMR calculation, although it should be noted Craigslist does not make available aggregate rent statistics based on its rental listings to HUD.

HUD continues to use PHA-sponsored survey data in FMR calculation and PHAs may continue to submit such data. HUD is committed to continuing to assess its FMR calculation and make improvements when warranted; however, at this time HUD is not including the private measures of rent inflation in the trend factor component of FMR calculation, as the forecasting of rent levels is a complex process and HUD does not have an evidenced-based method for doing so. In addition, when HUD established the practice of forecasting local and regional CPI data for the FY 2020 FMRs, it committed to using the same model structure initially selected for each area through the FY 2024 FMRs. Estimating new forecasting models including private rent data would not be consisten with HUD's previous commitment.

iii. Suggestions Regarding Changes That Should Be Made Based on the Data in the Private Data Sources Identified in the Proposed Changes to the Methodology Used for Calculating FMRs

One commenter stated that HUD must calculate utilities in FMRs the way it has done previously because utility data is not listed within the private data sources. Another commenter stated that, for each private data source that uses ACS data that is not available for 2020, HUD should account for this lag in accurately capturing rising rent costs.

One commenter expressed concern that HUD's forecast of gross Consumer Price Index (CPI) as the trend factor should also be augmented by private data sources. The commenter stated that the private data sources being used are limited to data using 2020 and 2021 data but not factoring 2022 and 2023 forecast. The commenter expressed concern that this lack of factoring will not reflect the necessary increase in FMRs.

Another commenter stated that private data sources may introduce more volatility in annual FMR changes. The commenter encouraged HUD to protect participants from the loss of housing due to dramatic declines of FMRs. One commenter recommended that HUD could use private data sources, which are collected in real time, to monitor the performance of the published FMRs. HUD could then use that monitoring data to update FMRs more frequently than annually, if market data crossed set thresholds.

HUD Response: Each inflation-adjustment portion of the FMR calculation is a gross rent adjustment, meaning it is a weighted average of shelter rent inflation and utility inflation as reported by the CPI fuels and utilities series. As previously stated, HUD is not including the private measures of rent inflation in the trend factor component of FMR calculation as it does not have an evidenced-based method for doing so. Per HUD regulations, FMRs may not decline by more than 10 percent from the prior year, in order to protect against dramatic declines. Additionally, Public Housing Agencies administering the Housing Choice Voucher program may adopt policies that limit a decline in payment standards for in-place households.

iv. Suggestions and Comments Regarding Recommendations Related to the Use of American Community Survey (ACS) Data

One commenter recommended that HUD use more localized data for calculating FMRs because it provides more accurate information than that provided by ACS. Some commenters expressed that 5-year ACS data does not sufficiently capture current rental prices. One commenter recommended the use of an additional inflation multiplier to account for the lagged inflationary data. Another commenter stated that the 1-year ACS adjusted for inflation using the CPI consistently understates the 40th percentile for gross rents in their locality.

HUD Response: HUD's changes to its calculation methodology incorporate more local rental market inflation data than it has used in the past. As described previously, HUD performs a ''recent mover adjustment'' to all areas to account for the time lag of the 5-year ACS. The cumulative inflation adjustments used in the FMR calculation process make the FMRs the best estimate of rents ''as of'' FY 2023; therefore, HUD feels no further inflation adjustment is warranted.

v. Comments Regarding the Reduction of or Recipient Disagreement With Calculated FMR Amounts

One commenter encouraged HUD to consider increasing the hold harmless

provision to 100 percent of the prior year FMR because of the current uncertainty in the rental market. Another commenter stated that, for any areas where the use of private data sources would result in inflation adjustments lower than the standard CPI adjustment, HUD should continue to use the CPI data in those instances for FY 2023. A separate commenter urged HUD to limit any year to year decreases in FMRs to 5 percent.

Another commenter stated that HUD should consider revisiting the amount by which FMRs can decrease year over year, but that the commenter believes that FMR accuracy is the primary concern of HCV program sponsors. Another commenter stated that HUD should consider ways to account for the added volatility that could be introduced by private data sources. The commenter recommended that HUD consider further tightening the 10 percent yearly FMR decrease floor or to introduce an additional multi-year limit on the amount an FMR may decrease.

One commenter expressed concerns that new development properties placed into service in FY 2023 will not be eligible for the hold harmless policy, and therefore will see a corresponding decrease in Low Income Housing Tax Credit rent limits should Income Limits decrease. One commenter encouraged HUD to allow communities to use private sector data to supplement FMR survey results when appealing HUD calculated FMR, while another commenter asked HUD to verify that PHAs will continue to have the opportunity to use the same FMR reevaluation process, under 24 CFR 888.115(a), notwithstanding the use of the proposed methodology. The commenter stated that to evaluate whether an FMR is accurate, localities will need increased transparency into the coverage of the private data sources used in calculating the FMR.

HUD Response: Per HUD regulations, FMR may not decline by more than 10 percent from the prior year, in order to protect against dramatic declines; however, HUD must consider the most recent data available and may reduce FMRs by up to 10 percent should the data warrant it. Additionally, Public Housing Agencies administering the Housing Choice Voucher program may adopt policies that limit a decline in payment standards for in-place tenants. For the calculation of FY 2023 FMRs, HUD is using an average of both private sources and CPI to avoid any undue volatility in the resulting FMR.

With respect to Low Income Housing Tax Credit Rent Limits, HUD believes that the changes to its FMR methodology for FY 2023 will produce the best estimate of 40th percentile gross rents paid by recent movers to support high- and low- housing cost adjustments to income limits.

PHAs may continue to submit ad hoc rental market surveys in support of reevaluation requests as described in section VI of this Notice. Ad hoc surveys provide a measure of the 40th percentile gross rent paid by recent movers, while the private sources HUD uses in its FY 2023 FMR calculation provide a measure of rental market inflation.

C. Public Comments Regarding Suggestions for the Methodology Used for Calculating FMRs After FY 2023

When updating recent mover calculations after FY 2023, commenters recommend that HUD work with other federal agencies to explore the feasibility of using existing public data sources as an alternative to the CPI. Another commenter asked HUD to consider changing the methodology used for calculating FMRs after FY 2023 in a way that is more reflective of local realities and the current rental market, such as using different rental data sets used in private data sources.

Beyond FY 2023, one commenter does not support the use of private data sources as an alternative to the CPI-based inflation adjustments because of concerns over the lack of methodological transparency inherent in the private data sources. Should HUD adopt the use of private data sources beyond 2023, the commenter stated that the methodology and estimates of the private data sources should be made readily available by either HUD or the data provider.

One commenter stated that it did not understand HUD's decision to make these changes only effective for FY 2023 because the issues leading to HUD's decision to propose the changes to the methodology used for calculating FMRs is likely to continue past FY 2023.

HUD Response: HUD will continue to evaluate its FMR calculation and determine the best methodology and data sources to use each year. This includes examining current data sources and working with public and private partners to obtain new data sources. HUD is committed to transparency in its FMR calculation and maintains a website where interested parties may see the calculation steps for any area's FMR. For FY 2023, this includes the average of the private measures of rent inflation where applicable. HUD is presenting the average in order to protect the proprietary data of those companies that do not make their data publicly available.

D. Public Comments Opposing or Expressing Concerns With the Proposed Changes to the Methodology Used for Calculating FMRs

i. Comments Regarding the Lack of Transparency of Private Data Sources

One commenter expressed skepticism of the utility of the listed private data sources because of the high cost and lack of transparency involved with the use of private data, which make it impossible for industry stakeholders to evaluate the data. According to the commenter, this lack of transparency means that the statistical reliability is unknown and data validation is not possible with the private data proposed for use. Due to the lack of control and transparency of private data sources, another commenter stated that HUD should work with other federal agencies to identify and evaluate novel methodologies to estimate recent mover rents.

One commenter expressed that HUD should make available an explanation of its criteria on how the private data sources were selected and will be selected in the future. Commenters encouraged HUD to increase public access to the private data sources if the private data sources will continue to be used past FY 2023. One commenter urged HUD to negotiate data transparency with each of the private data sources.

Other commenters do not necessarily support the use of private data indefinitely after FY 2023 because of the lack of transparency and a lack of public oversight. One commenter expressed concerns with the lack of transparency of what private data sources are being considered and how HUD is defining various factors involved in HUD's intentions in utilizing private data sources, including how ''narrowly,'' how ''limited,'' and what is the meaning of ''statistically valid'' is for HUD's purpose. The commenter also questions how HUD will determine the accuracy of private data sources in estimating rental market changes. Another commenter encouraged HUD to develop transparent, comprehensive public sources of up-to-date recent mover data to eventually take the place of private data sources.

A commenter stated that HUD should announce exactly how it plans to use private sector datasets, how it will apply changes to estimation and trending approaches, which datasets it plans to use, which geographic areas these changes may affect, and at least a

sample of FMRs produced by these changes. One commenter urged HUD to harmonize the private data sources used in terms of anomalies such as rent concessions and control for differences that may appear in the various sources, as well as share publicly how it adjusts for the differences.

HUD Response: Both HUD's research and external research has shown that the private sources of data HUD is using for FY 2023 are a reasonable measure of rent inflation. There are limitations in each data source, including that they may not cover the entirety of a given market in terms of geographic area, type of unit, or unit quality. For these reasons, HUD requires an area to be covered by at least three private data sources before incorporating any private data sources in the FMR estimates. Further, HUD takes the average of the private data sources along with the CPI in constructing a shelter rent inflation factor. HUD cannot guarantee the accuracy of its FMR calculations as there is no universally accepted benchmark to compare the FY 2023 FMRs against. However, HUD feels the methodology it is adopting for FY 2023 FMRs is fundamentally sound and appropriate for producing the best estimate of the 40th percentile rent paid by recent movers. HUD has selected the data sources it uses in the FY 2023 FMRs in part by its past use of such data by HUD field economists, which includes evaluating the methodology of the data sources and using them to evaluate rental market conditions throughout the country. HUD is committed to transparency in its FMR calculation and maintains a website where interested parties may see the calculation steps for any area's FMR. For FY 2023, this includes the average of the private measures of rent inflation where applicable. HUD is presenting the average in order to protect the proprietary data of those companies that do not make their data publicly available.

ii. Comments Recommending Alternative Approaches and Expressing Concerns Regarding the Proposed Changes to the Methodology Used for Calculating FMRs

Commenters recommended use of the CPI without the private data sources to trend FMRs to the current year and to calculate Recent-Mover factors without using private data sources. The commenters recommend two alternative methodology approaches from that proposed. First, the commenters said one method to calculate FMRs is to take the Recent-Mover rent from the previous year, 2019 (*i.e.,* the rent obtained by applying the 2019 Recent-Mover factor to the 2019 base rent) and adjust it forward to 2020 using a CPI-based inflation factor. Alternatively, the commenters said FMRs could be determined by calculating base rents from the 2016–2020 5-year ACS estimates in the usual way, apply a Recent-Mover factor calculated from the 5-year data, then compensate for the tendency of 5-year Recent-Mover factors to be lower with data from the previous year. The Commenters stated that this would mean multiplying the 2020 Recent-Mover rent by the ratio of the 1-year Recent-Mover factor to the 5-Year Recent-Mover factor from the previous year.

Another commenter stated that a proposed implementation of localized rent inflation could potentially increase the number of areas that have been deemed ''lower opportunity areas,'' leading to lower payment standards and remove rental options in those areas.

HUD Response: With respect to the recent mover factor, HUD is addressing the lack of the typical 1-year ACS data by using both inflated 2019 ACS 1-year recent-mover data, and 2020 ACS 5-year recent-mover data. While HUD is using private sources of rent inflation data where available, it is always doing so in conjunction with the CPI to capture as broad a measure as possible of rental market inflation.

HUD is making no designation of ''high'' or ''low'' opportunity areas in this Notice.

iii. Comments Expressing Concerns That the Private Source Data Is Not Reflective of the Relevant Rental Markets

One commenter stated that any private data sources selected for use should be representative of the entire rental housing market. Commenters expressed concern that the selected data sources may only be representative of single-family homes or rental listings representative of the higher end of the rental market.

Another commenter stated their concern that the use of the private data sources introduces biases into FMRs that may affect HUD's relative distribution of housing assistance payments. The commenter referenced a study by the University of Puerto Rico titled ''The Effects of HUD's Area Median Income and Fair Market Rent Limits on Puerto Rico's Rental Market, Workforce and Economy'' that the commenter stated the study determined that the current method for calculating FMRs has had a positive effect on reducing rent burdens for low-income households. The commenter stated that the proposed private data sources do not reflect the rental market of their territory because the percentage of households classified as non-cash paying renters varies significantly from many other states. Further, the commenter claimed that a higher percentage of landlords in their territory own one or two rental units, meaning these rental units are less likely be captured in private data sources.

Commenters expressed skepticism over the use of private data sources in the calculation of FMRs; however, the commenters indicated their support of the proposal within the Notice of Proposed Changes for Calculating Fair Market Rents if HUD could demonstrate persuasively that the use of private data produces a significantly more accurate estimate of market-based rents.

Commenters expressed concerns with how representative the private data is of the entirety of rental markets. One commenter identified that CoreLogic's data does not include multifamily data and should be combined with other data; Zillow's data is weighted based on how often properties are viewed on Zillow and the commenter advises that HUD should adjust for this weighting; and ApartmentList's Rent Estimates does not make clear if it uses price tiers and HUD should ensure that low priced units are usually excluded so as to not lead to an underestimation of rent costs.

Another commenter expressed that the proposed changes to the methodology used for calculating FMRs will not help voucher recipients in their area because the private data sources do not include data on the commenter's rental market.

HUD Response: HUD recognizes the concern that any single measure of rent inflation may be based on an unrepresentative sample of a market and may therefore introduce bias into the FMR calculation. HUD attempts to address this in the calculation of FY 2023 FMRs by requiring at least three private data sources to ensure that no single source unduly influences the FMR calculation, and by averaging rent inflation captured by private sources with the CPI to capture as broad a measure as possible of rental market inflation.

For Puerto Rico, HUD does not use any private measures of rent inflation, and instead uses gross rent inflation reported by the Puerto Rico Department of Labor and Human Resources (DTRH), Bureau of Statistics.

With respect to the representativeness of the private sources of rent inflation data, HUD attempts to address this in the calculation of FY 2023 FMRs by requiring at least three private data sources to ensure that no single source

unduly influences the FMR calculation, and by averaging rent inflation captured by private sources with the CPI to capture as broad a measure as possible of rental market inflation.

iv. Comments Concerning the Effect of Private Source Data on Flat Rents

Some commenters expressed concern about the effect on Flat Rents from the use of private data sources for calculating FMRs. The commenters requested that PHAs be given the ability to freeze Flat Rents based on the 2022 FMRs/SAFMRs until the ACS is updated and the impacts of the pandemic have waned from the rental market.

HUD Response: HUD believes that the methodology it is adopting for the calculation of FY 2023 FMRs produces the best estimates of 40th percentile gross rents paid by recent movers. PHAs may continue to apply for exception flat rents as described in PIH Notice 2021–27.

E. Public Comments Concerning the Effective Date and Evaluations

i. Request for Analysis and Evaluation of the Effectiveness of the Proposed Changes

Some commenters requested that HUD retrospectively evaluate the FY 2023 FMR data to determine if the proposed changes provided more accurate information on rental markets. One commenter urged HUD to do a historical comparison of rent trends shown in the private data sources that are eventually set for FY 2023 with those documented by the 2010 and 2020 Census.

A commenter stated that HUD should assess the effectiveness of the use of private data sources used in FY 2023 and should discontinue the use of any private data source that does not further the goal of improving the accuracy of FMRs. The commenter expressed that the assessment of the effectiveness of the private data should focus on the accuracy of the private data sources and the improvement of the leasing experience for voucher holders. Commenters stated that HUD should make its assessment of the accuracy of data in setting FMRs public. One commenter stated that HUD should annually produce a public report regarding the accuracy of private data sources in setting FMRs. Other commenters requested that HUD provide funding to PHAs to conduct local studies on rental data.

HUD Response: Given that FMRs are calculated ahead of each fiscal year, there is inherent uncertainty in the FMR calculation process. HUD is committed to assessing the accuracy of its FMR calculations including through the use of retrospective analysis, backtesting of new methods and data, and independent research.

HUD's ability to provide funds to PHAs for local rental market surveys is dependent on the availability of funds and their authorized uses specified in annual appropriations statutes.

ii. Comments Regarding Impacts to Grant Recipients From the Timing of the Effective Date of the FY 2023 FMRs

Commenters stated concerns about the timeliness of the publication of the Notice of Proposed Changes for Calculating Fair Market Rents, encouraging HUD to implement the proposed changes to the methodology for calculating FY 2023 FMRs no later than October 1, 2022. One commenter indicated that, should the FY 2023 FMRs be finalized after October 1, 2022, FMR amounts should be applied retroactively to the start of the HUD FY. Another commenter encouraged HUD to publish any future changes to its FMR methodology in time to permit both thoughtful public comments and input concerning those comments, to allow for HUD's consideration of those comments along with potential changes to its proposals.

One commenter stated that the October 1, 2022 effective date of the FY 2023 FMRs would generally not allow grants with an application deadline prior to October 1, 2022 to receive an increase in FMR amounts caused by the proposed changes. The commenter indicated that grant awards could be increased based on FMR levels; but said HUD's scoring system in the Continuum of Care (CoC) competitive process encourages reallocation of funds. According to the commenter, this scoring process discourages communities from seeking the full FMR levels because the community is incentivized to reduce total budget per project. The commenter also stated that, while grant recipients can seek increases in FMR levels, the grant awards are based on increases that HUD allows and sometimes are not raised to the actual FMR levels.

Other commenters stated that the yearly change of FMR amounts in October does nothing to assist grant recipients for programs that have already submitted budgets based on a previous year's FMRs. The commenters encouraged HUD to correct for this situation. One commenter urged HUD to announce changes to its methodology for FY 2024 in the first half of calendar year 2023.

HUD Response: This Notice announces new FMRs for 2023 in line with previous years' publication of FMR updates. HUD is committed to allowing for public input in future changes to its FMR calculation, including through comment on this Notice.

Additionally, this Notice is limited to the announcement of new FMRs, and the methodology used in their calculation. HUD is required by statute to update FMRs not less than annually and strives to make these updates effective at the start of each federal fiscal year. Grants programs, including the Continuum of Care grant program, will provide separate guidance on the use of FMRs within those programs, and will consider the appropriate timing of budget submissions with respect to the annual update of FMRs.

F. Public Comments That Address Alternative FMR Calculations and the Determination of FMR Amounts

i. Comments Concerning the FMR Amounts

Multiple commenters indicated that FMR values are currently too low, causing individuals and families to be unable to find housing or requiring displacement of people, potentially to unsafe and unhealthy areas.

HUD Response: In the Housing Choice Voucher program, PHAs may set payment standard amounts at up to 110 percent of the FMR as part of their normal program operations. Additionally, PHAs have a variety of options beyond setting payment standards at 110 percent of the FMR. PHAs may pursue exception payment standards above 110 percent of FMR, including through the expedited waiver process described in PIH Notice 2021–34. PHAs may apply for success rate payment standards, which allow for setting payment standards using the 50th percentile estimates of rent. PHAs may, with HUD approval, establish an exception payment standard of more than 120 percent of the published FMR if required as a reasonable accommodation in accordance with 24 CFR part 8 for a family that includes a person with a disability after approval from HUD. Finally, PHAs may adopt Small Area FMRs (or use Small Area FMRs as the basis for exception payment standards), which may allow for payment standards of up to 160 percent of the metropolitan FMR in high-rent ZIP Codes.

ii. Comments Suggesting Alternative FMR Calculation Methodology

One commenter stated that HUD should increase the flexibilities given to

public housing agencies because local agencies can better match rental prices than any national methodology. Another commenter recommended that HUD utilize its regulatory authority or recommend the issuance of an Executive Order or legislation to declare an emergency 20 percent increase to all current FMR schedules as they apply to HCV programs. The commenter advised that this emergency action could be discontinued after the rental market crisis abates.

One commenter encouraged the use of a ''rent reasonableness'' approach in the setting of FMR amounts, rather than the method currently used to set FMR rates.

Some commenters recommended that HUD should consider vacancy rates as part of the methodology used to calculate FMRs to address adverse rental housing market conditions, as defined by HUD. Another commenter recommended that FMRs be calculated based on a combination of the number of persons in a household, number of bedrooms in the household, the household income, and then multiplied by a percentage of the household income. One commenter recommended that within every ZIP code, each PHA should reserve a certain percentage of housing for Section 8 tenants.

Another commenter submitted numerous recommendations for calculating FMRs and improving housing services for residents, including: considering household incomes in real time; creating information for rental programs that detail who is eligible for programs; establishing diversity in renting rates versus properties available for rent; establishing market rental rates corelated with the average income of the state or territory; allocating HUD funding based on region rather than nationwide; creating affordable housing opportunities for low and moderate income tenants who are single parents or young; identifying more viable properties for affordable housing inventory; creating and promoting educational opportunities for diverse populations on topics of budget management, student loans, renting and homeownership; increasing rental program assistance reflective of actual market conditions; requiring renting counseling as an eligibility requirement for rental assistance programs; requiring evidence of job placement searches to receive assistance; promoting job placement opportunities; establishing specific funds for rental programs for victims of domestic violence; creating programs that support local residents by providing tools for rental and homeownership.

One commenter suggested that entire ZIP codes not be deemed as ''lower opportunity areas'' and that a more defined concept be used to allow for census tracts to be considered as an option specifically in these areas so that affordable housing opportunities are not lost. Another commenter recommended that the methodology used for calculating FMRs be simplified.

One commenter recommended that, in addition to the number of bedrooms, FMR calculations should also consider square footage of the rental unit. The commenter also recommended that there be greater flexibility for the tenants in making unit selections. Finally, the commenter stated that setting FMR amounts by ZIP code can lead to unusual results in that ZIP codes that are geographically next to each other and contain comparable housing quality will have FMR amounts that are greatly different.

Another commenter recommended revising FMR and HUD Income Limit calculation methods by basing the amounts on the current minimum wage of the respective jurisdiction. A separate commenter urged HUD to explore more responsive and accurate FMR calculation methodologies that would consider additional factors, such as vacancy rates. A separate commenter stated that the current method for calculating FMRs unfairly punishes housing authorities and tenants who work.

One commenter recommended that HUD revise the FMR methodology to use more months of actual inflation data and fewer months of trend factor-based projects. Separately, the commenter stated that HUD should modify the trend factor to project changes in recent mover rents rather than rents overall. Finally, the commenter advised that HUD should allow FMR revisions when new inflation data show that trend factor-based projections were inaccurate.

One commenter stated that, beginning with FY 2023, HUD should include internet services in FMR calculations. The commenter expressed that this change would be in line with the priorities of the current presidential administration and congress.

HUD Response: With respect to the suggested programmatic changes, this Notice is limited to the announcement of new FMRs, and the methodology used in their calculation. HUD will continue to assess the overall performance of its housing assistance programs and make any necessary regulatory or policy changes to ensure success of its mission.

''Rent reasonableness'' generally means comparing the rent of one unit to comparable units based on unit characteristics. By contrast, the FMR is meant to be the 40th percentile rent of the distribution of all units.

While low vacancy rates may be associated with higher rent growth, HUD believes that its direct calculation of gross rent inflation adjustment factors is the best approach for FY 2023. HUD will continue to evaluate its FMR calculation in the future including the use of other variables.

HUD's regulations allow for separate FMRs for units of different bedroom counts. Given the heterogeneous nature of housing, units will necessarily differ by a range of other features, including square footage. HUD believes that setting the FMR at the 40th percentile of gross rents will allow for an adequate selection of units by size.

In its calculation of ''trend factors,'' HUD uses the most recent available inflation data at the time of calculation, which for FY 2023 is the second quarter of 2022.

With respect to ZIP code-level variation in rents for areas required to use Small Area FMRs, it is possible for rents to vary by ZIP code even with similar unit quality, as rents often capture other location amenities. HUD provides the same payment standard flexibilities for PHAs for areas mandated to use Small Area FMRs as it does for PHAs not subject to the mandatory use of Small Area FMRs.

The FMR is meant to be a gross rent, and therefore to measure the cost of the shelter plus the necessary utilities to live in the home. Internet services are not defined as a utility in HUD's regulations, nor are the costs included in the gross rent data provided by the Census Bureau and Bureau of Labor Statistics.

iii. Comments Urging Additional HUD Actions

Commenters encouraged HUD to respond to congressional concerns regarding the volatility of rents and lagging FMRs by publishing and responding to the studies that HUD has commissioned to recommend alternative strategies. A commenter recommended that HUD work in collaboration with people who are directly impacted by FMR calculations when addressing FMR calculations for the long term.

HUD Response: HUD is committed to constantly evaluating its FMR methodology and making all such research available to the public, including its grant-funded reports. HUD routinely responds to congressional

concerns concerning its FMR calculations. HUD is also committed to working with people who are directly impacted by its FMR calculations, including by soliciting comments through this Notice.

G. Public Comments Regarding the Methodology Used for Calculating FMRs in Small Area FMRs, Non-Metropolitan Areas, and Rural Areas

i. Concerns Regarding the Lack of Available Private Data Sources for Small Area FMRs, Non-Metropolitan Areas, and Rural Communities

One commenter stated that HUD does not adequately describe how the proposed methodology will be adapted for smaller rural FMR areas, and that HUD's proposed approach is concerning because the private data sources are not available for rural geographies and 1-year ACS data consistently underestimates rent for rural areas.

Other commenters stated that the proposed private data sources will likely not include rental data for Small Area FMR P.O. Box-only, this lack of data limits the information to the physical address where the rental unit exists.

Other commenters stated their concern that they were not able to vet the proposed private data sources. One commenter said that, except for one source, all the data were ''pay-walled.'' For the one source the commenter was able to review, the commenter said that the source did not provide data even for the largest metropolitan area in the commenter's state and that worried the commenter.

One commenter encouraged HUD to explore alternative methods for supplementing the ACS in nonmetro areas where private data sources are unavailable or scarce, such as modifying the inflation adjustment calculation to account for the reduced reliability of the private data or finding ways to incorporate rental data collected by PHAs.

Another commenter stated that data produced by the Census Bureau and HUD for rural communities in states with concentrations of rural poverty is not reflecting the reality in these places.

One commenter stated that for Small Area FMRs it is important for HUD to use data that is both highly accurate and granular to further strengthen confidence in the final Small Area FMR calculations.

HUD Response: For FY 2023, HUD is using measures of rent inflation calculated from private-sector sources in conjunction with the CPI as part of the recent-mover factor and gross rent inflation adjustment factor portions of the FMR calculation. In areas without at least three such sources, HUD will use the CPI alone. The CPI remains a reasonable measure of rent inflation calculated from repeat rents of a representative sample of housing units.

Assessing the accuracy of FMRs is difficult because at any given time the true 40th percentile rent paid by recent movers is unknown. Survey-based estimates of rent are subject to sampling and non-sampling error, a challenge which is true in both urban and rural areas. For the Voucher program, HUD's policy addresses these sources of uncertainty by allowing the payment standard to be set from 90 to110 percent of the FMR, as well as above 110 percent of the FMR through the use of exception payment standards.

ii. Comments Suggesting That HUD Employ Alternative Methodology for Calculating FMRs for Small Area FMRs, Non-Metropolitan Areas, and Rural Communities

One commenter suggested that HUD engage in a longer term, more robust project to update the FMR methodology for small metropolitan and rural FMR areas.

One commenter expressed concern that the proposed changes to the methodology used for calculating FMRs will have little or no impact on rural places and that HUD is proposing solutions that only benefit densely populated portions of America. The commenter was concerned that the private data will only benefit densely populated cities and may not even capture all MSAs, let alone more rural regions. The commenter also stated that the State Nonmetropolitan Median is a specific issue that impacts disadvantaged rural, persistently impoverished places. According to the commenter, nonmetropolitan counties, because of the State Nonmetropolitan Median, are prevented from having dramatically lower FMRs compared to their neighbors by a state-floor mechanism, causing states with a concentrated rural poverty to have a depressed median. The commenter encouraged HUD to review the methodology used for calculating FMRs with a lens toward rural parity, which the commenter stated is in line with Executive Order 13987 on Advancing Racial Equity and Support for Underserved Communities.

HUD Response: HUD is committed to improving the accuracy of its FMR calculation for all areas, including for rural areas. For FY 2023, HUD is using inflation factors based on private sources of rental data in the calculation of recent mover factors and gross rent inflation factors in cases where at least three of the six data sources provide data for the FMR area, in conjunction with the area's inflation factor from the CPI. In cases without such sources, HUD is using a CPI-based inflation factor for the area's region alone. HUD is using the private sources of inflation where available because it believes it will produce a more accurate FMR on average; however, it is not the case that this ''benefits'' areas with private sources of data, as whether the resulting FMR is higher or lower than it would be with the CPI alone depends on the specific rental market dynamics in the area. HUD has no control over the availability of rental data from the public and private sources used in FMR calculation and no longer receives a designated appropriation to conduct its own rent surveys in support of FMR estimates.

iii. Concerns Regarding the Methodology Used for Calculating FMR Amounts in Rural Communities That Are Geographically Near Public Lands or Amenity Regions

One commenter expressed concerns that FMR calculations for non-metropolitan towns that are located near public lands or amenity regions that draw large amounts of visitors (described as ''gateway towns'' by the commenter) are not calculated properly. The commenter indicated that areas of a county that are less accessible to public lands or amenities artificially deflate the rent values for gateway towns, which are more accessible to public lands or amenities and typically possess higher property values. The commenter stated that this situation creates an affordability burden on persons who work at the public lands or amenities regions because they are not able to live close to their jobs. The commenter expressed that this problem is further exacerbated because properties in gateway towns are in high demand and are disproportionately purchased by non-resident wealthy persons as vacation homes. In addition to concerns over the setting of the appropriate FMR value in gateway towns, the commenter expressed environmental justice concerns for residents of gateway towns. The commenter said that gateway towns located near public lands are perceived as more climate safe. Commenter said this perception leads to the displacement of low- and middle-income residents to areas perceived as less climate safe. To address both the FMR values methodology calculation concern and the climate justice issues,

the commenter suggested that the methodology used for calculating FMRs be altered to include the layering of (1) data related to the year-over-year growth and/or real estate value increase and (2) the type of economy that exists in the non-metropolitan county (*e.g.,* mining, recreation, agriculture). The commenter said the layering of this data could then be used to apply an FMR boost for certain counties while the 5-year and new move-in data catches up with the actual market realities.

HUD Response: HUD is changing its methodology for calculating FMRs for FY 2023 partly in response to the rental market disruptions caused by the COVID–19 pandemic. HUD remains interested in improving the accuracy of its FMR calculations, including by evaluating whether land values and community characteristics are useful indicators of changes and rents; however, at this time, HUD does not have research indicating such variables would improve its FMR calculation.

H. Public Comments Regarding Altering the Requirement To Use Mailed Surveys To Collect FMR Data

Commenters suggested the removal of the requirement to use a mail survey to collect FMR data, as modern survey collection does not rely upon mail. Commenters stated that the expense of mail surveys and that cost savings from removing the mail survey requirement would increase the number of FMR areas that can afford to embark on a reevaluation and successfully collect and submit the required data. One commenter advised that paper post cards could be mailed that directs individuals to an online survey, rather than mailing the survey itself. Alternatively, a commenter said HUD could allow each state to develop a methodology for establishing FMRs in their states, subject to HUD's approval. The commenter said this approach would allow for local expertise on the unique rental situations in each state.

HUD Response: HUD requires ad hoc rental market surveys to be conducted using best practices of survey methodology and based on a statistically representative sample of households. HUD does not require a single manner of data collection. Parties interested in conducting ad hoc rental market surveys should consult the following section of this Notice for additional information.

VI. Request for Public Comments and FMR Reevaluations

HUD accepts public comments on the methods HUD uses to calculate FY 2023 FMRs and requests for reevaluation of FMRs for specific areas for 30 days after the publication of this notice. HUD lacks the resources to conduct local surveys of rents to address comments filed regarding the FMR levels for specific areas. PHAs may continue to fund such surveys independently, as specified below, using ongoing administrative fees or their administrative fee reserve if they so choose. HUD continually strives to calculate FMRs that meet the statutory requirement of using ''the most recent available data'' while also serving as an effective program parameter.

FMR Reevaluations

42 U.S.C. 1437f(c)(1)(B) includes the following: ''The Secretary shall establish a procedure for public housing agencies and other interested parties to comment on such fair market rentals and to request, within a time specified by the Secretary, reevaluation of the fair market rentals in a jurisdiction before such rentals become effective.''

PHAs or other parties interested in requesting HUD's reevaluation of their area's FY 2023 FMRs, as provided for under section 8(c)(1)(B) of USHA, must follow the following procedures:

1. By the end of the 30-day comment period, PHAs or other parties must submit reevaluation requests through *https://www.regulations.gov/* or directly to HUD as described in the **ADDRESSES** section above. The area's PHA or, in multi-jurisdictional areas, PHA(s) representing at least half of the voucher tenants in the FMR area, must agree that the reevaluation is necessary.

2. The requestor(s) must supply HUD with data more recent than the 2019 ACS data used in the calculation of the FY 2023 FMRs. HUD requires data on gross rents paid in the FMR area for occupied standard quality rental housing units. Occupied recent mover units (defined as those who moved in the past 24 months) provide the best data. The data delivered must be sufficient for HUD to calculate a 40th and 50th percentile two-bedroom gross rent.[12] Should this type of data not be available, requestors may gather this information using the survey guidance available at *https://www.huduser.gov/portal/datasets/fmr/NoteRevisedAreaSurveyProcedures.pdf* and *https://www.huduser.gov/portal/datasets/fmr/PrinciplesforPHA-ConductedAreaRentSurveys.pdf.*

3. Areas where valid reevaluation requests are submitted must continue to use FY 2022 FMRs whether the FY 2023 FMRs are lower or higher than the FY 2022 FMRs. Following the comment period, HUD will post a list, at *https://www.huduser.gov/portal/datasets/fmr.html,* of the areas requesting reevaluations and where FY 2022 FMRs remain in effect.

4. PHAs or other parties must supply data for reevaluations to HUD no later than Friday January 6, 2023. All survey responses of rental units gathered as part of the survey efforts should be delivered to HUD. In addition to the survey data, HUD requires a current utility schedule to evaluate the survey responses. Finally, HUD encourages PHAs to evaluate their survey data to ensure the survey supports their request. Should PHAs or their contractors undertake this evaluation, HUD requests that this analysis also be submitted.

HUD will use the data delivered by January 6, 2023 to reevaluate the FMRs and following the reevaluation, will post revised FMRs in April of 2023 with an accompanying **Federal Register** notice stating the revised FMRs are available, which will include HUD's responses to comments filed during the comment period for this notice. On Monday, January 9, 2023, HUD will post at *https://www.huduser.gov/portal/datasets/fmr.html* a listing of the areas that requested FMR reevaluations but did not deliver data, making the FY 2023 FMRs effective in these areas. HUD will incorporate any data supporting a change in FMRs supplied after January 7, 2023 into FY 2023 FMRs. Questions on how to conduct FMR surveys may be addressed to the Program Parameters and Research Division at *pprd@hud.gov.*

For small metropolitan areas without one-year ACS data and non-metropolitan counties, HUD has developed a method using mail surveys that is discussed on the FMR web page: *https://www.huduser.gov/portal/datasets/fmr.html#survey_info.* This method allows for the collection of as few as 100 one-bedroom, two-bedroom, and three-bedroom units.

Other survey methods are acceptable in providing data to support reevaluation requests if the survey method can provide statistically reliable, unbiased estimates of gross rents paid of the entire FMR area. In general, recommendations for FMR changes and supporting data must reflect the rent levels that exist within the entire FMR area and should be statistically reliable.

PHAs in non-metropolitan areas are required to get 100 eligible survey responses which means they should have at least 5,000 rental units. PHAs may conduct surveys of groups of non-

[12] Although there are no longer 50th percentile FMRs, HUD must calculate 50th percentile rents for the Success Rate Payment Standard under 24 CFR 982.503(e).

metropolitan counties to increase the number of rental units that are surveyed, but HUD must approve all county-grouped surveys in advance. HUD cautions that the resulting FMRs may not be identical for the counties surveyed; each individual FMR area will have a separate FMR based on the relationship of rents in that area to the combined rents in the cluster of FMR areas. In addition, HUD advises that in counties where FMRs are based on the combined rents in the cluster of FMR areas, HUD will not revise their FMRs unless the grouped survey results show a revised FMR statistically different from the combined rent level.

Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn to be statistically representative of the entire rental housing stock of the FMR area. Surveys must include units at all rent levels and be representative by structure type (including single-family, duplex, and other small rental properties), age of housing unit, and geographic location. The current 5-year ACS data should be used as a means of verifying if a sample is representative of the FMR area's rental housing stock. Staff from HUD's Program Parameters and Research Division will work with PHAs in areas requesting re-evaluations to provide the minimum number of survey cases required to ensure that data submitted for re-evaluation represent a statistically valid sample.

A PHA or contractor that cannot obtain the recommended number of sample responses after reasonable efforts should consult with HUD before abandoning its survey; in such situations, HUD may find it appropriate to relax normal sample size requirements, but in no case will fewer than 100 eligible cases be considered.

Calculating Small Area FMRs Using Rent Distributions

HUD has developed guidance on how to provide data-supported comments on Small Area FMRs using HUD's special tabulations of the distribution of gross rents by unit bedroom count for ZIP Code Tabulation Areas. This guidance is available at *https://www.huduser.gov/portal/datasets/fmr.html* in the FY 2023 FMR section under the ''Documents'' tab and should be used by interested parties in commenting on whether or not the level of Small Area FMRs are too high or too low (*i.e.,* Small Area FMRs that are larger than the gross rent necessary to make 40 percent of the units accessible for an individual ZIP code or that are smaller than the gross rent necessary to make 40 percent of the units accessible for a given ZIP code). HUD will post revised Small Area FMRs after confirming commenters' calculations.

VII. Environmental Impact

This notice involves the statutorily required establishment of FMR schedules and related procedures, which does not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR part 888, are available at *https://www.huduser.gov/portal/datasets/fmr.html.*

Solomon Greene,

Principal Deputy Assistant Secretary for Policy Development and Research.

Fair Market Rents for the Housing Choice Voucher Program Schedule B—General Explanatory Notes

Arrangement of FMR Areas and Identification of Constituent Parts

a. The Metropolitan and Non-Metropolitan FMR Area Schedule lists FMRs alphabetically by state, by metropolitan area and by non-metropolitan county within each state and are available at *https://www.huduser.gov/portal/datasets/fmr.html.*

b. The schedule lists the constituent counties (and New England towns and cities) included in each metropolitan FMR area immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one state can be identified by consulting the listings for each applicable state.

c. The schedule lists two non-metropolitan counties alphabetically on each line of the non-metropolitan county listings.

d. Similarly, the schedule lists the New England towns and cities included in a non-metropolitan county immediately following the county name.

[FR Doc. 2022–18905 Filed 8–31–22; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Geological Survey

[GX21BD239AV0100; OMB Control Number 1028–NEW]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Information Collection Through Surveys and Interviews To Evaluate and Improve the Cooperative Research Units Program Mission, Functions, and Goals

AGENCY: Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the U.S. Geological Survey (USGS) is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before October 3, 2022.

ADDRESSES: 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. Written comments and recommendations can also be sent by mail to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192, or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–NEW in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this Information Collection Request (ICR), contact Cynthia S. Loftin by email at *cyndy_loftin@usgs.gov,* or by telephone at (207) 881–3500. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR a *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general

public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on October 1, 2021 (86 FR 54468). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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) How the agency might 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 response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Abstract: The USGS Cooperative Fish and Wildlife Research Units Program originated in 1935 to fill a need for qualified wildlife and fisheries professionals and provide evidence-based graduate research to inform resource management. Currently, the program has 41 individual Units in 39 states and formalizes relationships among a state natural-resources management agency, a host university, the USGS, the USFWS, and the Wildlife Management Institute. The program's graduate education and research mission has remained largely unchanged through its tenure, yet the issues challenging fish and wildlife conservation have transformed. This raises questions about the program's support and sustainability into the future and how best to address cooperator needs.

Through focused surveys and interviews, this information collection will ask participants to evaluate their communication and relationships with individuals in the program. The data will be used to examine the structure, communication, and socio-technical connectivity using network analysis and agent-based modeling. This information collection aims to improve our understanding of the impact and effectiveness of the Cooperative Research Units Program and how well it meets its partners' needs.

Title of Collection: Information collection through surveys and interviews to improve the Cooperative Research Units Program mission, functions, and goals.

OMB Control Number: 1028–NEW.

Form Number: None.

Type of Review: New.

Respondents/Affected Public: Universities, state and tribal governments, and businesses which are direct (both formal and informal) Cooperators of the USGS Cooperative Fish and Wildlife Research Units Program.

Total Estimated Number of Annual Respondents: 840.

Total Estimated Number of Annual Responses: 840.

Estimated Completion Time per Response: 30 minutes.

Total Estimated Number of Annual Burden Hours: 420 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: None.

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 authority for this action is the PRA (44 U.S.C. 3501 *et seq.*).

Cynthia Loftin,

Eastern Region Supervisor, Cooperative Research Units, U.S. Geological Survey.

[FR Doc. 2022–18894 Filed 8–31–22; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–539–C (Fifth Review)]

Uranium From Russia; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether termination of the suspended investigation on uranium from Russia would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted September 1, 2022. To be assured of consideration, the deadline for responses is October 3, 2022. Comments on the adequacy of responses may be filed with the Commission by November 14, 2022.

FOR FURTHER INFORMATION CONTACT: Ahdia Bavari (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—Effective October 16, 1992, the Department of Commerce (''Commerce'') suspended an antidumping duty investigation on imports of uranium from Russia (57 FR 49220, October 30, 1992). Commerce issued a continuation of the suspended investigation on uranium from Russia following Commerce's and the Commission's first five-year reviews, effective August 22, 2000 (65 FR 50958, August 22, 2000 and 65 FR 52407, August 29, 2000 (corrected)), second five-year reviews, effective August 11, 2006 (71 FR 46191, August 11, 2006), third five-year reviews, effective March 8, 2012 (77 FR 14001, March 8, 2012),

and fourth five-year reviews, effective October 2, 2017 (82 FR 45810, October 2, 2017). The Commission is now conducting a fifth review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether termination of the suspended investigation would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Russia.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original preliminary determination concerning the U.S.S.R., its full first and second five-year review determinations concerning Russia, and its expedited third and fourth five-year review determinations concerning Russia, the Commission defined the *Domestic Like Product* as all forms of uranium coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original preliminary determination concerning the U.S.S.R., the Commission defined the *Domestic Industry* as domestic producers of the product coextensive with Commerce's scope of the investigation, including the U.S. Department of Energy's uranium enrichment operations. In its full first and second five-year review determinations and its expedited third and fourth five-year review determinations concerning Russia, the Commission defined the *Domestic Industry* as all domestic producers of uranium, including concentrators, the converter, enrichers, and fabricators.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 3, 2022. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is November 14, 2022. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the

public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 22–5–541, expiration date June 30, 2023. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

Those responding to this notice of institution are encouraged, but not required, to visit the USITC's website for this proceeding at *https://www.usitc.gov/investigations/701731/2022/uranium_russia/adequacy.htm* and download and complete the ''NOI worksheet'' Excel form, to be included as attachment/exhibit 1 of your overall response.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigation on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in § 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2016.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2021, except as noted. Report quantity data in (1) Pounds of natural uranium concentrate (concentrated U_3O_8) (Concentrate Producers), (2) kilograms of natural uranium hexafluoride, or kgU, (natural UF_6) (Converters), (3) SWUs of enriched uranium hexafluoride (enriched UF_6 (LEU–HF)) (Enrichers), or (4) kilograms of enriched uranium oxides, nitrates, and metals, or kgU (Fabricators) (including only that part of the fabrication that is included with the product scope—*i.e.,* the conversion and pelletizing processes). Report value data in U.S. dollars, f.o.b. plant. If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021. Depending upon the form in which it is imported, report quantity data in (1) Pounds of natural uranium concentrate (concentrated U_3O_8), (2) kilograms of natural uranium hexafluoride, or kgU, (natural UF_6), (3) SWUs of enriched uranium hexafluoride (enriched UF_6 (LEU–HF)), or (4) kilograms of enriched uranium oxides,

nitrates, and metals, or kgU. Report value data in U.S. dollars. If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 Report quantity data in (1) pounds of natural uranium concentrate (concentrated U_3O_8) (Concentrate Producers), (2) kilograms of natural uranium hexafluoride, or kgU, (natural UF_6) (Converters), (3) SWUs of enriched uranium hexafluoride (enriched UF_6 (LEU–HF)) (Enrichers), or (4) kilograms of enriched uranium oxides, nitrates, and metals, or kgU (Fabricators) (including only that part of the fabrication that is included with the product scope—*i.e.,* the conversion and pelletizing processes). Report value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties. If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2016, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: August 29, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–18912 Filed 8–31–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1185 (Second Review)]

Steel Nails From the United Arab Emirates; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty order on steel nails from the United Arab Emirates would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted September 1, 2022. To be assured of consideration, the deadline for responses is October 3, 2022. Comments on the adequacy of responses may be filed with the Commission by November 14, 2022.

FOR FURTHER INFORMATION CONTACT: Alejandro Orozco (202–205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On May 10, 2012, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of certain steel nails from the United Arab Emirates (77 FR 27421). Following the five-year reviews by Commerce and the Commission, effective October 19, 2017, Commerce issued a continuation of the antidumping duty order on imports of certain steel nails from the United Arab Emirates (82 FR 48681). The Commission is now conducting a second review pursuant to section 751(c) of the Act, as amended (19 U.S.C.

1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is the United Arab Emirates.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination and its expedited first five-year review determination, the Commission defined the *Domestic Like Product* as steel nails, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination and its expedited first five-year review determination, the Commission defined the *Domestic Industry* as all U.S. producers of steel nails.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 3, 2022. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is November 14, 2022. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 22–5–540, expiration date June 30, 2023. Public reporting burden for the

request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information to be Provided in Response to this Notice of Institution: As used below, the term ''firm'' includes any related firms.

Those responding to this notice of institution are encouraged, but not required, to visit the USITC's website for this proceeding at *https://www.usitc.gov/investigations/701731/2022/steel_nails_united_arab_emirates/adequacy.htm* and download and complete the ''NOI worksheet'' Excel form, to be included as attachment/exhibit 1 of your overall response.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2016.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2021, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2016, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: August 29, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–18909 Filed 8–31–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–382 and 731–TA–800, 801, and 803 (Fourth Review)]

Stainless Steel Sheet and Strip From Japan, Korea, and Taiwan; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the countervailing duty order on imports of stainless steel sheet and strip from Korea and the antidumping duty orders on imports of stainless steel sheet and strip from Japan, Korea, and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted September 1, 2022. To be assured of consideration, the deadline for responses is October 3, 2022. Comments on the adequacy of responses may be filed with the Commission by November 10, 2022.

FOR FURTHER INFORMATION CONTACT: Peter Stebbins (202–205–2039), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On July 27, 1999, the Department of Commerce (''Commerce'') issued antidumping duty orders on imports of stainless steel sheet and strip in coils from Japan, Korea, and Taiwan (64 FR 40555 and 40565). On August 6, 1999, Commerce issued a countervailing duty order on imports of stainless steel sheet and strip in coils from Korea (64 FR 42923). Commerce issued a continuation of the orders on stainless steel sheet and strip in coils from Japan, Korea, and Taiwan following Commerce's and the Commission's first five-year reviews, effective July 25, 2005 (70 FR 44886, August 4, 2005), second five-year reviews, effective August 11, 2011 (76 FR 49726), and third five-year reviews, effective October 3, 2017 (82 FR 46036). The Commission is now conducting fourth reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Countries* in these reviews are Japan, Korea, and Taiwan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations and its full first, second, and third five-year review determinations, the Commission found the *Domestic Like Product* to be stainless steel sheet and strip in coils corresponding to the scope of the subject merchandise.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations and its full first, second, and third five-year review determinations, the Commission defined the *Domestic*

Industry as all producers of stainless steel sheet and strip in coils.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 3, 2022. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is November 10, 2022. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 22–5–539, expiration date June 30, 2023. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

Those responding to this notice of institution are encouraged, but not required, to visit the USITC's website for this proceeding at *https://www.usitc.gov/investigations/701731/*

2022/stainless_steel_sheet_and_strip_japan_south_korea/adequacy.htm and download and complete the ''NOI worksheet'' Excel form, to be included as attachment/exhibit 1 of your overall response.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2016.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2021, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2016, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology;

production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: August 29, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–18910 Filed 8–31–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–663 (Fifth Review)]

Paper Clips From China; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty order on paper clips from China would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted September 1, 2022. To be assured of consideration, the deadline for responses is October 3, 2022. Comments on the adequacy of responses may be filed with the Commission by November 10, 2022.

FOR FURTHER INFORMATION CONTACT: Julie Duffy (202–708–2579), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On November 25, 1994, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of paper clips from China (59 FR 60606). Commerce issued a continuation of the antidumping duty order on paper clips from China following Commerce's and the Commission's first five-year reviews, effective August 15, 2000 (65 FR 49784), second five-year reviews, effective February 7, 2006 (71 FR 6269), third five-year reviews, effective July 26, 2011 (76 FR 44575), and fourth five-year reviews, effective October 30, 2017 (82 FR 50120). The Commission is now conducting a fifth review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, its expedited first, second, and third five-year review determinations, and its full fourth five-year review determination, the Commission defined the *Domestic Like Product* as certain wire paper clips, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, its expedited first, second, and third five-year review determinations, and its full fourth five-year review determination, the Commission defined the *Domestic Industry* to consist of all domestic producers of paper clips.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment

statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 3, 2022. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is November 10, 2022. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 22–5–538, expiration date June 30, 2023. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

Those responding to this notice of institution are encouraged, but not required, to visit the USITC's website for this proceeding at *https://www.usitc.gov/investigations/701731/2022/paper_clips_china/adequacy.htm* and download and complete the ''NOI worksheet'' Excel form, to be included as attachment/exhibit 1 of your overall response.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2016.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2021, except as noted (report quantity data in units and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in units and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in units and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2016, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: August 29, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–18908 Filed 8–31–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–313–314, 317, and 379 (Fifth Review)]

Brass Sheet and Strip From France, Germany, Italy, and Japan; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 (''the

Act''), as amended, to determine whether revocation of the antidumping duty orders on brass sheet and strip from France, Germany, Italy, and Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted September 1, 2022. To be assured of consideration, the deadline for responses is October 3, 2022. Comments on the adequacy of responses may be filed with the Commission by November 10, 2022.

FOR FURTHER INFORMATION CONTACT: Caitlyn Hendricks (202–205–2058), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On March 6, 1987, the Department of Commerce (''Commerce'') issued antidumping duty orders on imports of brass sheet and strip from France, Germany, and Italy (52 FR 6995; Germany amended at 52 FR 3570, September 23, 1987; Italy amended at 52 FR 11299, April 8, 1987). On August 12, 1988, Commerce issued an antidumping duty order on imports of brass sheet and strip from Japan (53 FR 30454). Commerce issued a continuation of the antidumping duty orders on brass sheet and strip from France, Germany, Italy, and Japan following Commerce's and the Commission's first five-year reviews, effective May 1, 2000 (65 FR 25304), second five-year reviews, effective April 3, 2006 (71 FR 16552), third five-year reviews, effective April 26, 2012 (77 FR 24932), and fourth five-year reviews, effective October 31, 2017 (82 FR 50396). The Commission is now conducting fifth reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Countries* in these reviews are France, Germany, Italy, and Japan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original antidumping duty determinations concerning brass sheet and strip from France, Germany, and Italy, the Commission defined the *Domestic Like Product* to include brass material to be rerolled (''reroll'') and finished brass sheet and strip (''finished products''). In its original antidumping duty determination and the remand determination concerning brass sheet and strip from Japan, the Commission defined the *Domestic Like Product* to be all Unified Numbering System (''UNS'') C20000 domestically produced brass sheet and strip. One Commissioner defined the *Domestic Like Product* differently. In its full first, second, and third five-year review determinations and in its expedited fourth five-year review determinations, the Commission defined the *Domestic Like Product* as all UNS C20000 series brass sheet and strip, coextensive with Commerce's scope. For purposes of responding to this notice, the *Domestic Like Product* is all UNS C20000 series brass sheet and strip.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original antidumping duty determinations concerning brass sheet and strip from France, Germany, and Italy, the Commission defined the *Domestic Industry* to include primary mills with casting capabilities and rerollers. In its original antidumping duty determination and the remand determination concerning brass sheet and strip from Japan, the Commission defined the *Domestic Industry* as producers of the corresponding *Domestic Like Product*. One Commissioner defined the *Domestic Industry* differently. In its full first, second, and third five-year review determinations and its expedited fourth five-year review determinations, the Commission defined the *Domestic Industry* to consist of the domestic producers of UNS C20000 series brass sheet and strip, including rerollers as well as basic producers. For purposes of responding to this notice, the *Domestic Industry* is all domestic producers of UNS C20000 series brass sheet and strip.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the

corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 3, 2022. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is November 10, 2022. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 22–5–537, expiration date June 30, 2023. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country*. As used below, the term ''firm'' includes any related firms.

Those responding to this notice of institution are encouraged, but not required, to visit the USITC's website for this proceeding at *https://www.usitc.gov/investigations/701731/2022/brass_sheet_and_strip_france_germany_italy_and/adequacy.htm* and download and complete the ''NOI worksheet'' Excel form, to be included as attachment/exhibit 1 of your overall response.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of

the relationship as defined in § 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2016.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2021, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country*; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country*.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2016, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: August 29, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–18914 Filed 8–31–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–1326]

Certain Robotic Pool Cleaners and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S.

International Trade Commission on July 29, 2022, under section 337 of the Tariff Act of 1930, as amended, on behalf of Zodiac Pool Systems LLC of Carlsbad, California and Zodiac Pool Care Europe of France. A supplement to the complaint was filed on August 11, 2022. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain robotic pool cleaners and components thereof by reason of the infringement of certain claims of U.S. Patent No. 8,393,029 (''the '029 patent'') and U.S. Patent No. 8,393,031 (''the '031 patent''). The complaint, as supplemented, further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

Addresses: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Jessica Mullan, Office of Docket Services, U.S. International Trade Commission, telephone (202) 205–8264.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2021).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 29, 2022, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 2, and 7 of the '029 patent and claims 1–4 of the '031 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''robotic pool cleaners and components thereof (chargers, retrieving hooks, filter baskets, floating blocks, and roller brushes)'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Zodiac Pool Systems LLC, 2882 Whiptail Loop East, #100, Carlsbad, CA 92010

Zodiac Pool Care Europe, ZA La Balme, 31450 Belberaud, France

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Wybotics Co. Ltd. d/b/a Winny Pool Cleaner, f/k/a Tianjin Wangyuan, Environmental Protection and Technology Co., Ltd., No. 30 4th Street Zong Nan, West Zone Teda, Tianjin, China 300462

Tianjin Pool & Spa Corporation 2701–2711 Garfield Avenue, Commerce, CA 90040

Shenzhen Aiper Intelligent Co., Ltd., Units 3201, 3203A, and 3205, Block C, Phase 2 Galaxy World, Minle Community Minzhi Street, Longhua District, Shenzhen, Guangdong Province, China 518129

Aiper Intelligent, LLC, 300 Colonia Center Parkway, STE 100N, Roswell, GA 30076

Aiper, Inc., 1429 E 15th Street, Los Angeles, CA 90021

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainants of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: August 29, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–18911 Filed 8–31–22; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1025]

Importer of Controlled Substances Application: Wedgewood Village Pharmacy, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Wedgewood Village Pharmacy, LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before October 3, 2022. Such persons may also file a written request for a hearing on the application on or before October 3, 2022.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal RegisterRepresentative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on April 25, 2022, Wedgewood Village Pharmacy, LLC, 7631 E Indian School Road, Suite 201, Scottsdale, Arizona 85251–3607, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Etorphine HCL	9059	II
Thiafentanil	9729	II

The company plans to import the listed controlled substances for distribution to its customers.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Kristi O'Malley,

Assistant Administrator.

[FR Doc. 2022–18927 Filed 8–31–22; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: 22–067]

Name of Information Collection: Identity Management System (IdMAX) for Personal Identity Validation (PIV) for Routine and Intermittent Access to NASA Facilities, Sites, and Information Systems

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by October 31, 2022.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection by selecting ''Currently under 60-day Review-Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 202–358–2375, or email *claire.a.little@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Homeland Security Presidential Directive 12 (HSPD–12) established a mandatory requirement for a Government-wide identify verification standard. In compliance with HSPD–12 and the National Institute of Standards and Technology (NIST) Federal Information Processing Standard (FIPS) 201: Personal Identity Verification of Federal Employees and Contractors, and OMB Policy memorandum M–05–24 Implementation of Homeland Security Presidential Directive 12, NASA must collect information from members of the public to: (1) validate identity and (2) issue secure and reliable federal credentials to enable access to NASA facilities/sites and NASA information systems. Information collected is consistent with background investigation data to include but not limited to name, date of birth, citizenship, social security number (SSN), address, employment history, biometric identifiers (*e.g.,* fingerprints), signature, digital photograph.

NASA collects information from U.S. Citizens requiring access 30 or more days in a calendar year. NASA also collects information from foreign nationals regardless of their affiliation time.

NASA collects, stores, and secures information from individuals identified above in the NASA Identify Management System (IdMAX) in a manner consistent with the Constitution and applicable laws, including the Privacy Act (5 U.S.C. 552a.).

Information is collected via a combination of electronic and paper processes and stored in the NASA Identify Account Exchange (IdMAX) System.

II. Methods of Collection

Electronic (90%) and paper (10%).

III. Data

Title: Identity Management System (IdMAX) for Personal Identity Validation (PIV) for Routine and Intermittent Access to NASA Facilities, Sites, and Information Systems.

OMB Number: 2700–0158.

Type of review: Extension without change of a currently approved information collection.

Affected Public: Individuals..

Estimated Annual Number of Activities: 52,000.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 52,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 8,667 hours.

Estimated Total Annual Cost: $800,000.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB

approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. 2022–18887 Filed 8–31–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 22–064]

NASA Advisory Council; STEM Engagement Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Aeronautics and Space Administration announces a meeting of the Science, Technology, Engineering and Mathematics (STEM) Engagement Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC.

DATES: Friday, September 30, 2022, 10 a.m.–1 p.m. eastern time.

ADDRESSES: Virtual meeting by dial-in teleconference and WebEx only.

FOR FURTHER INFORMATION CONTACT: Dr. Tara Strang, NAC STEM Engagement Committee, NASA Headquarters, Washington, DC 20546, (216) 410–4335 or *tara.m.strang@nasa.gov.*

SUPPLEMENTARY INFORMATION: This meeting will be held virtually and will be available telephonically and by WebEx only. You must use a touch tone phone to participate in this meeting. Any interested person may dial the toll-free access number 415–527–5035, and then the access code: 276 073 74167 followed by the # sign. To join via WebEx, use link: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=m456e54ffb94da99354c94f1f0095c5ab* and the meeting number and access code is 2760 737 4167 and the password is Zc2ZvP9KQ?4 (Password is case sensitive.) NOTE: If dialing in, please ''mute'' your telephone. The agenda for the meeting will include the following:

—Opening Remarks by Chair
—STEM Engagement Updates on Topics of Interest
—STEM Engagement Partnerships
—Formulation of New Findings and Recommendations
—Other Related Topics.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Carol J. Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2022–18873 Filed 8–31–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: 22–066]

Information Collection: The NASA Visitor Management System for Intermittent Access to NASA Hosted/Sponsored Events and Activities

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by October 31, 2022.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.*

Find this information collection by selecting ''Currently under 60-day Review-Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 202–358–2375, or email *claire.a.little@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

NASA hosts/sponsors numerous events on federally owned/leased property which are open to NASA affiliates and members of the public. The events include but are not limited to meetings, conferences, briefings, public outreach activities, tours, focus groups, etc. Visitor access is substantiated by a credentialed NASA sponsor who validates the visitor's need to access a building/area, guest networking services, etc. for a specific event/purpose. Information is collected to validate identity and enable intermittent access to activities.

Currently, visitor registration is accomplished via several electronic and paper processes. The NASA Office of Protective Services is transitioning to a one-NASA process to manage access for visitors with an affiliation less than 30-days.

NASA may collect event registration information to include but not limited to a visitor's name, address, citizenship, biometric data, purpose of visit, the location to be visited, escort/sponsor name with contact data, and preferred meeting/event sessions when options are available. When parking is provided on federal owned/leased space, driver's license information as well as vehicle make/model/tag information will be collected.

When visitors/vendors are permitted to bring equipment and/or event set-up materials such as booths and displays, information will be collected to issue property passes and coordinate equipment/property delivery. Information will also be collected, when applicable, to include other associated requirements such as electrical power needs, internet access, etc.

NASA collects, stores, and secures information from individuals requiring routine and intermittent access in a manner consistent with the Constitution and applicable laws, including the Privacy Act (5 U.S.C. 552a) and the Paperwork Reduction Act.

II. Methods of Collection

Electronic.

III. Data

Title: The NASA Visitor Management System for Intermittent Access to NASA Hosted/Sponsored Events and Activities.

OMB Number: 2700–0165.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Individuals.

Estimated Annual Number of Activities: 400,000.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 400,000.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 53,333 hours.

Estimated Total Annual Cost: $2,000,000.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including

whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. 2022–18886 Filed 8–31–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: 22–065]

Name of Information Collection: NASA STEM Gateway (Universal Registration and Data Management System)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by October 31, 2022.

ADDRESSES: All comments should be addressed to Claire Little, National Aeronautics and Space Administration, 300 E Street, SW, Washington, DC 20546–0001 or call 202–358–2375.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 202–358–2375, or email *claire.a.little@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Based on user feedback provided during the initial release of the NASA STEM Gateway (Universal Registration and Data Management System), NASA plans to develop updates/enhancements to improve information collected and the overall user experience in the NASA STEM Gateway. The NASA STEM Gateway (Universal Registration and Data Management System) is a comprehensive tool designed to allow learners (*i.e.,* students, educators, and awardee principal investigators) to apply to NASA STEM engagement opportunities (*e.g.,* internships, fellowships, challenges, educator professional development, experiential learning activities, etc.) in a single location. NASA personnel manage the selection of applicants and implementation of engagement opportunities within the NASA STEM Gateway. The information collected will be used by the NASA Office of STEM Engagement (OSTEM) and other NASA offices to review applications for participation in NASA STEM engagement opportunities. The information is reviewed by OSTEM project and activity managers, as well as NASA mentors who would be hosting students. This information collection will consist of student-level data such as demographic information submitted as part of the application. In addition to supporting student selection, student-level data will enable NASA OSTEM to fulfill federally mandated reporting on its STEM engagement activities and report relevant demographic information as needed for Agency performance goals and success criteria (annual performance indicators).

II. Methods of Collection

Online/Web-based.

III. Data

Title: NASA STEM Gateway (Universal Registration and Data Management System).

OMB Number:

Type of review: Renewal of a previously approved information collection.

Affected Public: Individuals.

Estimated Annual Number of Activities: 40.

Estimated Number of Respondents per Activity: 4,125.

Annual Responses: 165,000.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 82,500.

Estimated Total Annual Cost: $1,015,207.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. 2022–18885 Filed 8–31–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

30-Day Notice for the "Blanket Justification for National Endowment for the Arts Funding Application Guidelines and Requirements"

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Endowment for the Arts (Arts Endowment) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: *Blanket Justification for National Endowment for the Arts Funding Application Guidelines and Requirements.* Copies of this ICR, with applicable supporting documentation, may be obtained by visiting *www.Reginfo.gov.*

DATES: Interested persons are invited to submit comments within 30 days from the date of this publication in the **Federal Register**.

ADDRESSES: Written comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503, (T) 202–395–7316.

FOR FURTHER INFORMATION CONTACT: The Office of Information and Regulatory Affairs, Attn: Shagufta Ahmed, OMB

Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503, (T) 202–395–7316.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Could help minimize the burden of the collection of information on those who are to respond, including through the use of electronic submission of responses through *Grants.gov*.

Agency: National Endowment for the Arts

Title of Collection: Blanket Justification for National Endowment for the Arts Funding Application Guidelines and Requirements.

OMB Number: 3135–0112.

Frequency: Annually.

Affected Public: Nonprofit organizations, government agencies, and individuals.

Estimated Number of Respondents: 6,713.

Estimated Time Per Respondent: 20 hours.

Total Burden Hours: 131,032.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (Operating/Maintaining Systems or Purchasing Services): 0.

The National Endowment for the Arts requests the review of its funding application guidelines and requirements. Application guidelines elicit relevant information from individuals, nonprofit organizations, and government agencies that apply for funding from the National Endowment for the Arts. This information is necessary for the accurate, fair, and thorough consideration of competing proposals in the review process. This request is issued by the National Endowment for the Arts and contains the following information: (1) the title of the form; (2) how often the required information will be collected; (3) who will be required or asked to use the form; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Dated: August 29, 2022.

Daniel Beattie,

Director, Office of Guidelines and Panel Operations, National Endowment for the Arts.

[FR Doc. 2022–18878 Filed 8–31–22; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Center for Science and Engineering Statistics, National Science Foundation.

ACTION: Notice.

SUMMARY: The National Center for Science and Engineering Statistics (NCSES) within the National Science Foundation (NSF), as the Standard Application Process (SAP) Program Management Office designated by the Office of Management and Budget (OMB), is announcing plans to establish a common form information collection. NCSES will request approval for an SAP Portal information collection as a Common Form to permit other federal agency users to streamline the information collection in coordination with OMB. The purpose of this notice is to allow for 60 days of public comment on the proposed SAP Portal information collection as a Common Form, prior to the submission of the information collection request (ICR) to OMB for approval.

DATES: Written comments on this notice must be received by October 31, 2022 to be assured of consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the federal statistical agencies, including whether the information will have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, use, 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.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18253, 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: The Foundations for Evidence-Based Policymaking Act of 2018 mandates that OMB establish a Standard Application Process (SAP) for requesting access to certain confidential data assets. While the adoption of the SAP is required for statistical agencies and units designated under CIPSEA, it is recognized that other agencies and organizational units within the Executive branch may benefit from the adoption of the SAP to accept applications for access to confidential data assets. The SAP is to be a process through which agencies, the Congressional Budget Office, State, local, and Tribal governments, researchers, and other individuals, as appropriate, may apply to access confidential data assets held by a federal statistical agency or unit for the purposes of developing evidence. With the Interagency Council on Statistical Policy (ICSP) as advisors, the entities upon whom this requirement is levied are working with the SAP Project Management Office (PMO) and with OMB to implement the SAP. The SAP Portal is to be a single web-based common application for the public to request access to confidential data assets from federal statistical agencies and units. In accordance with the requirements of the Paperwork Reduction Act of 1995, NCSES is providing an opportunity for public comment on this action. After obtaining and considering public comment, NCSES will prepare the submission requesting that OMB approve clearance of this collection for three years.

This request is on behalf of the following federal statistical agencies and units, which may use the Common Form:

- Bureau of Economic Analysis (Department of Commerce)
- Bureau of Justice Statistics (Department of Justice)
- Bureau of Labor Statistics (Department of Labor)
- Bureau of Transportation Statistics (Department of Transportation)
- Census Bureau (Department of Commerce)

- Economic Research Service (Department of Agriculture)
- Energy Information Administration (Department of Energy)
- National Agricultural Statistics Service (Department of Agriculture)
- National Center for Education Statistics (Department of Education)
- National Center for Health Statistics (Department of Health and Human Services)
- National Center for Science and Engineering Statistics (National Science Foundation)
- Office of Research, Evaluation, and Statistics (Social Security Administration)
- Statistics of Income Division (Income Revenue Service)
- Microeconomic Surveys Unit (Federal Reserve Board)
- Center for Behavioral Health Statistics and Quality (Department of Health and Human Services)
- National Animal Health Monitoring System (Department of Agriculture)

Title of collection: Standard Application Process (SAP) Portal.

OMB Control Number: 3145–NEW.

Expiration Date of Current Approval: Not Applicable.

Type of Request: Intent to seek approval to collect information from the public through the Standard Application Process (SAP) Portal, as a Common Form.

Abstract: Established within the NSF by the America COMPETES Reauthorization Act of 2010 § 505, codified in the National Science Foundation Act of 1950, as amended, the National Center for Science and Engineering Statistics (NCSES) serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development for use by practitioners, researchers, policymakers, and the public.

Title III of the Foundations for Evidence-Based Policymaking Act of 2018 (hereafter referred to as the Evidence Act) mandates that OMB establish a Standard Application Process (SAP) for requesting access to certain confidential data assets. Specifically, the Evidence Act requires OMB to establish a common application process through which agencies, the Congressional Budget Office, State, local, and Tribal governments, researchers, and other individuals, as appropriate, may apply for access to confidential data assets collected, accessed, or acquired by a statistical agency or unit. This new process will be implemented while maintaining stringent controls to protect confidentiality and privacy, as required by the law.

The Evidence Act requires that each statistical agency or unit establish an identical application process. The Evidence Act further requires that federal statistical agencies establish common criteria for determining whether to approve an application for confidential data, timeframes for prompt determination, an appeals process for adverse determinations, and standards for transparency. In response to these requirements, the statistical agencies and units will operate a web-based portal (referred to as the SAP Portal) on behalf of OMB to provide the common application form to applicants. The objective of the SAP Portal is to increase public access to confidential data for the purposes of evidence building and reduce the burden of applying for confidential data, which currently involves separate processes with each of the federal statistical agencies and units.

Data collected, accessed, or acquired by statistical agencies and units is vital for developing evidence on conditions, characteristics, and behaviors of the public and on the operations and outcomes of public programs and policies. This evidence can benefit the stakeholders in the programs, the broader public, as well as policymakers and program managers at the local, State, Tribal, and National levels. The many benefits of access to data for evidence building notwithstanding, the process of discovering confidential data, applying for access, and, in certain cases, revising an application or appealing an adverse determination through the SAP Portal still places a burden on the public, as outlined below.

The SAP Policy: At the recommendation of the ICSP, the SAP Policy establishes the SAP to be implemented by statistical agencies and units and incorporates directives from the Evidence Act. The policy is intended to provide guidance as to the application and review processes using the SAP Portal, setting forth clear standards that enable statistical agencies and units to implement a common application form and a uniform review process. The methods of collection outlined below are in accordance with the SAP Policy. The SAP Policy was submitted to the public for comment in January 2022 (87 FR 2459, 2022). The policy is currently under review and has not yet been finalized.

For the purpose of the SAP Policy, the application process begins with an applicant discovering a confidential data asset for which a statistical agency or unit is accepting applications to access for the purpose of building evidence and ends with the agency or unit's determination on whether to grant access. In the case of an adverse determination, the application process ends with the conclusion of an appeals process if the applicant elects to appeal the determination.

The SAP Portal: The SAP Portal is an application interface connecting applicants seeking data with a catalog of data assets owned by the federal statistical agencies and units. The SAP Portal is not a new data repository or warehouse; confidential data assets will continue to be stored in secure data access facilities owned and hosted by the federal statistical agencies and units. The Portal will provide a streamlined application process across agencies, reducing redundancies in the application process. This single SAP Portal will improve the process for applicants, tracking and communicating the application process throughout its lifecycle. This reduces redundancies and burden on applicants that request access to data from multiple agencies. The SAP Portal will automate key tasks to save resources and time, and will bring agencies into compliance with the Evidence Act statutory requirements.

Data Discovery: Individuals begin the process of accessing restricted use data by discovering confidential data assets through the SAP data catalog, maintained by federal statistical agencies at *www.researchdatagov.org.* Potential applicants can search by agency, topic, or keyword to identify data of interest or relevance. Once they have identified data of interest, applicants can view metadata outlining the title, description or abstract, scope and coverage, and detailed methodology related to a specific data asset to determine its relevance to their research.

While statistical agencies and units shall endeavor to include metadata in the SAP data catalog on all confidential data assets for which they accept applications, it may not be feasible to include metadata for some data assets (*e.g.,* potential curated versions of administrative data). A statistical agency or unit may still accept an application through the SAP Policy even if the requested data asset is not listed in the SAP data catalog.

SAP Application Process: Individuals who have identified and wish to access confidential data assets will be able to apply for access through the SAP Portal when it is released to the public in late 2022. Applicants must create an account and follow all steps to complete the application. Applicants begin by entering their personal, contact, and institutional information, as well as the

personal, contact, and institutional information of all individuals on their research team. Applicants proceed to provide summary information about their proposed project, to include project title, duration, funding, timeline, and other details including the data asset(s) they are requesting and any proposed linkages to data not listed in the SAP data catalog, including non-federal data sources. Applicants then proceed to enter detailed information regarding their proposed project, including a project abstract, research question(s), literature review, project scope, research methodology, project products, and anticipated output. Applicants must demonstrate a need for confidential data, outlining why their research question cannot be answered using publicly available information.

Submission for Review: Upon submission of their application, applicants will receive a notification that their application has been received and is under review by the data-owning agency or agencies (in the event where data assets are requested from multiple agencies). At this point, applicants will also be notified that application approval does not alone grant access to confidential data, and that, if approved, applicants must comply with the data-owning agency's security requirements outside of the SAP Portal, which may include a background check.

In accordance with the Evidence Act and the direction of the ICSP, agencies will approve or reject an application within a prompt timeframe. In some cases, agencies may determine that additional clarity, information, or modification is needed and request the applicant to ''revise and resubmit'' their application. This is also in accordance with the SAP Policy, which was submitted to the public for comment in January 2022 (87 FR 2459, 2022). The policy is currently under review and has not yet been finalized.

Appeals Process: In the event of an adverse determination, the applicant will be provided justification through the SAP Portal detailing the determination. The SAP Portal will provide the applicant with the option to submit an appeal for reconsideration by the data-owning agency or agencies. Applicants can also file an appeal for noncompliance with SAP Policy.

Access to Restricted Use Data: In the event of a positive determination, the applicant will be notified that their proposal has been accepted. The positive or final adverse determination concludes the SAP Portal process. In the instance of a positive determination, the data-owning agency (or agencies) will contact the applicant to provide instructions on the agency's security requirements that must be completed to gain access to the confidential data. The completion and submission of the agency's security requirements will take place outside of the SAP Portal and is therefore not included in the estimate of burden below.

Estimate of Burden: The amount of time to complete an application within the SAP Portal may vary depending on the number of individuals on the application, the topic of the proposal, and the data assets being requested. To request access to NCSES data assets, it is estimated that the average time to complete and submit an application within the SAP Portal is 60 minutes. This estimate includes the time needed to complete the SAP Portal application fields (applicant information and research proposal); it does not include an estimate of the time needed to develop a research proposal itself. The research proposal is developed outside of the SAP Portal and may be written for multiple audiences (*e.g.,* to solicit funding); therefore, it is not included in the estimate of burden for the SAP Portal.

The expected number of applications submitted to NCSES in a given year may vary. Overall, NCSES estimates it may receive 20 application submissions within the SAP Portal per year. NCSES estimates that the total burden for the SAP Portal over the course of the three-year OMB clearance will be about 60 hours and, as a result, an average annual burden of 20 hours.

Dated: August 26, 2022.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2022–18847 Filed 8–31–22; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0090]

Information Collection: Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material.''

DATES: Submit comments by October 31, 2022. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods: The NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0090. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David C. Cullison, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0090 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0090.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–

415–4737, or by email to *PDR.Resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML22160A113.

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0090 in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* 10 CFR part 11, ''Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material.''

2. *OMB approval number:* 3150–0062.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* On occasion.

6. *Who will be required or asked to respond:* Employees (including applicants for employment), contractors, and consultant for NRC licensees and contractors whose activities involves access to, or control over, special nuclear material at either fixed sites or for transportation activities.

7. *The estimated number of annual responses:* 558.

8. *The estimated number of annual respondents:* 2.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 139.4 (139 reporting and 0.4 recordkeeping).

10. *Abstract:* The NRC's regulations in part 11 of title 10 of the Code of Federal Regulations (10 CFR), establish requirements for access to special nuclear material, and the criteria and procedures for resolving questions concerning the eligibility of individuals to receive special nuclear material access authorization. The specific part 11 requirements covered under this OMB clearance include requests for exemptions to part 11 requirements, amendments to security plans that require incumbents to have material access authorizations, access authorization cancellations. In addition, licensees must keep records of the names and access authorization numbers of certain individuals assigned to shipments of special nuclear material. The information required by 10 CFR part 11 is needed to establish control over and maintain records of who is properly authorized to safeguard and have access to special nuclear material. Not knowing this information could cause harm to the public and national security.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility? Please explain your answer.

2. Is the estimate of the burden of the information collection accurate? Please explain your answer.

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated: August 29, 2022.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2022–18957 Filed 8–31–22; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95618; File No. SR–NSCC–2021–016)

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving of Proposed Rule Change To Enhance Capital Requirements and Make Other Changes

August 26, 2022.

I. Introduction

On December 13, 2021, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2021–016 (the ''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on December 29, 2021.[3] On January 26, 2022, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.[5] On March 23, 2022, the Commission instituted proceedings to determine whether to approve or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 93856 (December 22, 2021), 86 FR 74185 (December 29, 2021) (File No. SR–NSCC–2021–016) (''Notice of Filing'').

[4] 15 U.S.C. 78s(b)(2).

[5] Securities Exchange Act Release No. 94068 (January 26, 2022), 87 FR 5544 (February 1, 2022) (SR–NSCC–2021–016).

disapprove the Proposed Rule Change.[6] On June 23, 2022, the Commission designated a longer period for Commission action on the proceedings to determine whether to approve or disapprove the Proposed Rule Change.[7] The Commission received comment letters on the Proposed Rule Change.[8] For the reasons discussed below, the Commission is approving the Proposed Rule Change.[9]

II. Description of the Proposed Rule Change

NSCC proposes to amend its Rules to (A) increase the capital requirements applicable to its members,[10] (B) revise its credit risk monitoring system, and (C) make certain other clarifying, technical, and supplementary changes to implement changes (A) and (B).

A. Changes to NSCC's Capital Requirements for Members and Limited Members

i. Members

U.S. Broker-Dealer Members: NSCC proposes to increase its minimum excess net capital (''Excess Net Capital'') requirements for its U.S. broker-dealer members.[11] A comparison of NSCC's current and proposed minimum Excess Net Capital requirements is as follows:

Clearing status	Current	Proposed	
		VaR tier	Minimum excess net capital
Self-Clearing	$500,000	<$100,000	$1 million Excess Net Capital.
		100,000–500,000	$2.5 million Excess Net Capital.
		>500,000	$5 million Excess Net Capital.
Clears for others	$1 million	<100,000	$2.5 million Excess Net Capital.
		100,000–500,000	$5 million Excess Net Capital.
		>500,000	$10 million Excess Net Capital.

As is the case with the current capital requirements applicable to Registered Broker-Dealers, the enhanced capital requirements for U.S. broker-dealers would depend on whether a member self-clears or clears for others. NSCC states that a broker-dealer that clears transactions for others has the potential to present different and greater risks to NSCC than a broker-dealer that clears transactions only for itself because it could clear for a large number of correspondent clients (*i.e.,* indirect participants), which would expand the scope and volume of risk presented to NSCC and the direct participant itself when the indirect participant's trades are submitted to NSCC for settlement via the direct participant.[12] The indirect nature of this risk exposure also increases risk to NSCC as there is generally less transparency into the indirect activity versus if the direct participant generated all of the activity itself.[13] NSCC states the proposed heightened capital requirements for these members would help ensure that NSCC is better able to manage the material risks to NSCC arising from these arrangements.[14]

Rather than continue to set fixed minimum capital requirements,[15] NSCC proposes to implement a tiered approach based on the level of risk the U.S. broker-dealer presents to NSCC, as measured by its daily volatility component calculations. NSCC proposes to use, in general terms, calculations from its value-at-risk (''VaR'') [16] model and associated Member charges as a measure of market risk in order to categorize Members into those that pose relatively minimal risk exposure, moderate risk exposure, or higher risk exposure to NSCC (''VaR Tier''). The VaR Tiers would require those members that bring more volatility (*i.e.,* risk) into the clearinghouse to hold more capital.

NSCC states that this tiered approach is tailored to better reflect the volatility risk presented by U.S. broker-dealer members.[17] Currently, the minimum capital requirements for U.S. broker-dealers only consider the risk of membership type (*i.e.,* self clears or clears for others), without considering any other risks. NSCC would continue to consider membership type, but would also incorporate volatility risk of the U.S. broker-dealer's own positions at NSCC (*i.e.,* a measurement of the risk that the member's transactions pose to NSCC) in order to more strategically group U.S. broker-dealer Members into tiers, with each tier being assigned a specific minimum capital requirement.[18]

Additionally, NSCC states that U.S. broker-dealer members with lower Excess Net Capital tend to present greater relative risk to NSCC based on NSCC's analysis of the current average VaR margin requirement of each member divided by the current excess net capital of each member (''VaR/ENC''), with this analysis done for each member within NSCC.[19] Specifically, that analysis shows that members with excess net capital of less than $5 million have an average VaR/ENC of 15 percent, which moved to 13 percent for members with excess net capital of $5–10 million, to 10 percent for members with excess net capital of $10–50 million, to 3 percent for members with excess net capital of $50–100 million, to 7 percent for members with excess net capital of

[6] Securities Exchange Act Release No. 94494 (March 23, 2022), 87 FR 18444 (March 30, 2022) (SR–NSCC–2021–016).

[7] Securities Exchange Act Release No. 94168 (June 23, 2022), 87 FR 38792 (June 29, 2022) (SR–NSCC–2021–016).

[8] Comments are available at *https://www.sec.gov/comments/sr-nscc-2021-016/srnscc2021016.htm.* The Commission received comments on April 22–23, 2022, that address market conduct generally. However, additional discussion is unnecessary because the comment letters do not bear on the Proposed Rule Change.

[9] Capitalized terms not defined herein are defined in NSCC's Rules & Procedures (''Rules''), *available at https://www.dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[10] NSCC states that these capital requirements have not been updated in over 20 years. *See* Notice of Filing, *supra* note 3, at 74185.

[11] NSCC proposes to define ''Excess Net Capital'' as the net capital greater than the minimum required, as calculated in accordance with the broker-dealer's regulatory and/or statutory requirements.

[12] *See* Notice of Filing, *supra* note 3, at 74189.

[13] *See id.*

[14] *See id.*

[15] NSCC states, as background, that, in 2013, it considered increasing the fixed minimum capital requirements to much higher amounts, which was never proposed based on member feedback objecting that such requirements would be too high, rigid, and burdensome. *See id.* at 74186.

[16] A member's VaR Tier is based on its volatility charge, which is one of the major components of its margin requirement and which is calculated daily and collected at the start of each business day. To calculate the volatility charge, NSCC uses a VaR model, which provides an estimate of the maximum loss in a portfolio assuming a 3 day time horizon and 99% confidence interval. *See id.* at 74189.

[17] *See id.* at 74196.

[18] *See id.*

[19] *See* Letter from Michael Leibrock, Managing Director, Counterparty Credit Risk Management, DTCC, at 2–3 (March 10, 2022) (''NSCC Response Letter'').

$100–500 million, and, finally, to 2 percent for members with excess net capital greater than $500 million.[20]

NSCC also performed the same analysis to compare U.S. broker-dealer members' VaR to their Excess Net Capital under the proposed new minimum capital requirements, to understand the impact on this relationship that the new minimum capital requirements would have. Based on this analysis, NSCC states that if the proposed increase in Excess Net Capital requirements had been applied, then the average VaR/ENC ratio declines to 7 percent for members with excess net capital less than $5 million, and 9 percent for members with excess net capital of $5–10 million, which aligns more closely to members with greater excess net capital.[21] Thus, the analysis demonstrates that the risk to NSCC, as measured through the VaR/ENC ratio, decreases and allows the risk to be more consistent across all NSCC members.[22] NSCC relied upon these analyses, in conjunction with its analysis of the impact on its current membership, to identify the proposed VaR tiers and the corresponding minimum capital requirements, which it believes are reasonable.

As part of the tiered approach, a member's daily volatility component may exceed its then-current VaR Tier four times over a rolling 12-month period.[23] Upon the fifth instance, the member would be moved to the next-greatest VaR Tier.[24] The member would then have 60 calendar days from that date to meet the higher required minimum Excess Net Capital for that VaR Tier and would remain in that greater VaR Tier for no less than one continuous year from the date of the move before being eligible to move to a lesser VaR Tier. NSCC states that U.S. broker-dealer members could move between tiers based on sustained changes to their daily volatility component, thus allowing them to have control over the tier in which they are placed and, in turn, the capital they need to maintain.[25]

Newly admitted members would be placed into the applicable middle VaR Tier in the table above, unless NSCC determines, based on information provided by or concerning the member's anticipated trading activity, that the member should be placed into the greatest VaR Tier. The new member would remain in the initial tier for the first 12 months of membership before being eligible to move to the lower VaR Tier.

NSCC states that, based on its historical experience with the daily volatility components of newly admitted Members including such Members' own projected trading activity,[26] it would be appropriate to place newly admitted Members into the applicable middle VaR Tier in the table above for the first 12 months of membership unless NSCC has determined that the Member's anticipated VaR Tier based on its anticipated trading activity would be the greatest VaR Tier.[27]

U.S. Bank and Trust Company Members: For members who are U.S. banks or U.S. trust companies who are also banks,[28] NSCC proposes to (1) change the capital measure from equity capital to common equity tier 1 capital (''CET1 Capital''),[29] (2) raise the minimum capital requirements from $50 million in equity capital to $500 million in CET1 Capital, and (3) require such members to be well capitalized (''Well Capitalized'').[30] Under the proposal, a member may satisfy these requirements if the member's parent holding company maintains the minimum capital requirements and guarantees the member's obligations to NSCC. The proposal would align NSCC's capital requirements with banking regulators' changes to regulatory capital requirements over the past several years, which have standardized and harmonized the calculation and measurement of bank capital and leverage throughout the world.[31] Consistent with these changes by banking regulators, NSCC states that it believes that the appropriate capital measure for members that are U.S. banks and trust companies should be CET1 Capital and that NSCC's capital requirements for Members should be enhanced to be consistent with these increased regulatory capital requirements.[32] NSCC further states that it believes the proposed capital requirement for banks better measures the capital available to bank members to absorb losses arising out of their clearance and settlement activities at NSCC or otherwise, and would help NSCC more effectively manage and mitigate the credit risks posed by its members while providing fair and open access to membership at NSCC.[33]

Additionally, NSCC states that requiring U.S. banks and trust companies to be Well Capitalized ensures that Members are well capitalized while also allowing CET1 Capital to be relative to either the risk-weighted assets or average total assets of the bank or trust company.[34] NSCC

[20] *See id.*

[21] *See id.* In addition, as part of the Proposed Rule Change, NSCC filed Exhibit 3—NSCC Impact Studies, which provided analysis on the rationale for and impact of the proposal. Pursuant to 17 CFR 240.24b–2, NSCC requested confidential treatment of Exhibit 3. The confidential information provided more granular support for this analysis, and it includes a detailed analysis of the impact of each proposed minimum capital requirement on the current membership of NSCC, by category, looking at the members' current VaR over the preceding twelve months as compared to their capital levels. NSCC performed this analysis on a member-by-member basis, using each member's actual historical VaR data (based on their particular activity at NSCC) and ENC levels, and provided that member-level information to the Commission, both to identify which members would be impacted by the proposal and to show the differences in VaR/ENC ratio for each member under both the current and proposed minimum capital requirements.

[22] In addition, NSCC stated that it analyzed stress testing results, which showed that broker-dealer members with smaller capital bases are exposed to the risk of losses exceeding their current Excess Net Capital requirements under a stressed scenario. Notice, *supra* note 3, at 74196. NSCC also included the stress testing results as part of the confidential Exhibit 3 referenced in note 21 *supra.*

[23] The VaR Tiers were designed to capture the VaR Tier that each member falls into approximately 99% of the time. *See supra* note 15. Given there are approximately 252 trading days per year, the firm would fall below the 99% if it exceeded its current VaR Tier on more than two trading days in a rolling 12 month period. *See* Notice of Filing, *supra* note 3, at 74197.

[24] However, if the member's daily volatility component also exceeded such next-greatest VaR Tier five times during the preceding 12-month period, the member would be moved to the greatest VaR Tier.

[25] *See* Notice of Filing, *supra* note 3, at 74197.

[26] For example, if the proposed VaR Tiers had been in effect for the past two years (but newly admitted Members were not automatically placed in at least the middle VaR Tier), only one U.S. broker-dealer applicant would have belonged in the lowest VaR Tier at admittance, but that firm then had trading activity that placed it in the middle VaR Tier in the first month and the highest VaR Tier in the second month of membership. *See id.* at 74190. NSCC provided more granular support for this analysis on a confidential basis. *See supra* notes 19–21.

[27] *See* Notice of Filing, *supra* note 3, at 74190.

[28] For U.S. trust companies who are not banks, NSCC is not changing its existing capital requirement of $10 million.

[29] NSCC proposes to define ''CET1 Capital'' as an entity's common equity tier 1 capital, calculated in accordance with such entity's regulatory and/or statutory requirements.

[30] NSCC proposes to incorporate the definition of ''Well Capitalized'' as that term is defined by the Federal Deposit Insurance Corporation in its capital adequacy rules and regulations. *See* 12 CFR 324.403(b)(1).

[31] *See* Notice of Filing, *supra* note 3, at 74190. NSCC further states that it believes these enhanced capital requirements better measure the capital available to members to absorb losses arising out of their clearance and settlement activities at NSCC or otherwise and would help NSCC more effectively manage and mitigate the credit risks posed by its members while providing fair and open access to membership at NSCC. *See id.* at 74194.

[32] *See id.*

[33] *See id.* NSCC also provided, in the confidential information submitted as part of this proposed rule change, an analysis of U.S. banks' capital to determine the appropriate level of capital requirement.

[34] *See id.*

further states that expressly tying the definition of Well Capitalized to the FDIC's definition of ''well capitalized'' will ensure that the proposed requirement keeps pace with future changes to regulatory capital requirements.[35]

Non-U.S. Broker-Dealer and Bank Members

Currently, a Member who is a non-U.S. broker-dealer or bank is subject to a multiplier that requires such Member to maintain capital of either 1.5, 5, or 7 times its otherwise-applicable capital requirements.[36]

Non-U.S. Broker-Dealers: NSCC proposes to require non-U.S. broker-dealer members to maintain a minimum of $25 million in total equity capital. NSCC states the multiplier was designed to account for the less transparent nature of accounting standards other than U.S. GAAP.[37] However, given that accounting standards have converged over the years, NSCC no longer believes the multiplier is necessary and its retirement would be a welcomed simplification for both NSCC and its members.[38]

Additionally, NSCC states its approach to managing credit risk is multifaceted, which includes requirements of operational capability in addition to financial responsibility.[39] Based on its experience, NSCC believes the flat equity capital requirement is warranted for non-U.S. broker-dealers based on the added jurisdictional and regulatory risks, while still allowing for fair and open access to NSCC membership.[40]

Non-U.S. Banks: Like U.S. bank members, NSCC proposes that non-U.S. bank members maintain at least $500 million in CET1 Capital. NSCC proposes additional requirements for non-U.S. bank members as follows: (1) comply with the greater of (i) the member's home country minimum capital and ratio requirements, or (ii) the minimum capital and ratio standards promulgated by the Basel Committee on Banking Supervision,[41] (2) provide an attestation for itself, its parent bank, and its parent bank holding company detailing the minimum capital requirements and capital ratios required by their home country regulator,[42] and (3) notify NSCC of (i) any breach of its minimum capital and ratio requirements within two Business Days, or (ii) any changes to its requirements within 15 calendar days. Like U.S. bank members, NSCC proposes that a non-U.S. bank member may satisfy these requirements if the member's parent holding company maintains the minimum capital and other requirements and guarantees the member's obligations to NSCC.

Other Types of Members

Currently, an entity applying to be a Member other than a Registered Broker-Dealer, bank or trust company is required to satisfy such minimum standards of financial responsibility as determined by NSCC. NSCC proposes to adopt more specific standards for different member types.

Securities Exchanges: Currently, NSCC does not provide a capital requirement standard for national securities exchanges. NSCC proposes to require that a Member that is a national securities exchange registered under the Exchange Act and/or a non-U.S. securities exchange or multilateral trading facility must have and maintain at all times at least $100 million in equity capital. There are only a few exchanges that are members of NSCC. These exchanges became members many years ago to address a processing structure that is no longer in place at NSCC.[43] An exchange does not need to be a member of NSCC to submit trades of NSCC members for clearance and settlement, and NSCC does not anticipate that any other exchanges would seek to become members.[44] NSCC is proposing these new capital requirements to address the potential credit risk posed by the current exchange members due to the systemic importance of these members and the need to hold these members to a consistent, high standard to ensure that they have sufficient capital to fulfill their systemically important role.[45]

Index Receipt Agent: Currently, NSCC does not provide a capital requirement standard for Index Receipt Agents, which are exchange-traded funds agents that serve a number of functions in the create/redeem process. NSCC proposes to require that a broker-dealer member that is acting as an Index Receipt Agent must have and maintain at all times minimum Excess Net Capital of $100 million. NSCC states that this aspect of the proposal would reflect the systemic risk presented by the potential failure of an Index Receipt Agent. The failure of an Index Receipt Agent could present systemic risk because such failure could potentially result in disruptions at exchange-traded funds for which the Index Receipt Agent acts. As a result of this systemic risk, NSCC proposes to require Members acting as Index Receipt Agents to hold a moderately sized capital base to support this business function.

All Other Members: For all other members, NSCC proposes that the Member must maintain compliance with its home country's minimum financial requirements. NSCC also proposes that it may, based on the information provided or concerning the Member, assign an additional minimum financial requirement to the Member, which it will determine based on how closely it resembles another membership type and its risk profile.[46]

ii. Limited Members

Limited Members are authorized to use only certain specified NSCC services, as compared to Members who may generally access all NSCC services.[47] Currently, a Limited Member that is a Mutual Fund/Insurance Services Member and/or Fund Member that is a U.S. bank or trust company is required to have a Tier 1 risk based capital (''RBC'') ratio of 6% or greater.[48] Additionally, Settling Bank Only Members are currently subject to standards of financial responsibility that NSCC may promulgate.[49]

NSCC proposes that these types of members must maintain a Tier 1 RBC

[35] *See id.*

[36] The applicable multiplier is based on which generally accepted accounting standards (''GAAP'') the non-U.S. Member uses to prepare its financial statements, when not prepared in accordance with U.S. GAAP. *See* Addendum O of the Rules, *supra* note 7.

[37] *See id.* at 74191.

[38] *See id.* at 74191.

[39] NSCC Response Letter, *supra* note 19, at 2.

[40] *See* Notice of Filing, *supra* note 3, at 74195.

[41] *See* Basel Committee on Banking Supervision, The Basel Framework, *available at https://www.bis.org/basel_framework/index.htm?export=pdf.* NSCC states that the proposal will align NSCC's capital requirements with banking regulators' changes to regulatory capital requirements over the past several years, which have standardized and harmonized the calculation and measurement of bank capital and leverage throughout the world. *See* Notice of Filing, *supra* note 3, at 74190. *See also supra* note 30. NSCC proposes tying its minimum requirement to the requirements promulgated by the Basel Committee on Banking Supervision to ensure that its non-U.S. bank members meet minimum international standards where their home country requirements may be more lenient.

[42] NSCC also proposes to require non-U.S. bank members to periodically provide new attestations on at least an annual basis and upon request by NSCC.

[43] NSCC Response Letter, *supra* note 19, at 6.

[44] *See id.*

[45] *See* Notice of Filing, *supra* note 3, at 74192.

[46] Under the proposal, NSCC would be obligated to promptly notify and discuss any additional minimum financial requirement with the member applicant or member.

[47] *See* Section 2 of Rule 2 of the Rules, *supra* note 7.

[48] *See* Sections 2.B.2 and 3.B.2 of Addendum B of the Rules, *supra* note 7.

[49] *See* Section 7.B of Addendum B of the Rules, *supra* note 7.

ratio (''Tier 1 RBC Ratio'')[50] equal to or greater than the Tier 1 RBC Ratio that would be required for such members to be Well Capitalized. NSCC proposes to have the definition of Well Capitalized expressly tied to the FDIC's definition of ''well capitalized.''[51] NSCC states that by tying its definition of ''Well Capitalized'' to that of the FDIC's definition, NSCC will ensure that the proposed requirement will keep pace with future changes to banking regulators' regulatory capital requirements.[52]

iii. Implementation Timeframe

NSCC proposes to implement the proposed changes to its membership capital requirements one year after the Commission's approval of the Proposed Rule Change.[53] During the one-year period, NSCC would periodically provide members with an estimate of their capital requirements based on the proposal.[54]

B. Changes to NSCC's Watch List and Enhanced Surveillance List

NSCC currently uses two credit risk monitoring systems: a Watch List and a separate list of members subject to enhanced surveillance (''enhanced surveillance list''). The current Watch List includes members that have either (1) receive a heightened credit risk rating based on NSCC's Credit Risk Rating Matrix (''CRRM''),[55] or (2) been deemed to pose a heightened credit risk to NSCC or other members.[56] NSCC may require a member placed on the Watch List to post additional collateral above the member's margin calculated pursuant to NSCC's margin methodology.[57] Members on the Watch List are also subject to more thorough monitoring by NSCC of its financial condition and operational capability.[58]

NSCC also maintains a separate enhanced surveillance list, which includes members who are subject to a more thorough monitoring of its financial condition and operational capability based on NSCC's determination that the member poses heightened credit risks, which may include members already on or soon to be on the Watch List.[59] Members on the enhanced surveillance list are reported to NSCC's management committees, are regularly reviewed by NSCC senior management, and may be required to make more frequent financial disclosures to NSCC.[60]

NSCC believes that maintaining two separate lists has confused various NSCC stakeholders,[61] so NSCC proposes to remove references to an enhanced surveillance list from its Rules.[62] NSCC also proposes to remove members with a CRRM rating of five from being automatically included on the Watch List. NSCC states that members with a CRRM rating of five represent the largest single CRRM rating category, but NSCC does not believe all such members present heightened credit concerns.[63] NSCC would still retain the authority to place a member with a CRRM rating of five on the Watch List or otherwise if NSCC deems the member poses a heightened risk to NSCC. NSCC believes that these procedures would allow it to appropriately monitor the credit risks presented to it by its members and that the enhanced surveillance list is not necessary because members on the enhanced surveillance list are subject to the same potential consequences as members placed on the Watch List.[64]

C. Other Changes

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

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[65] provides that the Commission shall approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. After careful review of the Proposed Rule Change and consideration of the comments on the proposal, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to NSCC. In particular, the Commission finds that the Proposed Rule Change is consistent with Sections 17A(b)(3)(F) and (b)(3)(I) of the Act,[66] and Rules 17Ad–22(e)(4) and (e)(18) thereunder,[67] for the reasons described below.

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

Section 17A(b)(3)(F) of the Act 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, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and protect investors and the public interest; and are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency.[68] Based on its review of the record, the Commission finds that the proposal is consistent with Section 17A(b)(3)(F) of the Act.[69]

[50] NSCC proposes to define ''Tier 1 RBC Ratio'' as the ratio of an entity's tier 1 capital to its total-risk weighted assets, calculated in accordance with such entity's regulatory and/or statutory requirements. NSCC is not proposing changes to its capital requirements for U.S. trust companies that do not calculate its Tier 1 risk-based capital ratio, which is currently $2 million in equity capital. *See* Sections 2.B.2 and 3.B.2 of Addendum B of the Rules, *supra* note 7.

[51] *See supra* note 29.

[52] *See* Notice of Filing, *supra* note 3, at 74192.

[53] The changes to NSCC's Watch List and enhanced surveillance list discussed in Section II.B below will not be subject to the one year delayed implementation.

[54] *See* Notice of Filing, *supra* note 3, at 74193.

[55] NSCC members generally are subject to the CRRM, in which each member is rated on a scale of one to seven with seven reflecting the highest credit risk posed to NSCC. Members who receive a CRRM rating of five to seven are currently, automatically placed on the Watch List. *See* Rule 1 and Section 4(b) of Rule 2B of the Rules, *supra* note 7.

[56] *See* Rule 1 and Sections 4(b)(ii) and (c) of Rule 2B of the Rules, *supra* note 7. In making its determination, NSCC may consider any information NSCC obtains through continuously monitoring its members for compliance with its membership requirements. *See* Section 4(d) of Rule 2B of the Rules, *supra* note 7.

[57] *See* Section 4(e) of Rule 2B and Procedure XV of the Rules, *supra* note 7.

[58] *See* Section 4(f) of Rule 2B of the Rules, *supra* note 7.

[59] *See id.*

[60] *See id.*

[61] *See* Notice of Filing, *supra* note 3, at 74193.

[62] For any members currently on the enhanced surveillance list that are not also on the Watch List, NSCC will add these members to the Watch List. *See id.* at 74193. NSCC also proposes to clarify in its Rules that members on the Watch List are reported to NSCC's management committees and regularly reviewed by NSCC's senior management.

[63] *See id.* at 74193. NSCC states that the majority of members with a CRRM rating of 5 are either rated ''investment grade'' by external rating agencies or, in the absence of external ratings, NSCC believes are equivalent to investment grade, as many of these members are primary dealers and large foreign banks. *See id.*

[64] *See id.* at 74188, 74193.

[65] 15 U.S.C. 78s(b)(2)(C).

[66] 15 U.S.C. 78q–1(b)(3)(F) and (b)(3)(I).

[67] 17 CFR 240.17Ad–22(e)(4) and (e)(18).

[68] 15 U.S.C. 78q–1(b)(3)(F).

[69] One commenter argues, in part, that the proposal to increase NSCC's membership capital requirements violates the requirement under Section 17A(b)(3)(F) of the Act to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

i. Prompt and Accurate Clearance and Settlement and Safeguarding of Securities and Funds

The Commission believes that the proposal is designed to promote the prompt and accurate clearance and settlement of securities transactions, and assure the safeguarding of securities and funds which are in the custody or control of NSCC. The Commission believes that membership standards at covered clearing agencies should seek to limit the potential for member defaults and, as a result, losses to non-defaulting members in the event of a member default. As the Commission stated when adopting the Covered Clearing Agency Standards, using risk-based criteria helps to protect investors by limiting the participants of a covered clearing agency to those for which the covered clearing agency has assessed the likelihood of default.[70] More specifically, the Commission believes that membership standards related to minimum capital requirements serve as one tool in limiting this default risk by ensuring that members have sufficient capital to meet its obligations and to absorb losses.

Covered clearing agencies employ membership standards as the first line of defense in their risk management, ensuring that its members, among other things, hold sufficient financial resources to meet the obligations that they may incur as a member of the covered clearing agency. These requirements are separate from the collection of margin, which addresses the risk of the cleared transactions. Instead, capital requirements seek to ensure that NSCC has sufficiently addressed the member's counterparty credit risk, that is, that the member has sufficient financial resources both to meet its margin requirements or potential loss allocation in the event of a member default; these requirements are not a substitute for margin.

The Commission believes that NSCC's proposal to increase its minimum capital requirements for its members, as described above in Section II.A, is designed to strengthen its risk management practices. For example, NSCC proposes to increase the minimum capital requirements for U.S. broker dealer members based on the member's VaR Tier. The Commission believes that members with a higher VaR as compared to their excess net capital may pose more credit risk to NSCC, and therefore that the revised minimum capital requirements are appropriate to address this risk. Specifically, the Commission reviewed and analyzed confidential impact data NSCC provided to the Commission as part of the Proposed Rule Change regarding the VaR/ENC ratio, including the impact that the proposed minimum capital requirements would have on that ratio.[71] The Commission agrees with NSCC's analysis of that data that these minimum requirements result in VaR/ENC ratios that are more consistent across NSCC's membership, meaning that the risk posed to NSCC by members would decrease, and based, in part, on that analysis, and taking into account the other factors discussed further below, the Commission believes that the proposed minimum capital requirements are a reasonable method of addressing NSCC's need to manage the risks posed by its members,[72] as a balance between strengthened capital requirements and the impact on NSCC's members, which, as discussed further below, is limited to a very small subset of the members.[73] For most other members, the changes would increase the minimum capital requirements and ensure that members, such as U.S. and foreign bank members, would continue to hold sufficient financial resources consistent with those requirements and their applicable regulatory obligations, although they would not actually increase the amounts held as the members generally meet the new requirements already based on their current capital.

The Commission also considered other factors as support for its determination that these proposed minimum capital requirements are reasonable. The Commission understands that NSCC has not revised these requirements in over 20 years. During that time, the Commission recognizes that there have been significant changes to the financial markets, such as new risks arising from cyber threats and online trading technologies, and heightened operational risk due to a more sophisticated and complex business environment. In addition, the Commission understands that NSCC considered several factors, including inflation and the capital requirements of other financial market infrastructures, and the Commission agrees that these factors support the reasonableness of the proposed minimum capital requirements.[74] For example, the value of the current $500,000 minimum capital standard at the point in time when established twenty years ago is far less today in inflation-adjusted terms.[75] Further, the Commission believes that the consistency between the proposed requirements and those of other financial market infrastructures tends to indicate that such requirements should address the obligations attendant to participating in a financial market infrastructure like NSCC, *i.e.,* that they are tailored to ensure that a member can meet its requirements to NSCC in the event of, for example, a loss allocation or an intraday margin call. Finally, based on its supervisory experience, the Commission understands that trading volume, in terms of both number of transactions and notional value, have increased significantly across the NSCC membership during that time period.[76] The Commission believes that this significant increase in trading volumes represents additional risk for NSCC and supports the need for the proposed minimum capital requirements. Taken together, the Commission believes that these factors support its determination regarding the reasonableness of the proposed minimum capital requirements, as they would allow NSCC to ensure that its members have capital sufficient to address the risks posed by their activities in addition to the margin for particular transactions.

Through these changes, NSCC should be able to ensure members have sufficient capital to meet their obligations and to absorb losses, which could further limit the potential for a member default. In turn, limiting the potential for a member default should promote the prompt and accurate

See Comment from Robert McBey, Chief Executive Officer, Wilson-Davis Co., Inc. (February 3, 2022) (''Wilson Letter''), *supra* note 8, at 6–7. *See also* 15 U.S.C. 78q–1(b)(3)(F). NSCC is not changing the process in which it clears and settles securities transactions submitted by its members, and, therefore, these requirements are not affected by this Proposed Rule Change.

[70] *See* Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786, 70839 (October 13, 2016) (S7–03–14) (''Covered Clearing Agency Standards'').

[71] *See supra* note 21 for a detailed description of the confidential impact study.

[72] *See supra* notes 19–21.

[73] *See supra* note 83.

[74] *See* Notice, *supra* note 3, at 74186, (citing, *e.g.,* The Options Clearing Corporation, OCC Rules, Rule 301(a), available at *https://www.theocc.com/Company-Information/Documents-and-Archives/ByLaws-and-Rules* (requiring broker-dealers to have initial net capital of not less than $2,500,000); Chicago Mercantile Exchange Inc., CME Rulebook, Rule 970.A.1, *available at https://www.cmegroup.com/rulebook/CME/I/9/9.pdf* (requiring clearing members to maintain capital of at least $5 million, with banks required to maintain minimum tier 1 capital of at least $5 billion).

[75] *See, e.g., https://data.bls.gov/cgi-bin/cpicalc.pl.*

[76] *See, e.g.,* DTCC Annual Reports, *available at https://www.dtcc.com/about/annual-report,* and CPMI–IOSCO Quantitative Disclosures for NSCC, section 23.1 (setting forth daily average volumes by asset class and average notional value), *available at https://www.dtcc.com/legal/policy-and-compliance.*

clearance and settlement of securities transactions.

In addition, NSCC's proposed minimum capital requirements would thereby further limit potential losses to non-defaulting members in the event of a member default,[77] which helps assure the safeguarding of securities and funds which are in the custody or control of NSCC.

Additionally, the Commission believes NSCC's proposal to streamline its credit risk monitoring systems into one Watch List, as described above in Section II.B., would eliminate existing confusion and should enhance NSCC's efficiency in monitoring its members' credit risk by focusing on only those members that present heightened credit risk. Similarly, the Commission believes NSCC's proposal to make clarifying and transparency changes, as described above in Section II.C., would remove ambiguity and ensure NSCC's Rules are clear and accurate, which would help ensure NSCC's members understand its obligations to NSCC and NSCC's clearance and settlement activities. Therefore, the Commission believes these changes should promote the prompt and accurate clearance and settlement of securities transactions.

ii. Protection of Investors and the Public Interest

The Commission believes that NSCC's proposal to increase the capital requirements applicable to its members would protect investors and the public interest. As discussed above in Section III.A.1, the Commission believes the proposal is designed to strengthen NSCC's risk management practices. Because a defaulting member could place stresses on NSCC with respect to NSCC's ability to meet its clearance and settlement obligations upon which the broader financial system relies, it is important that NSCC has strong membership requirements to ensure that its members are able to meet their obligations. By reducing the risk of a member default and any subsequent allocation of losses, the proposal should help to protect investors and the public interest by helping to ensure that investors' securities transactions are cleared and settled promptly and accurately and to assure the safeguarding of securities and funds which are in NSCC's custody or control.

One commenter argues that the Proposed Rule Change contravenes the protection of investors and the public interest because smaller firms may be unable to meet these membership requirements, thereby harming the ability of investors and small businesses that access the markets through these smaller firms.[78] The Commission disagrees. First, the Commission believes that the improved risk management at NSCC is consistent with protecting investors and the public interest. Second, the Commission disagrees that the potential inability of a very small subset of NSCC's membership to meet the proposed membership requirements would necessarily mean that investors and small businesses would not be able to access the markets and raise capital, through other brokers or market participants. Most smaller broker-dealer members of NSCC would, in fact, meet the proposed membership requirements, as well as other broker-dealers that serve small investors.

iii. Prohibit Unfair Discrimination

Three commenters argue that the Proposed Rule Change related to increasing the minimum Excess Net Capital requirements for U.S. broker-dealer members is designed to unfairly discriminate against smaller broker-dealers.[79] These commenters generally state that the proposal disproportionately impacts smaller broker-dealers and, therefore, is intended to deny these smaller broker-dealers' membership at NSCC.[80] The Commission disagrees with this view.

First, NSCC's proposal to increase its minimum capital requirements would apply to all members and is not limited to small U.S. broker-dealers.[81] The impact of the proposal on U.S. broker-dealers is determined by the risks that the member presents to NSCC through the type of clearing activity and the transactions cleared, rather than the member's size. The Commission understands, based on its review and analysis of the record,[82] that, out of NSCC's 146 members (including bank members, broker-dealer members, etc.), only a few U.S. broker-dealer members would likely be impacted by the proposal (*i.e.,* would need to raise additional capital to meet NSCC's proposed increased capital requirements).[83] The vast majority of NSCC's members, including some small U.S. broker-dealers, already meet NSCC's proposed minimum capital requirements. Therefore, the Commission does not believe that NSCC's proposal is intended to exclude smaller broker-dealers from its membership.

Second, the Commission believes that, based on its analysis of the data,[84] on average broker-dealers with lower Excess Net Capital amounts present higher risk exposures to NSCC relative to their capital levels. The Commission further believes the proposal would more closely align the excess net capital requirements for these broker-dealers members to the broker-dealer members that are required to hold excess net capital above the minimum required, which, as discussed above, means that such broker-dealers would pose less risk to NSCC.[85]

By implementing a tiered approach, as described above in Section II.A.1., the Commission believes NSCC's proposal is designed to increase the minimum Excess Net Capital requirements for its U.S. broker-dealer members in relation to the level of risks those members present to NSCC. The tiered approach should facilitate the continued access by

[77] Under NSCC's rules, when a member defaults, NSCC may allocate losses to non-defaulting losses in the event that the defaulting member's own margin and other resources at NSCC, as well as NSCC's corporate contribution, are not sufficient to cover the loss. *See* section 4 of Rule 4 of NSCC's Rules, *supra* note 7. If members hold capital sufficient to allow them to meet their obligations to NSCC, such losses are less likely to occur.

[78] *See* Wilson Letter, *supra* note 8, at 7–8 (stating that ''[i]f the only firms that service retail investors and main street businesses are unable to meet NSCC's ever escalating capital requirements, investors holding microcap stock will be unable to liquidate their investments, and small businesses will be unable to raise money, contribute to the U.S. economy, and provide jobs to fellow Americans.'').

[79] *See id.* at 8–9; Comment from Aaron D. Lebenta, Parsons Behle Leibrock, P.C., Counsel for Alpine Securities Corporation (January 19, 2022) (''Alpine Letter''), *supra* note 8, at 1–2 and 5–6; and Comment from Patrick Zakhary, Esq., Seyfnia and Zakhary, P.C. (February 7, 2022) (''Zakhary Letter''), *supra* note 8, at 1.

[80] *See id.*

[81] The proposed increases would be between 2 and 10 times NSCC's current minimum Excess Net Capital requirements, across all U.S. broker-dealer members. Moreover, the increase is not limited to U.S. broker-dealer members; for example, NSCC also proposes increasing its minimum capital requirement for members that are U.S. banks to 10 times the current requirement.

[82] Specifically, the Commission reviewed and analyzed confidential impact data NSCC provided to the Commission as part of the Proposed Rule Change. *See supra* notes 19–21.

[83] NSCC has 146 members, which consists of 14 bank members and 132 other members, the vast majority of which are broker dealer members. 144 members are based in the United States, while two members are non-U.S. based. *See* The Depository Trust and Clearing Corporation, CPMI IOSCO Quantitative Disclosure Results 2022 Q1 (''Q1 Quantitative Disclosures'') (June 6, 2022), *available at https://www.dtcc.com/legal/policy-and-compliance.*

[84] *See supra* notes 19–21. *See also, supra* text accompanying note 71.

[85] Based on its review of the confidential impact study data, the Commission notes that, if the proposed VaR tiers had been applied to that analysis, then the average VaR/ENC ratio declines to 7 percent for members with excess net capital less than $5 million, and 9 percent for members with excess net capital of $5–10 million, which aligns more closely to the class of members with greater excess net capital. *See also* NSCC Response Letter, *supra* note 19, at 3.

less capitalized firms, while protecting NSCC and its members from losses arising from a member default. Furthermore, by placing newly admitted members in the middle-tier, the proposal should facilitate entry into NSCC membership by less capitalized firms, while allowing NSCC to manage the risk of those members' trading activity which has not yet been established, which will help protect NSCC and its members from the risks of those members defaulting. Therefore, the Commission concludes the proposal does not disproportionately impact smaller broker-dealers.

For the reasons discussed in this Sections III.A., the Commission believes that the Proposed Rule Change is consistent with the requirements of Section 17A(b)(3)(F) of the Act.[86]

B. Consistency With Section 17A(b)(3)(I) of the Act

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the Act.[87] This provision does not require the Commission to find that a proposed rule change represents the least anticompetitive means of achieving the goal.[88] Rather, it requires the Commission to balance the competitive considerations against other relevant policy goals of the Act.[89]

The Commission acknowledges the proposal could pose a burden on competition for those broker-dealer members who would be required to raise additional capital to meet the proposed increases in minimum Excess Net Capital requirements. However, the Commission believes that this burden is appropriate. As discussed further below in Section III.D, NSCC is required to have policies and procedures reasonably designed to ensure that it has risk-based, objective, and publicly disclosed criteria for participation. The proposed capital requirements meet this standard.

Several commenters argue that this burden on competition is not necessary or appropriate in furtherance of the Act for two reasons.[90] First, commenters argue that NSCC has not provided sufficient evidence that the proposed increases are necessary or appropriate.[91] Second, commenters argue that NSCC's proposed tiered approach is redundant and therefore unnecessary and inappropriate.[92] The Commission is not persuaded by these arguments.

First, as discussed above in Section III.A.iii., the Commission believes that the proposed capital requirements should help ensure that NSCC provides prompt and accurate clearance and settlement. The record shows that on average broker-dealer members with lower Excess Net Capital amounts present higher risk exposures to NSCC relative to their capital levels.[93] Second, the Commission believes that the risk being addressed by capital requirements, and membership requirements more broadly, is separate from the risks that are addressed through the collection of margin on the particular transactions cleared and settled at NSCC. The Commission believes capital requirements are used to help manage counterparty credit risk and, in part, measure a member's ability to meet its future obligations that could help prevent the member's default.[94] Collateral requirements (*i.e.,* margin), on the other hand, are used to help mitigate losses to NSCC and non-defaulting members resulting from NSCC's closeout of a defaulting member's positions, which is measured by NSCC's market risk exposure to that member's open trading portfolio.[95] Consequently, the proposal would not be duplicating NSCC's existing risk management practices related to its margin calculations.

On balancing the proposal's competitive considerations, the Commission believes that only a few broker-dealer members will be impacted by the proposal.[96] Therefore, the Commission believes that the proposal will help strengthen NSCC's credit risk management practices by increasing the minimum Excess Net Capital requirements for broker-dealer members tied to the level of risk these members present to NSCC, which is both necessary and appropriate in furtherance of the Act.

Furthermore, to give impacted members time to prepare, NSCC proposes to provide its members a one year implementation period to monitor their risk levels and to comply with the increased capital requirements. In addition, the Commission understands that, in setting the proposed amounts, NSCC considered several benchmarking factors, including inflation, the proposal's historical development indicating member appetite for different methods in setting the minimums, and the capital requirements of other financial market infrastructures, which provided indicators for setting appropriate increases to its minimum capital requirements.[97] As discussed above in Section III.A.i, the Commission agrees that these factors support the reasonableness of the proposed minimum capital requirements. Based on the totality of the factors, the Commission concludes that the Proposed Rule Change does not impose any burden on competition not necessary or appropriate in furtherance of the Act.

For the reasons stated above, notwithstanding the potential impact on a small number of broker-dealers, the Commission believes that, in light of the potential benefits to investors arising from the Proposed Rule Change and the resulting overall improved counterparty credit risk management at NSCC (*i.e.,* the prompt and accurate clearance and settlement of securities transactions, the safeguarding of securities and funds, and the protection of investors and the public interest as discussed in section III.A.1.iii above), the Proposed Rule Change is consistent with the requirements of Section 17A(b)(3)(I) of the Act.

C. Consistency With Rule 17Ad–22(e)(4)

Rule 17Ad–22(e)(4)(i) under the Act requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[98]

Increasing membership capital requirements, as described above in Section II.A., would help ensure that

[86] 15 U.S.C. 78q–1(b)(3)(F).

[87] 15 U.S.C. 78q–1(b)(3)(I).

[88] *See* Bradford National Clearing Corp., 590 F.2d 1085, 1105 (D.C. Cir. 1978).

[89] *See id.*

[90] *See* Alpine Letter, *supra* note 8, at 3–8; Comment from Kimberly Unger, Chief Executive Officer and Managing Director, STANY The Security Traders Association of New York, Inc. (January 27, 2022) (''STANY Letter''), *supra* note 8, at 2–3; Wilson Letter, supra note 8, at 8; Letter from Scott G. Monson, Attorney (February 10, 2022) (''Monson Letter''), *supra* note 8, at 2. In addition, one commenter stated that the proposal is anti-competitive in nature because newly admitted broker-dealers will be placed in the middle VaR Tier. *See* STANY Letter, *supra* note 8, at 5. The Commission believes that such proposal is reasonable because a newly admitted member would not have a historical VaR record, which NSCC needs to assign an appropriate VaR Tier.

[91] *See* Alpine Letter, *id.* at 7–8; STANY Letter, *id.* at 4–5; Wilson Letter, *id.* at 4; Monson Letter, *id.* at 2–3; and Zakhary Letter, supra *note 8,* at 1–3.

[92] *See id.*

[93] *See supra* notes 19–21 and accompanying text.

[94] *See* Covered Clearing Agency Standards, *supra* note 68, at 70859.

[95] *See id.* at 70855.

[96] *See supra* text accompanying notes 78–79.

[97] *See* Notice of Filing, *supra* note 3, at 74186.

[98] 17 CFR 240.17Ad–22(e)(4)(i).

members maintain sufficient capital to meet their obligations to NSCC, including potential future obligations required to fund its trading activity with NSCC or to absorb losses allocated to it. By ensuring members' ability to meet their financial obligations to NSCC, the proposal, in turn, will help ensure NSCC continues to maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[99]

Certain commenters argue that NSCC fails to establish evidence that there exists an actual credit exposure to NSCC that the proposed increased Excess Net Capital requirements would cover that is not already covered by NSCC's margin requirements.[100] NSCC responds to these commenters by stating that as a matter of law and regulation, NSCC is required to manage many different risks, including legal, credit, liquidity, operational, general business, investment, and custody, regardless of whether any of the risks materialize into an actual issue.[101] While members may not routinely experience issues related to legal, operational, or cyber risks, these issues can arise, possibly without advance warning, and, as such, they are considered a critical part of the ongoing credit risks that members present to NSCC and that NSCC must manage.[102]

In considering these comments, the Commission thoroughly reviewed and considered the Proposed Rule Change, including the supporting exhibits that provided confidential analysis on the impact and rationale for the proposed capital requirements. Based on its review of these materials, the Commission believes that the proposal would, in fact, better enable NSCC to cover its credit exposure to Members and meet the applicable Commission regulatory requirements. Specifically, the Commission has considered the relationship between members' VaR and their excess net capital, which indicates that on average broker-dealers with lower Excess Net Capital amounts present higher risk exposures to NSCC relative to their capital levels, and that, upon application of the proposed requirements, the risk to NSCC decreases and is more consistent across NSCC's members, as evidenced by the more consistent VaR/ENC levels across NSCC's members under the proposed minimum requirements, while balancing the increased exposure and the impact on members.[103] Therefore, the Commission believes that the proposal would provide NSCC with stronger risk management with respect to the higher risk exposure and establish risk-based criteria for participation.

Additionally, the proposal to revise the Watch List, as described above in Section II.B, could help NSCC better allocate its resources for monitoring its credit exposures to members, which, in turn, could help NSCC more effectively manage and mitigate its credit exposures to its members. Therefore, the Commission believes the Proposed Rule Change is consistent with Rule 17Ad–22(e)(4)(i) under the Exchange Act.

D. Consistency With Rule 17Ad–22(e)(18)

Rule 17Ad–22(e)(18) under the Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to establish objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access by direct and, where relevant, indirect participants and other financial market utilities, require participants to have sufficient financial resources and robust operational capacity to meet obligations arising from participation in the clearing agency, and monitor compliance with such participation requirements on an ongoing basis.[104]

As described above in Section II.A., the proposal will increase NSCC's minimum capital requirements for its members. As it relates to U.S. broker-dealer members, the amount of the proposed increase to Excess Net Capital requirements will be based on a tiered approach designed to reflect the level of risk the member presents to NSCC. For non-U.S. broker-dealer members, the proposal will impose a flat equity capital requirement.

Similarly, the proposal will establish membership categories for national securities exchanges and Index Receipt Agents, for purposes of NSCC's minimum capital requirements, and will impose capital requirements based on the analysis of the risk profiles of these entities and their importance to the functioning of the securities markets. By establishing these new categories, NSCC will replace conditional and discretionary minimum capital requirements with objective minimum capital requirements commensurate with the risks these members pose to NSCC.

For both U.S. and non-U.S. bank and trust company members and limited members, the proposal will revise how net capital is defined to incorporate a measurement used by banking regulators, and impose additional financial requirements on non-U.S. bank and trust company members tied to home country regulatory requirements and international standards. The proposal will also establish a category for all other members, which will impose minimum financial requirements tied to that entity's regulatory requirements, which NSCC may increase based on how closely it resembles another membership type and its risk-profile.

First, the proposal to increase minimum capital requirements to NSCC's members will help to ensure each member has and maintains sufficient financial resources to meet obligations arising from its participation in NSCC. Second, the proposal will further establish objective, risk-based, and publicly disclosed criteria for setting the amounts of NSCC's increased capital requirements for its members. The proposed changes will apply to all NSCC members as set forth in NSCC's public-facing Rules.[105] For U.S. broker-dealer members, the tiered approach sets capital requirements to the level of risk the member presents to NSCC and is therefore designed to establish objective and risk-based criteria for U.S. broker-dealers to participate in NSCC.

Certain commenters argue, in various ways, that the proposal's rationale for the increased capital requirements are vague, arbitrary, and specious.[106] The

[99] Four commenters argue that, rather than manage its credit exposure, NSCC should reduce the risk by shortening the settlement cycle. *See* Alpine Letter, *supra* note 8, at 8–9; STANY Letter, *supra* note 8, at 5; Wilson Letter, *supra* note 8, at 4–6; Zakhary Letter, *supra* note 8, at 2. However, NSCC manages credit risk under the current standard settlement cycle, and the Commission disagrees that it would be feasible for NSCC to unilaterally change the industry standard settlement cycle.

[100] *See* Wilson Letter, *supra* note 8, at 3; Monson Letter, *supra* note 8, at 3.

[101] NSCC Response Letter, *supra* note 19, at 2.

[102] *See id.*

[103] *See supra* notes 19–21. *See also supra* text accompanying notes 71–73.

[104] 17 CFR 240.17Ad–22(e)(18).

[105] The Commission also understands that NSCC considered several additional factors, including inflation, historical development of the proposal, and the capital requirements of other financial market infrastructures. *See* Notice of Filing, *supra* note 3, at 74186; *and supra* note 12. The Commission believes that these factors demonstrate the reasonableness of the proposed minimum capital requirements, as discussed above in Section III.A.i.

[106] *See* Alpine Letter, *supra* note 8, at 1–2 and 5–6; Wilson Letter, *supra* note 8, at 8–9; Zakhary Letter, *supra* note 8, at 1. Certain commenters argue members that self-clear present more risk to NSCC than members who clear on behalf of others. *See* STANY Letter, *supra* note 8, at 3; Letter from Charles F Lek, Chief Executive Officer, Lek Securities Corporation (January 19, 2022) (''Lek Letter''), *supra* note 8, at 1–2; Comment from Wendie Wachtel, Chief Operating Officer, Wachtel and Co., Inc. (March 22, 2022) (''Wachtel Letter''), *supra* note 8, at 2. However, the argument is not relevant to the proposal because it is based on an

Commission disagrees. As discussed above, on average broker-dealer members with lower Excess Net Capital amounts present higher risk exposures to NSCC relative to their capital levels.[107] Additionally, the Commission understands that NSCC considered several additional risks faced by its members, both qualitative and quantitative, in determining its proposed capital requirements, which the Commission believes demonstrate the reasonableness of the proposed minimum capital requirements, as discussed above in Section III.A.i.[108] Regarding U.S. and non-U.S. banks and trust companies, the proposal will set the minimum capital requirements based on standards and measures used by banking regulators. Regarding non-U.S. broker-dealers and for all other types of members, the proposal would eliminate conditional and discretionary minimum capital requirements in favor of establishing objective minimum capital requirements. Therefore, the Commission concludes the proposal is reasonably designed to establish objective, risk-based, and publicly disclosed criteria for participation.

For the reasons described above, the Commission finds that the Proposed Rule Change is consistent with Rule 17Ad–22(e)(18) under the Act.[109]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[110] and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[111] that proposed rule change SR–NSCC–2021–016, be, and hereby is, *approved*.[112]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[113]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–18861 Filed 8–31–22; 8:45 am]

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inaccurate assertion that self-clearing includes proprietary trading firms only, while clears on behalf of others refers to agency firms only. Rather, both types of members could be engaged in both proprietary and customer trading.

[107] *See supra* note 54 and accompanying text.

[108] *See supra* note 72. *See also* Notice of Filing, *supra* note 3, at 74196; and NSCC Response Letter, *supra* note 19, at 2 (noting that while members may not routinely experience issues related to legal, operational, or cyber risks, these issues can arise, possibly without advance warning, and, as such, they are considered a critical part of the ongoing credit risks that members present to NSCC and that NSCC must manage).

[109] *Id.*

[110] 15 U.S.C. 78q–1.

[111] 15 U.S.C. 78s(b)(2).

[112] In approving the Proposed Rule Change, the Commission considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[113] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95613; No. SR–NYSE–2022–38]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Section 902.05 of the NYSE Listed Company Manual To Establish a Cap on Listing Fees Billed When a Structured Product Is Issued as a Dividend

August 26, 2022.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 22, 2022, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 Section 902.05 of the NYSE Listed Company Manual (the ''Manual'') to establish a cap on listing fees billed when a structured product is issued as a dividend.[4] 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

Section 902.05 of the Manual sets forth initial listing fees and annual fees applicable to structured products listed under Section 703.18, the equity criteria set out in Section 703.19, and Section 703.21, and traded on the equity floor of the Exchange. The term ''retail debt securities'' refers to debt securities that are listed under the equity criteria set out in Section 703.19 and traded on the equity floor of the Exchange. Subject to certain limitations set forth in the rule, issuers must pay listing fees for structured products at a per share rate using the following tiered fee structure:

- For an issuance up to and including two million shares, the rate is $0.01475 per share;
- For an issuance over two million shares and up to and including four million shares, the rate is $0.0074 per share;
- For an issuance over four million shares and up to and including 300 million shares, the rate is $0.0035 per share;
- For an issuance over 300 million shares, the rate is $0.0019 per share.

The Exchange now proposes to adopt a cap on listing fees in relation to structured products issued as a dividend. As proposed, listing fees on structured products issued as a dividend would be capped at $150,000 per issuance. The Exchange notes that the issuer in such cases is not receiving any cash or other consideration and would therefore not be generating any funds out of which it could pay the listing fees, as would be the case if it sold the securities. Therefore, the Exchange believes it is reasonable to apply a lower fee cap than is applied when structured products are sold in a capital raising transaction, as is more usually the case. The Exchange notes that the Manual already contains a similar $150,000 cap on listing fees for shares of common stock issued in

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange originally filed to amend the Manual on August 16, 2022 (SR–NYSE–2022–33) and withdrew such filing on August 22, 2022.

connection with a stock split or stock dividend.[5]

The Exchange proposes to remove from Section 902.05 the reference to the fact that the fees set forth in that rule are applicable to securities listed under Section 703.21. Section 703.21 formerly set forth listing standards for the listing of equity-linked debt securities. However, the Exchange has reorganized its rules, so that its listing standards for equity-linked debt securities (now call equity linked notes or ''ELNs'') are now set forth in Rule 5.2(j)(2) rather than Section 703.21 and Section 703.21 is reserved.[6] As such, the reference to Section 703.21 in Section 902.05 is no longer relevant and should be deleted. The Exchange notes that it does not currently have any listed ELNs and that it would have to adopt fees prior to listing any ELNs under Rule 5.2(j)(2). If the Exchange concludes that the appropriate fees for ELNs under Rule 5.2(j)(2) would be different from those provided for structured products under Section 902.05, the filing proposing such fees would set forth the Exchange's reasons for believing that this difference was not inequitable or unfairly discriminatory.

The Exchange also proposes to remove from Section 902.05 references to the annual fees that were applicable prior to 2019, as that fee is no longer relevant.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(4)[8] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[9] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposal to cap listing fees for structure products issued as a dividend at $150,000 per issuance is equitable and not unfairly discriminatory. The Exchange notes that the issuer in such cases is not receiving any cash or other consideration and would therefore not be generating any funds out of which it could pay the listing fees, as would be the case if it sold the securities. Therefore, the Exchange believes it is reasonable to apply a lower fee cap than is applied when structured products are sold in a capital raising transaction, as is more usually the case. The Exchange notes that the Manual already contains a similar $150,000 cap on listing fees for shares of common stock issued in connection with a stock split or stock dividend.

The removal from Section 902.05 of the reference to the fact that the fees set forth in that rule are applicable to securities listed under Section 703.21 is not inequitable or unfairly discriminatory, as it reflects the fact that ELNs are now listed under Rule 5.2(j)(2) rather than Section 703.21. As such, the reference to Section 703.21 in Section 902.05 is no longer relevant and should be deleted. The Exchange notes that it does not currently have any listed ELNs and that it would have to adopt fees prior to listing any ELNs under Rule 5.2(j)(2). If the Exchange concludes that the appropriate fees for ELNs under Rule 5.2(j)(2) would be different from those provided for structured products under Section 703.21 [sic], the filing proposing such fees would set forth the Exchange's reasons for believing that this difference was not inequitable or unfairly discriminatory.

The removal of the references to annual fees applied before 2019 has no substantive effect, as that fee is no longer applied by its terms.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed fee cap will be applicable to all similarly situated issuers on the same basis.

The Exchange does not believe that the proposed fee cap will have any meaningful effect on the competition among issuers listed on the Exchange. The Exchange operates in a highly competitive market in which issuers can readily choose to list new securities on other exchanges and transfer listings to other exchanges if they deem fee levels at those other venues to be more favorable.

Because competitors are free to modify their own fees in response, and because issuers may change their listing venue, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[10] of the Act and subparagraph (f)(2) of Rule 19b–4[11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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)[12] 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:

[5] *See* Securities Exchange Act Release No. 52463 (September 16, 2005); 70 FR 55933 (September 23, 2005) (SR–NYSE–2005–35) (notice of the proposal to adopt this approach with respect to stock splits). *See also* Securities Exchange Act Release No. 52696 (October 28, 2005); 70 FR 66881 (November 3, 2005) (SR–NYSE–2005–35) (approval of the adoption of this approach with respect to stock splits).

[6] *See* Securities Exchange Act Release No. 84351 (October 3, 2018); 83 FR 50980 (October 10, 2018) (SR–NYSE–2018–30) (among other things, deleting Section 703.21). *See also* Securities Exchange Act Release No. 80214 (March 10, 2017); 82 FR 14050 (March 16, 2017) (SR–NYSE–2016–44) (among other things, adopting Rule 5.2(j)(2) for the listing of ELNs; Rule 5.2(j)(2) is substantially the same as the listing standard for ELNs set forth in NYSE Arca Equities Rule 5.2(j)(2)).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

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–2022–38 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–2022–38. 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–NYSE–2022–38, and should be submitted on or before September 22, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–18857 Filed 8–31–22; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95615; File No. SR–DTC–2021–017]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving of Proposed Rule Change To Enhance Capital Requirements and Make Other Changes

August 26, 2022.

I. Introduction

On December 13, 2021, The Depository Trust Company Corporation (''DTC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–DTCC–2021–017 (the ''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on December 29, 2021.[3] On January 26, 2022, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.[5] On March 23, 2022, the Commission instituted proceedings to determine whether to approve or disapprove the Proposed Rule Change.[6] On June 23, 2022, the Commission designated a longer period for Commission action on the proceedings to determine whether to approve or disapprove the Proposed Rule Change.[7] The Commission has received comments regarding the substance of the Proposed Rule Change.[8] For the reasons discussed below, the Commission is approving the Proposed Rule Change.[9]

II. Description of the Proposed Rule Change

DTC proposes to amend its Rules to (A) increase the capital requirements applicable to its participants,[10] (B) revise its credit risk monitoring system, and (C) make certain other clarifying, technical, and supplementary changes to implement changes (A) and (B).

A. Changes to DTC's Capital Requirements for Participants

i. U.S. Participants

U.S. Broker-Dealer Participants: DTC proposes to increase its minimum excess net capital requirements for its U.S. broker-dealer participants. Currently, U.S. broker-dealer participants are required to maintain a minimum amount of not less than $500,000 in excess net capital over the greater of (i) the minimum capital requirement imposed on it pursuant to Exchange Act Rule 15c3–1,[11] or (ii) such higher minimum capital requirement imposed by the registered broker-dealer's designated examining authority.[12] DTC proposes to increase the minimum excess net capital (''Excess Net Capital'') [13] requirements U.S. broker-dealer participants to $1 million.

U.S. Bank and Trust Company Participants: For members who are U.S. banks or U.S. trust companies who are also banks,[14] DTC proposes to (1) change the capital measure from equity capital to common equity tier 1 capital

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 93854 (December 22, 2021), 86 FR 74122 (December 29, 2021) (File No. SR–DTC–2021–017) (''Notice of Filing'').

[4] 15 U.S.C. 78s(b)(2).

[5] Securities Exchange Act Release No. 94067 (January 26, 2022), 87 FR 5548 (February 1, 2022) (SR–DTC–2021–017).

[6] Securities Exchange Act Release No. 94495 (March 23, 2022), 87 FR 18451 (March 30, 2022) (SR–DTC–2021–017).

[7] Securities Exchange Act Release No. 95143 (June 23, 2022), 87 FR 38786 (June 29, 2022) (SR–DTC–2021–017).

[8] The Commission received one comment letter that does not bear on the Proposed Rule Change. The comment is available at *https://www.sec.gov/comments/sr-dtc-2021-017/srdtc2021017.htm.* Since the proposed changes contained in this Proposed Rule Change are similar to changes proposed simultaneously by DTC's affiliates, National Securities Clearing Corporation and Fixed Income Clearing Corporation, the Commission has considered all public comments received on the proposals regardless of whether the comments are submitted to the Proposed Rule Change or to the proposals filed by DTC's affiliates.

[9] Capitalized terms not defined herein are defined in Rules, By-Laws and Organization Certificate (''Rules''), *available at https://www.dtcc.com/~/media/Files/Downloads/legal/rules/dtc_rules.pdf.*

[10] DTC states that these capital requirements have not been updated in over 20 years. *See* Notice of Filing, *supra* note 3, at 74122.

[11] 17 CFR 240.15c3–1.

[12] *See* Section 1(b) of the Policy Statements on the Admission of Participants and Pledgees (the ''Policy Statement'') of the Rules, *supra* note 9. *See also,* Section 1(h)(ii) of Rule 3 of the Rules, *supra* note 9.

[13] DTC proposes to define ''Excess Net Capital'' as the net capital greater than the minimum required, as calculated in accordance with the broker-dealer's regulatory and/or statutory requirements.

[14] For U.S. trust companies who are not banks, DTC is not changing its existing capital requirement of $2 million. DTC treats U.S. trust companies that are banks and non-banks differently because they present different risks based on the attendant risks of their business activities, with trust companies engaging in banking activities (*e.g.,* receiving deposits and making loans) being subject to greater risks than trust companies that limit their activities to trust activities (*e.g.,* acting as a trustee, other fiduciary or transfer agent/registrar). *See* Notice of Filing, *supra* note 3, at 74125.

(''CET1 Capital''),[15] (2) raise the minimum capital requirements from $2 million in equity capital to $15 million in CET1 Capital, and (3) require such members to be well capitalized (''Well Capitalized'').[16] The proposal would align DTC's capital requirements with banking regulators' changes to regulatory capital requirements over the past several years, which have standardized and harmonized the calculation and measurement of bank capital and leverage throughout the world.[17] Consistent with these changes by banking regulators, DTC states that it believes the appropriate capital measure for participants that are U.S. banks and trust companies should be CET1 Capital and that DTC's capital requirements for participants should be enhanced to be consistent with these increased regulatory capital requirements.[18] DTC further states that it believes these enhanced capital requirements better measure the capital available to participants to absorb losses arising out of their settlement activities at DTC or otherwise and would help DTC more effectively manage and mitigate the credit risks posed by its participants while providing fair and open access to participation at DTC.[19]

Additionally, DTC states that requiring U.S. banks and trust companies that are banks to be Well Capitalized ensures that participants are well capitalized while also allowing CET1 Capital to be relative to either the risk-weighted assets or average total assets of the bank or trust company.[20] DTC further states that expressly tying the definition of Well Capitalized to the FDIC's definition of ''well capitalized'' will ensure that the proposed requirement keeps pace with future changes to regulatory capital requirements.[21]

ii. Non-U.S. Participants

Currently, a participant who is a non-U.S. broker-dealer or bank is subject to a multiplier that requires such participant to maintain capital of either 1.5, 5, or 7 times its otherwise-applicable capital requirements.[22]

Non-U.S. Broker-Dealer Participants: DTC proposes to require non-U.S. broker-dealer participants to maintain a minimum of $25 million in total equity capital. DTC states the multiplier was designed to account for the less transparent nature of accounting standards other than U.S. GAAP.[23] However, given that accounting standards have converged over the years, DTC no longer believes the multiplier is necessary and its retirement would be a welcomed simplification for both DTC and its participants.[24]

Additionally, DTC states its approach to managing credit risk is multifaceted, which includes requirements of operational capability in addition to financial responsibility.[25] Based on its experience, DTC believes the flat equity capital requirement is warranted for non-U.S. broker-dealers based on the added jurisdictional and regulatory risks, while still allowing for fair and open access to DTC participation.[26]

Non-U.S. Bank Participants: Like U.S. bank members, DTC proposes that non-U.S. bank participants maintain at least $15 million in CET1 Capital. DTC proposes additional requirements for non-U.S. bank participants as follows: (1) comply with the greater of (i) the participant's home country minimum capital and ratio requirements, or (ii) the minimum capital and ratio standards promulgated by the Basel Committee on Banking Supervision,[27] (2) provide an attestation for itself, its parent bank, and its parent bank holding company detailing the minimum capital requirements and capital ratios required by their home country regulator,[28] and (3) notify DTC of (i) any breach of its minimum capital and ratio requirements within two business days, or (ii) any changes to its requirements within 15 calendar days.

iii. Other Types of Participants

Currently, an entity applying to be a participant other than a registered broker-dealer, bank or trust company is required to satisfy such minimum standards of financial responsibility as determined by DTC. DTC proposes to adopt more specific standards for different participant types.

Central Securities Depository Participants: DTC proposes to establish specific minimum capital requirements for U.S. [29] or non-U.S. central securities depository participants of at least $5 million in equity capital. DTC proposes that any clearing corporation would be deemed to be a CSD for the purposes of determining such applicant or participant's minimum financial requirements. DTC states it believes creating a standard capital requirement for CSD participants is appropriate due to the systemic importance of these participants and the need to hold these participants to a consistent, high standard to ensure that they have sufficient capital to fulfill their systemically important role.[30]

Securities Exchange Participants: DTC proposes to establish specific minimum capital requirements for participants that are U.S. national securities exchanges or non-U.S. securities exchanges or multilateral trading facilities of at least $100 million in equity capital. DTC states it believes creating a standard capital requirement for securities exchange participants is appropriate due to the systemic importance of these participants and the need to hold these participants to a consistent, high standard to ensure that they have sufficient capital to fulfill their systemically important role.[31]

U.S. Settling Bank Participants: DTC proposes to require that a settling bank participant or applicant that, in accordance with such entity's regulatory and/or statutory requirements, calculates a Tier 1 RBC Ratio must have a Tier 1 RBC Ratio [32] at all times equal

[15] DTC proposes to define ''CET1 Capital'' as an entity's common equity tier 1 capital, calculated in accordance with such entity's regulatory and/or statutory requirements.

[16] DTC proposes to incorporate the definition of ''Well Capitalized'' as that term is defined by the Federal Deposit Insurance Corporation in its capital adequacy rules and regulations. *See* 12 CFR 324.403(b)(1).

[17] *See* Notice of Filing, *supra* note 3, at 74124.

[18] *See id.*

[19] *See id.,* at 74128. DTC also provided, in the confidential information submitted as part of this Proposed Rule Change, an analysis of U.S. banks' capital to determine the appropriate level of capital requirement.

[20] *See id.,* at 74125.

[21] *See id.*

[22] The applicable multiplier is based on which generally accepted accounting standards (''GAAP'') the non-U.S. participant uses to prepare its financial statements, when not prepared in accordance with U.S. GAAP. *See* Section 2 of the Policy Statement of the Rules, *supra* note 9.

[23] *See* Notice of Filing, *supra* note 3, at 74126.

[24] *See id.*

[25] *See id.,* at 74128.

[26] *See id.*

[27] *See* Basel Committee on Banking Supervision, The Basel Framework, *available at https://www.bis.org/basel_framework/index.htm?export=pdf.* DTC states that the proposal will align DTC's capital requirements with banking regulators' changes to regulatory capital requirements over the past several years, which have standardized and harmonized the calculation and measurement of bank capital and leverage throughout the world. *See* Notice of Filing, *supra* note 3, at 74124. DTC proposes tying its minimum requirement to the requirements promulgated by the Basel Committee on Banking Supervision to ensure that its non-U.S. bank participants meet minimum international standards where their home country requirements may be more lenient. *See id.,* at 74129.

[28] DTC also proposes to require non-U.S. bank participants to periodically provide new attestations on at least an annual basis and upon request by DTC.

[29] DTC is the central securities depository for the United States. *See* U.S. Department of the Treasury, Designations, Financial Market Utility Designations, *available at https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/fsoc/designations.*

[30] *See* Notice of Filing, *supra* note 3, at 74125.

[31] *See id.*

[32] DTC proposes to define ''Tier 1 RBC Ratio'' as the ratio of an entity's tier 1 capital to its total risk-

to or greater than the Tier 1 RBC Ratio that would be required for such settling bank or applicant to be well capitalized.[33]

All Other Types of Participants: For all other U.S. or non-U.S. participants, DTC proposes that the participant must maintain compliance with its home country's minimum financial requirements. DTC also proposes that it may, based on the information provided or concerning the participant, assign an additional minimum financial requirement to the participant, which it will determine based on how closely it resembles another participation type and its risk profile.[34]

iv. Implementation Timeframe

DTC proposes to implement the proposed changes to its minimum participation capital requirements one year after the Commission's approval of the Proposed Rule Change.[35] During the one-year period, DTC would periodically provide participants with an estimate of their capital requirements based on the proposal.[36]

B. Changes to DTC's Watch List and Enhanced Surveillance List

DTC currently uses two credit risk monitoring systems: a Watch List and a separate list of participants subject to enhanced surveillance (''enhanced surveillance list''). The current Watch List includes participants that have either (1) receive a heightened credit risk rating based on DTC's Credit Risk Rating Matrix (''CRRM''),[37] or (2) been deemed to pose a heightened credit risk to DTC or other participants.[38] DTC also maintains a separate enhanced surveillance list, which includes participants who are subject to a more thorough monitoring of its financial condition and operational capability based on DTC's determination that the participant poses heightened credit risks, which may include participants already on or soon to be on the Watch List.[39] Participants on the enhanced surveillance list are reported to DTC's management committees and are regularly reviewed by DTC senior management.[40] Participants on the Watch List or the enhanced surveillance list are subject to more thorough monitoring by DTC of its financial condition and operational capability and may be required to make more frequent financial disclosures to DTC.[41]

DTC believes that maintaining two separate lists has confused various DTC stakeholders,[42] so DTC proposes to remove references to an enhanced surveillance list from its Rules.[43] DTC also proposes to remove participants with a CRRM rating of five from being automatically included on the Watch List. DTC states that participants with a CRRM rating of five represent the largest single CRRM rating category, but DTC does not believe all such participants present heightened credit concerns.[44] DTC would still retain the authority to place a participant with a CRRM rating of five on the Watch List or otherwise if DTC deems the participant poses a heightened risk to DTC. DTC believes that these procedures would allow it to appropriately monitor the credit risks presented to it by its participants and that the enhanced surveillance list is not necessary because participants on the enhanced surveillance list are subject to the same potential consequences as participants placed on the Watch List.[45]

C. Other Changes

DTC proposes, without substantive effect, to improve the readability and accessibility of the Policy Statement by (1) adding appropriate headings and sub-headings and renumbering sections as appropriate, (2) deleting undefined terms and replacing them with appropriate defined terms, including replacing references to ''foreign entities'' with references to ''non-U.S. entities'' and (3) fixing typographical and other errors, in each case throughout the Policy Statement.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[46] provides that the Commission shall approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. After careful review of the Proposed Rule Change, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC. In particular, the Commission finds that the Proposed Rule Change is consistent with Sections 17A(b)(3)(F) of the Act,[47] and Rules 17Ad–22(e)(4) and (e)(18) thereunder,[48] for the reasons described below.

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

Section 17A(b)(3)(F) of the Act 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, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and protect investors and the public interest; and are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency.[49] Based on its review of the record,[50] the Commission finds that the proposal is consistent with Section 17A(b)(3)(F) of the Act.

weighted assets, calculated in accordance with such entity's regulatory and/or statutory requirements.

[33] *See supra* note 16.

[34] Under the proposal, DTC would be obligated to promptly notify and discuss any additional minimum financial requirement with the applicant or participant. In the event that DTC ultimately were to deny participation to an applicant, then Section 19(d) of the Exchange Act would apply, allowing the opportunity for Commission review. *See* 15 U.S.C. 78s(d).

[35] The changes to DTC's Watch List and enhanced surveillance list discussed in Section II.B below will not be subject to the one year delayed implementation.

[36] *See* Notice of Filing, *supra* note 3, at 74127.

[37] DTC participants generally are subject to the CRRM, in which each participant is rated on a scale of one to seven with seven reflecting the highest credit risk posed to DTC. Participants who receive a CRRM rating of five to seven are currently, automatically placed on the Watch List. *See* Rule 1 and Section 10(b) of Rule 2 of the Rules, *supra* note 9.

[38] *See* Rule 1 and Section 10 of Rule 2 of the Rules, *supra* note 9. In making its determination, DTC may consider any information DTC obtains through continuously monitoring its participants for compliance with its participation requirements. *See* Section 10(d) of Rule 2 of the Rules, *supra* note 9.

[39] *See* Section 10(c) of Rule 2 of the Rules, *supra* note 9.

[40] *See* Section 10(e) of Rule 2 of the Rules, *supra* note 9.

[41] *See id.*

[42] *See* Notice of Filing, *supra* note 3, at 74127.

[43] For any participants currently on the enhanced surveillance list that are not also on the Watch List, DTC will add these participants to the Watch List. *See id.* DTC also proposes to clarify in its Rules that participants on the Watch List are reported to DTC's management committees and regularly reviewed by DTC's senior management.

[44] *See id.* DTC states that the majority of participants with a CRRM rating of 5 are either rated ''investment grade'' by external rating agencies or, in the absence of external ratings, DTC believes are equivalent to investment grade, as many of these participants are primary dealers and large foreign banks. *See id.*

[45] *See id.* at 74124, 74127.

[46] 15 U.S.C. 78s(b)(2)(C).

[47] 15 U.S.C. 78q–1(b)(3)(F).

[48] 17 CFR 240.17Ad–22(e)(4) and (e)(18).

[49] 15 U.S.C. 78q–1(b)(3)(F).

[50] As part of the Proposed Rule Change, DTC filed Exhibit 3—Supporting Information, which provided analysis on the rationale for and impact of the proposal. Pursuant to 17 CFR 240.24b-2, DTC requested confidential treatment of Exhibit 3. The confidential information provided more granular support for this analysis, and it includes a detailed analysis of the impact of each proposed minimum capital requirement on participants, by category, as compared to their current capital levels.

i. Prompt and Accurate Clearance and Settlement and Safeguarding of Securities and Funds

The Commission believes that the proposal is designed to promote the prompt and accurate clearance and settlement of securities transactions, and assure the safeguarding of securities and funds which are in the custody or control of DTC. The Commission believes that participant standards at covered clearing agencies should seek to limit the potential for participant defaults and, as a result, losses to non-defaulting participants in the event of a participant default. As the Commission stated when adopting the Covered Clearing Agency Standards, using risk-based criteria helps to protect investors by limiting the participants of a covered clearing agency to those for which the covered clearing agency has assessed the likelihood of default.[51] More specifically, the Commission believes that participant standards related to minimum capital requirements serve as one tool in limiting this default risk by ensuring that participants have sufficient capital to meet its obligations and to absorb losses.

Covered clearing agencies employ participant standards as the first line of defense in their risk management, ensuring that its participants, among other things, hold sufficient financial resources to meet the obligations that they may incur as a participant of the covered clearing agency. These requirements are separate from the collection of collateral (*i.e.,* margin), which addresses the risk of the cleared transactions. Instead, capital requirements seek to ensure that DTC has sufficiently addressed the participant's counterparty credit risk, that is, that the participant has sufficient financial resources both to meet its collateral requirements or potential loss allocation in the event of a participant default; these requirements are not a substitute for margin.

The Commission believes that DTC's proposal to increase its minimum capital requirements for its participants, as described above in Section II.A, is designed to strengthen its risk management practices. For most participants, the changes would increase the minimum capital requirements and ensure that certain participants, such as U.S. and foreign bank participants, would continue to hold sufficient financial resources consistent with those requirements and their applicable regulatory obligations, although they would not actually increase the amounts held as the participants generally meet the new requirements already based on their current capital.

Through these changes, DTC should be able to ensure participants have sufficient capital to meet its obligations and to absorb losses, which could further limit the potential for a participant default. In turn, limiting the potential for a participant default should promote the prompt and accurate clearance and settlement of securities transactions. In addition, DTC's proposed minimum capital requirements would thereby further limit potential losses to non-defaulting participants in the event of a participant default, which helps assure the safeguarding of securities and funds which are in the custody or control of DTC.

The Commission also considered other factors as support for its determination that these proposed minimum capital requirements are reasonable. The Commission understands that DTC has not revised these requirements in over 20 years. During that time, the Commission recognizes that there have been significant changes to the financial markets during that timeframe, such as new risks arising from cyber threats and online trading technologies, and heightened operational risk due to a more sophisticated and complex business environment. In addition, the Commission understands that DTC considered several factors, including inflation, historical development of the proposal, and the capital requirements of other financial market infrastructures.[52] Finally, based on its supervisory experience, the Commission understands that trading volume, in terms of both number of transactions and notional value, have increased significantly during that time period.[53]

The Commission believes that these factors demonstrate the reasonableness of the proposed minimum capital requirements, as they would allow DTC to ensure that its participants have capital sufficient to address the risks posed by their activities in addition to the collateral for particular transactions. Further, the fact that the proposed requirements are consistent with those of other financial market infrastructures indicates that such requirements should address the obligations attendant to participating in a financial market infrastructure like DTC, while considering DTC's fully collateralized settlement model.

Through these changes, DTC should be able to ensure participants have sufficient capital to meet their obligations and to absorb losses, which could further limit the potential for a participant default. In turn, limiting the potential for a participant default should promote the prompt and accurate clearance and settlement of securities transactions. In addition, DTC's proposed minimum capital requirements would thereby further limit potential losses to non-defaulting participants in the event of a participant default,[54] which helps assure the safeguarding of securities and funds which are in the custody or control of DTC.

Additionally, the Commission believes DTC's proposal to streamline its credit risk monitoring systems into one Watch List, as described above in Section II.B., would eliminate existing confusion and should enhance DTC's efficiency in monitoring its members' credit risk by focusing on only those participants that present heightened credit risk. Similarly, the Commission believes DTC's proposal to make clarifying and transparency changes, as described above in Section II.C., would remove ambiguity and ensure DTC's Rules are clear and accurate, which would help ensure DTC's participants understand its obligations to DTC and DTC's settlement activities. Therefore, the Commission believes these changes should promote the prompt and accurate clearance and settlement of securities transactions.

ii. Protection of Investors and the Public Interest

The Commission believes that DTC's proposal to increase the capital requirements applicable to its participants would protect investors and the public interest.

[51] *See* Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786, 70839 (October 13, 2016) (S7–03–14) (''Covered Clearing Agency Standards'').

[52] *See supra* note 43.

[53] *See, e.g.,* DTCC Annual Reports, *available at https://www.dtcc.com/about/annual-report,* and CPMI–IOSCO Quantitative Disclosures for NSCC, section 23.1 (setting forth daily average volumes by asset class and average notional value), *available at https://www.dtcc.com/legal/policy-and-compliance.*

[54] Under DTC's rules, when a participant defaults, DTC may allocate losses to non-defaulting participants in the event that the defaulting participant's own margin and other resources at DTC, as well as DTC's corporate contribution, are not sufficient to cover the loss. *See* Section 4 of Rule 4 of DTC's Rules, *supra* note 9. If members hold capital sufficient to allow them to meet their obligations to NSCC, such losses are less likely to occur.

As discussed above in Section III.A.1, the Commission believes the proposal is designed to strengthen DTC's risk management practices. Because a defaulting member could place stresses on DTC with respect to DTC's ability to meet its settlement obligations upon which the broader financial system relies, it is important that DTC has strong participant requirements to ensure that its participants are able to meet their obligations. By reducing the risk of a participant default and any subsequent allocation of losses, the proposal should help to protect investors and the public interest by helping to ensure that investors' securities transactions are settled promptly and accurately and to assure the safeguarding of securities and funds which are in DTC's custody or control.

For the reasons discussed in this Sections III.A., the Commission believes that the Proposed Rule Change is consistent with the requirements of Section 17A(b)(3)(F) of the Act.[55]

B. Consistency With Rule 17Ad–22(e)(4)

Rule 17Ad–22(e)(4)(i) under the Act requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[56]

Increasing participant capital requirements, as described above in Section II.A., would help ensure that participants maintain sufficient capital to meet their obligations to DTC, including potential future obligations required to fund its settlement activity with DTC or to absorb losses allocated to it. By ensuring participants' ability to meet their financial obligations to DTC, the proposal, in turn, will help ensure DTC continues to maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.

Additionally, the proposal to revise the Watch List, as described above in Section II.B, could help DTC better allocate its resources for monitoring its credit exposures to participants, which, in turn, could help DTC more effectively manage and mitigate its credit exposures to its participants. Therefore, the Commission finds the Proposed Rule Change is consistent with Rule 17Ad–22(e)(4)(i) under the Act.

C. Consistency With Rule 17Ad–22(e)(18)

Rule 17Ad–22(e)(18) under the Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to establish objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access by direct and, where relevant, indirect participants and other financial market utilities, require participants to have sufficient financial resources and robust operational capacity to meet obligations arising from participation in the clearing agency, and monitor compliance with such participation requirements on an ongoing basis.[57]

As described above in Section II.A., the proposal will increase DTC's minimum capital requirements for its participants. As it relates to U.S. and non-U.S. broker-dealer participants, the proposal will impose a flat excess net capital or equity capital requirement. Similarly, the proposal will establish specific minimum capital requirements for securities exchanges, central securities depositories, and settling banks based on analysis of the risk profiles of these entities and their importance to the functioning of the securities markets.

For both U.S. and non-U.S. banks and trust companies that are banks, the proposal will revise how net capital is defined to incorporate a measurement used by banking regulators, and impose additional financial requirements on non-U.S. banks and trust companies who are banks tied to home country regulatory requirements and international standards. The proposal will also establish a category for all other participants, which will impose minimum financial requirements tied to that entity's regulatory requirements, which DTC may increase based on how closely it resembles another participant category and its risk-profile.

First, the proposal to increase minimum capital requirements to DTC's participants will help to ensure each participant has and maintains sufficient financial resources to meet obligations arising from its participation in DTC. Second, the proposal will further establish objective, risk-based, and publicly disclosed criteria for setting the amounts of DTC's increased capital requirements for its participants. The proposed changes will apply to all DTC participants and set forth in DTC's public-facing Rules.[58]

Based on its review of the record, the Commission understands that DTC considered several additional risks faced by its participants, both qualitative and quantitative, in determining its proposed capital requirements, which the Commission believes demonstrate the reasonableness of the proposed minimum capital requirements, as discussed above in Section III.A.i.[59] Regarding U.S. and non-U.S. banks and trust companies, the proposal will set the minimum capital requirements based on standards and measures used by banking regulators. Regarding non-U.S. broker-dealers and for all other types of participants, the proposal would eliminate conditional and discretionary minimum capital requirements in favor of establishing objective minimum capital requirements commensurate with the risks commensurate with the risks these participants pose to DTC. Therefore, the Commission concludes the proposal is reasonably designed to establish objective, risk-based, and publicly disclosed criteria for participation.

For the reasons described above, the Commission finds that the Proposed Rule Change is consistent with Rule 17Ad–22(e)(18) under the Act.[60]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[61] and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[62] that proposed rule change SR–DTC–2021–017, be, and hereby is, *approved.*[63]

[55] 15 U.S.C. 78q–1(b)(3)(F).

[56] 17 CFR 240.17Ad–22(e)(4)(i).

[57] 17 CFR 240.17Ad–22(e)(18).

[58] The Commission also understands that DTC considered several additional factors, including inflation, historical development of the proposal, and the capital requirements of other financial market infrastructures. *See* Notice of Filing, *supra* note 3, at 74123; *and supra* note 37. The Commission believes that these factors demonstrate the reasonableness of the proposed minimum capital requirements, as discussed above in Section III.A.i.

[59] *See supra* text accompanying notes 59–60.

[60] 17 CFR 240.17Ad–22(e)(18).

[61] 15 U.S.C. 78q–1.

[62] 15 U.S.C. 78s(b)(2).

[63] In approving the Proposed Rule Change, the Commission considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[64]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–18859 Filed 8–31–22; 8:45 am]

BILLING CODE 8011–01–P

[64] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34689]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

August 26, 2022.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of August 2022. A copy of each application may be obtained via the Commission's website by searching for the applicable file number listed below, or for an applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the relevant applicant with a copy of the request by email, if an email address is listed for the relevant applicant below, or personally or by mail, if a physical address is listed for the relevant applicant below. Hearing requests should be received by the SEC by 5:30 p.m. on September 20, 2022, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.*

FOR FURTHER INFORMATION CONTACT: Shawn Davis, Assistant Director, at (202) 551–6413 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE, Washington, DC 20549–8010.

Advisorone Funds [File No. 811–08037]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On January 20, 2022, and January 24, 2022, applicant made a liquidating distributions to its shareholders based on net asset value. Expenses of $41,531 incurred in connection with the liquidation were paid by the applicant and the applicant's investment adviser.

Filing Dates: The application was filed on March 22, 2022, and amended on June 28, 2022.

Applicant's Address: mike@orion.com.

Chartwell Funds [File No. 811–23244]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to Carillon Series Trust, and on June 30, 2022 made a final distribution to its shareholders based on net asset value. Expenses of $254,083 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Date: The application was filed on July 29, 2022.

Applicant's Address: chippler@stradley.com.

CNL Energy Total Return Fund [File No. 811–23034]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on January 4, 2022, and amended on April 29, 2022.

Applicant's Address: ken.young@dechert.com.

Dreyfus Liquid Assets, Inc. [File No. 811–02410]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to Dreyfus Money Market Fund, and on May 13, 2021 made a final distribution to its shareholders based on net asset value. Expenses of $269,545.01 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on March 31, 2022, and amended on June 15, 2022.

Applicant's Address: Deirdre.Cunnane@bnymellon.com.

Fiduciary/Claymore Energy Infrastructure Fund [File No. 811–21652]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to Kaye Anderson Energy infrastructure Fund, Inc., and on March 7, 2022 made a final distribution to its shareholders based on net asset value. Expenses of $1,225,000 incurred in connection with the reorganization were paid by the applicant's investment adviser, the acquiring fund, and the acquiring fund's investment adviser.

Filing Dates: The application was filed on April 14, 2022, and amended on August 18, 2022.

Applicant's Address: Julien.bourgeois@dechert.com.

Hartford Schroders Opportunistic Income Fund [File No. 811–23457]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On October 13, 2021, applicant made liquidating distributions to its shareholders based on net asset value. Expenses of $54,260 incurred in connection with the liquidation were paid by the applicant and the applicant's investment advisers.

Filing Date: The application was filed on July 15, 2022.

Applicant's Address: Alice.Pellegrino@hartfordfunds.com.

High Yield Municipal Income Portfolio [File No. 811–23150]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on August 4, 2022.

Applicant's Address: jbeksha@eatonvance.com.

Mairs & Power Funds Trust [File No. 811–22563]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to Trust for Professional Managers, and on April 29, 2022 made a final distribution to its

shareholders based on net asset value. Expenses of $729,000 incurred in connection with the reorganization were paid by the applicant, the applicant's investment adviser, and the acquiring fund.

Filing Dates: The application was filed on May 2, 2022, and amended on July 11, 2022.

Applicant's Address: edward.paz@usbank.com.

Massachusetts Mutual Variable Annuity Fund 2 [File No. 811–02196]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On January 28, 2019, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $18,015 incurred in connection with the liquidation were paid by Massachusetts Mutual Insurance Company.

Filing Date: The application was filed on July 21, 2022.

Applicant's Address: gmurtagh@massmutual.com.

Touchstone Institutional Funds Trust [File No. 811–21113]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to Touchstone Sands Capital Select Growth, a series of First Touchstone Funds Group Trust and on December 9, 2020 made a final distribution to its shareholders based on net asset value. Expenses of $98,700 were incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Date: The application was filed on June 30, 2022.

Applicant's Address: abigail.hemnes@klgates.com.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–18854 Filed 8–31–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95614; File No. SR–PEARL–2022–33]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Equities Fee Schedule

August 26, 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 August 17, 2022, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a 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 is filing a proposal to amend the fee schedule (the ''Fee Schedule'') applicable to MIAX Pearl Equities, an equities trading facility of the Exchange.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Fee Schedule to (i) adopt a new volume based pricing incentive, referred to as the ''Step-Up Added Liquidity Rebate,'' in which a qualifying Equity Member [3] (or ''Member'') will receive a rebate for executions of certain orders in securities priced at or above $1.00 per share that add displayed liquidity to the Exchange; (ii) increase the rebate provided under Tier 2 of the Market Quality Tiers table; and (iii) add an additional qualifying requirement to the Remove Volume Tiers table. The Exchange originally filed this proposal on August 9, 2022, (SR–PEARL–2022–32). On August 18, 2022, the Exchange withdrew SR–PEARL–2022–32 and resubmitted this proposal.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 16% of the total market share of executed volume of equities trading, and the Exchange currently represents approximately 1% of the overall market share.[4]

Adoption of Step-Up Added Liquidity Rebate

The Exchange currently provides a standard rebate of $0.0029 per share for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity to the Exchange (such orders, ''Added Displayed Volume''). The Exchange also currently offers various volume-based tiers and incentives through which a Member may receive an enhanced rebate for executions of Added Displayed Volume by achieving the specified criteria that corresponds to a particular tier/incentive.

The Exchange now proposes to adopt a new volume-based incentive, referred to by the Exchange as the Step-Up Added Liquidity Rebate, in which the Exchange will provide a rebate of $0.0031 per share for executions of certain orders that constitute Added

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Equity Member'' is a Member authorized by the Exchange to transact business on MIAX Pearl Equities. *See* Exchange Rule 1901.

[4] *See* MIAX's ''The market at a glance, MTD Average'', available at *https://www.miaxoptions.com/,* (last visited July 25, 2022).

Displayed Volume for a Member that qualifies for the Step-Up Added Liquidity Rebate by achieving a Step-Up ADAV [5] as a % of TCV [6] of at least 0.03% over the baseline month of July 2022.[7] For example, assume a Member has an ADAV as a percent of TCV of 0.01% in July 2022. That Member must achieve an ADAV as a percent of TCV [8] equal to or greater than 0.04% in a month in order to qualify for the Step-Up Added Liquidity Rebate. As proposed, a Member that qualifies for the Step-Up Added Liquidity Rebate will receive a rebate of $0.0031 per share for each of such Member's executions of orders that constitute Added Displayed Volume. The Exchange notes that the Step-Up Added Liquidity Rebate will not apply to executions of orders in securities priced below $1.00 per share or executions of orders that constitute added non-displayed liquidity.

The Exchange believes that the proposed Step-Up Added Liquidity Rebate provides an incremental incentive for Members to strive for higher ADAV on the Exchange (above their ADAV in the baseline month of July 2022) to receive the proposed rebate for qualifying executions of Added Displayed Volume. As such, the proposed Step-Up Added Liquidity Rebate is designed to incentivize Members that provide liquidity on the Exchange to increase their orders that add liquidity to the Exchange in order to qualify for the $0.0031 per share rebate for qualifying executions of Added Displayed Volume, which, in turn, the Exchange believes would encourage the submission of additional Added Displayed Volume to the Exchange, thereby promoting price discovery and contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. The Exchange notes that the proposed Step-Up Added Liquidity Rebate is comparable to other volume-based incentives and discounts, which have been adopted by other exchanges,[9] including pricing incentives that provide an enhanced rebate for firms that achieve a specified Step-Up ADAV threshold.[10]

Market Quality Tier 2 Rebate Increase

The Exchange offers a tiered pricing structure, Market Quality Tiers, designed to improve market quality on the Exchange in certain specific securities, the ''Market Quality Securities'' or ''MQ Securities,'' [11] in the form of an enhanced rebate for executions of displayed orders in securities priced at or above $1.00 per share that add liquidity to the Exchange for Members that meet certain minimum quoting requirements as defined in Tier 1 and Tier 2 of the Market Quality Tiers table. The Exchange now proposes to increase the rebate provided for executions that meet the Tier 2 criteria from $0.0034 to $0.0035 per share (the Tier 1 rebate remains unchanged under this proposal). The proposed change is for business and competitive reasons.

Adopt New Requirement for Remove Volume Tiers

Currently the Exchange offers a tiered pricing structure, Remove Volume Tiers, applicable to fees charged for executions of Removed Volume on the Exchange in securities priced at or above $1.00. Specifically, the Exchange charges a fee of $0.0028 per share for executions of Removed Volume for Members that qualify for Tier 1 by achieving an ADV that is equal to or greater than 0.10% of the TCV; and a fee of $0.0027 per share for Members that qualify for Tier 2 by achieving an ADV that is equal to or greater than 0.15% of the TCV.

The Exchange now proposes to adopt a new requirement that must be satisfied by Members in addition to the aforementioned Tier 1 and Tier 2 criteria. Specifically, the Exchange proposes to require Members to execute at least 1,000 shares of added liquidity during the month to be eligible for the lower fees provided for by either Tier 1 or Tier 2 in the Remove Volume Tiers table. The proposed change is designed to incentivize Members to be active participants on the Exchange by both adding and removing liquidity. Additionally, as a result of adopting this requirement, the Exchange proposes to change the column heading from ''Percentage Threshold'' to ''Required Criteria'' to more accurately describe the information contained in that column of the Remove Volume Tiers table.

Implementation

The proposed changes are immediately effective.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [12] in general, and furthers the objectives of Section 6(b)(4) of the Act [13] in particular, in that it is an equitable allocation of reasonable fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) [14] that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the

[5] ADAV means average daily added volume calculated as the number of shares added per day and ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis. The Exchange excludes from its calculation of ADAV and ADV shares added or removed on any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours, on any day with a scheduled early market close, and on the ''Russell Reconstitution Day'' (typically the last Friday in June). Routed shares are not included in the ADAV or ADV calculation. With prior notice to the Exchange, an Equity Member may aggregate ADAV or ADV with other Equity Members that control, are controlled by, or are under common control with such Equity Member (as evidenced on such Equity Member's Form BD). *See* MIAX Pearl Equities Exchange Fee Schedule, Definitions, on its public website (available at *https://www.miaxoptions.com/fees/pearl-equities*).

[6] TCV means total consolidated volume calculated as the volume in shares reported by all exchanges and reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. The Exchange excludes from its calculation of TCV volume on any given day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours, on any day with a scheduled early market close, and on the ''Russell Reconstitution Day'' (typically the last Friday in June). *See* MIAX Pearl Equities Exchange Fee Schedule, Definitions, on its public website (available at *https://www.miaxoptions.com/fees/pearl-equities*).

[7] The Exchange will use a baseline ADAV of 0.00% of TCV for firms that become Members of the Exchange after July 2022 for the purpose of the Step-Up Added Liquidity Rebate calculation.

[8] The Exchange proposes to define ''Step-Up ADAV as a % of TCV'' on its Fee Schedule to mean, ''ADAV as a percent of TCV in the relevant baseline month subtracted from the current month's ADAV as a percent of TCV.''

[9] *See e.g.* the CBOE EDGX Exchange, Inc. (''Cboe EDGX'') Equities Fee Schedule, Add/Remove Volume Tiers, on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*); and the MEMX LLC, (''MEMX'') Fee Schedule, Liquidity Provision Tiers, on its public website (available at *https://info.memxtrading.com/fee-schedule/*).

[10] *See e.g.* the CBOE BZX Exchange, Inc. (''Cboe BZX'') Equities Fee Schedule, Step-Up Tiers, on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*); and the MEMX LLC, (''MEMX'') Fee Schedule, Step-Up Additive Rebate, on its public website (available at *https://info.memxtrading.com/fee-schedule/*).

[11] A list of the MQ Securities may be found on the Exchange's public website (available at *https://www.miaxoptions.com/fees/pearl-equities*).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78f(b)(5).

mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange operates in a highly fragmented and competitive market in which market participants can readily direct their order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of sixteen registered equities exchanges, and there are a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 16% of the total market share of executed volume of equities trading.[15] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents less than 1% of the overall market share. 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, the Commission highlighted the importance of market 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.'' [16]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct additional orders that add liquidity to the Exchange, which the Exchange believes would deepen liquidity and promote market quality on the Exchange to the benefit of all market participants.

Step-Up Added Liquidity Rebate

As noted above, volume based incentives and discounts have been widely adopted by exchanges (including the Exchange),[17] and are reasonable, equitable and not unfairly discriminatory because they are open to all Members on an equal basis and provide additional benefits that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and the introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes that the proposed Step-Up Added Liquidity Rebate is comparable to other incentives currently offered by other exchanges,[18] and is reasonable, equitable and not unfairly discriminatory for these same reasons, as it provides Members with an additional incentive to achieve a certain volume threshold on the Exchange, is available to all Members and, as noted above, is designed to encourage Members to increase their orders that add liquidity on the Exchange in order to qualify for an enhanced rebate for qualifying executions of Added Displayed Volume, which, in turn, the Exchange believes would encourage the submission of additional Added Displayed Volume to the Exchange, thereby promoting price discovery and contributing to a deeper and more liquid market to the benefit of all market participants.

Cboe BZX provides a comparable volume based incentive, referred to as Step-Up Tiers, where the exchange will provide a rebate of $0.0032 for displayed orders that add liquidity provided the required criteria for the Tier is satisfied.[19] Tier 1 criteria requires (1) MPID has a Step-Up Add TCV [20] from May 2019 ≥ 0.10% and (2) MPID has an ADV ≥ 0.50% of the TCV; Tier 2 criteria requires (1) Member has a Step-Up ADAV from January 2022 ≥ 10,000,000 or Member has a Step-Up Add TCV from January 2022 ≥ 0.10%; and (2) Member has an ADV ≥ 0.30% of the TCV or Member has an ADV ≥ 35,000,000; and Tier 3 criteria requires (1) MPID has a Step-Up ADAV [21] from May 2021 ≥ 30,000,000 or MPID has a Step-up Add TCV from May 2021 ≥ 0.30%; and (2) MPID has an ADV ≥ 0.30% of the TCV or MPID has an ADV ≥ 35,000,000.

The MEMX Exchange offers a similar volume-based incentive, referred to as the Step-Up Additive Rebate, in which a qualifying Member will receive an additive rebate for executions of certain orders in securities priced at or above $1.00 per share that add displayed liquidity to the Exchange. To qualify for the incentive MEMX members must have (1) a Step-Up ADAV [22] (excluding Retail Orders) from April 2022 ≥ 0.07% of the TCV; [23] or (2) a Step-Up ADAV from July 2022 ≥ 0.05% of the TCV and an ADAV ≥ 0.30% of the TCV. [24]

The Exchange proposes to adopt a single Tier under its Step-Up Added Liquidity Rebate table where Members that satisfy the required criteria of

[15] *See supra* note 4.

[16] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

[17] *See supra* note 10.

[18] *See* MEMX LLC, (''MEMX'') Fee Schedule on its public website (available at *https://info.memxtrading.com/fee-schedule/*) which reflects an additive per share rebate of $0.0002 for executions of added displayed volume for firms that qualify for the Step-Up Additive Rebate'' by achieving certain specified volume thresholds based upon Step-Up ADAV; *see also* Cboe BZX Exchange, Inc. (''Cboe BZX'') Equities Fee Schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*) which reflects enhanced rebates for executions of added displayed volume for firms that qualify for the ''Step-Up Tiers'' by achieving certain specified volume thresholds, including thresholds based upon Step-Up ADAV.

[19] See Cboe BZX Fee Schedule, Step-Up Tiers, on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*).

[20] ''Step-Up Add TCV'' means ADAV as a percentage of TCV in the relevant baseline month subtracted from current ADAV as a percentage of TCV. *See* Cboe BZX Fee Schedule, Definitions, on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*).

[21] ''Step-Up ADAV'' means ADAV in the relevant baseline month subtracted from current ADAV. *See* Cboe BZX Fee Schedule, Definitions, on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*).

[22] MEMX defines Step-UP ADAV as the ADAV in the relevant baseline month subtracted from the current ADAV. ADAV is defined as the average daily added volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis. *See* MEMX Fee Schedule, Definitions, available on its public website, (available at *https://info.memxtrading.com/fee-schedule/*).

[23] MEMX defines TCV as the total consolidated volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. *See* MEMX Fee Schedule, Definitions, available on its public website, (available at *https://info.memxtrading.com/fee-schedule/*).

[24] *See* MEMX LLC, (''MEMX'') Fee Schedule on its public website (available at *https://info.memxtrading.com/fee-schedule/*); *see also* Cboe BZX Exchange, Inc. (''Cboe BZX'') Equities Fee Schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*) which reflects enhanced rebates for executions of added displayed volume for firms that qualify for the ''Step-Up Tiers'' by achieving certain specified volume thresholds, including thresholds based upon Step-Up ADAV.

having a Step-Up ADAV as percentage of TCV from July 2022 ≥ 0.03% of the TCV qualify for an enhanced rebate for of $0.0031 for Added Displayed Volume in securities priced at or above $1.00. As such, the Exchange believes the proposed rebate for qualifying executions of Added Displayed Volume provided under the Step-Up Added Liquidity Rebate for qualifying Members is comparable to other exchanges [25] and is reasonably related to the market quality benefits that such incentive is designed to promote.

The Exchange notes that the proposed Step-Up Added Liquidity Rebate will not adversely impact any Member's ability to qualify for reduced fees or enhanced rebates offered under other pricing tiers/incentives on the Exchange. Should a Member not meet the required criteria, the Member will merely not receive the corresponding rebate.

Market Quality Tier 2 Rebate Increase

The Exchange believes the proposed increased rebate for executions of displayed orders in securities priced at or above $1.00 per share that add liquidity to the Exchange for Members that meet the Tier 2 criteria of the Market Quality Tiers table is reasonable, equitable, and consistent with the Act because it is designed to incentivize Members to improve the market quality by quoting at the NBBO for a significant portion of each day in a large number of securities generally, and in a targeted group of securities specifically (the MQ Securities), thereby benefitting the Exchange and other investors by providing improved trading conditions for all market participants through narrower bid-ask spreads and increasing the depth of liquidity available the NBBO in a broad base of securities, including the MQ Securities. The Exchange further believes the proposed increased rebate is reasonable and appropriate because it is comparable to, and competitive with, the rebate provided by at least one other exchange with a similar incentive program.[26] The Exchange further believes that this fee is equitably allocated and not unfairly discriminatory because it applies equally to all Members and is designed to facilitate increased activity on the Exchange to the benefit of all Members by providing more trading opportunities and promoting price discovery.

Accordingly, the Exchange believes that it is consistent with an equitable allocation of fees and is not unfairly discriminatory to increase the rebate provided under Tier 2 of the Market Quality Tiers table for executions of displayed liquidity in recognition of the benefits to the Exchange and market participants, particularly as the magnitude of the increase is not unreasonably high, and is reasonably related to enhanced market quality.

Adopt New Requirement for Remove Volume

The Exchange believes its proposal to adopt an additional requirement for Members to qualify for either Tier 1 or Tier 2 pricing under the Remove Volume Tiers is reasonable, equitable and not unfairly discriminatory because it is equally applicable to all Members. The Exchange believes its proposed requirement is comparable to incentives offered by at least one other exchange, and is reasonable, equitable and not unfairly discriminatory as it provides Members with an additional incentive to submit orders to the Exchange that add liquidity in order to qualify for the pricing provided for in Tier 1 and Tier 2 of the Remove Volume Tiers table. MEMX charges a fee of $0.0030 for removed volume from the MEMX Book.[27] However, MEMX members may qualify for a discounted fee of $0.0029 if the member has (1) an ADV ≥ 0.45% of the TCV and an ADAV ≥ 0.20% of the TCV; or (2) an ADV ≥ 1.00% of the TCV.[28]

The Exchange believes that the additional liquidity requirement is reasonably related to the market quality benefits that such incentive is designed to promote and that its Remove Volume Tiers incentive is comparable to that of at least one other exchange.[29] The proposed change is designed to incentivize Members to be active participants on the Exchange by both adding and removing liquidity.

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act [30] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed fees and rebates described herein are appropriate to address such forces.

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

The Exchange does not believe that the proposed change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposal is intended to incentivize market participants to direct additional orders that add liquidity to the Exchange, thereby deepening liquidity and promoting market quality on the Exchange to the benefit of all market participants. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. Additionally, the Exchange's proposal to amend the column heading on the Remove Volume Tiers is non-substantive and is intended to accurately describe the information contained in that specific column.

Intramarket Competition

The Exchange does not believe that the proposal will impose any burden on intramarket competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes its proposal would incentivize Members to submit additional orders that add liquidity to the Exchange, thereby contributing to a deeper and more liquid market and promoting price discovery and market quality on the Exchange to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market

[25] *See supra* note 18.

[26] *See e.g.,* MEMX Fee Schedule on its public website, (available at *https://info.memxtrading.com/fee-schedule/*), which provides for a rebate of $0.0033 per share in Tier 1 under MEMX's Displayed Liquidity Incentive (DLI) Tiers for executions of liquidity providing displayed orders in securities priced at or above $1.00 per share for members that have an NBBO Time of at least 25% in an average of at least 1,000 securities per trading day during the month, and a rebate of $0.0029 per share in Tier 2 for executions of liquidity providing displayed orders in securities priced at or above $1.00 per share for members that have an NBBO Time of at least 25% in an average of at least 400 securities per trading day during the month.

[27] *See* MEMX Fee Schedule, Transaction Fees, on its public website (available at *https://info.memxtrading.com/fee-schedule/*).

[28] *See* MEMX Fee Schedule, Liquidity Removal Tier, on its public website, (available at *https://info.memxtrading.com/fee-schedule/*).

[29] *See id.*

[30] 15 U.S.C. 78f(b)(4) and (5).

participants. As described above, the opportunity to qualify for the proposed new Step-Up Added Liquidity Rebate, and thus receive the proposed rebate for qualifying executions of Added Displayed Volume, would be available to all Members that meet the associated volume requirement, and the Exchange believes the proposed rebate provided under such incentive is reasonably related to the enhanced market quality that it is designed to promote. The Exchange's proposal to increase the Tier 2 incentive provided under the Market Quality Tiers table and its proposal to add an additional requirement to the Remove Volume Tiers both serve to incentivize Members to provide additional liquidity to the Exchange, thereby contributing to a deeper and more liquid market and promoting price discovery and market quality on the Exchange to the benefit of all market participants. As such the Exchange does not believe the proposed changes would impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purpose of the Act.

Intermarket Competition

The Exchange believes its proposal will benefit competition, and the Exchange notes that it operates in a highly competitive market. Members have numerous alternative venues they may participate on and direct their order flow to, including fifteen other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than 16% of the total market share of executed volume of equities trading.[31] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow in response to new or different pricing structures being introduced to the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates generally, including with respect to executions of Removed Volume, and market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable.

As described above, the proposed changes represent a competitive proposal through which the Exchange is seeking to encourage additional order flow to the Exchange through a volume-based incentive that is comparable to volume-based incentives adopted by other exchanges.[32] The proposed change to increase the rebate provided for in Tier 2 of the Market Quality Tiers also serves to encourage additional order flow to the Exchange.

Accordingly, the Exchange believes that its proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar pricing incentives to market participants that achieve certain volume criteria and thresholds.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market 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.'' [33] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. circuit stated: ''[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 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 possess a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . .''.[34] Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments were neither solicited nor 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,[35] and Rule 19b–4(f)(2) [36] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–PEARL–2022–33 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–PEARL–2022–33. 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

[31] *See supra* note 4.

[32] *See supra* note 18.

[33] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[34] *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–NYSE–2006–21)).

[35] 15 U.S.C. 78s(b)(3)(A)(ii).

[36] 17 CFR 240.19b–4(f)(2).

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–PEARL–2022–33 and should be submitted on or before September 22, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–18858 Filed 8–31–22; 8:45 am]

BILLING CODE 8011–01–P

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95616; File No. SR–FICC–2021–009]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving of Proposed Rule Change To Enhance Capital Requirements and Make Other Changes

August 26, 2022.

I. Introduction

On December 13, 2021, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–FICC–2021–009 (the ''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on December 29, 2021.[3] On January 26, 2022, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.[5] On March 23, 2022, the Commission instituted proceedings to determine whether to approve or disapprove the Proposed Rule Change.[6] On June 23, 2022, the Commission designated a longer period for Commission action on the proceedings to determine whether to approve or disapprove the Proposed Rule Change.[7] The Commission has received comments regarding the substance of the Proposed Rule Change.[8] For the reasons discussed below, the Commission is approving the Proposed Rule Change.[9]

II. Description of the Proposed Rule Change

FICC proposes to amend the Government Securities Division (''GSD'') Rulebook (the ''GSD Rules'') and the Mortgage-Backed Securities Division (''MBSD'') Clearing Rules (the ''MBSD Rules,'' and together with the GSD Rules, the ''Rules'') of FICC in order to (A) revise FICC's capital requirements for GSD members and MBSD members (collectively, ''members''),[10] (B) streamline FICC's Watch List and enhanced surveillance list, and (C) make certain other clarifying, technical, and supplementary changes to implement items (A) and (B).

A. Changes to FICC's Capital Requirements for Members

i. GSD Netting Members and MBSD Clearing Members

U.S. Broker-Dealer or Future Commission Merchant Members: For certain GSD Netting Members [11] and MBSD Clearing Members,[12] FICC proposes not to change the applicable capital requirements, but to (i) provide expressly for equivalence among measures of Excess Net Capital, Excess Liquid Capital,[13] and Excess Adjusted Net Capital,[14] depending on what such members are required to report on their regulatory filings [15] and (ii) make some clarifying and conforming language changes to improve the accessibility and transparency of the capital requirements, without substantive effect. FICC also proposes to clarify that an applicant must satisfy its applicable capital requirements when it applies for membership and at all times thereafter, and therefore proposes to delete language requiring that a member satisfy its capital requirements as of the end of the calendar month prior to the effective date of its membership.

U.S. Bank and Trust Company Members: For GSD Bank Netting Members and MBSD Bank Clearing Members, FICC proposes to (1) change the measure of capital requirements for banks and trust companies from equity capital to common equity tier 1 capital (''CET1 Capital''),[16] (2) raise the minimum capital requirements for banks and trust companies from $100 million to $500 million, and (3) require

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 93857 (December 22, 2021), 86 FR 74130 (December 29, 2021) (File No. SR–FICC–2021–009) (''Notice of Filing'').

[4] 15 U.S.C. 78s(b)(2).

[5] Securities Exchange Act Release No. 94066 (January 26, 2022), 87 FR 5523 (February 1, 2022) (SR–FICC–2021–009).

[6] Securities Exchange Act Release No. 94497 (March 23, 2022), 87 FR 18409 (March 30, 2022) (SR–FICC–2021–009).

[7] Securities Exchange Act Release No. 95144 (June 23, 2022), 87 FR 38807 (June 29, 2022) (SR–FICC–2021–009).

[8] The Commission received one comment letter that does not bear on the Proposed Rule Change. The comment is available at *https://www.sec.gov/comments/sr-ficc-2021-009/srficc2021009.htm.* Since the proposed changes contained in this Proposed Rule Change are similar to changes proposed simultaneously by FICC's affiliates, National Securities Clearing Corporation and The Depository Trust Company, the Commission has considered all public comments received on the proposals regardless of whether the comments are submitted to the Proposed Rule Change or to the proposals filed by FICC's affiliates.

[9] Capitalized terms not defined herein are defined in FICC's Rules, *available at https://www.dtcc.com/legal/rules-and-procedures.*

[10] FICC states that these capital requirements have not been updated for nearly 20 years. *See* Notice of Filing, *supra* note 3, at 74130. Although FICC has not updated capital requirements for many of its members in nearly 20 years, during that time FICC has adopted new membership categories with corresponding capital requirements that FICC believes are still appropriate. As such, FICC is not proposing changes to capital requirements for all membership categories. *See id.*

[11] The GSD Netting Members include Dealer Netting Members, Futures Commission Merchant Netting Members, and Inter-Dealer Broker Netting Members.

[12] The MBSD Clearing Members include Dealer Clearing Members and Inter-Dealer Broker Clearing Members.

[13] FICC proposes to define, in both the GSD and MBSD Rules, Excess Liquid Capital as the difference between the Liquid Capital of a Government Securities Broker or Government Securities Dealer and the minimum Liquid Capital that such Government Securities Broker or Government Securities Dealer must have to comply with the requirements of 17 CFR Section 402.2(a), (b) and (c), or any successor rule or regulation thereto.

[14] FICC proposes to define, in both the GSD and MBSD Rules, Excess Adjusted Net Capital as the difference between the adjusted net capital of a Futures Commission Merchant and the minimum adjusted net capital that such Futures Commission Merchant must have to comply with the requirements of 17 CFR Section 1.17(a)(1) or (a)(2), or any successor rule or regulation thereto.

[15] In addition to these requirements, FICC is proposing that MBSD Inter-Dealer Clearing Members have a Net Worth of $25 million.

[16] Under the proposal, CET1 Capital would be defined as an entity's common equity tier 1 capital, calculated in accordance with such entity's regulatory and/or statutory requirements.

U.S. banks and trust companies to be well capitalized (''Well Capitalized'').[17]

The proposal would align FICC's capital requirements with banking regulators' changes to regulatory capital requirements over the past several years, which have standardized and harmonized the calculation and measurement of bank capital and leverage throughout the world.[18] Consistent with these changes by banking regulators, FICC states that it believes that the appropriate capital measure for members that are banks and trust companies should be CET1 Capital and that FICC's capital requirements for members should be enhanced to be consistent with these increased regulatory capital requirements.[19] FICC further states that it believes the proposed capital requirements for banks better measures the capital available to bank members to absorb losses arising out of their clearance and settlement activities at FICC or otherwise, and would help FICC more effectively manage and mitigate the credit risks posed by its members.[20]

Additionally, FICC states that requiring U.S. banks and trust companies to be Well Capitalized ensures that bank members are well capitalized while also allowing CET1 Capital to be relative to either the risk-weighted assets or average total assets of the bank or trust company.[21] FICC further states that expressly tying the definition of Well Capitalized to the FDIC's definition of ''well capitalized'' will ensure that the proposed requirement keeps pace with future changes to regulatory capital requirements.[22]

Foreign Broker-Dealer and Bank Members

Currently, a member who is a foreign broker-dealer or bank is subject to a multiplier that requires such member to maintain capital of either 1.5, 5, or 7 times its otherwise-applicable capital requirements.[23]

Foreign Broker-Dealer Members: FICC proposes to require a Foreign Netting Member or Foreign Person Clearing Member[24] who is a broker or dealer to maintain a minimum of $25 million in total equity capital. FICC states the multiplier was designed to account for the less transparent nature of accounting standards other than U.S. GAAP.[25] However, given that accounting standards have converged over the years, FICC no longer believes the multiplier is necessary and its retirement would be a welcomed simplification for both FICC and its members.[26]

Non-U.S. Bank Members: Like U.S. bank members, FICC proposes that non-U.S. bank members maintain at least $500 million in CET1 Capital. FICC proposes additional requirements for non-U.S. bank members[27] as follows: (1) comply with the greater of (i) the member's home country minimum capital and ratio requirements, including any applicable buffers, or (ii) the minimum capital and ratio standards promulgated by the Basel Committee on Banking Supervision,[28] (2) provide an attestation for itself, its parent bank, and its parent bank holding company detailing the minimum capital requirements, including any applicable buffers, and capital ratios required by their home country regulator,[29] and (3) notify FICC of (i) any breach of its minimum capital, including buffers, and ratio requirements within two business days, or (ii) any changes to its requirements within 15 calendar days.

Other Foreign Members: FICC proposes that it may, based on information provided by or concerning an applicant that is a Foreign Netting Member or a Foreign Person who is a Clearing Member, also assign minimum financial requirements for the applicant based on (i) how closely the applicant resembles another existing category of Netting Member or Clearing Member and (ii) the applicant's risk profile, which assigned minimum financial requirements would be promptly communicated to, and discussed with, the applicant.[30]

Insurance Company Netting Members: FICC proposes to leave the capital requirements applicable to Insurance Company Netting Members unchanged, however FICC proposes to (i) specify the calculation of the existing risk-based capital ratio and (ii) correct typographical errors and make some clarifying and conforming language changes and add a paragraph heading to improve the accessibility and transparency of the capital requirements, without substantive effect.[31] FICC also proposes to clarify that an applicant must satisfy its applicable capital requirements when it applies for membership and at all times thereafter, and therefore proposes to delete language requiring that a member satisfy its capital requirements as of the end of the calendar month prior to the effective date of its membership.

Other Types of Netting Members and Clearing Members

Currently, other types of entities applying to be a Netting Member or Clearing Member, are required to satisfy such minimum standards of financial responsibility as determined by FICC. FICC proposes to adopt more specific standards for these different types of members.

Government Securities Issuer Netting Members: Currently, FICC does not have a capital requirement for this particular category of Netting Member. FICC proposes to require equity capital of at least $100 million.

[17] FICC proposes to incorporate the definition of ''Well Capitalized'' as that term is defined by the Federal Deposit Insurance Corporation in its capital adequacy rules and regulations. *See* 12 CFR 324.403(b)(1). *See* 12 CFR 324.403(b)(1).

[18] *See* Notice of Filing, *supra* note 3, at 74134.

[19] *See id.*

[20] *See id.* at 74141.

[21] *See id.* at 74134.

[22] *See id.*

[23] The applicable multiplier is based on which generally accepted accounting standards (''GAAP'') the non-U.S. member uses to prepare its financial statements, when not prepared in accordance with U.S. GAAP. *See* Section 4(b) of Rule 2A of the GSD Rules and Section 2(e) of Rule 2A of the MBSD Rules, *supra* note 9.

[24] Under the proposal, this requirement would not apply to a Dealer Clearing Member or Inter-Dealer Broker Clearing Member.

[25] *See id.* at 74191.

[26] *See id.* at 74191.

[27] For GSD, this includes a Foreign Netting Member that is bank or trust company established or chartered under the laws of a non-U.S. jurisdiction and not applying to become a Bank Netting Member through a U.S. branch or agency. For MBSD, Foreign Person that is a Clearing Member who is a bank or trust company established or chartered under the laws of a non-U.S. jurisdiction and not applying to become a Bank Clearing Member through a U.S. branch or agency.

[28] *See* Basel Committee on Banking Supervision, The Basel Framework, *available at https://www.bis.org/basel_framework/index.htm?export=pdf.* NSCC states that the proposal will align NSCC's capital requirements with banking regulators' changes to regulatory capital requirements over the past several years, which have standardized and harmonized the calculation and measurement of bank capital and leverage throughout the world. *See* Notice of Filing, *supra* note 3, at 74190. *See also supra* note 30. NSCC proposes tying its minimum requirement to the requirements promulgated by the Basel Committee on Banking Supervision to ensure that its non-U.S. bank members meet minimum international standards where their home country requirements may be more lenient.

[29] FICC also proposes to require non-U.S. bank members to periodically provide new attestations on at least an annual basis and upon request by FICC.

[30] The member must also continue to maintain compliance with its home country's minimum financial requirements. *See* Section 3(a)(v) of Rule 2A of the GSD Rules and Section 1(j) of Rule 2A of the MBSD Rules, *supra* note 9.

[31] FICC proposes to make some clarifying and conforming language changes to improve the accessibility and transparency of the capital requirements, without substantive effect, including, for GSD, Registered Investment Company Netting Members, and, for MBSD, Unregistered Investment Pool Clearing Members, Government Securities Issuer Clearing Members, Insured Credit Union Clearing Members, and Registered Investment Company Clearing Members.

Other Netting Members and Clearing Members: Similar to other foreign member applicants discussed above, for other Netting Members or Clearing Members with no specific financial responsibilities requirements, FICC proposes that such Netting Members or Clearing Members be in compliance with their regulator's minimum financial requirements. FICC also proposes that it may, based on information provided by or concerning an applicant applying to become a Netting Member or Clearing Member, also assign minimum financial requirements for the applicant based on (i) how closely the applicant resembles an existing category of Netting Member or Clearing Member and (ii) the applicant's risk profile, which assigned minimum financial requirements would be promptly communicated to, and discussed with, the applicant.

ii. GSD Funds-Only Settling Bank Members and MBSD Cash Settling Bank Members

FICC proposes to require that a Funds-Only Settling Bank or a Cash Settling Bank Member that, in accordance with such entity's regulatory and/or statutory requirements, calculates a Tier 1 RBC Ratio must have a Tier 1 RBC Ratio [32] equal to or greater than the Tier 1 RBC Ratio that would be required for such Funds-Only Settling Bank to be Well Capitalized. FICC does not currently have a capital requirement for Funds-Only Settling Banks or Cash Settling Bank Members.

iii. GSD Sponsoring Members

FICC proposes to leave the required equity capital for a Bank Netting Member applying to become a Category 1 Sponsoring Member unchanged, however FICC proposes to (i) replace the previous references to such Bank Netting Member or its bank holding company being ''well-capitalized'' with the new defined term Well Capitalized and (ii) make some clarifying and conforming language changes to improve the accessibility and transparency of the capital requirements, without substantive effect.

FICC also proposes to clarify that an applicant must satisfy its applicable capital requirements when it applies for membership and at all times thereafter, and therefore proposes to delete language requiring that a member satisfy its capital requirements as of the end of the calendar month prior to the effective date of its membership.

iv. GSD CCIT Members

FICC proposes to leave the capital requirements for a CCIT Member unchanged but delete the required multiplier for a CCIT Member that does not prepare its financial statements in accordance with U.S. GAAP.[33] FICC also proposes to fix a typographical error and clarify existing language that the eligibility, qualifications and standards set forth in respect of an applicant shall continue to be met upon an applicant's admission as a CCIT Member and at all times while a CCIT Member.

v. Implementation Timeframe

FICC proposes to implement the proposed changes to its membership capital requirements one year after the Commission's approval of the Proposed Rule Change.[34] During the one-year period, FICC would periodically provide members with an estimate of their capital requirements based on the proposal.[35]

B. Changes to FICC's Watch List and Enhanced Surveillance List

FICC currently uses two credit risk monitoring systems: a Watch List and a separate list of members subject to enhanced surveillance (''enhanced surveillance list''). The current Watch List includes members that have either (1) receive a heightened credit risk rating based on FICC's Credit Risk Rating Matrix (''CRRM''),[36] or (2) been deemed to pose a heightened credit risk to FICC or other members.[37] FICC may require a member placed on the Watch List to post additional collateral above the member's margin calculated pursuant to FICC's margin methodology.[38] Members on the Watch List are also subject to more thorough monitoring by FICC of its financial condition and operational capability.[39]

FICC also maintains a separate enhanced surveillance list, which includes members who are subject to a more thorough monitoring of its financial condition and operational capability based on FICC's determination that the member poses heightened credit risks, which may include members already on or soon to be on the Watch List.[40] Members on the enhanced surveillance list are reported to FICC's management committees, are regularly reviewed by FICC senior management, and may be required to make more frequent financial disclosures to FICC.[41]

FICC believes that maintaining two separate lists has confused various FICC stakeholders,[42] so FICC proposes to remove references to an enhanced surveillance list from its Rules.[43] FICC also proposes to remove members with a CRRM rating of five from being automatically included on the Watch List. FICC states that members with a CRRM rating of five represent the largest single CRRM rating category, but FICC does not believe all such members present heightened credit concerns.[44] FICC would still retain the authority to place a member with a CRRM rating of five on the Watch List or otherwise if FICC deems the member poses a heightened risk to FICC. FICC believes that these procedures would allow it to appropriately monitor the credit risks presented to it by its members and that the enhanced surveillance list is not necessary because members on the enhanced surveillance list are subject to the same potential consequences as members placed on the Watch List.[45]

C. Other Changes

FICC proposes to (1) revise or add headings and sub-headings as appropriate, (2) revise defined terms and add appropriate defined terms to facilitate the proposed changes, (3) rearrange and consolidate paragraphs to promote readability, (4) fix

[32] For both GSD and MBSD, FICC proposes to define the Tier 1 RBC Ratio is the ratio of an entity's tier 1 capital to its total risk-weighted assets, calculated in accordance with such entity's regulatory and/or statutory requirements.

[33] *See supra* text accompanying note 23.

[34] The changes to FICC's Watch List and enhanced surveillance list discussed in Section II.B below will not be subject to the one year delayed implementation.

[35] *See* Notice of Filing, *supra* note 3, at 74141.

[36] FICC members generally are subject to the CRRM, in which each member is rated on a scale of one to seven with seven reflecting the highest credit risk posed to FICC. Members who receive a CRRM rating of five to seven are currently, automatically placed on the Watch List. *See* Rule 1 and Section 12 of Rule 3 of the GSD Rules and Rule 1 and Section 11 of Rule 3 of the MBSD Rules, *supra* note 9.

[37] *See id.* In making its determination, NSCC may consider any information NSCC obtains through continuously monitoring its members for compliance with its membership requirements.

[38] *See* Section 12(e) of Rule 3 of the GSD Rules and Section 11(e) of Rule 3 of the MBSD Rules, *supra* note 9.

[39] *See* Section 12(f) of Rule 3 of the GSD Rules and Section 11(f) of Rule 3 of the MBSD Rules, *supra* note 9.

[40] *See id.*

[41] *See id.*

[42] *See* Notice of Filing, *supra* note 3, at 74140.

[43] For any members currently on the enhanced surveillance list that are not also on the Watch List, FICC will add these members to the Watch List. *See id.*

[44] *See id.* FICC states that the majority of members with a CRRM rating of 5 are either rated ''investment grade'' by external rating agencies or, in the absence of external ratings, FICC believes are equivalent to investment grade, as many of these members are primary dealers and large foreign banks. *See id.*

[45] *See id.* at 74133, 74140.

typographical and other errors, and (5) make specified other changes in order to improve clarity and the accessibility and transparency of the Rules.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[46] provides that the Commission shall approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. After careful review of the Proposed Rule Change and consideration of the comments on the proposal, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to FICC. In particular, the Commission finds that the Proposed Rule Change is consistent with Sections 17A(b)(3)(F) of the Act,[47] and Rules 17Ad–22(e)(4) and (e)(18) thereunder,[48] for the reasons described below.

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

Section 17A(b)(3)(F) of the Act 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, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and protect investors and the public interest; and are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency.[49] Based on its review of the record, the Commission finds that the proposal is consistent with Section 17A(b)(3)(F) of the Act.

i. Prompt and Accurate Clearance and Settlement and Safeguarding of Securities and Funds

The Commission believes that the proposal is designed to promote the prompt and accurate clearance and settlement of securities transactions, and assure the safeguarding of securities and funds which are in the custody or control of FICC. The Commission believes that membership standards at covered clearing agencies should seek to limit the potential for member defaults and, as a result, losses to non-defaulting members in the event of a member default. As the Commission stated when adopting the Covered Clearing Agency Standards, using risk-based criteria helps to protect investors by limiting the participants of a covered clearing agency to those for which the covered clearing agency has assessed the likelihood of default.[50] More specifically, the Commission believes that membership standards related to minimum capital requirements serve as one tool in limiting this default risk by ensuring that members have sufficient capital to meet its obligations and to absorb losses.

Covered clearing agencies employ membership standards as the first line of defense in their risk management, ensuring that its members, among other things, hold sufficient financial resources to meet the obligations that they may incur as a member of the covered clearing agency. These requirements are separate from the collection of margin, which addresses the risk of the cleared transactions. Instead, capital requirements seek to ensure that FICC has sufficiently addressed the member's counterparty credit risk, that is, that the member has sufficient financial resources both to meet its margin requirements or potential loss allocation in the event of a member default; these requirements are not a substitute for margin.

The Commission also considered other factors as support for its determination that these proposed minimum capital requirements are reasonable. The Commission understands that FICC has not revised these requirements in over 20 years. During that time, the Commission recognizes that there have been significant changes to the financial markets during that timeframe, such as new risks arising from cyber threats and online trading technologies, and heightened operational risk due to a more sophisticated and complex business environment. In addition, the Commission understands that FICC considered several factors, including inflation and the capital requirements of other financial market infrastructures, and the Commission agrees that these factors support the reasonableness of the proposed minimum capital requirements.[51] Further, the Commission believes that the consistency between the proposed requirements and those of other financial market infrastructures tends to indicate that such requirements should address the obligations attendant to participating in a financial market infrastructure like FICC, *i.e.,* that they are tailored to ensure that a member can meet its requirements to FICC in the event of, for example, a loss allocation or an intraday margin call. Finally, based on its supervisory experience, the Commission understands that trading volume, in terms of both number of transactions and notional value, have increased significantly across the FICC membership during that time period.[52] The Commission believes that this significant increase in trading volumes represents additional risk for FICC and supports the need for the proposed minimum capital requirements. Taken together, the Commission believes that these factors support its determination regarding the reasonableness of the proposed minimum capital requirements, as they would allow FICC to ensure that its members have capital sufficient to address the risks posed by their activities in addition to the margin for particular transactions.

For most members, the changes would increase the minimum capital requirements and ensure that members, such as U.S. and foreign bank members, would continue to hold sufficient financial resources consistent with those requirements and their applicable regulatory obligations, although they would not actually increase the amounts held as the members generally meet the new requirements already based on their current capital. Through these changes, FICC should be able to ensure members have sufficient capital to meet its obligations and to absorb losses, which could further limit the potential for a member default. In turn, limiting the potential for a member default should promote the prompt and accurate clearance and settlement of securities transactions. In addition, FICC's proposed minimum capital requirements would thereby further limit potential losses to non-defaulting members in the event of a member

[46] 15 U.S.C. 78s(b)(2)(C).

[47] 15 U.S.C. 78q–1(b)(3)(F).

[48] 17 CFR 240.17Ad–22(e)(4) and (e)(18).

[49] 15 U.S.C. 78q–1(b)(3)(F).

[50] *See* Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786, 70839 (October 13, 2016) (S7–03–14) (''Covered Clearing Agency Standards'').

[51] *See* Notice, *supra* note 3, at 74186, (citing, *e.g.,* The Options Clearing Corporation, OCC Rules, Rule 301(a), available at *https://www.theocc.com/Company-Information/Documents-and-Archives/ByLaws-and-Rules* (requiring broker-dealers to have initial net capital of not less than $2,500,000); Chicago Mercantile Exchange Inc., CME Rulebook, Rule 970.A.1, available at *https://www.cmegroup.com/rulebook/CME/I/9/9.pdf* (requiring clearing members to maintain capital of at least $5 million, with banks required to maintain minimum tier 1 capital of at least $5 billion).

[52] *See, e.g.,* DTCC Annual Reports, *available at https://www.dtcc.com/about/annual-report,* and CPMI–IOSCO Quantitative Disclosures for FICC, section 23.1 (setting forth daily average volumes by asset class and average notional value), *available at https://www.dtcc.com/legal/policy-and-compliance.*

default, which helps assure the safeguarding of securities and funds which are in the custody or control of FICC.

Additionally, the Commission believes FICC's proposal to streamline its credit risk monitoring systems into one Watch List, as described above in Section II.B., would eliminate existing confusion and should enhance FICC's efficiency in monitoring its members' credit risk by focusing on only those members that present heightened credit risk. Similarly, the Commission believes FICC's proposal to make clarifying and transparency changes, as described above in Section II.C., would remove ambiguity and ensure FICC's Rules are clear and accurate, which would help ensure FICC's members understand its obligations to FICC and FICC's clearance and settlement activities. Therefore, the Commission believes these changes should promote the prompt and accurate clearance and settlement of securities transactions.

ii. Protection of Investors and the Public Interest

The Commission believes that FICC's proposal to increase the capital requirements applicable to its members would protect investors and the public interest. As discussed above in Section III.A.1, the Commission believes the proposal is designed to strengthen FICC's risk management practices. Because a defaulting member could place stresses on FICC with respect to FICC's ability to meet its clearance and settlement obligations upon which the broader financial system relies, it is important that FICC has strong membership requirements to ensure that its members are able to meet their obligations. By reducing the risk of a member default and any subsequent allocation of losses, the proposal should help to protect investors and the public interest by helping to ensure that investors' securities transactions are cleared and settled promptly and accurately and to assure the safeguarding of securities and funds which are in FICC's custody or control.

For the reasons discussed in this Sections III.A., the Commission finds that the Proposed Rule Change is consistent with the requirements of Section 17A(b)(3)(F) of the Act.[53]

B. Consistency With Rule 17Ad–22(e)(4)

Rule 17Ad–22(e)(4)(i) under the Act requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[54]

Increasing membership capital requirements, as described above in Section II.A., would help ensure that members maintain sufficient capital to meet their obligations to FICC, including potential future obligations required to fund its trading activity with FICC or to absorb losses allocated to it. By ensuring members' ability to meet their financial obligations to FICC, the proposal, in turn, will help ensure FICC continues to maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.

Additionally, the proposal to revise the Watch List, as described above in Section II.B, could help FICC better allocate its resources for monitoring its credit exposures to members, which, in turn, could help FICC more effectively manage and mitigate its credit exposures to its members. Therefore, the Commission finds the Proposed Rule Change is consistent with Rule 17Ad–22(e)(4)(i) under the Exchange Act.

C. Consistency With Rule 17Ad–22(e)(18)

Rule 17Ad–22(e)(18) under the Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to establish objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access by direct and, where relevant, indirect participants and other financial market utilities, require participants to have sufficient financial resources and robust operational capacity to meet obligations arising from participation in the clearing agency, and monitor compliance with such participation requirements on an ongoing basis.[55]

As described above in Section II.A., the proposal will increase FICC's minimum capital requirements for its members. For both U.S. and non-U.S. bank and trust company members, the proposal will revise how net capital is defined to incorporate a measurement used by banking regulators and impose additional financial requirements on non-U.S. bank and trust company members tied to home country regulatory requirements and international standards. For non-U.S. broker-dealers and government securities issuers, the proposal would eliminate conditional and discretionary minimum capital requirements in favor of establishing objective minimum capital requirements. The proposal will also establish a category for all other members, which will impose minimum financial requirements tied to that entity's regulatory requirements, which FICC may increase based on how closely it resembles another membership type and its risk-profile.

Additionally, as discussed above in Section III.A.i, the Commission understands that FICC considered several additional risks faced by its members, both qualitative and quantitative, in determining its proposed capital requirements.[56] Therefore, the Commission concludes the proposal is reasonably designed to establish objective, risk-based, and publicly disclosed criteria for participation. For the reasons described above, the Commission finds that the Proposed Rule Change is consistent with Rule 17Ad–22(e)(18) under the Act.[57]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act, and in particular with the requirements of Section 17A of the Act[58] and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[59] that proposed rule change SR–FICC–2021–009, be, and hereby is, *approved*.[60]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[61]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–18860 Filed 8–31–22; 8:45 am]

BILLING CODE 8011–01–P

[53] 15 U.S.C. 78q–1(b)(3)(F).

[54] 17 CFR 240.17Ad–22(e)(4)(i).

[55] 17 CFR 240.17Ad–22(e)(18).

[56] *See* Notice of Filing, *supra* note 3, at 74131.

[57] *Id.*

[58] 15 U.S.C. 78q–1.

[59] 15 U.S.C. 78s(b)(2).

[60] In approving the Proposed Rule Change, the Commission considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[61] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–1172]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: FAA Acquisition Management System (FAAAMS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about FAA's intention to request Office of Management and Budget (OMB) approval to renew an information collection. The collection involves the FAA Acquisition Management System (FAAAMS) and information collected in response to notices regarding FAA acquisitions. The information to be collected is necessary to solicit, award, and administer contracts for supplies, equipment, services, facilities, and real property to fulfill FAA's mission.

DATES: Written comments should be submitted by October 31, 2022.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Monica Rheinhardt, Federal Aviation Administration (AAP–110), 800 Independence Ave. SW, FOB–10A, Room 439, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Monica Rheinhardt, by email at: *monica.rheinhardt@faa.gov,* phone: 202–267–1441.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized 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.

OMB Control Number: 2120–0595.

Title: FAA Acquisition Management System (FAAAMS).

FAA FAST Home Page: https://fast.faa.gov/.

Type of Review: Renewal of an information collection.

Background: The FAAAMS establishes policies and internal procedures for FAA acquisition. Section 348 of Public Law 104–50 directed FAA to establish an acquisition system. The information collection is carried out as an integral part of FAA's acquisition process. Various portions of the AMS describe information needed from vendors seeking or already doing business with FAA. FAA's contracting offices collect the information to plan, solicit, award, administer and close individual contracts. FAA's small business office collects information to promote and increase small business participation in FAA contracts. AMS requires information collection through a series of forms in the areas of (1) Solicitations and (2) Post-Award Contract Administration.

Solicitations: The FAA utilizes solicitations to evaluate vendor-specific technical solutions, capabilities, and other qualifications such as subcontracting plans that may result in the award of a contract for a defined FAA need. The extent and nature of the information required from vendors varies depending on the nature of the goods and/or services procured, as well as the size and complexity of the FAA requirements.

Post-Award Contract Administration: Depending on the complexity and size of the contract, various activities are ongoing after contract award in areas such as bonds (*e.g.,* construction contracts), small business subcontracting (*e.g.,* applying to large businesses), the tracking and management of Government Property, and invoicing. Contract modifications vary from routine administrative updates to major additions of work.

Solicitations

Respondents: 3,461.
Frequency: 1 time.
Estimated Average Burden per Response: 3 hours.
Estimated Total Annual Burden: 10,383 hours.

Post-Award Contract Administration

Respondents: 10,177.
Frequency: 3 times.
Estimated Average Burden per Response: 23.
Estimated Total Annual Burden: 702,213 hours.

Issued in Washington, DC, on August 29, 2022.

Michelle G. Brune,

AAP–100 Division Manager.

[FR Doc. 2022–18926 Filed 8–31–22; 8:45 am]

BILLING CODE 4910–13–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 Melbourne and the Federal Aviation Administration for the Melbourne International Airport, Melbourne, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release 0.11 acres at the Melbourne International Airport, Melbourne, FL from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the City of Melbourne, dated August 6, 1947. The release of property will allow the City of Melbourne to use the property for other than aeronautical purposes. The property is located at the Northwest corner of Dr. Martin Luther King Jr. Boulevard and NASA Boulevard at the Melbourne International Airport in Brevard County. 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 construction of a right turn lane. The fair market value lease of this parcel has been determined to be $30,000. Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Melbourne International Airport and the FAA Airports District Office.

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.

DATES: Comments are due on or before October 3, 2022.

ADDRESSES: Documents are available for review at Melbourne International 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: Marisol Elliott, Community Planner, Orlando Airports District Office, 8427 SouthPark Circle, Suite 524, Orlando, FL 32819.

FOR FURTHER INFORMATION CONTACT: Marisol Elliott, Community Planner, Orlando Airports District Office, 8427

SouthPark Circle, Suite 524, Orlando, FL 32819, (407) 487–7231.

Revision Date: August 23, 2022.

Bartholomew Vernace,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 2022–18940 Filed 8–31–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0172]

Hours of Service: Flat Top Transport; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from Flat Top Transport requesting an exemption from the hours-of-service (HOS) regulations. Flat Top Transport requests a four-month exemption for ''immediate and emergency delivery of dry and bulk food grade products to locations that supply stores and distribution centers nationally.'' FMCSA requests public comment on the applicant's request for exemption.

DATES: Comments must be received on or before October 3, 2022.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2022–0172 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the Public Participation and Request for Comments section below for further information.
- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Each submission must include the Agency name and the docket number (FMCSA–2022–0172) for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

Privacy Act: In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14–FDMS, which can be reviewed at *https://www.transportation.gov/privacy,* the comments are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT: Ms. Bernadette Walker, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA; (202) 385–2415; *bernadette.walker@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2022–0172), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *www.regulations.gov* and put the docket number (''FMCSA–2022–0172'') in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption and the regulatory provision from which the exemption is granted. The notice must specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Applicant's Request

Flat Top Transport seeks a four month exemption from the HOS regulations in 49 CFR part 395. Flat Top Transport requests the exemption to provide ''immediate and emergency delivery of dry and bulk food grade products to locations that supply stores and distribution centers nationally.'' Flat Top Transport describes itself as a small trucking company with between 9 and 10 drivers which delivers products such as food grade flour, corn meal, and salts used for the production of cereals, baked goods, canned goods and meat processing.

A copy of Flat Top Transport's application for exemption is available for review in the docket for this notice.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public

comment from all interested persons on Flat Top Transport's application for an exemption from the requirements in 49 CFR part 395. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–18935 Filed 8–31–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0044]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 16 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions are applicable on August 31, 2022. The exemptions expire on August 31, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2022–0044, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy,* the comments are searchable by the name of the submitter.

II. Background

On July 13, 2022, FMCSA published a notice announcing receipt of applications from 16 individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (87 FR 41855). The public comment period ended on August 12, 2022, and two comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received two comments in this proceeding that were in support of granting Cole Funk a seizure exemption.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on the 2007 recommendations of the Agency's Medical Expert Panel. The Agency conducted an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the commercial driver's license Information System for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System. For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency. A summary of each applicant's seizure history was discussed in the July 13, 2022, **Federal Register** notice (87 FR 41855) and will not be repeated in this notice.

[1] These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

These 16 applicants have been seizure-free over a range of six years to 42 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last 2 years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy and seizure disorder prohibition in § 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) each driver must remain seizure-free and maintain a stable treatment during the 2-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified ME, as defined by § 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 16 exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition, § 391.41(b)(8), subject to the requirements cited above:

Cody Baker (IN)
Reed Byrum (WV)
Bradley Fullmer (UT)
Cole Funk (PA)
Michael C. Hammond (SC)
John Hammond (OR)
Michael Modica, III (FL)
Brent Nelson (UT)
Roger Parker (NC)
Kevin Revis (TX)
Alexis E. Roldan (IL)
Brian Runk (PA)
Dominick Sempervive (NJ)
William F. Smith (NC)
Yoon Song (CA)
Jerry Wise (PA)

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–18934 Filed 8–31–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0109; FMCSA–2013–0442; FMCSA–2013–0444; FMCSA–2013–0445; FMCSA–2014–0381; FMCSA–2015–0320; FMCSA–2015–0323; FMCSA–2015–0326; FMCSA–2017–0252; FMCSA–2017–0253; FMCSA–2018–0050; FMCSA–2019–0033; FMCSA–2019–0206; FMCSA–2020–0046; FMCSA–2020–0047]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 18 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2013–0109, FMCSA–2013–0442, FMCSA–2013–0444, FMCSA–2013–0445, FMCSA–2014–0381, FMCSA–2015–0320, FMCSA–2015–0323, FMCSA–2015–0326, FMCSA–2017–0252, FMCSA–2017–0253, FMCSA–2018–0050, FMCSA–2019–0033, FMCSA–2019–0206, FMCSA–2020–0046, or FMCSA–2020–0047 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy,* the comments are searchable by the name of the submitter.

II. Background

On July 5, 2022, FMCSA published a notice announcing its decision to renew exemptions for 18 individuals from the epilepsy and seizure disorders

prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (87 FR 39889). The public comment period ended on August 4, 2022, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based on its evaluation of the 18 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of July and are discussed below.

As of July 1, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 14 individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (87 FR 39889):

David F. Bigler (MN)
Ronald Bohr (IA)
David P. Crowe (VA)
Heath Crowe (LA)
Michael Davis (ME)
Nathan Dermer (AK)
John Johnson (WI)
Anthony Kornuszko (PA)
Raymond Lobo (NJ)
Lucas Meeker (OH)
David Pamperin (WI)
Kevin Sprinkle (NC)
Stephen Soden (LA)
Michael Vitch (MS)

The drivers were included in docket number FMCSA–2013–0109, FMCSA–2013–0442, FMCSA–2013–0444, FMCSA–2014–0381, FMCSA–2015–0320, FMCSA–2015–0323, FMCSA–2015–0326, FMCSA–2017–0252, FMCSA–2017–0253, FMCSA–2018–0050, FMCSA–2019–0033, FMCSA–2019–0206, or FMCSA–2020–0046. Their exemptions were applicable as of July 1, 2022 and will expire on July 1, 2024.

As of July 14, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Ronald Blount (GA) has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers.

This driver was included in docket number FMCSA–2013–0445. The exemption was applicable as of July 14, 2022 and will expire on July 14, 2024 (87 FR 39889).

As of July 21, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following three individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (87 FR 39889):

Sonny Chase (MN); Jason Miller (WI); and Michael Morris (OR).

The drivers were included in docket number FMCSA–2020–0047. Their exemptions were applicable as of July 21, 2022 and will expire on July 21, 2024.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–18936 Filed 8–31–22; 8:45 am]

BILLING CODE 4910–EX–P

[1] These criteria may be found in Appendix A to Part 391—Medical Advisory Criteria, section H. *Epilepsy:* § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2022–0095]

Notice of Request for Clearance of a Revision to a Currently Approved Information Collection: National Census of Ferry Operators

AGENCY: Bureau of Transportation Statistics (BTS) Office of the Assistant Secretary for Research and Technology (OST–R), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, this notice announces the intention of the BTS to request the Office of Management and Budget's (OMB's) approval for new iterations of an on-going biennial information collection related to the nation's ferry operations. The information collected from each Census will be used to produce a descriptive database of existing ferry operations. A summary report of census findings will also be published by BTS on the BTS web page: *www.bts.gov/ncfo.*

DATES: Comments must be submitted on or before October 31, 2022.

ADDRESSES: You may submit comments identified by DOT Docket ID Number DOT–OST–2022–0095 to the U.S. Department of Transportation (DOT), Dockets Management System (DMS). You may submit your comments by mail or in person to the Docket Clerk, Docket No., U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Room W12–140, Washington, DC 20590. Comments should identify the docket number as indicated above. Paper comments should be submitted in duplicate. The DMS is open for examination and copying, at the above address, from 9 a.m. to 5 p.m., Monday through Friday, except federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on Docket DOT–OST–2022–0095.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (the internet, fax, or professional delivery service) to submit comments to the docket and ensure their timely receipt at U.S. DOT. You may fax your comments to the DMS at (202) 493–2251. Comments can also be viewed and/or submitted via the Federal

Rulemaking Portal: *http://www.regulations.gov.*

Please note that anyone is able to electronically search all comments received into our docket management system by the name of the individual submitting the comment (or signing the comment if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; pages 19475–19570) or you may review the Privacy Act Statement at *http://www.gpoaccess.gov/fr/.*

FOR FURTHER INFORMATION CONTACT: Clara Reschovsky, (202) 768–4994, NCFO Program Manager, BTS, OST–R, Department of Transportation, 1200 New Jersey Ave. SE, Room E36–324, Washington, DC 20590. Office hours are from 8:00 a.m. to 5:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: National Census of Ferry Operators (NCFO).

Background: The Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178), section 1207(c), directed the Secretary of Transportation to conduct a study of ferry transportation in the United States and its possessions. In 2000, the Federal Highway Administration (FHWA) Office of Intermodal and Statewide Planning conducted a survey of approximately 250 ferry operators to identify: (1) existing ferry operations including the location and routes served; (2) source and amount, if any, of funds derived from Federal, State, or local governments supporting ferry construction or operations; (3) potential domestic ferry routes in the United States and its possessions and to develop information on those routes; and (4) potential for use of high speed ferry services and alternative-fueled ferry services. The Safe, Accountable, Flexible Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU) Public Law 109–59, section 1801(e)) required that the Secretary, acting through the BTS, shall establish and maintain a national ferry database containing current information regarding routes, vessels, passengers and vehicles carried, funding sources and such other information as the Secretary considers useful. MAP–21 legislation [Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141),] continued the BTS mandate to conduct the NCFO and also required that the Federal Highway Administration (FHWA) use the NCFO data to set the specific formula for allocating federal ferry funds. The funding allocations were based on a percentage of the number of passenger boardings, vehicle boardings, and route miles served.

BTS conducted the first Census of Ferry Operators in 2006, and again in 2008, 2010, 2014, 2016, 2018, 2020, and plans are underway for the conduct of the next NCFO in the Spring of 2023. The 2022 NCFO was delayed by one year since ferry operations were disrupted by the pandemic and the census data should collect typical data. These information collections were originally approved by OMB under Control Number 2139–0009.

The recently enacted FAST Act legislation [Fixing America's Surface Transportation Act (Pub. L. 114–94, sec. 1112)] continues the BTS mandate to conduct the NCFO on a biennial basis, and extended the requirement that the Federal Highway Administration (FHWA) use the NCFO data to set the specific formula for allocating federal ferry funds based on a percentage of the number of passenger boardings, vehicle boardings, and route miles served. The overall length of the revised questionnaire for the 2022 NCFO will remain consistent with that of previous years.

The census will be administered to the entire population of ferry operators (estimate of 250 or less). The census will request the respondents to provide information such as: the points served; the type of ownership; the number of passengers and vehicles carried in the past 12 months; vessel descriptions (including type of fuel), federal, state and local funding sources, and intermodal connectivity. All data collected in 2022 will be added to the existing NCFO database.

Respondents: The target population for the census will be all of the approximately 250 ferry operators existing in the United States.

Estimated Average Burden per Response: The burden per respondent is estimated to be an average of 30 minutes. This average is based on an estimate of 20 minutes to answer new questions and an additional 10 minutes to review (and revise as needed) previously submitted data that will be pre-populated for each ferry operation.

Estimated Total Annual Burden: The total annual burden (in the year that the census is conducted) is estimated to be just under 125 hours (that is 30 minutes per respondent for 250 respondents equals 7,500 minutes).

Frequency: This census will be updated every other year.

Public Comments Invited: Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) the necessity and utility of the information collection for the proper performance of the functions of the DOT; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, clarity and content of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Authority: The Transportation Equity Act for the 21st Century, Pub. L. 105–178, section 1207(c), The Safe, Accountable, Flexible Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU), Pub. L. 109–59, Moving Ahead for Progress in the 21st Century Act (MAP–21), Pub. L. 112–141, 49 CFR 1.46, and Fixing America's Surface Transportation Act (FAST Act), Pub. L. 114–94, sec. 1112.

Issued in Washington, DC, on the 29th of August 2022.

Cha-Chi Fan,

Director, Office of Data Development and Standards, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology.

[FR Doc. 2022–18937 Filed 8–31–22; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

AGENCY: Departmental Offices; Department of the Treasury.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of a currently approved information collection that are to be proposed for approval by the Office of Management and Budget. The Office of International Affairs of the Department of the Treasury is soliciting comments concerning Treasury International Capital Forms CQ–1 and CQ–2, ''Financial and Commercial Liabilities to, and Claims on, Unaffiliated Foreign Residents.''

DATES: Written comments should be received on or before October 31, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International

Portfolio Investment Data Systems, Department of the Treasury, Room 1050, 1500 Pennsylvania Avenue NW, Washington, DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by email (*comments2TIC@treasury.gov*), or by telephone (office: 202–622–1276; cell: 202–923–0518).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms web page, TIC C-Forms and Instructions | U.S. Department of the Treasury. Requests for additional information should be directed to Mr. Dwight Wolkow by email (*comments2TIC@treasury.gov*), or by telephone (office: 202–622–1276; cell: 202–923–0518).

SUPPLEMENTARY INFORMATION:

Title: Treasury International Capital Form CQ–1, ''Financial Liabilities to, and Claims on, Unaffiliated Foreign Residents;'' and Treasury International Capital Form CQ–2, ''Commercial Liabilities to, and Claims on, Unaffiliated Foreign Residents.''

OMB Number: 1505–0024.

Abstract: Forms CQ–1 and CQ–2 are part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128), and is designed to collect timely information on international portfolio capital movements. Forms CQ–1 and CQ–2 are quarterly reports filed by non-financial enterprises in the U.S. to report their international portfolio transactions with unaffiliated foreign residents. This information is necessary for compiling the U.S. balance of payments accounts and the U.S. international investment position, and for use in formulating U.S. international financial and monetary policies.

Current Actions: No changes in the forms or instructions are being proposed at this time.

Type of Review: Revision of a currently approved data collection.

Affected Public: Business or other for-profit organizations.

Forms: CQ–1 and CQ–2 (1505–0024).

Estimated Number of Respondents: 135.

Estimated Average Time per Respondent: Six and seven-tenths (6.7) hours per respondent per filing.

Estimated Total Annual Burden Hours: 3,620 hours, based on four reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) whether Forms CQ–1 and CQ–2 are necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Reporting Systems.

[FR Doc. 2022–18879 Filed 8–31–22; 8:45 am]

BILLING CODE 4810–AK–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act; Meeting

TIME AND DATE: September 8, 2022, 12:00 p.m. to 2:00 p.m., Eastern time.

PLACE: This meeting will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll) or (ii) 1–877–853–5247 (US Toll Free) or 1–888–788–0099 (US Toll Free), Meeting ID: 965 9441 3860, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/meeting/register/tJIofu2srzgiHNToYfHwsskxuOVfwq0MUrdg.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Audit Subcommittee (the ''Subcommittee'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda

I. Call to Order—UCR Audit Subcommittee Chair

The UCR Audit Subcommittee Chair will welcome attendees, call the meeting to order, call roll for the Audit Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Subcommittee Agenda and Setting of Ground Rules—UCR Audit Subcommittee Chair

For Discussion and Possible Audit Subcommittee Action

The agenda will be reviewed and the Subcommittee will consider adoption.

Ground Rules

➢ Subcommittee action only to be taken in designated areas on the agenda.

IV. Review and Approval of Subcommittee Minutes From the June 30, 2022 Meeting—UCR Audit Subcommittee Chair

For Discussion and Possible Subcommittee Action

Draft minutes from the June 30, 2022 Subcommittee meeting via teleconference will be reviewed. The Subcommittee will consider action to approve.

V. Additional Compliance Evaluation Tools for the Annual State Audit Progress Report—UCR Audit Subcommittee Chair

For Discussion and Possible Subcommittee Action

The UCR Audit Subcommittee Chair will lead a discussion regarding the current evaluation process for the participating states' audit programs as required by the UCR Agreement. The Subcommittee will discuss options that may require states to add broker registration percentages to the annual state audit requirements in addition to the established compliance requirements set forth in the UCR Agreement. The Subcommittee may take action to approve such options as may be discussed.

VI. Audit Compliance Snapshot by State for Registration Years 2021 and 2022—UCR Audit Subcommittee Chair

The UCR Audit Subcommittee Chair will present registration performance statistics and the related compliance percentages, Focused Anomaly Reviews (FARs), unregistered bracket 5 and 6 motor carriers and retreat audits for the 2021 and 2022 registration years.

VII. Review of States Enforcement Efficiency Reports—UCR Audit Subcommittee Chair

The UCR Audit Subcommittee Chair will review the ''Should-Have-Been'' (''SHB'') report and discuss ideas regarding how to assist states to improve their UCR violation issuance rates.

VIII. Update Regarding the Enforcement Video for FMCSA's National Training Center—UCR Audit Subcommittee Chair, UCR Education and Training Chair, and the UCR Executive Director

The UCR Audit Subcommittee Chair, the UCR Education and Training Subcommittee Chair and the UCR Executive Director will provide an update regarding the progress achieved on the enforcement video for use in the FMCSA's National Training Center.

IX. State Compliance Review Program—UCR Audit Subcommittee Chair and UCR Depository Manager

The UCR Audit Subcommittee Chair and the UCR Depository Manager will lead a discussion on program objectives and states scheduled for review in 2022.

X. Maximizing the Value of the Should Have Been (SHB) and Enforcement Efficiency Tools—UCR Audit Subcommittee Chair, UCR Audit Subcommittee Vice-Chair and DSL Transportation Services, Inc. (DSL)

The UCR Audit Subcommittee Chair, UCR Audit Subcommittee Vice-Chair and DSL will provide an update on the value achieved by utilizing Shadow MCMIS and other tools in the National Registration System (NRS). The discussion will highlight the financial value to the states of vetting businesses for UCR compliance, commercial registration, IFTA, intrastate, and interstate operating authority.

XI. Audit Subcommittee Meetings in 2023—UCR Audit Subcommittee Chair and UCR Executive Director

The UCR Audit Subcommittee Chair and UCR Executive Director will discuss tentative plans for Audit Subcommittee meetings virtually and in-person during calendar year 2023.

XII. Future Auditor Training Opportunities—UCR Audit Subcommittee Chair, UCR Audit Vice-Chair and DSL

The UCR Audit Subcommittee Chair, UCR Audit Subcommittee Vice-Chair and DSL will direct a discussion regarding the value added to state enforcement efforts by developing short virtual audit training sessions.

XIII. Audit Subcommittee Consideration of Future Education and Training Products—UCR Audit Subcommittee Chair and UCR Education and Training Subcommittee Chair

The UCR Audit Subcommittee Chair and the UCR Education and Training Subcommittee Chair may discuss recommendations for future state training products intended to increase states UCR registration efficiency.

XIV. Presentation From Warren Averett (the UCR Depository Independent Auditors)—UCR Audit Subcommittee Chair and UCR Depository Manager

The UCR Audit Subcommittee Chair and the UCR Depository Manager will introduce the independent auditors of the UCR Depository and allow them to address issues of significance to the subcommittee, in fulfillment of the subcommittee's fiduciary responsibility to the UCR Plan. The Audit Subcommittee may ask any questions to the external and independent auditors that they may have of the UCR Plan.

XV. Other Items—UCR Audit Subcommittee Chair

The UCR Audit Subcommittee Chair will call for any other items Subcommittee members would like to discuss.

XVI. Adjournment—UCR Audit Subcommittee Chair

The UCR Audit Subcommittee Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, August 31, 2022 at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2022–19020 Filed 8–30–22; 4:15 pm]

BILLING CODE 4910–YL–P

FEDERAL REGISTER

Vol. 87 Thursday,

No. 169 September 1, 2022

Part II

Commodity Futures Trading Commission

Securities and Exchange Commission

17 CFR Parts 275 and 279

Form PF; Reporting Requirements for All Filers and Large Hedge Fund Advisers; Proposed Rule

COMMODITY FUTURES TRADING COMMISSION

RIN 3038–AF31

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 275 and 279

[Release No. IA–6083; File No. S7–22–22]

RIN 3235–AN13

Form PF; Reporting Requirements for All Filers and Large Hedge Fund Advisers

AGENCIES: Commodity Futures Trading Commission and Securities and Exchange Commission.

ACTION: Joint proposed rules.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'') and the Securities and Exchange Commission (''SEC'') (collectively, ''we'' or the ''Commissions'') are proposing to amend Form PF, the confidential reporting form for certain SEC-registered investment advisers to private funds, including those that also are registered with the CFTC as a commodity pool operator (''CPO'') or commodity trading adviser (''CTA''). The amendments are designed to enhance the Financial Stability Oversight Council's (''FSOC's'') ability to monitor systemic risk as well as bolster the SEC's regulatory oversight of private fund advisers and investor protection efforts. In connection with the amendments to Form PF, the SEC proposes to amend a rule under the Investment Advisers Act of 1940 (the ''Advisers Act'') to revise instructions for requesting a temporary hardship exemption. We also are soliciting comment on the proposed rules and a number of alternatives, including whether certain possible changes to the proposal should apply to Form ADV.

DATES: Comments should be received on or before October 11, 2022.

ADDRESSES: Comments may be submitted by any of the following methods.

CFTC: Comments may be submitted to the CFTC by any of the following methods.

- *CFTC Comments portal: https://comments.cftc.gov.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Follow the same instructions as for Mail above.

Please submit your comments using only one method. To avoid possible delays with mail or in-person deliveries, submissions through the CFTC website are encouraged. ''Form PF'' must be in the subject field of comments submitted via email, and clearly indicated on written submissions. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the CFTC to consider information that may be exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the established procedures in 17 CFR 145.9.

The CFTC reserves the right, but shall have no obligation, to review, prescreen, filter, redact, refuse, or remove any or all of your submission from *www.cftc.gov* that it may deem to be inappropriate for publication, including, but not limited to, obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act, 5 U.S.C. 552, *et seq.* (''FOIA'').

SEC: Comments may be submitted to the SEC by any of the following methods:

Electronic Comments

- Use the SEC's internet comment forms (*https://www.sec.gov/regulatory-actions/how-to-submit-comments*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–22–22 on the subject line.

Paper Comments

- Send paper comments to Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–22–22. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The SEC will post all comments on the SEC's website (*https://www.sec.gov/rules/proposed.shtml*). Comments also are available for website viewing and printing in the SEC'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 SEC'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 SEC 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 SEC'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: *CFTC:* Pamela Geraghty, Associate Director; Michael Ehrstein, Special Counsel; Andrew Ruggiero, Attorney-Advisor at (202) 418–6700, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW Washington, DC 20581. *SEC:* Alexis Palascak, Lawrence Pace, Senior Counsels; Christine Schleppegrell, Acting Branch Chief at (202) 551–6787 or *IArules@sec.gov,* Investment Adviser Regulation Office, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The CFTC and SEC are requesting public comment on the following under the Investment Advisers Act of 1940 [15 U.S.C. 80b] (''Advisers Act'').[1] [2]

[1] 15 U.S.C. 80b. Unless otherwise noted, when we refer to the Advisers Act, or any section of the Advisers Act, we are referring to 15 U.S.C. 80b, at which the Advisers Act is codified, and when we refer to rules under the Advisers Act, or any section of these rules, we are referring to title 17, part 275 of the Code of Federal Regulations [17 CFR 275], in which these rules are published.

[2] Form PF is a joint form between the SEC and CFTC only with respect to sections 1 and 2 of the Form.

Agency	Reference	CFR citation
CFTC & SEC	Form PF [2]	17 CFR 279.9.
SEC	Rule 204(b)–1	17 CFR 275.204(b)–1.

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I. Introduction

The Commissions are proposing to amend sections of Form PF, the form that certain SEC-registered investment advisers, including those that also are registered with the CFTC as a CPO or CTA, use to report confidential information about the private funds that they advise.[3] The proposed amendments are designed to enhance FSOC's monitoring and assessment of systemic risk and to provide additional information for FSOC's use in determining whether and how to deploy its regulatory tools. The proposed amendments also are designed to collect additional data for use in the Commissions' regulatory programs, including examinations, investigations and investor protection efforts relating to private fund advisers.[4] Finally, the proposed amendments also are designed to improve the usefulness of this data.[5]

An adviser must file Form PF if (1) it is registered or required to register with the SEC as an investment adviser, (2) it manages one or more private funds, and (3) the adviser and its related persons collectively had at least $150 million in private fund assets under management as of the last day of its most recently completed fiscal year.[6] A CPO or CTA that also is registered or required to register with the SEC as an investment adviser and satisfies the other conditions described above must file Form PF with respect to any commodity pool it manages that is a private fund. Most private fund advisers file annually to report general information such as the types of private funds advised (*e.g.,* hedge funds, private equity funds, or liquidity funds), fund size, use of borrowings and derivatives, strategy, and types of investors. Certain larger advisers provide more information on a more frequent basis, including more detailed information on particular hedge funds and liquidity funds.

Form PF provides the Commissions and FSOC with important information about the basic operations and strategies of private funds and has helped establish a baseline picture of the private fund industry for use in assessing systemic risk. We now have almost a decade of experience analyzing the information collected on Form PF. In that time, the private fund industry has grown in size and evolved in terms of business practices, complexity of fund structures, and investment strategies and exposures.[7] For example,

[3] Specifically, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act''), mandated that the SEC and the CFTC, in consultation with the FSOC, jointly promulgate rules governing the form and substance of reports required by investment advisers to private funds to be filed with the SEC, and with the CFTC for those that are dually-registered with both Commissions. Public Law 111–203, 124 Stat. 1376 (2010). *See,* 15 U.S.C. 80b–11. *See also,* 17 CFR 4.27(d). The result was Sections 1 and 2 of Form PF, which were jointly promulgated. *See* Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF, Advisers Act Release No. 3308 (Oct. 31, 2011), [76 FR 71128 (Nov. 16, 2011)] (''2011 Form PF Adopting Release'') at section I. In 2014, the SEC amended Form PF section 3 in connection with certain money market fund reforms. *See* Money Market Fund Reform; Amendments to Form PF, Advisers Act Release No. 3879 (July 23, 2014), [79 FR 47736 (Aug. 14, 2014)] (''2014 Form PF Amending Release'').

[4] Any reference to the ''Commissions'', or ''we'', as it relates to the collection and use of Form PF data are meant to refer to the agencies in their separate or collective capacities, and such data from filings made pursuant to 17 CFR 275.204(b)–1, by and through Private Fund Reporting Depository, a subsystem of the Investment Adviser Registration Depository (''IARD''), and reports, analysis, and memoranda produced pursuant thereto. Further, as the collection is being made pursuant to the Advisers Act and the IARD is subject to the authority and control of the SEC, as of the date of this proposal, it should not be assumed that the CFTC has direct, or timely access to such data. The Commissions will continue to engage in interagency discussions on the sharing of portions of Form PF data relevant to the CFTC consistent with the terms of existing interagency agreements or arrangements related to the sharing of data.

[5] Additionally, the Federal Reserve Board uses this data for research and analysis.

[6] *See* 17 CFR 275.204(b)–1. Advisers Act section 202(a)(29) defines the term ''private fund'' as an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (''Investment Company Act''), but for section 3(c)(1) or 3(c)(7) of that Act. Section 3(c)(1) of the Investment Company Act provides an exclusion from the definition of ''investment company'' for any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than one hundred persons (or, in the case of a qualifying venture capital fund, 250 persons) and which is not making and does not presently propose to make a public offering of its securities. Section 3(c)(7) of the Investment Company Act provides an exclusion from the definition of ''investment company'' for any issuer, the outstanding securities of which are owned exclusively by persons who, at the time of acquisition of such securities, are qualified purchasers, and which is not making and does not at that time propose to make a public offering of such securities. The term ''qualified purchaser'' is defined in section 2(a)(51) of the Investment Company Act.

[7] The value of private fund net assets reported on Form PF has more than doubled, growing from $5 trillion (net) in 2013 to $12 trillion (net) by the end of the third quarter of 2021, while the number of private funds reported on the form has increased by nearly 55 percent in that time period. Unless otherwise noted, the private funds statistics used in this Release are from the Private Funds Statistics Third Quarter 2021. Division of Investment Management, Private Fund Statistics Third Quarter 2021, (Mar. 30, 2022), *available at https://www.sec.gov/divisions/investment/private-funds-statistics/private-funds-statistics-2021-q3.pdf* (''Private Fund Statistics Q3 2021''). Any

Continued

certain investment strategies, including credit, digital asset,[8] litigation finance,[9] and real estate strategies, have become more common since the form was adopted.[10] Similarly, we understand that qualifying hedge fund exposures to repurchase agreements (''repos''), reverse repurchase agreements (''reverse repos''), and U.S. treasury securities have increased in recent years.[11] Experience with Form PF data also has identified potential ways to improve data quality, including in instances where existing reporting may not identify fully the potential risks, such as in the reporting of certain master-feeder arrangements.

Based on this experience and in light of these changes, the Commissions and FSOC have identified information gaps and situations where revised information would improve our understanding of the private fund industry and the potential systemic risk within it. We believe more detailed information, including with respect to strategies and exposures, would provide better empirical data to FSOC with which it may assess better the extent to which the activities of private funds or their advisers pose systemic risks. We expect that FSOC would use the new information collected on Form PF, together with market data from other sources, to assist in determining whether and how to deploy its regulatory tools.[12] This may include, for instance, identifying private fund advisers that merit further analysis or deciding whether to recommend to a primary financial regulator, like the SEC or CFTC, more stringent regulation of the financial activities that FSOC determines may create or increase systemic risk. This revised information also would improve our ability to protect investors.[13]

The Commissions have consulted with FSOC to gain input on this proposal, and to help ensure that Form PF continues to provide FSOC with information it can use to carry out its monitoring obligations and assess systemic risk in light of changes in the private fund industry over the past decade. The Commissions are jointly proposing amendments to the form's general instructions, as well as section 1 of Form PF, which would apply to all Form PF filers. The Commissions also are jointly proposing amendments to section 2 of Form PF, which would apply to large hedge fund advisers who advise qualifying hedge funds (*i.e.,* hedge funds that have a net asset value of at least $500 million).[14]

II. Discussion

A. Proposed Amendments to the General Instructions

We are proposing amendments to the Form PF general instructions designed to improve data quality and comparability and to enhance investor protection efforts and systemic risk assessment.[15]

1. Reporting Master-Feeder Arrangements and Parallel Fund Structures

Private funds often use complex structures to invest, including master-feeder arrangements and parallel fund structures.[16] We are proposing amendments to Form PF that generally would require advisers to report separately each component fund of a master-feeder arrangement and parallel fund structure.[17] However, an adviser would continue to aggregate these structures for purposes of determining whether the adviser meets a reporting threshold.[18]

Currently, Form PF provides advisers with flexibility to respond to questions regarding master-feeder arrangements and parallel fund structures either in the aggregate or separately, as long as they do so consistently throughout Form PF.[19] In adopting this approach in 2011, the Commission stated that requiring advisers to aggregate or disaggregate funds in a manner inconsistent with their internal recordkeeping and

comparisons to earlier periods are from the private funds statistics from that period, all of which are *available at https://www.sec.gov/divisions/investment/private-funds-statistics.shtml.* SEC staff began publishing the private fund statistics in 2015, including data from 2013. Therefore, many comparisons in this Release discuss the almost nine year span from the beginning of 2013 through third quarter 2021. Some discussion in this Release compares data from a shorter time span, because the SEC staff published such data later than 2013. Staff reports, statistics, and other staff documents (including those cited herein) represent the views of SEC staff and are not a rule, regulation, or statement of the SEC. The SEC has neither approved nor disapproved the content of these documents and, like all staff statements, they have no legal force or effect, do not alter or amend applicable law, and create no new or additional obligations for any person.

[8] *See* Zuckerman, Gregory, Mainstream Hedge Funds Pour Billions of Dollars Into Crypto, The Wall Street Journal (March 2022) *available at https://www.wsj.com/articles/mainstream-hedge-funds-pour-billions-of-dollars-into-crypto-11646808223#:~:text=Brevan%20Howard%20launched%20a%20cryptocurrency,and%20investing%20in%20blockchain%20technology.*

[9] *See* Burnett, David and Pierce, John, The Emerging Market for Litigation Funding, *The Hedge Fund Journal* (June 2013) *available at https://thehedgefundjournal.com/the-emerging-market-for-litigation-funding/.*

[10] *See* Private Fund Statistics Q3 2021, *supra* footnote 7, at p. 24.

[11] A qualifying hedge fund is defined in Form PF as ''any hedge fund that has a net asset value (individually or in combination with any feeder funds, parallel funds and/or dependent parallel managed accounts) of at least $500 million as of the last day of any month in the fiscal quarter immediately preceding [the adviser's] most recently completed fiscal quarter.'' *See* Form PF Glossary of Terms. From 2015 through the end of 2020, qualifying hedge fund exposure to repos doubled to $2 trillion, while from 2013 through the end of 2020, qualifying hedge fund borrowings attributable to reverse repos more than doubled to $1.3 trillion. For the same period, qualifying hedge fund exposure to U.S. treasury securities increased by almost 70 percent to $1.7 trillion in aggregate qualifying hedge fund gross notional exposure.

[12] Under the Dodd-Frank Act, FSOC must monitor emerging risks to U.S. financial stability and employ its regulatory tools to address those risks. S. REP. NO. 111–176, at 2–3 (2010).

[13] The SEC also recently proposed amendments to the SEC-only sections of Form PF (sections 3, 4, 5, and newly proposed section 6) that would (1) require current reporting for large hedge fund advisers and advisers to private equity funds, (2) decrease the reporting threshold for large private equity advisers and amend reporting requirements for large private equity advisers, and (3) amend reporting requirements for large liquidity fund advisers. Amendments to Form PF to Require Current Reporting and Amend Reporting Requirements for Large Private Equity Advisers and Large Liquidity Fund Advisers, Investment Advisers Act Release No. 5950 (Jan. 26, 2022), [87 FR 9106 (Feb. 17, 2022)] (''2022 SEC Form PF Proposal'').

[14] Unless stated otherwise, terms in this release that are defined in the Form PF Glossary of Terms are as defined therein.

[15] Additional proposed changes to the General Instructions concerning amendments to enhance data quality concerning methodologies and additional amendments are discussed in sections II.D and II.E of this Release, as well as the proposal to amend Instruction 3 to reflect our proposal to remove section 2a, which is discussed in footnote 138, and accompanying text.

[16] A ''master-feeder arrangement'' is an arrangement in which one or more funds (''feeder funds'') invest all or substantially all of their assets in a single private fund (''master fund''). A ''parallel fund structure'' is a structure in which one or more private funds (each, a ''parallel fund'') pursues substantially the same investment objective and strategy and invests side by side in substantially the same positions as another private fund. *See* Form PF Glossary of Terms.

[17] Proposed Instruction 6. We also propose to amend Instruction 3 to reflect the proposed approach for reporting master-feeder arrangements and parallel fund structures. *See infra* footnote 18.

[18] Proposed Instruction 5. For example, an adviser would aggregate private funds that are part of the same master-feeder arrangement in determining whether the adviser is a large hedge fund adviser that must complete section 2 of Form PF. In connection with these proposed changes, we propose to amend the term ''reporting fund'' and Instruction 3 so they would no longer discuss reporting aggregated information. Additionally, we propose to reorganize current Instruction 5 and current Instruction 6 so they reflect the proposed approach for when to aggregate certain funds. Current Instruction 5 instructs advisers about when to aggregate information about certain funds for purposes of reporting thresholds and responding to questions. Current Instruction 6 instructs advisers about how to aggregate information about certain funds. Proposed Instruction 5 would instruct advisers on when to aggregate information about certain funds for purposes of determining whether they meet reporting thresholds. Proposed Instruction 6 would instruct advisers about how to report information about certain funds when responding to questions.

[19] Current Instruction 5.

reporting may impose additional burdens and that, as long as the structure of those arrangements is adequately disclosed, a prescriptive approach to aggregation was not necessary.[20] However, based on experience reviewing Form PF data, we observed that when some advisers report in aggregate and some advisers report separately, this can result in obscured risk profiles (*e.g.,* asset size, counterparty exposure, investor liquidity) and made it difficult to compare complex structures, undermining the utility of the data collected. We believe prescribing the way advisers report a master-feeder arrangement and parallel fund structure would provide better insight into the risks and exposures of these arrangements.

Accordingly, we propose to require an adviser to report each component fund of a master-feeder arrangement and parallel fund structure, except where a feeder fund invests all its assets in a single master fund and/or ''cash and cash equivalents'' (*i.e.,* a disregarded feeder fund).[21] In the case of a disregarded feeder fund in Question 6, advisers instead would identify the disregarded feeder fund and look through to any disregarded feeder fund's investors in responding to certain questions regarding fund investors on behalf of the applicable master fund. The master fund effectively is a conduit through which a disregarded feeder fund invests and we do not believe separate reporting for such a feeder fund is necessary for data analysis purposes.

In addition, we propose to no longer allow advisers to report any ''parallel managed accounts,'' (which is distinguished from ''parallel fund structure''), except advisers would continue to be required to report the total value of all parallel managed accounts related to each reporting fund.[22] We continue to believe that including parallel managed accounts in the reporting may reduce the quality of data while imposing additional burdens on advisers.[23] Data regarding the total value of parallel managed accounts, however, allow FSOC to take into account the greater amount of assets an adviser may be managing using a given strategy for purposes of analyzing the data reported on Form PF.[24]

We request comment on the proposed amendments.

1. Should we amend Form PF to require advisers to report component funds of master-feeder arrangements and parallel fund structures separately except for disregarded feeder funds, as proposed? Would the proposed amendments lead to more accurate data regarding the risk profiles of reporting funds and improve comparability? Would the proposed amendments enhance investor protection efforts and systemic risk assessment? Are there better ways to meet these objectives? For example, should Form PF require advisers to report only at the master fund level or the feeder fund level?

2. Do you agree that the master fund is effectively a conduit through which a disregarded feeder fund invests and that separate reporting for such a feeder fund is not necessary for data analysis purposes? Should we require advisers to report additional information regarding disregarded feeder funds? For example, should we require advisers to report the total cash holdings of such funds?

3. Are there other exceptions for reporting each component of a master-feeder arrangement or parallel fund structures separately that we should adopt?

4. Should we continue to require advisers to report only limited information on parallel managed accounts? If we should require additional reporting from parallel managed accounts, what additional information should we require? Should reporting of any such additional information be mandatory or voluntary?

5. Should we continue to require advisers to aggregate structures when determining whether they meet reporting thresholds?

6. Form PF currently does not require an adviser to report information regarding a private fund advised by any of the adviser's related persons, unless the adviser identified that related person as one for which the adviser is filing Form PF. Should we take a different approach and require an adviser to include information regarding private funds advised by any of the adviser's related persons if they are part of a master-feeder arrangement or parallel fund structure managed by the adviser? Or, would an adviser have difficulty gathering the information necessary to report this information for private funds managed by the adviser's related persons whose operations are genuinely independent of the adviser's own operations?

7. Could ''parallel managed accounts,'' be interpreted as overlapping with ''parallel fund structure?'' If so, should we remove the phrase ''or other pool of assets'' in the definition of ''parallel managed account'' to prevent that?

2. Reporting Private Funds That Invest in Other Funds

We are proposing amendments to Form PF regarding how advisers report private fund investments in other private funds, trading vehicles, and other funds that are not private funds.

Investments in other private funds. We propose to amend Instruction 7, which addresses how advisers treat private fund investments in other private funds (*e.g.,* a ''fund of funds''). Currently, advisers include the value of private fund investments in other private funds in determining whether the adviser meets the filing threshold to file Form PF.[25] We believe this requirement is implicit in the current form and we propose to amend Instruction 7 to make it explicit. Current Form PF permits an adviser to disregard the value of a private fund's equity investments in other private funds for purposes of both the form's reporting thresholds (*e.g.,* whether it qualifies as a large hedge fund adviser) and responding to questions on Form PF, as long as it does so consistently throughout Form PF, subject to certain exceptions.[26] Under the proposal, the form would continue to permit an adviser to include or exclude the value of investments in other private funds (including internal and external private funds) when determining whether the

[20] 2011 Form PF Adopting Release, *supra* footnote 3, at text following n.332.

[21] See proposed Instruction 6. The proposal would revise the term ''cash and cash equivalents,'' as described in section II.B.2 in this Release.

[22] Proposed Instruction 6. A ''parallel managed account'' is any managed account or other pool of assets managed by the adviser that pursues substantially the same investment objective and strategy and invests side by side in substantially the same positions as the identified private fund. *See* Form PF Glossary of Terms. Currently, advisers may, but are not required to, report information regarding parallel managed accounts in response to certain questions, except they must report the total value of all parallel managed accounts related to each reporting fund. *See* current Instruction 5.

[23] *See* 2011 Form PF Adopting Release, *supra* footnote 3, at n.334, and accompanying text (the Commission was persuaded that aggregating parallel managed accounts for reporting purposes would be difficult and ''result in inconsistent and misleading data'' because the characteristics of parallel managed accounts are often somewhat different from the funds with which they are managed). For example, in a separately managed account a client generally selects an adviser's strategy but tailors it to the client's own investment guidelines.

[24] *Id.* at text following n.336.

[25] Form PF Instruction 1 provides that certain advisers meet the filing threshold if they and their related persons, collectively, had at least $150 million in private fund assets under management as of the last day of their most recently completed fiscal year.

[26] For example, under the current instructions, an adviser is not permitted to disregard any liabilities of the private fund, even if incurred in connection with an investment in other private funds. *See* current Instruction 7.

adviser meets the thresholds for reporting as a large hedge fund adviser, large liquidity fund adviser, or large private equity adviser, and whether a hedge fund is a qualifying hedge fund.[27] The Commissions continue to believe that allowing this flexibility for these reporting thresholds avoids duplicative reporting, which reduces the burden of reporting for advisers and improves the quality of the data reported.[28] For example, under these instructions an adviser may exclude an investment in an external private fund that would already be counted through another adviser's reporting obligations.

However, we believe the form's current flexibility on whether to disregard underlying funds when responding to questions has undermined the utility of the data collected, as it provides unclear, inconsistent data on the scale of reporting funds' exposures. Therefore, we propose to amend Instruction 7 to require an adviser to include the value of a reporting fund's investments in other private funds when responding to questions on Form PF, unless otherwise directed by the instructions to a particular question.[29] We believe that requiring advisers to report fund of funds arrangements in a consistent manner would allow the Commissions and FSOC to understand better these fund structures by providing greater insight into the scale and exposures of reporting funds.

Currently, advisers are not required to, but nonetheless have the option to, ''look through'' a reporting fund's investments in any other entity (including other private funds), except in instances when the form directs otherwise.[30] As a result, some advisers may ''look through'' a reporting fund's investments in other entities, while others do not, leading to unclear data, inconsistent comparisons, and less precise analysis across advisers. Therefore, we propose to amend Instruction 7 to provide that, when responding to questions, advisers must not ''look through'' a reporting fund's investments in internal private funds or external private funds (other than a trading vehicle, as described below), unless the question instructs the adviser to report exposure obtained indirectly through positions in such funds or other entities.[31] We also propose to take the same approach with regard to a reporting fund's investments in funds or other entities that are not private funds or trading vehicles.[32] These proposed amendments are designed to improve data quality and comparisons, so the Commissions and FSOC understand what Form PF data is from advisers ''looking through'' a reporting fund's investments, which we believe would lead to more effective systemic risk assessments and investor protection efforts.

Trading vehicles. Some private funds wholly own separate legal entities that hold assets, incur leverage, or conduct trading or other activities as part of the private fund's investment activities, but do not operate a business (each, a ''trading vehicle'').[33] We propose to amend Form PF's general instructions to explain how advisers would report information if the reporting fund uses a trading vehicle.[34] Specifically, if the reporting fund uses a trading vehicle, and the reporting fund is its only equity owner, the adviser would either (1) identify the trading vehicle in section 1b, and report answers on an aggregated basis for the reporting fund and such trading vehicle, or (2) report the trading vehicle as a separate reporting fund. An adviser would have to report the trading vehicle separately if the trading vehicle holds assets, incurs leverage, or conducts trading or other activities on behalf of more than one reporting fund. If reporting separately, (1) advisers would report the trading vehicle as a hedge fund if a hedge fund invests through the trading vehicle; (2) advisers would report the trading vehicle as a qualifying hedge fund if a qualifying hedge fund invests through the trading vehicle; (3) otherwise, advisers would report the trading vehicle as a liquidity fund, private equity fund, or other type of fund based on its activities.[35]

Private funds may use trading vehicles for various purposes, including (1) for jurisdictional, tax, or other regulatory purposes, or (2) to ''ring-fence'' assets in light of liability or bankruptcy concerns associated with a particular investment (*i.e.,* structure assets so counterparties would only have recourse against the trading vehicle and not against the private fund). Currently, Form PF does not require advisers to identify trading vehicles. As a result, Form PF does not provide a clear window into the use of trading vehicles and the risks they present. For example, if a trading vehicle is ring-fenced, current Form PF does not provide a view into the assets or collateral on which a counterparty to such trading vehicle relies or the size and nature of the trading vehicle's exposure. In addition, where more than one reporting fund invests through a particular trading vehicle, the activities of multiple reporting funds are blended and potentially obscured. The proposed amendments are designed to address these concerns by providing more information on the extent private funds use trading vehicles to conduct investment activities. The proposed amendments also are designed to provide improved visibility into position sizes and counterparty exposures through trading vehicles. Having a clear, unobscured view into position sizes and counterparty exposures through trading vehicles is designed to help ensure accurate systemic risk assessment and analysis to further investor protection efforts, by providing the Commissions and FSOC with a view into the assets or collateral on which a counterparty to such trading vehicle relies and the size and nature of the trading vehicle's exposure.

Investments in funds that are not private funds. Under the proposal, advisers would continue to include the value of the reporting fund's investments in funds and other entities that are not private funds, in determining reporting thresholds and responding to questions, unless otherwise directed, as Form PF currently requires.[36] For the reasons discussed above, we are proposing that, when responding to questions, however,

[27] *See* current Instruction 7 and proposed Instruction 7.

[28] *See* 2011 Form PF Adopting Release, *supra* footnote 3, at n.128, and accompanying text.

[29] For example, an adviser would report the value of the reporting fund's investments in other private funds when reporting its gross asset value and net asset value in proposed Questions 11 and 12; however, Question 3 would specify that advisers must exclude the value of the reporting fund's investment in other internal private funds when providing a breakdown of their regulatory assets under management and net assets under management.

[30] *See* current Instruction 8.

[31] *See* proposed Instruction 7. For example, advisers would not ''look through'' to the creditors of or counterparties to other private funds in responding to questions that ask about a reporting fund's borrowings and counterparty exposures. *See* proposed Question 18 (concerning borrowings) and proposed Questions 27 and 28 (concerning counterparty exposures). However, selected questions in section 2 of the form would require advisers to report indirect exposure resulting from positions held through other entities including private funds, and advisers would ''look through'' the reporting fund's investments in internal private funds and external private funds in responding to those questions. *See e.g.,* proposed Question 32 (concerning reporting fund exposures).

[32] *See* proposed Instruction 8 and *supra* footnote 31 (which provides examples that also apply to advisers to reporting funds that invest in funds and other entities that are not private funds or trading vehicles).

[33] We propose to add ''trading vehicle'' to the Form PF Glossary of Terms.

[34] *See* proposed Instruction 7. We propose to make a conforming change to Instruction 8 to reference this new instruction.

[35] *See* proposed Instruction 7.

[36] *See* Instruction 8.

advisers must not ''look through'' a reporting fund's investments in funds or other entities that are not private funds, or trading vehicles, unless the question instructs the adviser to report exposure obtained indirectly through positions in such funds or other entities.[37]

We request comment on the proposed amendments.

8. Would the proposed amendments concerning reporting fund investments in other private funds, trading vehicles, and other funds that are not private funds provide a better understanding of the structure of private funds, and improve data quality and comparability? Is there a better way to meet these objectives? Should Form PF provide more or less flexibility to advisers in how they treat these types of private fund investments? For example, instead of allowing advisers the flexibility to include or exclude a private fund's investments in other private funds (including internal private funds and external private funds) in determining whether they meet thresholds for filing as a large hedge fund adviser, large liquidity adviser, or large private equity adviser, and whether a reporting fund is a qualifying hedge fund, should we require advisers to include or exclude such investments? Should we require external qualifying hedge funds to be excluded, to avoid receiving duplicate data? If Form PF should provide more flexibility, how would we help ensure data is understandable and comparable across advisers?

9. Would the proposed amendments regarding trading vehicles provide a clearer picture of how private funds use trading vehicles and their market risks? Would the proposed amendments provide improved visibility into position sizes and counterparty exposures? Is there a better way to meet these objectives? For example, should Form PF require advisers to report whether a trading vehicle is ring-fenced for liability purposes?

10. Under the proposal, if an adviser reports a trading vehicle as a separate reporting fund, the adviser must report the trading vehicle as a hedge fund, qualifying hedge fund, liquidity fund, private equity fund, or other type of fund, if it meets certain requirements. Would this proposed requirement help ensure advisers could not avoid reporting the trading vehicle as a private fund that is subject to additional reporting, such as a qualifying hedge fund? Is there a better way to meet this objective? Should Form PF instead only require advisers to report trading vehicles as investments in another fund?

11. Are the ''look through'' requirements concerning how to report a reporting fund's investments in other entities clear? Should we require advisers to not look through a reporting fund's investments in other entities, unless the question instructs the adviser to report exposure obtained indirectly through positions in such funds or other entities, as proposed?

3. Reporting Timelines

We propose to amend Instruction 9 to require large hedge fund advisers and large liquidity fund advisers to update Form PF within a certain number of days after the end of each calendar quarter, rather than after each fiscal quarter, as Form PF currently requires.[38] All other advisers would continue to file annual updates within 120 calendar days after the end of their fiscal year.[39] Form PF would continue to require all advisers to use fiscal quarters and years to determine filing thresholds because advisers already make such calculations under 17 CFR 279.1 (''Form ADV''), which requires annual updates based on fiscal year.[40]

Currently, fiscal quarter reporting significantly delays the time at which the Commissions and FSOC receive a complete data set for a calendar quarter. For example, large hedge fund advisers whose first fiscal quarter ends on the calendar quarter end of March, would file data covering January, February, and March by the end of May.[41] However, large hedge fund advisers whose fiscal quarter ends in May would not file their March data until the end of July, delaying Commission and FSOC access to full calendar quarter data by all large hedge fund advisers by four months. The proposed changes are designed to provide a more complete data set sooner to improve the efficiency and effectiveness of investor protection efforts and systemic risk assessment. Based on Form ADV data as of December 2021, 99.2 percent of private fund advisers already effectively file Form PF on a calendar basis because their fiscal quarter or year ends on the calendar quarter or year end, respectively.[42] The 0.8 percent of private fund advisers that have a non-calendar fiscal approach, which could cause a temporary data gap, represents approximately 274 private funds, totaling $200 billion in gross asset value. Calendar quarter reporting also would more closely align with reporting on [17 CFR pt. 4, app. A] Form CPO–PQR, which requires calendar quarterly reporting, allowing easier integration of these data sets.

We request comment on the proposed amendments.

12. Should we revise the reporting timelines, as proposed?

13. Should Form PF continue to require advisers to determine filing thresholds by fiscal year given corresponding Form ADV requirements? Alternatively, should Form PF require all Form PF filers to use calendar years and quarters for all Form PF purposes, including in determining filing thresholds and when to update Form PF?

14. Should we reduce the number of days by which filers must update Form PF to receive data sooner? How would this relieve or increase burdens? For example, should Form PF require large hedge fund advisers to update Form PF within 30 calendar days after the end of each calendar or fiscal quarter, rather than 60 calendar days? Should Form PF require large liquidity fund advisers to report within 10 calendar days after the end of each calendar quarter, rather than 15 calendar days? Should annual filers file within 30 calendar days after the end of their fiscal year, rather than 120 calendar days?

15. Should Form PF reporting timelines be more or less consistent with Form CPO–PQR?

B. Proposed Amendments Concerning Basic Information About the Adviser and the Private Funds it Advises

Each adviser required to file Form PF must complete all or part of section 1. The proposed amendments to section 1 are designed to provide greater insight into private funds' operations and strategies, and assist in identifying trends, including those that could create systemic risk, which in turn is designed to enhance investor protection efforts and systemic risk assessment. The

[37] *See supra* footnote 32, and accompanying text (discussing proposed amendments to Instruction 8).

[38] Large hedge fund advisers generally would file within 60 calendar days after the end of each calendar quarter and large liquidity fund advisers generally would file within 15 days after the end of each calendar quarter. *See* proposed Instruction 9.

[39] We also propose to amend the term ''data reporting date'' to reflect this proposed approach. *See* Form PF Glossary of Terms.

[40] *See* Form PF Instructions 1 and 3; Form ADV and [17 CFR 275.204–1] Advisers Act rule 204–1 (amendments to Form ADV).

[41] *See* current Instruction 9 (requiring large hedge fund advisers to update Form PF within 60 calendar days after the end of their first, second, and third fiscal quarters, among other things).

[42] We are presenting data from all private fund advisers, not just those who would file on a quarterly basis (*i.e.,* large hedge fund advisers and large liquidity fund advisers), to avoid potentially disclosing proprietary information of individual Form PF filers, and to be inclusive considering that the population of quarterly filers versus annual filers may change over time.

proposed changes are designed to improve comparability across advisers, improve data quality, and reduce reporting errors, based on our experience with Form PF filings.

1. Proposed Amendments to Section 1a of Form PF—Identifying Information

Section 1a requires an adviser to report identifying information about the adviser and the private funds it manages. We are proposing several amendments to collect additional identifying information regarding the adviser, its related persons, as well as their private fund assets under management.

LEI for advisers and related persons. Legal entity identifiers, or ''LEIs,'' help identify entities and link data from different sources that use LEIs.[43] Currently, Form PF requires advisers to report the LEI for certain entities, if they have one, such as for the reporting fund and any parallel funds.[44] Form PF's current definition of ''LEI'' provides that, in the case of a financial institution that has not been assigned an LEI, advisers must provide the RSSD ID assigned by the National Information Center of the Board of Governors of the Federal Reserve System (''Federal Reserve Board''), if the financial institution has an RSSD ID.[45] We propose to remove this requirement and, instead, provide that advisers must not substitute any other identifier that does not meet the definition of an LEI.[46] However, advisers would use the RSSD ID, if the financial institution has one, for questions that specifically request an RSSD ID, and for questions that require advisers to report any other identifying information where the type of information is not specified.[47] These proposed amendments are designed to improve data quality because, based on experience with the current form, reporting RSSD IDs as LEIs makes it more difficult for staff to link data efficiently and effectively.

While Form PF currently requires advisers to provide the LEI for entities such as reporting funds and parallel funds, if the entities have one, it does not require advisers to report the LEI for itself and its related persons.[48] We propose to require advisers to provide the ''LEI'' for themselves and their ''related persons,'' if they have an LEI.[49] This proposed amendment is designed to help identify advisers and their related persons and link data from other data sources that use this identifier.

We request comment on the proposed amendments.

16. Should we require advisers to report ''LEI'' for financial institutions that have one and only report ''RSSD ID'' as a secondary identification where asked, as proposed? Would the proposed amendments help us improve data quality and help link data more efficiently and effectively from other sources that use LEIs and RSSD IDs? Is there a better way to meet these objectives?

17. Should Form PF require advisers to report the LEI for certain entities, if they have one, as proposed, such as the adviser and each related person, as well as internal private funds, trading vehicles, creditors, and counterparties, or others? Alternatively, should Form PF require any entities to obtain LEIs if they do not have them? Would those entities seek to obtain LEIs in the future absent any regulatory requirement to do so?

18. Are there other data sources we also should use that would allow us to link entities across forms?

19. Should we amend the term ''LEI'' in Form PF to match Form ADV or any other forms that use the term or a similar term?

Assets under management. We are proposing to revise how advisers report assets under management attributable to certain private funds. Current Question 3 requires advisers to provide a breakdown of regulatory assets under management and net assets under management. These data are designed to show the size of the adviser and the nature of the adviser's activities. We propose to amend the instructions to direct advisers to exclude the value of private funds' investments in other internal private funds to avoid double counting of fund of funds assets.[50] Advisers would include the value of trading vehicle assets because, under the proposed definition, they would be wholly owned by one or more reporting funds.[51] These proposed amendments are designed to provide a more accurate view of the assets managed by the adviser and its related persons, as well as the general distribution of those assets among various types of private funds, because accurately viewing the scale of these managed assets is important to effectively assess systemic risk and further investor protection efforts.

We request comment on the proposed amendments.

20. Would the proposed amendments prevent double counting fund of funds assets? Is there a better way to meet this objective? Should we include private funds managed by the adviser's related persons in the definition of internal private fund for these purposes? Are there other types of investments that should be disregarded in order to prevent double counting? Are there other approaches to trading vehicles?

21. Form PF currently requires advisers to provide a breakdown of assets under management and regulatory assets under management based on certain categories of private funds. Should we require advisers to provide a breakdown for more, fewer, or different categories of private funds than Form PF currently provides? For example, should Question 3 include categories such as special purpose vehicles, private credit funds, or types of fund of funds?

Explanation of assumptions. We are proposing to amend current Question 4, which advisers use to explain assumptions that they make in responding to questions on Form PF. Specifically, we propose to add an instruction directing advisers to provide the question number when the assumptions relate to a particular question.[52] This amendment is designed to help assess data more efficiently and

[43] Form PF generally defines ''LEI'' as: the ''legal entity identifier'' assigned by or on behalf of an internationally recognized standards setting body and required for reporting purposes by the U.S. Department of the Treasury's Office of Financial Research or a financial regulator. *See* Form PF Glossary of Terms.

[44] *See* current Question 5(d) and current Question 7(e). Current Form PF also requires large liquidity advisers to report the LEI for each security and repo held by the reporting fund, if they have one. *See* current Question 63(d) and current Question 63(g), respectively. Current Form PF also requires large private equity advisers to report the LEI for each of the reporting fund's controlled portfolio companies that constitute a financial industry portfolio company. *See* current Question 76.

[45] *See* current Form PF Glossary of Terms. Currently, if an LEI has not been assigned and there is no RSSD ID, then the adviser would leave that line blank.

[46] *See* proposed Form PF Glossary of Terms.

[47] *See e.g.,* proposed Question 9. We also would add ''RSSD ID'' to the Form PF Glossary of Terms and define it as the identifier assigned by the National Information Center of the Federal Reserve Board, if any. *See* Form PF Glossary of Terms.

[48] *See e.g.,* current Question 5 and current Question 7.

[49] *See* Proposed Question 1. We also propose to require advisers to provide the LEI for other entities, if the other entities have one, including internal private funds (see proposed Question 7 and proposed Question 15), trading vehicles (see proposed Question 9), and counterparties (see proposed Question 27 and proposed Question 28). A ''related person'' has the meaning provided in Form ADV. *See* Form PF Glossary of Terms. Form ADV defines a ''related person'' as any advisory affiliate and any person that is under common control with the adviser. *See* Form ADV Glossary of Terms.

[50] *See* proposed Question 3.

[51] *See* proposed Question 3. *See* proposed Form PF Glossary of Terms.

[52] *See* proposed Question 4.

improve comparability, based on experience with the form.

We request comment on the proposed amendments.

22. Is there a better way to achieve our objectives of assessing data more efficiently and improving comparability?

2. Proposed Amendments to Section 1b of Form PF—Concerning All Private Funds

Section 1b requires advisers to report certain identifying and other basic information about each private fund the adviser manages. The proposal would amend section 1b to require advisers to report additional identifying information about the private funds they manage as well as the private funds' assets, financing, investor concentration, and performance. The proposed changes are designed to provide greater insight into private funds' operations and strategies and assist in identifying trends that we believe would enhance investor protection efforts and FSOC's systemic risk assessment. At the same time, we believe the proposed amendments would help improve data quality and comparability, based on experience with Form PF.

Type of private fund. We are proposing several amendments to identify different types of reporting funds better, and help isolate data according to fund type, to allow for more targeted analysis. Currently, advisers indicate a reporting fund's type on the Private Fund Reporting Depository (''PFRD'') filing system, and by filling out particular sections of the form.[53] We have found instances, however, where advisers have identified a reporting fund differently on Form PF than on Form ADV, even though the definitions of each fund type are the same on both forms. This may be due to error, or may be due to the fund's characteristics changing between deadlines for Form ADV and Form PF. Accordingly, to help prevent reporting errors and help ensure accuracy concerning the reporting fund's type, we propose to require advisers to identify the reporting fund by selecting one type of fund from a list: hedge fund that is not a qualifying hedge fund, qualifying hedge fund, liquidity fund, private equity fund, real estate fund, securitized asset fund, venture capital fund, or ''other.''[54] If an adviser identifies the reporting fund as ''other,'' the adviser would describe the reporting fund in Question 4, including why it would not qualify for any of the other options.

In addition, we propose to require an adviser to indicate whether the reporting fund is a ''commodity pool,'' which is categorized as a hedge fund on Form PF.[55] Although the CFTC does not, as of the date of this proposal, consider Form PF reporting on commodity pools as constituting substituted compliance with CFTC reporting requirements, some CPOs may continue to report such information on Form PF.[56] This proposed amendment would allow for analysis of hedge fund data both with and without commodity pools reported on the form.

Finally, we propose to require advisers to report whether a reporting fund operates as a UCITS or AIF, or markets itself as a money market fund outside the United States, and in which countries (if applicable).[57] These proposed amendments are designed to allow the Commissions and FSOC to filter data for more targeted analysis to better understand the potential exposure to beneficial owners outside the United States and to avoid double counting when Form PF data is aggregated with other data sets that include UCITS, AIFs, and money market funds that are marketed outside the United States.

We request comment on the proposed amendments.

23. Should Form PF require advisers to report additional identifying information about the private funds they advise, as proposed? Would the proposed amendments help identify each type of reporting fund, allow the Commissions and FSOC to filter data concerning types of funds, and conduct more targeted analysis? Is there a better way to meet these objectives?

24. Should proposed Question 6 include more, fewer, or different categories of private funds? For example, should the form include a category for funds that may be ''hybrid'' funds that may have characteristics of different types of private funds? Should proposed Question 6 include an ''other'' category, as proposed? Alternatively, should proposed Question 6 not include an ''other'' category and instead require that advisers select the best fit among the specific categories? Are there other ways to limit the types of funds that may report as ''other?''

25. Should Form PF require advisers to explain in Question 4 why they choose ''other'' as a category, as proposed? Would this proposed requirement clarify what type of fund the reporting fund is, if it does not fit within the other categories? Is there a better way of identifying what type of fund the reporting fund is? Should Form PF require the adviser to include more, less, or different information in the explanation?

26. Should Form PF require advisers to identify if the reporting fund is a commodity pool, as proposed? Are any CPOs currently reporting information regarding any commodity pools, even if they are not private funds? If so, why? Alternatively, should we revise the definition of ''hedge fund'' so it would not include commodity pools? If we exclude commodity pools from the definition of ''hedge fund,'' should we amend Form PF to require advisers to report the same or different information about commodity pools as they do for hedge funds?

27. Should Form PF require advisers to report whether and in which countries the reporting company operates as a UCITS or AIF, or markets itself as a money market fund outside the United States, as proposed? Would the proposed amendment allow us and FSOC to filter data for more targeted analysis to better understand the potential exposure to beneficial owners outside the United States and to avoid double counting when Form PF data is aggregated with other data sets that include UCITS and AIFs? Is there a better way to meet these objectives?

28. Should Form PF define UCITS and AIF, as proposed? Would the proposed definitions keep the terms evergreen if directives change or new ones apply? If not, how should we define these terms? For example, should we provide less detail in the definition

[53] For advisers that are also CPOs or CTAs, filing Form PF through PFRD is filing with both the SEC and CFTC. *See* Instruction 3 (instructing advisers to file particular sections of Form PF, depending on their circumstances. For example, all Form PF filers must file section 1 and large hedge fund advisers also must file section 2).

[54] Proposed Question 6(a).

[55] Proposed Question 6(b). Form PF defines ''commodity pool'' as defined in section 1a(10) of the U.S. Commodity Exchange Act, as amended. *See* Form PF Glossary of Terms.

[56] Previously, the CFTC permitted dually registered CPO-investment advisers to submit Form PF in lieu of certain CFTC reporting requirements. *See* Compliance Requirements for Commodity Pool Operators on Form CPO–PQR, (Oct. 9, 2020) [85 FR 71772 (Nov. 10, 2020)] (''Form CPO–PQR Release'').

[57] *See* proposed Question 6(c) through (h). We propose to define the term ''UCITS'' as Undertakings for Collective Investment in Transferable Securities, as defined in the UCITS Directive of the European Parliament and of the Council (No. 2009/65/EC), as amended, or as captured by the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019, as amended. We propose to define ''AIF'' as an alternative investment fund that is not regulated under the UCITS Directive, as defined in the Directive of the European Parliament and of the Council on alternative investment fund managers (No. 2011/61/EU), as amended, or an alternative investment fund that is captured by the Alternative Investment Fund Managers (Amendment etc.) (EU Exit) Regulations 2019, as amended. *See* Form PF Glossary of Terms.

about the directives to keep the definitions evergreen?

Master-feeder arrangements, internal private funds, external private funds, and parallel fund structures. To reflect that advisers would report components of master-feeder arrangements and parallel fund structures separately, we propose to amend Form PF to require advisers to report identifying information about master-feeder arrangements and other private funds (*e.g.,* funds of funds), including internal private funds, and external private funds.[58] Form PF currently requires advisers to report identifying information about parallel funds, and would continue to do so under the proposal.[59] The proposal also would require advisers to report the value of the reporting fund's investments in other private funds (*e.g.,* funds of funds), as current Question 10 requires, but with more detail.[60] Specifically, the proposal would require advisers to report the value of the reporting fund's equity investments in external private funds and internal private funds (including the master fund and each internal private fund), which would comprise the total investments in other private funds.[61] These amendments are designed to help map complex fund structures and cross reference private fund information across Form PF filings, to provide more complete and accurate information about each fund's risk profile.

In connection with these proposed amendments, in the Form PF Glossary of Terms, we propose to remove the terms ''investments in external private funds'' and ''investments in internal private funds,'' and replace them with ''external private funds'' (private funds that neither the adviser nor the adviser's related persons advise) and ''internal private funds'' (private funds that the adviser or any of the adviser's related persons advise), respectively. The proposed definitions would not direct advisers to exclude ''cash management funds,'' as is currently the case under the terms being removed, because we observed that advisers determine whether a fund is a cash management fund inconsistently. Therefore, this proposed amendment is designed to improve data quality.

We request comments on the proposed amendments.

29. Would the proposed amendments help to map complex fund structures and cross reference them to private fund information across Form PF filings? Would the proposed amendments provide more complete and accurate information about each fund's risk profile? Is there a better way to meet these objectives?

30. Should the form require different or additional identifying information to identify a master fund, feeder fund, internal private fund, or external private fund?

31. Should Form PF require advisers to report the private fund identification number for any feeder funds, as proposed, even though advisers annually report the private fund identification number of any feeder funds that invest in a private fund they advise on Form ADV?[62]

32. Should Form PF define ''internal private funds,'' ''external private funds,'' and ''trading vehicle,'' as proposed? Are there alternative definitions we should adopt? For example, should we define ''internal private funds'' and ''external private funds'' to exclude cash management funds as the current definitions of ''investments in internal private funds'' and ''investments in external private funds'' do?

Withdrawal or redemption rights. The proposal would change how advisers report withdrawal and redemption rights. Form PF currently requires only large hedge fund advisers to report whether each qualifying hedge fund provides investors with withdrawal or redemption rights in the ordinary course.[63] We propose to require all advisers to provide this information for each reporting fund to inform the Commissions and FSOC better of all reporting funds' susceptibility to stress through investor redemptions, to help identify how widespread the stress is.[64] If the reporting fund provides investors with withdrawal or redemption rights in the ordinary course, we propose to require advisers to indicate how often withdrawals or redemptions are permitted by selecting from a list of categories.[65] Advisers would report this information regardless of whether there are notice requirements, gates, lock-ups, or other restrictions on withdrawals or redemptions.[66] We believe these proposed amendments would allow us and FSOC to identify better reporting funds that may be affected by investor withdrawals during certain market events, or vulnerable to failure as a result of investor redemptions. We believe this information also would provide insight into other data that all reporting funds report. For example, we understand that private equity funds that do not typically offer redemption rights in the ordinary course likely have certain patterns of subscriptions and withdrawals, and also report performance to investors and prospective investors as an internal rate of return, rather than reporting based on changes in the portfolio market value. We propose to define ''internal rate of return'' in the proposed Form PF Glossary of Terms as the discount rate that causes the net present value of all cash flows throughout the life of the fund to be equal to zero. Analyzing reported information about investor withdrawal or redemption rights together with reported information about subscriptions and withdrawals or performance is designed to help us identify developing trends relevant to identifying systemic risk and would help us further investor protection efforts. We request comment on the proposed amendments.

33. Should we require all advisers to report information about withdrawal and redemption rights about all the reporting funds they advise, as proposed? Alternatively, should only certain advisers report this information for only certain reporting funds? If so, which ones and why?

34. Should Form PF include more, fewer, or different categories for the schedule of withdrawal or redemption

[58] For master-feeder arrangements, advisers would report the name of the feeder fund, its private fund identification number, and whether the feeder fund is a separate reporting fund or a disregarded feeder fund. For internal private funds that invest in the reporting fund, advisers would report the name of the internal private fund, its LEI, if it has one, and its private fund identification number. *See* proposed Question 7. If the reporting fund invests in external private funds, advisers would report the name of the master fund, its private fund identification number, and the master fund's LEI, if it has one. If the reporting fund invests in internal private funds, advisers would report the internal private fund's name, its private fund identification number, and its LEI, if it has one. Proposed Question 15.

[59] *See* current Question 7 and proposed Question 8.

[60] This requirement would be part of proposed Question 15.

[61] *See* proposed Question 15.

[62] Form ADV, section 7.B.(1).A.6.

[63] Current Question 49(a).

[64] To implement this, the proposal would move current Question 49(a) from section 2b, which requires large hedge fund advisers to report information about qualifying hedge funds, to section 1b which requires all advisers to report information about all the reporting funds they advise, and redesignate it as Question 10. To accommodate moving the question, the proposal would make corresponding amendments to the instructions in current Question 49, which we would redesignate as Question 52.

[65] Proposed Question 10(b). The categories would be (1) any business day, (2) at intervals of at least two business days and up to a month, (3) at intervals longer than monthly up to quarterly, (4) at intervals longer than quarterly up to annually, and (5) at intervals of more than one year.

[66] For example, if the reporting fund allows quarterly redemptions that are subject to a gate, then the adviser would select ''at intervals longer than monthly up to quarterly.''

rights? As an alternative, should advisers be able to select ''other'' as a schedule category? Under what circumstances would an adviser select ''other?''

35. Should we define ''internal rate of return'' as proposed? If not, what alternative definitions should we use?

Trading vehicles. We are proposing to require advisers to provide identifying information for any trading vehicle in which the reporting fund holds investments or conducts activities.[67] Advisers would disclose the trading vehicle's legal name; LEI, if it has one; and any other identifying information about the trading vehicle, such as the RSSD ID, if it has one. This proposed amendment is designed to help the Commissions and FSOC understand the reporting fund's activities, including how it interacts with the market if the fund trades through a trading vehicle and related counterparty exposures. The identifying information also is designed to allow comparisons of Form PF data with data from other sources that use such information to identify entities. Enhancing the ability to compare Form PF data in this way is designed to provide a more comprehensive view of the market, and therefore, enhance investor protection efforts and systemic risk assessment.

We request comment on the proposed amendments.

36. Should all advisers provide identifying information for a trading vehicle, including an LEI if it has one, as proposed? Alternatively, should only certain advisers report it for certain reporting funds?

37. Do any trading vehicles not have an LEI?

38. Should Form PF require more, less, or different identifying information for the trading vehicle?

Gross asset value and net asset value. We propose several amendments to the way advisers report gross asset value and net asset value. We propose to require advisers who are filing quarterly updates to report gross asset value and net asset value as of the end of each month of the reporting period, rather than only reporting the information as of the end of the reporting period, as Form PF currently requires.[68] This proposed amendment is designed to facilitate analysis of other monthly Form PF data, including certain fund performance and risk metrics.[69]

We also propose to add new Question 13 to require advisers to separately report the value of unfunded commitments included in the gross and net asset value reported in proposed Questions 11 and 12.[70] Current Questions 8 and 9 require valuations based on the instruction in Form ADV for calculating regulatory assets under management, which requires advisers to include the amount of any unfunded commitments.[71] This approach reflects that, in the early years of a private fund's life, its adviser typically earns fees based on the total amount of capital commitments, which we presume reflects compensation for efforts expended on behalf of the fund in preparation for the investments.[72] We continue to believe that net asset value and gross asset value should include unfunded commitments so Form PF data is comparable to Form ADV data. However, there are circumstances where understanding the amount represented by unfunded commitments would enhance our understanding of changes to a reporting fund's net and gross asset value over time, inform us of trends, and improve data comparability over the life of the fund. For example, knowing the value of uncalled commitments would help the Commissions and FSOC more accurately identify how much leverage a fund with uncalled commitments has. Currently, the Commissions and FSOC only can infer this information but it is unclear whether such inferences are correct. Therefore, this proposed amendment is designed to improve data accuracy and comparability, which is important for effective systemic risk assessment and investor protection efforts.

We request comment on the proposed amendments.

39. Should Form PF require advisers who are filing quarterly updates to report information as of the end of each month of the reporting period, as proposed? Would this requirement facilitate our and FSOC's analysis of such advisers' other monthly Form PF data? Is there a better way to meet this objective?

40. Should Form PF require advisers to report the value of unfunded commitments included in the gross asset value and net asset value, as proposed? Would the proposed amendment improve data accuracy and comparability? Would the proposed amendment more accurately identify how much leverage a fund with uncalled commitments has? Is there a better way to meet this objective?

Inflows and outflows. We propose to add a question requiring advisers to report information concerning the reporting fund's activity, including contributions to the reporting fund, as well as withdrawals and redemptions, which would include all withdrawals, redemptions, or other distributions of any kind to investors.[73] Form PF would specify that, for purposes of the question, advisers must include all new contributions from investors, but exclude contributions of committed capital that they have already included in gross asset value calculated in accordance with Form ADV instructions.[74] Quarterly filers would provide this information for each month of the reporting period. This proposed requirement is designed to facilitate analysis of other monthly Form PF data, including certain fund performance and risk metrics.[75] Therefore, this amendment is designed to improve data accuracy, and allow the Commissions and FSOC to analyze data more efficiently. Inflows and outflows inform the Commissions and FSOC of the relationship between flows and performance, changes to net and gross asset value, as well as trends in the private fund industry. Accordingly, this question is designed to provide a more accurate baseline understanding of

[67] Proposed Question 9.

[68] *See* current Questions 8 and 9, and proposed Questions 11 and 12. We also propose to make amendments to the instructions in current Question 8 (which we would redesignate as proposed Question 11) to correspond with the proposed instructions that would no longer allow advisers to aggregate master-feeder arrangements, as discussed above.

[69] *See e.g.,* proposed Question 23 (requiring all private fund advisers to report monthly performance data, to the extent such results are calculated for the reporting fund), *supra* footnote 98, and accompanying text, and proposed Question 48 (requiring large hedge funds to report monthly data concerning the reporting fund's portfolio correlation), *infra* section II.C.2 of this Release.

[70] Form PF currently defines ''unfunded commitments'' as ''committed capital'' that has not yet been contributed to the private equity fund by investors. We propose to amend the definition so it refers to all reporting funds, not only private equity funds. Form PF defines ''committed capital'' as any commitment pursuant to which a person is obligated to acquire an interest in, or make capital contributions to, the private fund. *See* Form PF Glossary of Terms.

[71] Form PF requires advisers to calculate gross asset value and net asset value using regulatory assets under management, a regulatory metric from Form ADV. See ''gross asset value'' and ''net asset value'' as defined in Form PF Glossary of Terms; Form ADV: Instructions for Part 1A, Instruction 5.b. An adviser must calculate its regulatory assets under management on a gross basis, that is, without deduction of any outstanding indebtedness or other accrued but unpaid liabilities. In addition, an adviser must include the amount of any uncalled capital commitments made to a private fund managed by the adviser.

[72] Rules Implementing Amendments to the Investment Advisers Act of 1940, Advisers Act Release No. 3221 (June 22, 2011) [76 FR 42950, 42956 (July 19, 2011)], at text accompanying n.90.

[73] *See* proposed Question 14.

[74] Form PF would cite to Form ADV, Part 1A Instruction 6.e.(3).

[75] *See supra* footnote 69.

inflows and outflows, so the Commissions and FSOC can, for example, more accurately assess how much the private fund industry has grown from flows versus performance. Inflows and outflows also can indicate funding fragility, which can have systemic risk implications. Therefore, this amendment also is designed to provide more accurate data of inflows and outflows for systemic risk assessment and investor protection efforts, including identifying activity that may not match investor disclosures.

We request comment on the proposed amendments.

41. Should proposed Question 14 apply to advisers to all reporting funds, as proposed, or only certain advisers to only certain reporting funds?

42. Should proposed Question 14 instruct advisers to include or exclude any other information? Would proposed Question 14 raise operational challenges? For example, should the instructions specify whether to include or exclude distributions that may be recallable by the fund (*i.e.,* ''recyclable capital commitments'' or capital that can be recalled to invest during a portion of the investment period)?

43. Should Form PF require advisers to provide the amount of new redemptions or subscriptions based on notices that would be payable or expected after Form PF is due? If so, should all advisers submit such data for all reporting funds, or should only certain advisers submit it for only certain reporting funds?

Base currency. The proposal would require all advisers to identify the base currency of all reporting funds, rather than only large hedge fund advisers identifying this information for only qualifying hedge funds.[76] When a reporting fund uses a base currency other than U.S. dollars in the current Form PF, the adviser must convert all monetary values to U.S. dollars, unless otherwise specified, to complete Form PF, which may cause inconsistencies in the data.[77] Currently, the Commissions and FSOC can identify such inconsistencies only for qualifying hedge funds from current Question 31. Therefore, this proposed change is designed to allow us and FSOC to interpret more accurately responses to questions regarding foreign exchange exposures and the effect of changes in currency rates on all reporting fund portfolios to aid systemic risk assessment and investor protection efforts across all reporting fund portfolios.

We request comment on the proposed amendments.

44. Should we expand reporting of base currency information for all reporting funds, as proposed? Would the proposed change allow us and FSOC to interpret responses to questions regarding foreign exchange exposures and the effect of changes in currency rates for these funds?

45. Would the proposed amendment improve efficiency?

Borrowings and types of creditors. The proposal would revise how advisers report the reporting fund's ''borrowings.'' We propose to revise the term ''borrowings'' to (1) specify that it includes ''synthetic long positions,'' which Form PF would define in the Glossary of Terms, and (2) provide a non-exhaustive list of types of borrowings.[78] This proposed reporting approach is consistent with SEC staff guidance from Form PF Frequently Asked Questions.[79] This proposed amendment is designed to improve data quality, based on experience with the form. Current Question 12 requires advisers to report the value of the reporting fund's borrowings and the types of creditors. We propose to amend this question to require advisers to indicate whether a creditor is based in the United States and whether it is a ''U.S. depository institution,'' rather than a ''U.S. financial institution'' as is currently required.[80] This proposed amendment is designed to make the categories more consistent with the categories the Federal Reserve Board uses in its reports and analysis, to enhance systemic risk assessment. The proposal would not require advisers to distinguish between non-U.S. creditors that are depository institutions and those that are not. We understand that it is difficult for advisers to distinguish non-U.S. creditors by type, resulting in inconsistent data that is less valuable for analysis.

We request comment on the proposed amendments.

46. Should Form PF define or redefine any terms related to proposed Question 18? For example, should Form PF define ''U.S. depository institution,'' ''synthetic long positions,'' and revise the term ''borrowings,'' as proposed? Could the definitions be clearer? Should Form PF define the terms differently? For example, should ''synthetic long position'' provide a different list of assets to be included or excluded? Does the reference to deep-in-the-money options in the definition of ''synthetic long position'' need further clarification? If so, what clarifications should we make?

47. Would advisers find it difficult to distinguish among different types of non-U.S. creditors? Should Form PF require advisers to distinguish between non-U.S. creditors that are depository institutions and those that are not, or non-U.S. creditors that are financial institutions and those that are not?

Fair value hierarchy. Current Question 14 requires advisers to report the assets and liabilities of each

[76] To implement this, the proposal would move current Question 31 from current section 2b, which requires large hedge fund advisers to report information about qualifying hedge funds, to section 1b which requires all advisers to report information about all the reporting funds they advise. *See* proposed Question 17.

[77] *See* current Instruction 15. We also propose to revise Instruction 15 to provide additional instructions concerning currency conversions. *See* section II.D of this Release.

[78] ''Borrowings'' would include, but would not be limited to (1) cash and cash equivalents received with an obligation to repay; (2) securities lending transactions (count cash and cash equivalents and securities received by the reporting fund in the transaction, including securities borrowed by the reporting fund for short sales); (3) repo or reverse repo (count the cash and cash equivalents and securities received by the reporting fund); (4) negative mark-to-market of derivative transactions from the reporting fund's point of view; and (5) the gross notional value of ''synthetic long positions.'' We propose to define a ''synthetic long position'' in the Form PF Glossary of Terms (*see* the proposed Form PF Glossary of Terms for the proposed definition.) We are proposing this definition based on our understanding of the instruments and to help ensure data quality to aid comparability.

[79] *See* SEC staff Form PF Frequently Asked Questions, *available at https://www.sec.gov/divisions/investment/pfrd/pfrdfaq.shtml (''Form PF Frequently Asked Questions'')*. *See* Form PF Frequently Asked Question 12.1 (which provides a non-exhaustive list of types of borrowings).

[80] *See* proposed Question 18. Form PF would define ''U.S. depository institution'' as any U.S. domiciled depository institution, including any of the following: (1) a depository institution chartered in the United States, including any federally-chartered or state-chartered bank, savings bank, cooperative bank, savings and loan association, or an international banking facility established by a depositary institution chartered in the United States; (2) banking offices established in the United States by a financial institution that is not organized or chartered in the United States, including a branch or agency located in the United States and engaged in banking not incorporated separately from its financial institution parent, United States subsidiaries established to engage in international business, and international banking facilities; (3) any bank chartered in any of the following United States affiliated areas: U.S. territories of American Samoa, Guam, and the U.S. Virgin Islands; the Commonwealth of the Northern Mariana Islands; the Commonwealth of Puerto Rico; the Republic of the Marshall Islands; the Federated States of Micronesia; and the Trust Territory of the Pacific Islands (Palau); or (4) a credit union (including a natural person or corporate credit union). Form PF defines ''U.S. financial institution'' as any of the following: (1) a financial institution chartered in the United States (whether federally-chartered or state-chartered); (2) a financial institution that is separately incorporated or otherwise organized in the United States but has a parent that is a financial institution chartered outside the United States; or (3) a branch or agency that resides outside the United States but has a parent that is a financial institution chartered in the United States. *See* proposed Form PF Glossary of Terms.

reporting fund broken down using categories that are based on the fair value hierarchy established under U.S. generally accepted accounting principles.[81] Current Question 14 is designed to provide insight into the illiquidity and complexity of a fund's portfolio and the extent to which the fund's value is determined using metrics other than market mechanisms.[82] We are proposing to revise how advisers report fair value hierarchy in current Question 14, which we would redesignate as proposed Question 20, in the following ways to improve data quality and better understand the reporting fund's complexity and valuation challenges:

- We propose to require advisers to indicate the date the categorization was performed. This proposed amendment is designed to show how old the data is. Some advisers report current fair value hierarchy, while others report a prior year's fair value hierarchy if the current data is not yet available.[83] This can cause confusion when analyzing the data, because the fair value hierarchy data concerns a different time period than the other data advisers report on Form PF. Therefore, we believe that adding a categorization date would help ensure the data is not incorrectly categorized as applying to the wrong time period, and in turn, would allow the Commissions and FSOC to correlate data to other Form PF data and market events more accurately.

- We propose to direct advisers to report the absolute value of all liabilities. Currently, advisers report liabilities inconsistently, with some reporting absolute values and others reporting negative values. This inconsistency causes errors when the Commissions and FSOC aggregate this data and we believe the proposed instruction would help reduce aggregation errors.

- We propose to direct advisers to provide an explanation in Question 4 if they report assets as a negative value. We have found that some advisers have reported negative values for assets in error.[84] Therefore, this instruction is designed to reduce inadvertent errors.

- We propose to require advisers to separately report cash and cash equivalents. Currently, Form PF does not explain where advisers must report cash and cash equivalents in current Question 14. While SEC staff have suggested that advisers generally should report cash in the cost based column and cash equivalents in the applicable column in the fair value hierarchy or the cost based column, depending on the nature of the cash equivalents, we are proposing to add a separate column for cash and cash equivalents.[85] The proposed categorization is designed to differentiate reported holdings of cash and cash equivalents from harder to value assets that may be valued at cost, and in turn, improve data quality and comparability.

- We propose to amend the definition of ''cash and cash equivalents.'' The current definition of ''cash and cash equivalents'' includes ''government securities.''[86] When reporting cash and cash equivalents, some advisers may include government securities with longer maturities, while others do not, which results in inconsistent reporting and may obscure our and FSOC's understanding of fund exposures. Therefore, to improve data quality, we propose to remove government securities from the definition of ''cash and cash equivalents,'' and present it as its own line item in the proposed Form PF Glossary of Terms.[87] We also propose to amend the term ''cash and cash equivalents'' so it would direct advisers to not include any digital assets when reporting cash and cash equivalents. As discussed in section II.B.3 of this Release, we propose to define ''digital assets'' and require advisers to report them separately than other types of assets.[88] Therefore, this proposed amendment is designed to ensure that the categories of ''cash and cash equivalents'' and ''digital assets'' are clearly distinct to help ensure accurate reporting.

- We propose to add instructions directing advisers about how to report data if their financial statement's audit is not yet completed when Form PF is due. The instructions would state that advisers should use the estimated values for the fiscal year and explain that the information is an estimate in Question 4. The proposed instructions also would provide that the adviser may, but is not required to, amend Form PF when the audited financial statements are complete.[89] The instructions are consistent with responses to Form PF Frequently Asked Questions and are designed to provide the Commissions and FSOC with more recent information regarding the reporting fund than may be possible if the reporting fund relied solely on audited financial statement information (*i.e.,* the reporting fund's previous fiscal year's audited financial statements).[90] Given that advisers file Form PF sometimes months after their quarter and year ends, depending on their size and the type of funds they advise, we believe the proposed instruction would balance reporting burdens with more timely information for assessing potential systemic risk and investor protection concerns.

We request comment on the proposed amendments.

48. Should we require advisers to indicate the date the categorization was performed, as proposed? Would this proposed amendment help ensure the data is correctly categorized as applying to the appropriate time period, and in turn, allow the Commissions and FSOC to correlate data to other Form PF data and market events more accurately? Is there a better way to meet this objective?

49. Should Form PF direct advisers to report the absolute value of all liabilities, as proposed? Would this proposed amendment reduce aggregation errors? Is there a better way to meet this objective?

50. Should Form PF direct advisers to provide an explanation in Question 4 if they report assets as a negative value, as proposed? Would this proposed instruction reduce inadvertent errors?

51. Should advisers report cash or cash equivalents separately from other

[81] *See* 2011 Form PF Adopting Release, *supra* footnote 3, at text accompanying n.204.

[82] *See* 2011 Form PF Adopting Release, *supra* footnote 3, at n.204.

[83] Advisers are not required to update information that they believe in good faith properly responded to Form PF on the date of filing even if that information is subsequently revised for purposes of their recordkeeping, risk management, or investor reporting (such as estimates that are refined after completion of a subsequent audit). *See* Instruction 16.

[84] We recognize that there may be cases when advisers correctly report negative values, such as when subtracting fund of fund investments.

[85] *See* Form PF Frequently Asked Question 14.3, Form PF Frequently Asked Questions, *supra* footnote 79.

[86] Current Form PF defines ''government securities'' in the current term ''cash and cash equivalents'' as (1) U.S. treasury securities, (2) agency securities, and (3) any certificate of deposit for any of the foregoing.

[87] We propose to make corresponding amendments to the definition of ''unencumbered cash'' to reflect that ''government securities'' would be a distinct term from ''cash and cash equivalents.'' This proposed amendment is not intended to change the meaning of the term ''unencumbered cash.'' *See* Form PF Glossary of Terms.

[88] *See e.g.,* proposed Question 25, which would include digital assets as a strategy category for advisers to hedge funds.

[89] Form PF Instruction 16 would continue to provide that an adviser is not required to update information that it believes in good faith properly responds to Form PF on the date of filing, even if that information is subsequently revised, as Form PF currently provides.

[90] *See* Form PF Frequently Asked Question A.11, Form PF Frequently Asked Questions, *supra* footnote 79.

assets, as proposed? Are there other alternatives we should implement? For example, should Form PF require advisers to report cash in the cost based column and cash equivalents in the applicable column in the fair value hierarchy or the cost based column, depending on the nature of the cash equivalents? [91]

52. Would the proposed amendments to the terms ''cash and cash equivalents'' and ''unencumbered cash,'' and the addition of ''government securities'' allow for more precise reporting for these types of assets? Alternatively, should the definition of ''cash and cash equivalents'' provide that government securities would be included in cash equivalents if they are eligible to be held by money market funds under the risk-limiting condition set forth in [17 CFR 270.2a–7(d)(1)(i)] Investment Company Act rule 2a-7(d)(1)(i), which generally prohibits a money market fund from acquiring any instrument with a remaining maturity of greater than 397 calendar days? Should this language be more comparable with other requirements of Form PF, which require large liquidity fund advisers to report the dollar amount of a liquidity fund's assets that have a maturity greater than 397 days? [92] Should Form PF provide distinct line items for the term ''cash'' and ''cash equivalents,'' and revise questions to refer to each term, as applicable? Should the term ''unencumbered cash'' continue to refer to government securities, as proposed, or should we modify the term differently? For example, should ''unencumbered cash'' refer to U.S. treasury bills, rather than government securities?

53. Should Form PF direct advisers to report estimated values if their financial statement's audit is not yet completed when Form PF is due, as proposed? Alternatively, should we require advisers to update Form PF with updated values when the audited financial statements are complete?

Beneficial Ownership of the Reporting Fund. Current Question 16 requires advisers to specify the approximate percentage of the reporting funds' equity that is beneficially owned by different groups of investors. We propose to require advisers to provide more granular information regarding the following groups of beneficial owners.[93]

- Advisers would indicate whether beneficial owners that are broker-dealers, insurance companies, non-profits, pension plans, banking or thrift institutions are U.S. persons or non-U.S. persons.[94] This proposed amendment is designed to allow the Commissions and FSOC to conduct more targeted analysis about risks presented in the United States separate from risks presented abroad. With regard to pension plans, in particular, it is currently unclear how advisers must report assets in non-U.S. pension plans: as governmental pension plans or foreign official institutions. Therefore, this proposed amendment also is designed to improve data quality, based on experience with the form.
- Advisers would indicate whether beneficial owners that are private funds are either internal private funds (*i.e.,* managed by the adviser or its related persons) or external private funds. This proposed amendment is designed to help the Commissions and FSOC understand the interconnectedness of private funds to each other, which would aid systemic risk assessment and investor protection efforts. Furthermore, this information is designed to help the Commissions and FSOC understand a reporting fund's risk from investor demands for liquidity, because beneficial owners that are external private funds may have less predictable withdrawals than internal private funds.
- We would specify that ''state'' investors are U.S. state investors to improve data quality and reduce potential confusion.[95]

The proposal would provide that if advisers report information in the ''other'' category, they must describe in Question 4 the type of investor, why it would not qualify for any of the other categories, and any other information to explain the selection of ''other.'' This proposed amendment is designed to improve data quality by providing context to the adviser's selection of the ''other'' category, and help ensure that advisers do not inadvertently report information in the wrong category.

We request comment on the proposed amendments.

54. Should we revise the reporting categories as proposed? Should we eliminate, add, or change any categories? For example, should we add categories for security-based swap dealers that are U.S. persons and those that are not? The instructions for current Question 16 require advisers to include each investor in only one group. Therefore, if we require advisers to report whether an investor is a security-based swap dealer, how should they report the investor if the investor also qualifies for another category, such as broker-dealers or ''banking or thrift institutions?'' For example, should the list be non-exclusive? Is there a better way to address cases when advisers may not be able to determine what type of entity the investor is? [96]

55. Should Form PF require advisers to explain their response when they select ''other'' as a category, as proposed? Should Form PF require the adviser to include more, less, or different information in the explanation? Would this proposed change provide context to the adviser's selection of the ''other'' category and help prevent misreporting?

56. Should we add instructions to current Question 15 (which we propose to redesignate as proposed Question 21) to allow good faith estimates in determining beneficial interests outstanding before March 31, 2012 (the effective date of Form PF), that have not been transferred on or after that date, as current Question 16 does and Form PF would continue to provide in proposed Question 22?

57. Current Question 16 includes a category concerning broker-dealers. Under the proposal, advisers would distinguish between broker-dealers that are U.S. persons and those that are not U.S. persons. Should Form PF define ''broker-dealer'' or use different terms so the categories would be more consistent with the Federal Reserve Board's reports and analysis? Is there a way to achieve this objective while ensuring the terms are consistent with the SEC's definition of the terms? For example, should Form PF use and define the term ''broker'' or ''dealer'' as they are defined in the Securities Exchange Act of 1934 (''Exchange Act'')? [97] Should Form PF

[91] *See supra* footnote 85.

[92] *See e.g.,* Form PF, section 3, current Question 55(i). The SEC recently proposed amendments to Form PF section 3, which would redesignate current Question 55(i) to reflect new numbering. *See* 2022 SEC Form PF Proposal, *supra* footnote 13.

[93] *See* proposed Question 22.

[94] We understand that, in some cases, an adviser may not be able to determine what type of non-U.S. entity the investor is. Current Question 16 already provides a category that would address that scenario in certain circumstances, and we would maintain that approach. If investors that are not United States persons and about which certain beneficial ownership information is not known and cannot reasonably be obtained because the beneficial interest is held through a chain involving one or more third-party intermediaries, advisers currently report this in current Question 16(m), which we would redesignate as proposed Question 22(s).

[95] The proposal also would include instructions to proposed Question 22, as well as current Question 15, which we would redesignate as proposed Question 21 (concerning a certain percentage of beneficial ownership), providing that if the reporting fund is the master fund in a master-feeder arrangement, advisers must look through any disregarded feeder fund (*i.e.,* a feeder fund that is not required to be separately reported). This proposed amendment is designed to implement the proposed master-feeder reporting. *See* section II.A.1 of this Release.

[96] *See supra* footnote 94.

[97] 15 U.S.C. 78c(a)(4) and 15 U.S.C. 78c(a)(5).

use and define the term ''foreign broker or dealer'' as it is defined in [17 CFR 240.15a–6(b)(3)] (''Exchange Act rule 15a–6(b)(3)'')? Should Form PF use the term ''securities brokers and dealers,'' and define it the following way: Firms that buy and sell securities for a fee, hold an inventory of securities for resale, or do both? Are the firms that make up this sector those that submit information to the SEC on one of two reporting forms, either [17 CFR 249.617] Form X–17A–5, Financial and Operational Combined Uniform Single Report of Brokers and Dealers (''FOCUS Report'') or [17 CFR 449.5] Form G–405, on Finances and Operations of Government Securities Brokers and Dealers (''FOGS Report'')?

Fund Performance. We are proposing several amendments regarding fund performance reporting in current Question 17, which we would redesignate as proposed Question 23.[98] Currently, Form PF requires all advisers to report gross and net fund performance for specified fiscal periods using a table in current Question 17. The table in current Question 17 requires advisers to provide monthly and quarterly performance results in the table only if such results are calculated for the reporting fund. This requirement would remain, but we propose to add instructions specifying which lines to complete depending on whether the adviser is submitting an initial filing, annual update, or quarterly update.[99] We also propose to amend the instructions to the table to specify that if gross and net performance is reported to current and prospective investors, counterparties, or otherwise in a currency other than U.S. dollars, advisers must report the data using that currency. We believe this instruction is implied in the current form and we propose to amend this instruction to make it explicit. We also propose to require advisers to identify the currency in Question 4.[100] This proposed amendment is designed to inform the Commissions and FSOC of the currency the adviser used to report the reporting fund's gross and net performance, for more accurate and informed analysis.

We also propose to create an exception to the tabular reporting. If the reporting fund's performance is reported to current and prospective investors, counterparties, or otherwise as an internal rate of return since inception, the adviser would report its performance as an internal rate of return.[101] If such information is reported to current and prospective investors, counterparties, or otherwise, in a currency other than U.S. dollars, advisers would report the data using that currency, and identify the currency in Question 4. This approach is designed to acknowledge that advisers calculate performance data differently for different types of private funds. For example, advisers of private equity funds may use internal rate of return to calculate performance data, while advisers to liquidity funds and hedge funds may use a periodic rate of return. These calculations may differ in the way they reflect realized and unrealized gains, among other things. Therefore, the proposed change is designed to allow the Commissions and FSOC to improve the usefulness and quality of performance data to conduct more accurate analysis, including comparisons, and aggregations.

The proposal would require advisers to report additional performance-related information if the adviser calculates a market value on a daily basis for any position in the reporting fund's portfolio. In such a case, the adviser would report the following:

- The ''reporting fund aggregate calculated value'' at the end of the reporting period.[102] Advisers that file a quarterly update also would report the reporting fund aggregate calculated value as of the end of the first and second month of the reporting period.[103]
- The reporting fund's volatility of the natural log of the daily ''rate of return'' for each month of the reporting period, following a prescribed methodology.[104] Advisers would report whether the reporting fund uses a different methodology than is prescribed in Form PF to report to current and prospective investors, counterparties, or otherwise, and if so, they would describe it in Question 4.[105]
- Whether the reporting fund had one or more days with a negative daily rate of return during the reporting period. If so, advisers would report (1) the most recent peak to trough drawdown, and indicate whether the drawdown was continuing on the data reporting date, (2) the largest peak to trough drawdown, (3) the largest single day drawdown, and (4) the number of days with a negative daily rate of return in the reporting period.[106] These measures are designed to help us and FSOC understand risk, particularly in reporting funds with unique return patterns that are poorly measured using volatility alone. We understand that advisers use drawdown metrics, therefore, this question also is designed to be more reflective of industry practice, and in turn improve data quality.

Together, the proposed changes are designed to allow the Commissions and FSOC to more accurately compare volatility across different fund types to identify market trends (*e.g.,* volatility of a specific fund type), for systemic risk assessment and investor protection efforts. For example, if several reporting funds that engage in similar trading activity experience a surge in volatility, the volatility itself or the reporting funds' response to the volatility may impact others who also are engaging in similar trading activity, which could pose systemic risk, and negatively affect investors.

We request comments on the proposed amendments.

[98] In a separate release, the SEC is proposing a new rule under the Advisers Act to require advisers to provide certain fund performance information to its private funds' investors in quarterly statements. *See* Private Fund Advisers; Documentation of Registered Investment Adviser Compliance Reviews, Advisers Act Release No. IA–5955 (Feb. 9, 2022) [87 FR 16886, (Mar. 24, 2022)].

[99] We also propose to reorganize the table so monthly, quarterly, and yearly data is presented in separate categories, but this change would not affect reporting; advisers would report information according to the same intervals, as they currently do. We also propose to amend the table to refer to the end date of each applicable month, quarter, and year, rather than last day of the fiscal period, to reflect the proposed amendments to the reporting period, as discussed above. *See supra* section II.A.3 of this Release, and proposed Question 23(a).

[100] *See* proposed Question 23(a).

[101] *See* proposed Question 23 instructions, and proposed Question 23(b). Proposed Question 23(b) also would require that if the fund reports different performance results to different groups, advisers must provide the most representative results and explain their selection in Question 4. The instructions to proposed Question 23(b) would specify that internal rates of return for periods longer than one year must be annualized, while internal rates of return for periods one year or less must not be annualized. This instruction is designed to help ensure consistent reporting for accurate comparisons.

[102] We would define the term ''reporting fund aggregate calculated value'' in the Form PF Glossary of Terms. *See* proposed Form PF Glossary of Terms and proposed Question 23(c).

[103] *See* proposed Question 23(c)(i).

[104] We would define ''rate of return'' for a reporting fund as the percentage change in the reporting fund aggregate calculated value in the reporting fund's base currency from one date to another, and adjusted for subscriptions and redemptions. For a portfolio position, the ''rate of return'' would be the percentage change in the ''position calculated value,'' adjusted for income earned. We would define ''position calculated value'' in the Form PF Glossary of Terms. The prescribed methodology would be the standard deviation of the natural log of one plus each of the daily rates of return in the month, annualized by the square root of 252 trading days. When calculating the natural log of a daily rate of return, the rate of return, which is expressed as a percent, must first be converted to a decimal value and then one must be added to the decimal value. *See* proposed Form PF Glossary of Terms and Question 23(c)(ii).

[105] *See* proposed Question 23(c)(iii).

[106] *See* proposed Question 23(iv).

58. Would the proposed changes improve data quality and provide the Commissions and FSOC with a more robust picture of fund performance?

59. Should we amend the table in current Question 17, as proposed? For example, should we specify that if a reporting fund's gross and net performance is reported to current and prospective investors, counterparties, or others in a currency other than U.S. dollars, advisers must report the data using that currency, as proposed? Should we require advisers to identify the currency in Question 4, as proposed?

60. Do different types of private funds calculate performance data differently based on industry conventions, or otherwise? Do the proposed requirements and defined terms accurately capture the right types of performance reporting for investor protection and systemic risk assessment? Is there a better way to meet these objectives?

61. As an alternative, should Form PF require advisers to report the reporting fund aggregate calculated value information only for reporting funds that meet a certain asset threshold?

62. Should Form PF require advisers to follow the prescribed methodology to compute the reporting fund's volatility of the daily rate of return, as proposed, or should Form PF require advisers to follow a different methodology? If so, what methodology should Form PF prescribe and why? Should advisers have the flexibility to use their own methodology to compute the reporting fund's volatility of the daily rate of return? If advisers use their own methodology, how could the Commissions and FSOC ensure data could be aggregated and compared?

63. Could the instructions on how to calculate the volatility of the daily rate of return be clearer? For example, should the form include a calculation worksheet for advisers to fill out to help advisers calculate the volatility of rates of return?

64. Should we define ''position calculated value,'' ''reporting fund aggregate calculated value,'' and ''rate of return,'' as proposed?

65. We are not defining the term ''drawdown.'' Should Form PF define ''drawdown?'' For example, should Form PF define ''drawdown'' as the maximum loss in the value over a specified time internal? Should Form PF define or redefine any other terms?

66. Should Form PF specify what ''peak to trough'' means? For example, should ''peak to trough'' mean the percentage decline from portfolio's highest value (peak) to lowest value (trough) following the establishment of the highest value (peak)? Are there industry standards for determining peak to trough? For example, should Form PF provide guidance on when the ''peak'' or ''trough'' should be reset? As an alternative to requiring information about ''peak to trough,'' should Form PF require advisers to report the maximum drawdown? If so, should Form PF define ''maximum drawdown'' as the largest decline over any time interval within the reporting period?

67. Should Form PF require advisers to report information about the negative daily rates of return, as proposed? Alternatively, should Form PF require the largest peak to trough drawdown over a rolling 10-day period, or in each month?

68. Alternatively, should Form PF require advisers to report the daily mark to market calculations, or both the daily rate of return and the daily mark to market calculations?

69. Are the instructions clear for reporting funds that have base currencies other than U.S. dollars? Should we revise the form further to accommodate data concerning such funds?

3. Proposed Amendments to Section 1c of Form PF—Concerning All Hedge Funds

Section 1c requires advisers to report information about the hedge funds they advise. We propose to require advisers to report additional information about hedge funds to provide greater insight into hedge funds' operations and strategies, assist in identifying trends, and improve data quality and data comparability for purposes of systemic risk assessments and to further investor protection efforts. We also propose to remove certain questions where other questions would provide the same or more useful data to streamline reporting and reduce reporting burdens without compromising investor protection efforts and systemic risk analysis.

Investment Strategies. We propose to amend how advisers report hedge fund investment strategies.[107] We propose to require advisers to indicate which investment strategies best describe the reporting fund's strategies on the last day of the reporting period, rather than allowing advisers flexibility to report information as of the data reporting date or throughout the reporting period, as Form PF currently provides.[108] This amendment is designed to improve data quality by specifying how to report information if the reporting fund changes strategies over time.

We also propose to update the strategy categories that advisers can select to reflect our understanding of hedge fund strategies better, and improve data quality and comparability, based on experience with the form. For example, we propose to include more granular categories for equity strategies, such as factor driven, statistical arbitrage, and emerging markets. Similarly, we propose to include more granular categories for credit strategies, such as litigation finance, emerging markets, and asset-backed/structured products. These more granular categories are designed to allow the Commissions and FSOC to conduct more targeted analysis and improve comparability among advisers and hedge funds, which the Commissions and FSOC can use to more accurately identify and address systemic risk and investor protection issues in times of stress. We also propose to add categories that have become more commonly pursued by hedge funds since Form PF was adopted, such as categories concerning real estate and digital assets.[109] Today, advisers may report information regarding these strategies in the ''other'' category, resulting in less robust Form PF data for analysis, especially when such analysis filters results based on strategy.[110] Therefore, the additional categories are designed to improve reporting quality and data comparability across advisers, based on experience with the form. If advisers select the ''other'' category, we propose to require them to describe in Question 4 the investment strategy, why the reporting fund would not qualify for any of the other categories, and any other information to explain the selection of ''other.'' This proposed change is designed to improve data quality by providing context to the adviser's selection of the ''other'' category. It also is designed to help us ensure that advisers are not misreporting information in the ''other'' category when they should be reporting information in a different category.

In connection with these proposed amendments, we propose to define the term ''digital asset'' as an asset that is

[107] We would amend current Question 20, and redesignate it as proposed Question 25.

[108] *See* current Question 20.

[109] Aggregate qualifying hedge fund gross notional exposure to physical real estate has grown by 72 percent from the second quarter 2018 through the third quarter of 2021, to $146 billion. *See* Private Funds Statistics, *supra* footnote 7, First Quarter 2020 (showing data from the second quarter of 2018), and Third Quarter 2021.

[110] The amount of hedge fund exposure that advisers attribute to the ''other'' category has more than doubled to $57 billion, from 2013 through third quarter 2021. *See* Private Funds Statistics, *supra* footnote 7.

issued and/or transferred using distributed ledger or blockchain technology (''distributed ledger technology''), including, but not limited to, so-called ''virtual currencies,'' ''coins,'' and ''tokens.'' These types of assets also are commonly referred to as ''crypto assets.'' [111] We view these terms as synonymous. We are proposing the term and definition to be consistent with the SEC's recent statement on digital assets, and we believe that such term and definition would provide a consistent understanding of the type of assets we intend to address.[112] The SEC proposed to add the same term and definition to SEC's section of Form PF in the 2022 SEC Form PF Proposal.[113] The definition is designed to help ensure that advisers report digital asset strategies accurately.

We request comment on the proposed amendments.

70. Should Form PF direct advisers to report information about the reporting fund's strategies on the last day of the reporting period, as proposed? Would this proposed amendment improve data quality, and reduce ambiguity?

71. Should Form PF continue to provide that the strategies are mutually exclusive and direct advisers to not report the same assets under multiple strategies, as it currently does? Alternatively, should Form PF allow advisers to report the same assets under multiple strategies?

72. Should Form PF include more, fewer, or different categories? Would the proposed categories improve reporting accuracy and data comparability across advisers? Are there other strategies that are important to track for assessing systemic risk or for the protection of investors?

73. Are there categories that advisers report in the ''other'' category that Form PF should include as their own categories? Should we remove the ''other'' category?

74. Should we require more specific disclosure of what each digital asset represents? If so, what kinds of descriptions would be needed and in what detail? For example, should the description include the rights the digital asset provides to the holder? Should Form PF distinguish, for example, between digital assets that represent an ability to convert or exchange the digital asset for fiat currency or another asset, including another digital asset, and those that do not represent such a right to convert or exchange? For those digital assets that represent a right to convert or exchange for fiat currency or another digital asset, should we distinguish between those where the redemption obligation is supported by an unconditional guarantee of payment, such as some ''central bank digital currencies,'' and those digital assets redeemable upon demand from the issuer, whether or not collateralized by a pool of assets or a reserve? Should we identify digital assets that do not represent any direct or indirect obligation of any party to redeem or those that represent an equity, profit, or other interest in an entity?

75. Should Form PF define or re-define any terms that are listed as a proposed strategy?

Should Form PF define ''digital asset,'' as proposed? If not, please identify alternative elements that would better identify the digital assets held by private funds. Should Form PF use the term ''crypto asset'' instead of the term ''digital asset''?

76. Some reporting funds report as hedge funds, but may hold commodities that are not securities or may hold commodity derivatives such as bitcoin futures that would make them a commodity pool. Should Form PF include categories for funds that hold digital assets regardless of how the fund characterizes itself based on the assets it is holding or would the proposed categories (other than the ''other'' category) apply?

77. If advisers select the ''other'' category, should Form PF require them to explain the selection, as proposed? Should Form PF require the adviser to include more, less, or different information in the explanation?

78. Should Form PF require advisers to provide explanations for any other categories besides the ''other'' category, as proposed? For example, if advisers report digital assets, should Form PF require advisers to provide the name of the digital asset, or describe the characteristics of the digital asset?

Counterparty exposures. Counterparty exposure informs the Commissions and FSOC of the interconnectedness of hedge funds with the broader financial services industry, which is a critical part of systemic risk assessment and investor protection efforts. Understanding counterparty exposures allows the Commissions and FSOC to assess who may be impacted by a reporting fund's failure, and which reporting funds may be impacted by a counterparty's failure. Counterparty exposure concerning central clearing counterparties (''CCPs'') is of importance to FSOC's systemic risk assessment efforts as evidenced by the fact that FSOC has designated many CCP institutions as ''systemically important,'' and recommended that regulators continue to coordinate to evaluate threats from both default and non-default losses associated with CCPs.[114]

The proposal would add proposed Question 26, and revise current Questions 22 and 23, and redesignate them as proposed Questions 27 and 28, to provide better insight into hedge funds' borrowing and financing arrangements with counterparties, including CCPs. Proposed Question 26 would require advisers to hedge funds (other than qualifying hedge funds) to complete a new table (the ''consolidated counterparty exposure table'') concerning exposures that (1) the reporting fund has to creditors and counterparties, and (2) creditors and other counterparties have to the reporting fund.[115] Advisers would report the U.S. dollar value of the reporting fund's ''borrowing and collateral received (B/CR),'' as well as its ''lending and posted collateral (L/PC),'' aggregated across all counterparties, including CCPs, as of the

[111] *See e.g.,* FSOC 2021 Annual Report, at 184–185, *available at https://home.treasury.gov/system/files/261/FSOC2021AnnualReport.pdf (noting that another industry term for ''digital asset'' is ''crypto asset'').*

[112] *See* Custody of Digital Asset Securities by Special Purpose Broker-Dealers, Exchange Act Release No. 90788 (Dec. 23, 2020) [86 FR 11627 (Feb. 26, 2021)], at n.1.

[113] 2022 SEC Form PF Proposal, *supra* footnote 13.

[114] Form PF defines ''CCP'' as central clearing counterparties (or central clearing houses) (for example, CME Clearing, The Depository Trust & Clearing Corporation, Fedwire and LCH Clearnet Limited). *See* Financial Stability Oversight Council, 2012 Annual Report, Appendix A, *available at https://home.treasury.gov/system/files/261/2012-Annual-Report.pdf.* (concerning the designations); Financial Stability Oversight Council, 2021 Annual Report, p. 14, *available at https://home.treasury.gov/system/files/261/FSOC2021AnnualReport.pdf.* (concerning the recommendation).

[115] Qualifying hedge funds would not complete this table because section 2 would be revised to include similar questions that require additional detail. *See* discussion at Section II.C of this Release. Together the proposed questions in section 1c and similar questions at section 2 would allow the Commissions and FSOC to consolidate information relating to hedge funds' and qualifying hedge funds' arrangements with creditors and other counterparties, to support systemic risk assessment and investor protection efforts. We propose to define the term ''consolidated counterparty exposure table'' in the Form PF Glossary of Terms. For hedge funds, other than qualifying hedge funds, it would mean the section 1c table (at proposed Question 26) that collects the reporting fund's borrowing and collateral received and lending and posted collateral aggregated across all creditors and counterparties as of the end of the reporting period. For qualifying hedge funds, it would mean the section 2 table (at proposed Question 41) that collects the reporting fund's borrowing and collateral received and lending and posted collateral aggregated across all creditors and counterparties as of the end of the reporting period.

end of the reporting period.[116] The form would explain what exposures to net.[117] Advisers would classify information according to type (*e.g.,* unsecured borrowing, secured borrowing, derivatives cleared by a CCP, and uncleared derivatives) and the governing legal agreement (*e.g.,* a prime brokerage or other brokerage agreement for cash margin and securities lending and borrowing, a global master repurchase agreement for repo/reverse repo, and International Swaps and Derivatives Association (''ISDA'') master agreement for synthetic long positions, ''synthetic short positions,'' and derivatives).[118] Advisers would report transactions under a master securities loan agreement as secured borrowings. Advisers would check a box if one or more prime brokerage agreements provide for cross-margining of derivatives and secured financing transactions. If advisers check the box, we propose to include instructions about how to report secured financing and derivatives in the consolidated counterparty exposure table.

Form PF would continue to require advisers to report information about individual counterparties that present the greatest exposure to and from hedge funds.[119] Under the proposal, however, advisers to qualifying hedge funds would not complete proposed Questions 27 and 28, if they complete certain similar questions in Form PF section 2, to avoid duplication.[120] We also propose to revise current Questions 22 and 23 to improve data quality.

- Although current Questions 22 and 23 provide instructions on how to identify the counterparties, we understand that advisers have been using different methodologies to identify them, and have misidentified lending relationships, which has limited the utility and comparability of the reported information. Therefore, we propose to provide more detailed instructions for advisers to use to identify the individual counterparties. For both proposed Questions 27 and 28, advisers would use the calculations from the consolidated counterparty exposure table to identify the counterparties.[121] This proposed amendment is designed to help ensure that the Commissions' and FSOC's analysis can identify true data differences, without the distraction of methodology differences, which can suggest differences where there are none, and reduce circumstances where advisers would misidentify lending relationships.
- Proposed Question 27 would require advisers to identify each creditor or other counterparty (including CCPs) to which the reporting fund owes a certain amount (before posted collateral) equal to or greater than either (1) five percent of net asset value as of the data reporting date or (2) $1 billion. If there are more than five such counterparties, the adviser only would report the five counterparties to which the reporting fund owes the largest dollar amount, before taking into account collateral that the reporting fund posted. If there are fewer than five such counterparties, the adviser only would report the counterparties that meet the threshold. For example, if only three counterparties meet the threshold, the adviser would report only three counterparties. This would be a change from current Question 22, which requires advisers to identify five counterparties to which the reporting fund has the greatest mark-to-market net counterparty credit exposure, regardless of the actual size of the exposure. The proposed threshold is designed to highlight two different, significant, potentially systemic, risks: five percent of net asset value represents an amount of borrowing by a reporting fund that, if repayment was required, could be a significant loss of financing that could result in a forced unwind and forced sales from the reporting fund's portfolio. Additionally, the $1 billion represents an amount that, in the case of a very large fund, may not represent five percent of its net assets, but may be large enough to create stress for certain of its counterparties.
- Proposed Question 28 would require advisers to provide information for counterparties to which the reporting fund has net mark-to-market counterparty credit exposure which is equal to or greater than either (1) five percent of the reporting fund's net asset value as of the data reporting date or (2) $1 billion, after taking into account collateral received or posted by the reporting fund. If there are more than five such counterparties, the adviser would only report the five to which the reporting fund has the greatest mark-to-market exposure after taking into account collateral received. If there are fewer than five such counterparties, the adviser only would report the counterparties that meet the threshold. This would be a change from current Question 23, which requires advisers to identify five counterparties to which the reporting fund has the greatest mark-to-market net counterparty credit exposure, regardless of the actual size of the exposure. The proposed threshold is designed to represent an amount of lending from a reporting fund that, if a default occurred, could cause a significant loss that could result in a forced unwind and forced sales from the reporting fund's portfolio. Furthermore, we believe that the five percent threshold level would be large enough to constitute a shock to a reporting fund's net asset value and is an often-used industry metric. The $1 billion threshold represents an amount that, in the case of a very large counterparty, may not represent five percent of its net assets, but may be large enough to create stress for the reporting fund.
- Currently, advisers report exposures that the reporting fund has to counterparties as a percentage of the reporting fund's net asset value, and advisers report exposures that counterparties have to the reporting fund in U.S. dollars.[122] We propose to require advisers to report both data sets in U.S. dollars for consistency and comparability.[123]

[116] We would define ''borrowing and collateral received (B/CR)'' and ''lending and posted collateral (L/PC)'' in the Form PF Glossary of Terms. We are proposing these definitions based on our understanding of borrowing and lending and to help ensure data quality and comparability. We also propose to amend the term ''gross notional value'' to provide more detail on how to report it to aid advisers completing the consolidated counterparty exposure table. *See* proposed Form PF Glossary of Terms.

[117] Advisers would net the reporting fund's exposure with each counterparty and among affiliated entities of a counterparty to the extent such exposures may be contractually or legally set-off or netted across those entities or one affiliate guarantees or may otherwise be obligated to satisfy the obligations of another under the agreements governing the transactions. We would include instructions providing that netting must be used to reflect net cash borrowed from or lent to a counterparty, but must not be used to offset securities borrowed and lent against one another, when reporting prime brokerage and repo/reverse repo transactions. These instructions are designed to help ensure data quality and comparability. *See* proposed Question 26.

[118] We propose to define ''ISDA'' as the International Swaps and Derivatives Association. We also propose to define ''synthetic short positions'' in the Form PF Glossary of Terms (*see* the proposed Form PF Glossary of Terms for the proposed definition). We are proposing this definition based on our understanding of the instruments and to help ensure data quality to aid comparability. *See also supra* footnote 78 (discussing the proposed definition of ''synthetic long position'').

[119] *See* current Questions 22 and 23, and proposed Questions 27 and 28.

[120] *See* proposed Questions 42 and 43 in Form PF section 2, and *supra* footnote 115.

[121] *See* proposed Question 26 for the consolidated counterparty exposure table. The proposal would define new terms related to the consolidated counterparty exposure table: ''cash borrowing entries,'' ''cash lending entries,'' ''collateral posted entries,'' and ''collateral received entries.'' *See* proposed Form PF Glossary of Terms.

[122] *See* current Questions 22 and 23.

[123] *See* proposed Questions 27 and 28.

• We propose to require advisers to report the amount of collateral posted, to help inform the Commissions and FSOC of the potential impact of a reporting fund or counterparty default.

• We also propose to require advisers to report the counterparty's LEI, if it has one, to help identify counterparties and more efficiently link data from other data sources that use this identifier.

• Advisers would continue to indicate if a counterparty is affiliated with a major financial institution, as Form PF currently provides.[124] If the financial institution is not listed on Form PF, advisers would continue to have the option of selecting ''other'' and naming the entity in the chart, as Form PF currently provides.

However, we propose to require the adviser to also describe the financial institution in Question 4. This proposed amendment is designed to help the Commissions and FSOC efficiently and accurately identify the entity, without having to contact advisers individually.

Together, the proposed amendments are designed to allow the Commissions and FSOC to identify and align sources of borrowing and lending to identify significant counterparty exposures, so that different styles of borrowing would not be not obscured by methodology differences or misidentified lending relationships, based on our experience with the form. We request comment on the proposed amendments.

79. Would the proposed amendments help us and FSOC identify which advisers and reporting funds may have counterparty credit risk in the event of a counterparty failure (including CCP failure) or other market event that affects performance by prime brokers or other counterparties (including CCPs)? Is there a better way to meet these objectives?

80. Are the proposed consolidated counterparty exposure table, its instructions, and defined terms clear? Could they be clearer? Are there circumstances not contemplated by the instructions that need to be addressed? Is there an easier way for advisers to report counterparty exposures that would provide comparable data? Should Form PF define the terms ''counterparty exposure table,'' ''borrowing and collateral received (B/CR),'' ''lending and posted collateral (L/PC),'' ''synthetic short position,'' ''cash borrowing entries,'' ''cash lending entries,'' ''collateral posted entries,'' ''collateral received entries,'' and redefine ''gross notional value,'' as proposed? For example, should ''synthetic short position'' provide a different list of assets to be included or excluded? Should Form PF define or redefine more, fewer, or different terms?

81. Should Form PF require advisers to identify more or less than only significant counterparty exposures? Is the proposed threshold for identifying the counterparties with the most significant exposure to and from the reporting fund the right threshold? Does it represent an amount of borrowing from a reporting fund that, if repayment was required, could be a significant loss of financing that could result in a forced unwind and forced sales from the reporting fund's portfolio? Is there a different threshold that would meet this objective? Should advisers report all counterparties that meet the threshold, even if there are more than five such counterparties? Should advisers report the five counterparties that the reporting fund has the greatest exposure to and from, even if they don't meet the proposed threshold?

82. Should Form PF provide more detailed instructions for advisers to use to identify the individual counterparties, as proposed? Could the instructions be clearer? If Form PF should have less detailed instructions on how to identify the counterparties, how could the Commissions and FSOC help ensure that the data would be comparable?

83. Should we require advisers to report values in U.S. dollars, as proposed? Alternatively, should Form PF require advisers to report values as a percentage of the reporting fund's net asset value? Should Form PF require advisers to report amounts as both U.S. dollars and as a percentage of the reporting fund's net asset value, or another way?

84. Should Form PF require advisers to report collateral posted, as proposed? Would the proposed amendment help inform the Commissions and FSOC of the potential impact of a reporting fund or counterparty default? Is there a better way to meet this objective?

85. Should Form PF require advisers to report the counterparty's LEI, if it has one?

86. If an adviser selects ''other,'' should we require the adviser to describe the entity in Question 4? Alternatively, should we eliminate the ''other'' category?

Trading and clearing mechanisms. We propose to revise how advisers report information about trading and clearing mechanisms.[125] These types of data inform the Commissions and FSOC of the extent of private fund activities that are conducted on and away from regulated exchanges and clearing systems, which is important to understanding systemic risk that could be transmitted through counterparty exposures.[126] We propose to require advisers to report (1) the value traded and (2) the value of positions at the end of the reporting period, rather than requiring advisers to report information as a percentage in terms of value and trade volumes, as Form PF currently requires.[127] This proposed change is designed to simplify reporting because advisers would compute the value before they convert it into a percentage; therefore, this proposed change would eliminate an extra calculation for advisers. It also is designed to provide the Commissions and FSOC with data that can be more efficiently compared and aggregated among advisers and other data sources. With data in dollar values, the Commissions and FSOC could more effectively estimate the size, extent, and pace of each hedge fund's participation in activity on or away from regulated exchanges and clearing systems in relation to total values. Understanding the size of hedge fund participation in activity on and away from regulated exchanges and clearing systems is important to assessing systemic risk, because activity that takes place on regulated exchanges and clearing systems presents different risks than activity that takes places away from regulated exchange and clearing systems. For example, activity that takes place away from a regulated exchange or clearing system may be less transparent, and may present more credit risk than activity that takes place on a regulated exchange and a clearing system that acts as a central counterparty that guarantees trades.

We also propose to require advisers to report information about trading and clearing mechanisms for transactions in

[124] *See* current Question 22 and current Question 23.

[125] *See* current Questions 24, and 25, which we would redesignate as proposed Questions 29 and 30.

[126] *See supra* footnote 114 and accompanying text (discussing the role of CCPs); 2011 Form PF Adopting Release, *supra* footnote 3, at n.228, and accompanying text.

[127] Proposed Question 29 would specify that ''value traded'' is the total value in U.S. dollars of the reporting fund's transactions in the instrument category and trading mode during the reporting period. Proposed Question 29 also would specify that, for derivatives, value traded would be the weighted average of the notional amount of aggregate derivatives transactions entered into by the reporting fund during the reporting period, except for the following: (1) for options, advisers would use the delta adjusted notional value, and (2) for interest rate derivatives, advisers would use the ''10-year bond equivalent.'' This measurement is designed to track standard industry convention. We propose to add the term ''10-year bond equivalent'' to the Form PF Glossary of Terms, as discussed in section II.C.2 of this Release. *See infra* footnote 159.

interest rate derivatives separately from other types of derivatives. Form PF data show that interest rate derivatives represent the largest gross investment exposure of qualifying hedge funds.[128] Therefore, this amendment is designed to help ensure that the Commissions and FSOC can identify risks of such a significant volume of activity on and away from regulated exchanges and clearing systems, without the data being obscured by other types of derivatives. The proposal would require advisers to report interest rate derivatives and other types of derivatives, by indicating the estimated amounts that were (1) traded on a regulated exchange or swap execution facility, (2) traded over-the-counter and cleared by a CCP, and (3) traded over the counter or bilaterally transacted (and not cleared by a CCP). These proposed categories reflect our understanding of how derivatives may be traded.

The proposal would continue to require advisers to report clearing information concerning repos, but would specify how to report sponsored repos, and would specify that advisers must report reverse repos with repos.[129] According to the Fixed Income Clearing Corporation (''FICC''), FICC's sponsored repo service has expanded in 2017 and 2019, ultimately resulting in daily volume up to $300 million per day as of 2021, with a peak in March 2020 of $564 billion.[130] Sponsored repos incorporate a different structure than other repos, in that FICC serves as a counterparty to any sponsored trade and the sponsored member bears responsibility for meeting the obligations of the sponsored member on all transactions that it submits for clearing. Adding a particular reference to sponsored repos would ensure that advisers understand how sponsored repos cleared by a CCP should be reported, *i.e.,* as trades cleared at a CCP.[131] Therefore, we propose to provide a separate line item for sponsored repos. The proposed amendment is designed to improve data quality concerning repos and sponsored repos, to allow the Commissions and FSOC to conduct more accurate and targeted systemic risk assessments and analysis concerning investor protection efforts. We also propose to specify that advisers must report reverse repos with repos. Current Question 24 requires advisers to report ''repos,'' which some advisers could interpret to include reverse repos, while others could interpret as excluding reverse repos. Therefore, this proposed amendment is designed to improve data quality.[132]

The proposal also would revise current Question 25, which requires advisers to report the percentage of the reporting fund's net asset value related to transactions not described in current Question 24, which we would redesignate as proposed Question 29. The proposal would, instead, require advisers to report both the value traded and the position value as of the end of the reporting period for transactions not described in proposed Question 29. These amendments are designed to make proposed Question 30 data comparable with data from proposed Question 29, so that together, Questions 29 and 30 would provide the Commissions and FSOC with a complete data set of the adviser's trading and clearing mechanisms during the reporting period.

We request comment on the proposed amendments.

87. Would the proposed amendments enhance analysis of clearance and settlement, interest rate derivatives, as well as repos, reverse repos, and sponsored repos?

88. Should Form PF require advisers to add repos and reverse repos together when reporting information about trading and clearing mechanisms, as proposed? Alternatively, should Form PF require advisers to report information about repos separately from reverse repos?

89. Do the proposed reporting categories cover the types of trading and clearing mechanisms used to trade derivatives? Should Form PF include more or fewer trading and clearing categories?

90. Would the proposed amendments make data from proposed Questions 29 and 30 comparable, so that together, the questions would provide the Commissions and FSOC with a complete data set of the adviser's trading and clearing mechanisms during the reporting period? Is there a better way to meet this objective?

91. Would the proposal to require advisers to report the value traded and the value of positions as of the end of the reporting period improve our ability to aggregate data and compare data among advisers? Would requiring the values, instead of the percentages, provide the Commissions and FSOC with a view into the extent of exposures across reporting funds, which would inform the Commissions and FSOC as to how much value would be at stake, given a market event? Are there better ways to meet these objectives?

92. Should we amend the terms ''repo'' and ''reverse repo,'' as proposed? Are the proposed definitions more consistent with how the private fund industry understands repos and reverse repos? If not, how should we define the terms, and would such definitions be consistent with how the Commissions use the terms in other contexts? Should Form PF refer to sponsored repos, as proposed?

Removing Certain Questions Concerning Hedge Funds. We propose to remove current Questions 19 and 21 from the form. Current Question 19 requires advisers to hedge funds to report whether the hedge fund has a single primary investment strategy or multiple strategies. Proposed Question 25, which requires hedge fund advisers to disclose certain information about each investment strategy, would provide this information, as discussed above in this section II.B.3 of the Release.

We also propose to remove current Question 21, which requires hedge fund advisers to approximate what percentage of the hedge fund's net asset value was managed using high frequency trading strategies. We believe the form's question on portfolio turnover, with proposed revisions, would better inform our and FSOC's understanding of the extent of trading by large hedge fund advisers and would better show how larger hedge funds interact with the markets and provide trading liquidity.[133]

We request comments on the proposed amendments.

93. Should we remove current Questions 19 and 21, as proposed? Alternatively, should Form PF keep current Question 21, but revise it to improve data quality? For example,

[128] *See* Private Funds Statistics, *supra* footnote 7.

[129] The proposal also would explain that ''repo'' means ''securities in'' transactions and ''reverse repo'' means ''securities out'' transactions. Sponsored repos and sponsored reverse repos would apply to transactions in which the reporting fund has been sponsored by a sponsoring member of the Fixed Income Clearing Corporation. We would revise how Form PF explains tri-party repos to help ensure they do not exclude sponsored tri-party repos. Currently, Form PF explains that a tri-party repo applies where repo collateral is held at a custodian (not including a CCP) that acts as a third party agent to both the repo buyer and the repo seller. We propose to amend Form PF so it would explain that tri-party repo would apply where the repo or reverse repo collateral is executed using collateral management and settlement services of a third party that does not act as a CCP. *See* Form PF Glossary of Terms (modifying the terms ''repo'' and ''reverse repo'') and Question 29 instructions (discussing sponsored repos, sponsored reverse repos, and tri-party repos).

[130] See FICC Sponsored Repo in 2021, by DTCC Connection Staff (Feb. 9, 2021), *available at https://www.dtcc.com/dtcc-connection/articles/2021/february/09/ficc-sponsored-repo-in-2021.*

[131] Current Question 24.

[132] *See* proposed Question 29.

[133] *See* proposed revisions to current Question 27, as discussed in section II.C of this Release.

should Form PF define ''high frequency trading?''

94. Does the turnover data Form PF would collect provide more informative data than current Question 21, which we propose to remove?

95. Should Form PF require advisers to report more or less turnover data? For example, should Form PF require only large hedge fund advisers to report the value of turnover during the month for the qualifying hedge funds that they advise, as proposed, or should Form PF require such information for all advisers who advise hedge funds of any size?

96. Should Form PF remove any other questions that would be answered by other questions that would provide the same or more useful data?

C. Proposed Amendments Concerning Information About Hedge Funds Advised by Large Private Fund Advisers

A private fund adviser must complete section 2 of Form PF if it had at least $1.5 billion in hedge fund assets under management as of the last day of any month in the fiscal quarter immediately preceding the adviser's most recently completed fiscal quarter.[134] This section requires additional information regarding the hedge funds these advisers manage, which is tailored to focus on relevant areas of financial activity that have the potential to raise systemic concerns. We are proposing several amendments to this section, including amendments that would remove aggregate reporting in section 2a, which we have found to be less meaningful for analysis and more burdensome for advisers to report, while preserving and enhancing reporting on a per fund basis in section 2b. We also propose to retain certain questions previously reported by advisers on an aggregate basis that we believe are important for data analysis and systemic risk assessment, but require reporting on a per fund basis. Collectively, the proposed changes to section 2 are designed to provide better insight into the operations and strategies employed by qualifying hedge funds and their advisers, and improve data quality and comparability to enable FSOC to monitor systemic risk better and enhance the Commissions' regulatory programs and investor protection efforts. Furthermore, the proposal would remove certain other reporting requirements that we have found to be less useful based on our experience with Form PF since adoption, which would help reduce reporting burdens for advisers while preserving the Commissions' and FSOC's regulatory oversight.

Currently, the Form PF Glossary of Terms defines a ''hedge fund'' generally as any private fund (other than a securitized asset fund):

(a) with respect to which one or more investment advisers (or related persons of investment advisers) may be paid a performance fee or allocation calculated by taking into account unrealized gains (other than a fee or allocation the calculation of which may take into account unrealized gains solely for the purpose of reducing such fee or allocation to reflect net unrealized losses);

(b) that may borrow an amount in excess of one-half of its net asset value (including any committed capital) or may have gross notional exposure in excess of twice its net asset value (including any committed capital); or

(c) that may sell securities or other assets short or enter into similar transactions (other than for the purpose of hedging currency exposure or managing duration).[135]

The definition is designed to include any private fund having any one of three common characteristics of a hedge fund: (1) a performance fee that takes into account market value (instead of only realized gains); (2) leverage; or (3) short selling. We request comment on whether we should amend the definition of ''hedge fund'' as such term is defined in the Form PF Glossary of Terms in order to address potential data mismatches and improve data quality. Specifically, we request comment on the following:

97. We understand that some reporting funds may consider themselves ''private equity funds,'' but advisers report them as hedge funds as Form PF directs because the reporting fund's governing documents permit the fund to engage in certain borrowing and short selling (even though it did not do so at any time in the past, for example, 12 months) (a ''deemed hedge fund'' for purposes of this Release). Should we amend the definition of ''hedge fund'' in the Form PF Glossary of Terms so that such deemed hedge funds report as private equity funds and not hedge funds? If so, how? Would such changes improve data quality by excluding private equity strategies from reporting as hedge funds and instead requiring such funds to report as private equity funds? If so, and if we were to amend the definition of ''hedge fund'' in Form PF, should we amend it for all purposes under Form PF or only certain sections such as sections 1 and 2? Should we concurrently make conforming definitional changes to any other forms, such as Form ADV (or alternatively amend Form ADV so it would reference any revised definition of ''hedge fund'' in Form PF)?

98. As an example, should we amend the definition of ''hedge fund'' so that, to qualify as a hedge fund under the leverage prong of the definition, a fund would have to continue to satisfy subsection (b) of the definition, but also must have actually borrowed or used any leverage during the past 12 months, excluding any borrowings secured by unfunded commitments (*i.e.,* subscription lines of credit);[136] and to qualify as a hedge fund under the short selling prong of the definition, the fund must have actually engaged in the short selling activities described in subsection c of the definition during the past 12 months?[137] If we were to amend the definition, would excluding actual borrowings secured by unfunded commitments (*i.e.,* subscription lines of credit) appropriately exclude private equity funds, which typically engage in such borrowings? Should any amended definition require actual borrowing or short selling in the last 12 months? Alternatively, should any amended definition require a longer or shorter time period, such as 18 months or nine months, or different time periods for borrowing versus short selling?

99. Should any amended definition include a requirement for the reporting fund to provide redemption rights in the ordinary course or exclude actual portfolio company guarantees in the past 12 months (or some other time period)? What other alternative changes to any amended definition of ''hedge fund'' do you suggest?

100. Should any revised definition specify that subscription lines of credit encompass both short term and long term subscription lines of credit? If so,

[134] Section 2a requires a large hedge fund adviser to report certain aggregate information about any hedge fund it advises and section 2b requires a large hedge fund adviser to report certain additional information about any hedge fund it advises that has a net asset value of at least $500 million as of the last day of any month in the fiscal quarter immediately preceding the adviser's most recently completed fiscal quarter (a ''qualifying hedge fund'').

[135] *See* current Form PF Glossary of Terms for the complete definition.

[136] Subsection (b) of the current definition of ''hedge fund'' states that a hedge fund is any private fund (other than a securitized asset fund) that may borrow an amount in excess of one-half of its net asset value (including any committed capital) or may have gross notional exposure in excess of twice its net asset value (including any committed capital). *See* current Form PF Glossary of Terms.

[137] Subsection (c) of the current definition of ''hedge fund'' states that a hedge fund is any private fund (other than a securitized asset fund) that may sell securities or other assets short or enter into similar transactions (other than for the purpose of hedging currency exposure or managing duration). *See* current Form PF Glossary of Terms.

should we specify what constitutes ''short term'' and ''long term''? For example, should ''short term'' mean three to six months, or less than the life of the fund, and should ''long term'' mean longer than six months, or the life of the fund?

101. Would it be appropriate for any amended definition of ''hedge fund'' to continue to include commodity pools or should commodity pools be excluded?

1. Proposed Amendments to Section 2a

Removal of aggregate reporting. We propose to eliminate the requirement for large hedge fund advisers to report certain aggregated information about the hedge funds they manage.[138] Based on our experience using data obtained from Form PF since its adoption, we have found that aggregated adviser level information combines funds with different strategies and activities, thus making analyses less meaningful. Aggregation can mask the directional exposures of individual funds (*e.g.,* positions held by one reporting fund may appear to be offset by positions held in a different fund). Additionally, there can be inconsistencies between data reported in the aggregate in section 2a and on a per fund basis in section 2b (*e.g.,* we have observed in some instances that the sum of fund exposures advisers report in current Question 30 on a per fund basis exceed the aggregate figure reported in current Question 26). We believe that aggregating information across funds may be burdensome for some advisers because certain advisers may keep fund records on different systems, and ''rolling-up'' the data from different sources to report on the form may be complex and time consuming. While advisers may be required to aggregate certain types of investment holdings across their funds for other regulatory purposes (*e.g.,* certain U.S. registered equities for Form 13F reporting), advisers generally do not aggregate all portfolio investment exposure information across their funds other than for Form PF reporting purposes, given that counterparties, markets, and investors tend to interact with funds on an individual basis and not in the aggregate at the adviser level.

We do not believe that removing section 2a would result in a meaningful deterioration in the information collected because the vast majority of gross hedge fund assets on which advisers report in the aggregate in section 2a constitute the gross assets of qualifying hedge funds that are reported in section 2b. For example, large hedge fund advisers reported total gross notional exposure for qualifying hedge funds in section 2b that constituted approximately 91 percent of the total gross notional exposure reported on an aggregate basis by large hedge fund advisers in section 2a as of the same date.[139] Furthermore, as discussed in section II.B.3. above, we are also proposing to enhance reporting for all hedge funds in section 1 (particularly section 1c), which we believe would mitigate against potential data gaps that could result from the removal of section 2a, given that advisers currently report information on all their hedge funds in section 2a but only report on qualifying hedge funds in section 2b. Additionally, certain information collected in section 2a is duplicative of information already collected on a per fund basis in section 2b.[140] By continuing to require reporting on a per fund basis, information reported in section 2b would allow the Commissions and FSOC to compile aggregate figures.[141]

We request comments on the proposed amendments.

102. Should we remove aggregate reporting by eliminating section 2a as proposed? Alternatively, should we retain a subset of the questions in section 2a to be reported on an aggregate basis? If so, which questions and why?

103. Do you agree that counterparties, markets, and investors tend to look at funds on an individual basis and not in the aggregate at the adviser level and as such the proposed removal of section 2a would reduce the burden on advisers having to report fund level data on an aggregated basis?

104. Do you agree that aggregating information across funds may be burdensome for some advisers? Do some advisers maintain fund records on different systems such that ''rolling-up'' the data from different sources to report on the form would be complex and time consuming?

2. Proposed Amendments to Section 2b

Current section 2b requires a large hedge fund adviser to report certain additional information about any hedge fund it advises that is a qualifying hedge fund.[142] As noted in the 2011 Form PF Adopting Release, information reported in section 2b is designed to assist FSOC in monitoring the composition of hedge fund exposures over time as well as the liquidity of those exposures. The information also aids FSOC in its monitoring of credit counterparties' unsecured exposure to hedge funds as well as hedge funds' exposure and ability to respond to market stresses and interconnectedness with CCPs. Based on our experience with the data since Form PF was first adopted and our consultations with FSOC, we are proposing to amend section 2b to do the following:

(1) Enhance, expand, and simplify investment exposure reporting;

(2) Revise open and large position reporting;

(3) Revise borrowing and counterparty exposure reporting;

(4) Revise market factor effects reporting; and

(5) Make certain other changes designed to streamline and enhance the value of data collected on qualifying hedge funds by: (a) adding reporting on currency exposure, turnover, country and industry exposure; (b) adding new reporting on CCPs; (c) streamlining risk metric reporting and collecting new information on investment performance by strategy and portfolio correlation; and (d) enhancing portfolio and financing liquidity reporting.

a. Investment Exposure Reporting.

Reporting on qualifying hedge fund exposures to different types of assets has been critical in helping to monitor the composition of hedge fund exposures over time, particularly as it relates to

[138] We propose to remove section 2a and redesignate section 2b as section 2. In connection with the proposed removal of section 2a, we propose to revise the general instructions to make corresponding changes (including amending Instruction 3 to reflect the proposed removal of section 2a), and propose to revise current Question 27 (reporting on the value of turnover in certain asset classes in advisers' hedge funds' portfolios) and current Question 28 (reporting on the geographical breakdown of investments held by advisers' hedge funds), move each of these questions to new section 2, and redesignate them as Question 34 and Question 35, respectively. Furthermore, in connection with the proposed changes, we would revise the term ''sub-asset class'' so it no longer refers to Question 26, which the proposal would remove.

[139] As noted above, based on experience with Form PF since adoption, we have found information gathered in section 2a for the remaining 9 percent of funds to not be very useful given that it is aggregated data across different funds.

[140] For example, Question 26 of section 2a requires large hedge fund advisers to report aggregated information on exposure to different types of assets, which is effectively the same exposure information reported on a per fund basis for each qualifying hedge fund in current Question 30 of section 2b.

[141] Additionally, we are proposing to move current Question 31 (base currency) currently required only for qualifying hedge funds to section 1b. We are also proposing to enhance section 1c to require more detailed information about hedge funds' borrowing and financing arrangements (including posted collateral) and also proposing to revise current Question 25 and current Question 26 to require end of period reporting of the value of certain instrument categories (including listed equities, interest rate derivatives and other derivatives, and repo/reverse repos).

[142] In connection with the proposed amendments, we propose to redesignate section 2b as section 2.

systemic risk monitoring. The proposal would (1) replace the table format of current Question 30, which we would redesignate as Question 32, with narrative instructions and a ''drop-down'' menu while also revising the instructions to specify how to report certain positions, (2) require reporting based on ''instrument type'' within sub-asset classes to identify whether the fund's investment exposure is achieved through cash or physical investment exposure, through derivatives or other synthetic positions, or indirectly (*e.g.,* through a pooled investment such as an ETF, an investment company, or a private fund), (3) require the calculation of ''adjusted exposure'' for each sub-asset class (*i.e.,* require (in addition to value as currently reported) the calculation of ''adjusted exposure'' for each sub-asset class that allows netting across instrument types representing the same reference asset within each sub-asset class, and, for fixed income, within a prescribed set of maturity buckets), (4) require uniform interest rate risk measure reporting for sub-asset classes that have interest rate risk (while eliminating the current option to report one of duration, weighted average tenor (WAT) or 10-year equivalents), and (5) amend the list of reportable sub-asset classes consistent with these other changes and collect enhanced information for some asset types.[143]

Narrative reporting instructions and additional information on how to report. The proposal would replace the existing complex table in current Question 30 with reporting instructions that would use a series of ''drop-down'' menu selections for each sub-asset class and the applicable information required for each sub-asset class. This approach is similar to the narrative instructions (and drop-down menus) already in effect for current section 3 with respect to liquidity fund position reporting.[144] We believe that these changes and new format would simplify and specify how to report the required information in proposed Question 32. Additionally, the proposed changes may reduce filer burdens compared to the current form because advisers are currently required to enter ''N/A'' in each field for which there is not a relevant position, while the proposal would only require advisers to provide information for sub-asset classes in which their qualifying hedge funds hold relevant positions. Furthermore, the proposal would require advisers to report the absolute value of short positions, include positions held in side-pockets as positions of the reporting fund, and include any closed out and OTC forward positions that have not yet expired or matured.

We propose to amend the instructions to current Question 30 to specify how advisers should classify certain positions. Specifically, the proposed instructions would require advisers to choose the sub-asset class that describes the position with the highest degree of precision, which we believe would result in more accurate classification of positions and therefore better data, rather than simply noting that any particular position should only be included in a single sub-asset class. This proposed change is designed to instruct advisers on how to classify positions that could be accurately classified in multiple sub-asset classes, and is consistent with SEC staff Form PF Frequently Asked Questions.[145] The proposal also would add a new instruction that directs advisers to report cash borrowed via reverse repo as the short value of repos, and refer advisers to the proposed revised definitions of ''repo'' and ''reverse repo'' in the Glossary of Terms, also consistent with SEC staff Form PF Frequently Asked Questions.[146] We believe this proposed change would reduce confusion on how to report repo information and help reduce filer errors. Finally, the amended instructions also would include a revised list of sub-asset classes.[147]

We also propose to require advisers to provide additional explanatory information in situations where a qualifying hedge fund reports long or short dollar value exposure to ''catch-all'' sub-asset class categories [148] equal to or exceeding either (1) five percent of a fund's net asset value or (2) $1 billion.[149] We have observed that some funds report significant amounts of assets in these ''catch-all'' categories. We chose the five percent threshold level because we believe it represents a level that would identify exposure that could be material to a fund's investment performance. The $1 billion threshold represents a level for large funds (*e.g.,* those with net asset values in excess of $20 billion) that is large enough so as to have potential systemic risk implications even if the position is less than five percent of the fund. We propose to add this explanatory requirement to inform our understanding of significant exposure reported in these ''other'' sub-asset classes better, which we believe is important for assessing systemic risk.

We request comment on the proposed amendments.

105. Should we amend the format of current Question 30 as proposed? Do the proposed narrative instructions clarify and simplify reporting for advisers? Alternatively, if the proposed format creates additional complexity for filers, should only a subset of qualifying hedge funds be required to complete proposed Question 32? If so, what should the threshold be and why?

106. Do you agree that the proposed changes requiring advisers to choose the sub-asset class that describes positions with the highest degree of precision would result in more accurate classification of positions and therefore better data for analysis? If not, what alternatives do you suggest?

107. Currently, most sub-asset classes (*e.g.,* equities, corporate bonds) are not further divided to account for exposure by the sub-asset class to a particular country or region. Instead, other questions on Form PF collect this information (*e.g.,* current Question 28). Should we further divide sub-asset classes by geographic exposure? If so, would the separation of sub-asset classes by U.S. and non-U.S. be helpful or would even more granularity be appropriate?

108. As an alternative to the proposed requirement that advisers provide additional explanatory information in situations where a qualifying hedge fund has significant exposure to ''catch-all'' sub-asset class categories (*i.e.,* if the long or short dollar value is equal to or exceeds either (1) five percent of a fund's net asset value or (2) $1 billion), should we add additional sub-asset classes to further break out the types of instruments that are being classified in

[143] In connection with the proposed amendments, we also propose to remove Question 44, which under the proposal would be duplicative of the new reporting requirements in proposed Question 32.

[144] *See* Form PF, Section 3, Question 63(f) and (g).

[145] *See* Form PF Frequently Asked Questions, *supra* footnote 79, Question 26.2.

[146] *See* Form PF Frequently Asked Questions, *supra* footnote 79, Question 26.5. *See also supra* footnote 129.

[147] The proposed amendments to this list, as well as other changes to instructions in specific parts of proposed Question 32, are discussed below.

[148] These sub-asset classes include: loans (excluding leveraged loans and repos), other structured products, other derivatives, other commodities, digital assets, and investments in other sub-asset classes.

[149] Some filers report significant exposure to these ''other'' categories. For example, the public Private Fund Statistics Second Quarter 2020 (''Private Fund Statistics Q2 2020'') (Table 46) shows about $100 billion in aggregate QHF GNE reported as ''other loans,'' more than other asset categories of interest, such as ABS/structured products (ex. MBS but including CLO/CDOs) (about $53 billion) and convertible bonds ($95 billion) as of 2020 Q1. *See* Private Fund Statistics Q2 2020 *available at https://www.sec.gov/divisions/investment/private-funds-statistics/private-funds-statistics-2020-q2.pdf.*

these ''catch-all'' buckets? If we should add more sub-asset classes, what should they be? Is the proposed threshold for requiring that advisers provide additional explanatory information set at the appropriate level? Should it be higher or lower?

109. With respect to sub-asset classes pertaining to loans, should we add additional sub-asset classes to capture loans originated by banks versus other entities for purposes of monitoring systemic risk? Should we require reporting on private funds' origination activities in a separate question that would ask whether the private fund originate loans and if so much has it originated?

110. Should any other sub-asset classes reflected in the proposal be broken out separately in proposed Question 32? If so, what sub-asset classes and why?

111. Should the short dollar value of repo match borrowings by reverse repo reported in the counterparty exposure table in Question 41, and if they do not match, should we require explanation?

112. The current instructions to Question 30 require advisers to include closed out and OTC forward positions that have not yet expired/matured. However, SEC staff Form PF Frequently Asked Question 44.1 states that reporting is not required for closed out positions if closed out with the same counterparty if there is no remaining legally enforceable obligation. Further, we understand that advisers use different internal methods to account for closed out and OTC forward positions not yet expired/matured, which introduces inconsistencies in data reported on Form PF. Should we require advisers to report closed out and OTC forward positions that have not yet expired/matured even if closed out as suggested by the current instructions? Alternatively, should we only require reporting unless the OTC forward positions are closed out with the same counterparty and there is no remaining legally enforceable obligation (consistent with our proposed revision to Instruction 15)?

113. Is it clear in proposed Question 32 how to classify positions in certain sub-asset classes as ''long'' or ''short'' in light of the proposed changes to Instruction 15 [150] with respect to classifying positions? Should we provide additional guidance specific to proposed Question 32? If so, what additional instructions or guidance would be helpful?

114. Current Question 30 and several other current and/or proposed questions in Section 2 of Form PF would not be necessary if large hedge fund advisers instead filed information about each qualifying hedge fund's portfolio positions similar to what is required by Section 3 for large liquidity fund advisers or on Form N–PORT for registered investment companies. Should we require, or permit, large hedge fund advisers to file this kind of position level information for qualifying hedge private funds instead of, or as an optional alternative to, responding to current Question 30 and certain other questions concerning portfolio holdings, such as position concentrations, currency, geographic and industry exposure, and market factor testing? For example, if in lieu of completing current Question 30 (exposure reporting), current Question 28 (country exposure), current Question 34 (position concentration), current Question 35 (large positions), and current Question 44 (aggregate value of derivatives positions), and potentially additional questions including those concerning counterparty exposures, advisers could instead choose to file position level information, would this help alleviate the reporting burden?

Separate reporting for positions held physically, synthetically or through derivatives and indirect exposure. The proposal would require advisers to report the dollar value of a qualifying hedge fund's long positions and the dollar value of the fund's short positions in certain sub-asset classes by ''instrument type'' (*i.e.,* cash/physical instruments, futures, forwards, swaps, listed options, unlisted options, and other derivative products, ETFs, exchange traded product, U.S. registered investment companies (excluding ETFs and money market funds), non-U.S. registered investment companies, internal private fund or external private fund, commodity pool, or other company, fund or entity).[151] For each month of the reporting period, advisers would be required to report long and short positions in these sub-asset classes held physically, synthetically or through derivatives, and indirectly through certain entities,[152] separately in order to provide the Commissions and FSOC sufficient information to understand, monitor, and assess qualifying hedge funds' exposures to certain types of assets and investment products. The current instructions (and the associated definitions) require advisers to combine exposure held physically, synthetically, or through

[150] *See* discussion at Section II.D of this Release.

[151] *See* Form PF Glossary of Terms (proposed definition of ''instrument type''). *See also* proposed Question 32(a). Sub-asset classes that would require reporting by instrument type (see proposed Question 32(a)(1)) include: listed equity issued by financial institutions; American Depositary Receipts; other single name listed equity; indices on listed equity; other listed equity; unlisted equity issued by financial institutions; other unlisted equity, investment grade corporate bonds issued by financial institutions (other than convertible bonds); investment grade corporate bonds not issued by financial institutions (other than convertible bonds); non-investment grade corporate bonds issued by financial institutions (other than convertible bonds); non-investment grade corporate bonds not issued by financial institutions (other than convertible bonds); investment grade convertible bonds issued by financial institutions; investment grade convertible bonds not issued by financial institutions; non-investment grade convertible bonds issued by financial institutions; non-investment grade convertible bonds not issued by financial institutions; U.S. treasury bills; U.S. treasury notes and bonds; agency securities; GSE bonds; sovereign bonds issued by G10 countries other than the U.S, other sovereign bonds (including supranational bonds); U.S. state and local bonds; MBS; ABCP; CDO (senior or higher); CDO (mezzanine); CDO (junior equity); CLO (senior or higher); CLO (mezzanine); CLO (junior equity); other ABS, other structured products; U.S. dollar interest rate derivatives; non-U.S. currency interest rate derivatives; foreign exchange derivatives; correlation derivatives; inflation derivatives; volatility derivatives; variance derivatives; other derivatives, agricultural commodities; crude oil commodities; natural gas commodities; power and other energy commodities; gold commodities; other (non-gold) precious metal commodities; base metal commodities; other commodities; real estate; digital assets; investments in other sub-asset classes. These sub-asset classes are reported at the sub-asset class level and not by instrument type (*see* proposed Question 30(a)(2)): leveraged loans, loans (excluding leveraged loans and repo); overnight repo, term repo (other than overnight), open repo; sovereign single name CDS; financial institution single name CDS; other single name CDS, index CDS; exotic CDS; U.S. currency holdings, non-U.S. currency holdings, certificates of deposit, other deposits, money market funds, other cash and cash equivalents (excluding bank deposits, certificates of deposit and money market funds). In connection with the proposal we also propose to amend the Glossary of Terms to (i) amend the definitions of agency securities, convertible bonds, corporate bonds, GSE bonds, leveraged loans, sovereign bonds, and U.S. treasury securities, in each case to include positions held indirectly through another entity, (ii) remove the definitions of crude oil, derivative exposures to unlisted equities, gold, natural gas, and power, and (iii) amend the definitions of commodities and other commodities. *See* Form PF Glossary of Terms. Additionally, for foreign exchange derivatives, advisers would report forex swaps and currency swaps separately, and in determining dollar value, would not net long and short positions within sub-asset classes or instrument types (with the exception of spot foreign exchange longs and shorts).

[152] In determining the reporting fund's exposure to sub-asset classes for positions held indirectly through entities, the proposal would permit advisers to allocate the position among sub-asset classes and instrument types using reasonable estimates consistent with its internal methodologies and conventions of service providers. Furthermore, if a reporting fund's position in any such entity represents less than (1) 5% of the reporting fund's net asset value and (2) $1 billion, the proposal would permit advisers to report an entire entity position in one sub-asset class and instrument type that best represents the sub-asset class exposure of the entity, unless the adviser would allocate the exposure more granularly under its own internal methodologies and conventions of its service providers.

derivatives when reporting certain fixed income and other sub-asset classes.[153] Even when certain sub-asset classes currently separate physical and derivative exposure (*e.g.,* listed equities), all derivative instrument types are combined regardless of each derivative instrument type's risk characteristics. Furthermore, the form's current instructions for reporting investment exposure obtained through funds or other entities are different. For example, instructions require advisers to categorize ETFs based on the assets the ETF holds, while other registered investment companies are reported as a separate sub-asset class, and may obscure the extent of a reporting fund's exposure to particular sub-asset classes. This difference and lack of granularity in reporting makes it difficult to understand the activities of qualifying hedge funds and limits the utility of data collected for purposes of understanding the role qualifying hedge funds play in certain market events. For example, when monitoring funds' activities during recent market events like the March 2020 COVID–19 turmoil, the existing aggregation of U.S. treasury securities with related derivatives did not reflect the role hedge funds played in the U.S treasury market.

We request comment on the proposed amendments.

115. Do advisers' internal risk reporting systems track long and short positions by instrument type? Does the proposed definition of ''instrument type'' present different types of risk such that it would be valuable to collect information separately for each instrument? Are the proposed instrument types appropriate? Alternatively, should we aggregate instrument types so that there are fewer options or should there be a different set of instrument types for different sub-asset classes? If so, what should they be?

116. Should we require reporting of dollar value by instrument type as proposed or for fewer sub-asset classes?

117. In proposed Question 32 we would not require advisers to report positions in certain sub-asset classes by instrument type[154] because we understand that exposure to these sub-asset classes would generally be held physically (*e.g.,* currency holdings) or through a single instrument type (*e.g.,* repo and credit-default swaps). Should we also require reporting by instrument type for any of these sub-asset classes?

118. Do the proposed amendments better capture exposures to sub-asset classes held physically, synthetically or through derivatives, and indirectly through certain entities? If not, how should we modify the proposal to better capture these types of exposures?

Adjusted exposure reporting. While we would continue to require advisers to report ''gross'' long and short exposure, *i.e.,* the dollar value of a qualifying hedge fund's long positions and dollar value of the fund's short positions for various sub-asset classes (and by instrument type for certain sub-asset classes as explained above), we propose to require advisers to also report the ''adjusted'' exposure of long and short positions for each sub-asset class in which a fund has a reportable position.[155] Based on our experience, we have found that gross exposure reporting, while useful because the information indicates fund size on a comparable basis among funds, may inflate some qualifying hedge funds' reported long and short exposures in a way that does not properly represent the economic exposure and market risk of a reporting fund's portfolio. For example, when only looking at gross exposure, certain relative value strategies that are designed to match long and short exposures in the same or similar (highly correlated) assets may reflect very high leverage, but not have the same level of risk as portfolios with less leverage but that are more exposed directionally. Furthermore, some advisers, for purposes of managing risk, do not view their portfolio on a ''gross'' basis because they do not believe it provides a meaningful measure of risk. We believe that ''gross'' exposure reporting by itself presents an incomplete picture that represents a significant data gap for purposes of systemic risk analysis.

We propose to require advisers to determine adjusted exposure for each ''sub-asset'' using a specified methodology that is designed to facilitate comparisons of the reported data. Specifically, the proposal would require advisers to calculate and report ''adjusted exposure'' of long and short positions for each sub-asset class by netting (1) positions that have the same underlying ''reference asset'' across ''instrument type'' (*i.e.,* cash/physical instruments, futures, forwards, swaps, listed options, unlisted options, other derivative products, and positions held indirectly through another entity such as ETFs, other exchange traded products,[156] U.S. registered investment companies (excluding ETFs and money market funds), investments in non-U.S. registered investment companies,[157] other private funds, commodity pools, or other companies, funds or entities) and (2) fixed income positions that fall within certain predefined maturity buckets (*i.e.,* 0 to 1 year, 1 to 2 year, 2 to 5 year, 5 to 10 year, 10 year, 10 to 15 year, 15 year, 15 to 20 year, and 20+ year).[158]

For purposes of determining ''adjusted exposure,'' we propose to permit cross counterparty netting consistent with information reported by a fund internally and to current and prospective investors, because we believe it would better reflect the fund's economic exposure. For example, a fund with market-neutral trades may lose substantial amounts of capital in a period of market stress if prices diverge, regardless of the identities of the counterparties. Additionally, counterparty identification may be

[153] We propose to require advisers to report the dollar value of long and short positions for the sub-asset class (and not instrument type) for following sub-asset classes: leveraged loans, loans (excluding leveraged loans and repo); overnight repo, term repo (other than overnight), open repo; sovereign single name CDS; financial institution single name CDS; other single name CDS, index CDS; exotic CDS; U.S. currency holdings, non-U.S. currency holdings, certificates of deposit, other deposits, money market funds, other cash and cash equivalents (excluding bank deposits, certificates of deposit and money market funds). *See* proposed Question 32(a).

[154] *See* supra footnote 151.

[155] Proposed Question 32(b). *See also* Form PF Glossary of Terms (proposed definition of ''adjusted exposure'').

[156] In connection with this proposed amendment, we also propose to define ''exchange traded product'' as ''an investment traded on a stock exchange that invests in underlying securities or assets, such as an ETF or exchange traded note.'' *See* Form PF Glossary of Terms. Given that the exchange traded product market has grown significantly since Form PF was first adopted, we believe that activity in exchange traded products may present different systemic risks than traditional listed equities and other instruments that might be used to obtain exposure to underlying assets owned within an ETF. Furthermore, we believe added insight into whether the underlying sub-asset class exposure is held through an ETF would enhance FSOC's analysis of systemic risk associated with this asset class.

[157] S*ee* Form PF Glossary of Terms (proposed definition of ''investments in non-U.S. registered investment companies''). Furthermore, we also propose to remove the term ''U.S. registered investment companies'' from the Form PF Glossary of Terms.

[158] *See* Form PF Glossary of Terms. We propose to define ''reference asset'' as a security or other investment asset to which a fund is exposed through direct ownership (*i.e.*, a physical or cash position), synthetically (*i.e.* the subject of a derivative or similar instrument held by the fund), or indirect ownership (*e.g.*, through ETFs, other exchange traded products, U.S. registered investment companies, non-U.S. registered investment companies, internal private funds, external private funds, commodity pools, or other companies, funds, or entities). An adviser may identify a reporting fund's reference assets according to its internal methodologies and the conventions of service providers, provided that these methodologies and conventions are consistently applied, do not conflict with any instructions or guidance relating to Form PF and reported information is consistent with information it reports internally and to investors and counterparties.

ambiguous for some positions, such as when a fund simply has a long position in an equity security traded over an exchange or purchased from a broker without the use of any financing.

Finally, if a fund does not net across all instrument types in monitoring the economic exposure of the fund's investment positions for purposes of internal reporting and reporting to investors, we would (in addition to adjusted exposure determined as specified above) also require the adviser to report adjusted exposure based on an adviser's internal methodologies and describe in Question 4 how the adviser's internal methodology differs from the standard approach in proposed Question 32. This additional information would provide better insight into how these advisers assess the economic exposure of their reporting fund's portfolio, while still ensuring an adviser provides information that supports our and FSOC's ability to aggregate and compare the data across funds.

We request comment on the proposed amendments.

119. The proposal would permit advisers to net across counterparties without limit if consistent with methodologies used for internal reporting and reporting to investors. Is this appropriate? Alternatively, should we only allow cross-counterparty netting to the extent that it is permitted by legal agreement?

120. Is the proposed definition of ''reference asset'' sufficiently clear? Should we instead propose a definition that tailors the definition to different asset classes (*e.g.,* repo exposures could be netted in accordance with GAAP rules for balance sheet netting, treasury exposures could be netted within maturity buckets)?

121. The proposed definition of ''reference asset'' specifies using the cheapest-to-deliver security for bond futures. Should additional or alternative approaches for bond futures be included in the proposed definition? Are there other potentially ambiguous cases that should be clarified? If so, what are they?

122. Is the proposed method for determining adjusted exposure appropriate? For example, is the proposed netting of fixed income positions that fall within certain predefined maturity buckets appropriate? Should we identify additional or different maturity buckets? If so, which maturity buckets?

123. As an alternative, should we instead require ETFs, exchange traded products, U.S. and non-U.S. registered investment companies, other private funds, commodity pools, or other companies, funds or entities to be reported as stand-alone sub-asset classes?

Require advisers to report a uniform interest rate risk measure. We propose to require advisers to report the 10-year zero coupon bond equivalent [159] for all sub-asset classes with interest rate risk (by instrument type if applicable) [160] rather than providing advisers with a choice to report duration, weighted average tenor (''WAT''), or an unspecified 10-year bond equivalent.[161] The proposal would require advisers to report the 10-year zero coupon bond equivalent of the dollar value of long and short positions in each sub-asset class (and by instrument type, if applicable) as well as for the adjusted exposure of long and short exposures for each sub-asset class for each monthly period.

The proposed change is designed to improve reporting and obtain better data, because the current approach, while providing optionality, makes it difficult to compare and aggregate data reported by different funds effectively. Furthermore, we believe that the 10-year zero coupon bond equivalent is commonly used by hedge fund advisers and would be a better and more consistent measure of interest rate risk than duration, WAT, or the current unspecified 10-year equivalent. WAT may be an incomplete measure because it does not always reflect the presence of options embedded in bonds or differing sensitivity to interest rate changes in circumstances where base currencies are subject to a higher or lower risk-free rate, and it also may not be meaningful for interest rate derivative products. Duration can tend toward infinity for certain derivatives, which can provide little meaning or utility. In addition, methodologies for calculations of duration and a 10-year equivalent (if not standardized to a zero coupon bond) may vary, which can result in variability among calculations. Therefore, we believe that by eliminating additional reporting options, requiring the 10-year zero coupon bond equivalent would provide a common denominator across funds that advisers would be able to easily calculate and that would provide a consistent and comparable metric. In this regard, we do not believe the proposed requirement would create an additional burden for advisers that currently report based on a 10-year equivalent for these types of assets, which we estimate represents roughly 40 percent of the total number of advisers responding to Question 30.[162]

We request comment on the proposed amendments.

124. Are the proposed changes with respect to reporting of the 10-year zero coupon bond appropriate? If not, what alternative do you suggest?

125. What would be the burden on advisers of standardizing reporting to the 10-year zero coupon bond equivalent for sub-asset classes with interest rate risk, by instrument type?

126. Alternatively, should we use a measure other than the 10-year zero coupon bond equivalent and if so, what measure should be used (*e.g.,* duration, WAT or another measure?).

127. As an alternative to the 10-year zero coupon bond equivalent, we considered whether to standardize the interest rate risk measure to DV01, which we would define as the gain or loss for a 1 basis point decline in the risk-free interest rate, expressed in U.S. dollars. In this regard, we understand that both duration and a 10-year bond equivalent rely on an initial calculation of DV01. Would DV01 be a better alternative for standardization to provide consistent reporting across all funds compared to the 10-year zero coupon bond equivalent? If DV01 is preferred, should we use a different formula (*e.g.,* a 1 basis point increase)? If we should use a different formula,

[159] We are proposing a new glossary definition of 10-year bond equivalent to explain that the term 10-year bond equivalent means ''the equivalent position in a 10-year zero coupon bond, expressed in the base currency of the reporting fund.'' *See* Form PF Glossary of Terms (proposed definition of ''10-year bond equivalent''). We also would make a conforming change to the definition of interest rate derivative to use this new definition.

[160] We propose to require advisers to report the 10-year zero coupon bond equivalent for the following sub-asset classes: investment grade corporate bonds issued by financial institutions (other than convertible bonds); investment grade corporate bonds not issued by financial institutions (other than convertible bonds); non-investment grade corporate bonds issued by financial institutions (other than convertible bonds); non-investment grade corporate bonds not issued by financial institutions (other than convertible bonds); investment grade convertible bonds issued by financial institutions; investment grade convertible bonds not issued by financial institutions; non-investment grade convertible bonds issued by financial institutions; non-investment grade convertible bonds not issued by financial institutions; U.S. treasury bills; U.S. treasury notes and bonds; U.S. agency securities; GSE bonds; sovereign bonds issued by G10 countries other than the U.S; other sovereign bonds (including supranational bonds); U.S. state and local bonds; leveraged loans; loans (excluding leveraged loans and repo); overnight repo; term repo (other than overnight); open repo; MBS; ABCP; Senior or higher CDO; Mezzanine CDO; Junior equity CDO; Senior or higher CLO; Mezzanine CLO; Junior equity CLO; other ABS; other structured product; U.S. dollar interest rate derivatives; non-U.S. currency interest rate derivatives; and certificates of deposit. *See* proposed Question 32(c).

[161] *See* proposed Question 32(c).

[162] Based on analysis of Form PF data 2021Q4 and 2020Q4.

what should it be and why? Would the burden on advisers of standardizing reporting to DV01 be different than standardizing to the 10-year zero coupon bond equivalent?

128. Should we define 10-year bond equivalent in the Glossary of Terms as ''the equivalent position in a 10-year zero coupon bond, expressed in the base currency of the reporting fund,'' as proposed? The glossary definition of ''interest rate derivative'' requires reporting relating to interest rate derivatives to be presented as ''in terms of 10-year bond-equivalents.''

129. Do you agree that the 10-year zero coupon bond equivalent is commonly used by hedge fund advisers and would be a better and more consistent measure of interest rate risk than duration, WAT, or the current unspecified 10-year equivalent?

Amended list of sub-asset classes. In proposed Question 32, we would revise the list of reportable sub-asset classes in two ways. First, some sub-asset classes are consolidated and tailored to reflect our proposed reporting of the dollar value of long and short positions by instrument type. For example, sub-asset classes for listed and unlisted equity derivatives are combined with sub-asset classes for listed and unlisted equities, and similarly, sub-asset classes for physical commodities and commodity derivatives are combined.[163] Likewise, some current sub-asset classes would now be reflected as instrument types, such as internal private funds, external private funds and registered investment companies (now separated in to ETFs, U.S. registered investment companies and non-U.S. registered investment companies). Second, the proposal would add new sub-asset classes to provide additional information to help the Commissions and FSOC better understand qualifying hedge funds' investment exposures to certain asset types, and reduce reporting in certain ''catch-all'' sub-asset classes, such as ''other listed equity.''

Specifically, the proposal would: (1) expand equity exposure reporting to add sub-asset classes for (a) listed equity securities (including new sub-asset classes for other single name listed equities and indices on listed equities), and (b) American depository receipts (''ADRs''); (2) add additional sub-asset classes for reporting ''repo'' and ''reverse repo'' positions, based on term; (3) add additional sub-asset classes for asset backed securities (''ABS'') and other structured products; (4) add new sub-asset classes and revise existing sub-asset classes that capture certain derivatives, including certain credit derivatives and volatility and variance derivatives; (5) specify sub-asset classes pertaining to investments in cash and cash equivalents and commodities; and (6) add a new sub-asset class for digital assets.

Listed Equity Securities

We propose to add new sub-asset classes for certain categories of listed equity securities, specifically, for other single name listed equities and indices on listed equities. This change is designed to provide added granularity to reporting on listed equities [164] given the potential impact of these new sub-asset classes from an overall systemic risk perspective, as the form currently only requires advisers to single out and report for listed equities issued by financial institutions with all other listed equities reported in a catch-all category ''other listed equity.'' Identifying single equities separately from equity index exposure can help distinguish broadly diversified portfolios from those that could be more concentrated, and also help to identify what strategies are being pursued by multi-strategy funds. Additionally, single equity positions may be more vulnerable to short squeezes [165] (*i.e.,* a type of manipulation in which prices are manipulated upward to force short sellers out of their positions, as short sellers are required by brokers to maintain margin above a certain level, and as prices rise short sellers must add cash to their margin accounts or close out their short positions) than index positions, so the level of granularity the proposal would obtain with respect to this information would help to identify better entities that may be affected during a short squeeze event.

We request comments on the proposed amendments.

130. Should we add new sub-asset classes for other single name listed equities and indices on listed equities as proposed? Are the proposed categories appropriate? If not, is there another alternative that we should use?

ADRs

We propose to add a new sub-asset class for ADRs in line with how ADRs are reported on the CFTC's Form CPO–PQR.[166] While ADRs are purchased in U.S. dollars, these instruments have currency risk because the underlying security is priced in its home country currency, and the ADR's U.S. dollar price fluctuates one-for-one with each movement in the home currency. Accordingly, the proposal would require ADRs to be reported separately from other listed equity instruments. This requirement also would help increase the utility of the information reported under the ''other listed equity'' sub-asset class on Form PF, which requires reporting of multiple other sub-asset classes.

We request comment on the proposed amendments.

131. Should we break out ADRs separately from the ''other listed equity'' category on Form PF as proposed?

Repurchase Agreements (''Repos'')

We propose to add additional sub-asset classes to the ''repos'' section of proposed Question 32 to capture a breakdown of repos by term (*e.g.,* overnight, other than overnight, and open term). Hedge funds often borrow cash overnight and pledge securities such as government bonds as collateral. We believe that collecting more information on the different types of repos held by qualifying hedge funds would allow the Commissions and FSOC to understand better the role of these funds in potentially amplifying funding stresses and the risks associated with short-term funding for certain trading strategies, particularly in light of the issues the repo market experienced during the fall of 2019 and in March 2020.[167]

[163] In connection with the proposed amendments, we would amend the definitions of ''listed equity'' and ''unlisted equity'' to reflect that filers should include synthetic or derivative exposure as well as positions held indirectly through another entity (*e.g.,* through an ETF, exchange traded product, U.S.-registered investment companies, non-U.S. registered investment companies, internal private fund or external private fund, commodity pool, or other company, fund or entity). Additionally, we would amend the definition of ''listed equity derivatives'' to include derivatives relating to ADRs, and other derivatives relating to indices on listed equities. *See* Form PF Glossary of Terms (proposed definition of ''listed equity,'' ''unlisted equity,'' and ''listed equity derivatives'').

[164] *See* current Question 26 and current Question 30, which require reporting on listed equities but do not separate out single names from indices. Investments in single name equities involve materially more idiosyncratic risks, such as the potential for more extreme price movements that are not correlated to other market movements, than investments in indices, and therefore we propose to require separate reporting.

[165] Single stock shorts often account for a higher portion of the available float and/or often have a larger days to cover (*i.e.,* the number of trading days to cover a short) than do shorts on ETFs. As a result, a potential need to cover a short could generally have a more pronounced effect on single stocks.

[166] As noted above, where applicable, we have proposed to align Form PF with Form CPO–PQR to (1) enable filers that currently are required to file both Form PF and Form CPO–PQR independently to compile and use similar data in completing both forms and (2) enable users of the reported data (*e.g.,* FSOC and other regulatory agencies) to (i) link data for funds that file both forms and (ii) aggregate and compare data across data sets more easily.

[167] *See. e.g.,* 2021 Financial Stability Oversight Council Annual Report at 12 and 159 available at

Continued

We request comment on the proposed amendments.

132. Should we add additional sub-asset classes to the ''repos'' section of proposed Question 32 as proposed? Are the proposed additional sub-asset classes appropriate? If not, is there another alternative that we should use?

133. How often do hedge funds use ''open'' repo transactions (*i.e.,* a repo with no defined term and which rolls over each day) and should we combine the open and overnight repo categories? Alternatively, should we require a breakdown of repo exposure by term in a separate question in Item C ''financing information'' of section 2 instead of in proposed Question 32?

Asset Backed Securities (''ABS'')/ Structured Products

We propose to separate the collateralized debt obligation (''CDO'') and collateralized loan obligation (''CLO'') sub-asset class in proposed Question 32 into two separate sub-asset classes (one for CDOs and one for CLOs), and further break out each of these new sub-asset classes based on the seniority of the instrument (*e.g.,* senior, mezzanine, and junior tranches) similar to the reporting approach on the CFTC's Form CPO–PQR.[168] The proposed changes are designed to provide separate reporting for CDOs and CLOs, which we believe is important because CDOs and CLOs are fundamentally different financial products and the current combined reporting obscures the specific attributes of each product. Furthermore, given the recent focus on CLOs by FSOC [169] in monitoring systemic risk, we believe that having detailed product specific data for CDOs and CLOs is justified due to the potential value this information would provide for systemic risk monitoring.

We request comment on the proposed amendments.

134. Should we break out the CDO and CLO sub-asset class in proposed Question 32 into two separate sub-asset classes (one for CDOs and one for CLOs) as proposed? If not, what alternatives do you suggest?

135. In proposed Question 32, we do not break out sub-asset classes for derivatives exposures to ABS and structured products (*e.g.,* forwards on MBS). Should these types of financial instruments be reported as ''other derivatives'' in proposed Question 32 or should we add additional sub-asset classes for reporting derivative exposures to these instruments?

136. Would more granular reporting for CLOs and CDOs inform monitoring and assessment of systemic risk? Instead of senior, mezzanine, and junior categories, would investment grade and non-investment grade categories be simpler and less burdensome for advisers to report? Should other categories be added? If so, what categories? Should advisers separately report securitizations and re-securitizations, as required on the CFTC's Form CPO–PQR?

137. Should we collect separate information about MBS securitizations and re-securitizations in proposed Question 32?

138. Does the real estate sub-asset class capture real estate exposure through vehicles that are not MBS or other structured products (*e.g.,* commercial leases)? If not, how should we modify the proposal to do so?

Credit, Foreign Exchange, Interest Rate, and Other Derivatives

We propose to revise the credit, foreign exchange (''forex''), and interest rate and other derivative sub-asset classes to provide more detailed reporting. For example, with respect to credit derivatives, the proposal would collect more detail on single name CDS exposure to capture better information on risk signals from these instruments by adding separate sub-asset classes for sovereign single name CDS, financial institution single name CDS, and other single name CDS (to capture any credit derivatives that do not fall into the other enumerated CDS categories).[170] We believe that an increase in single name CDS exposure may signify a bet against an entity or the market more generally, which may have significant systemic risk implications, particularly with respect to concentrated single-issuer positions that can drive more extreme price movements and face difficulties in the unwinding process, and for counterparties on the other side of highly leveraged trades when the market moves against these positions.[171] Furthermore, single name CDS exposure can represent important, concentrated risk positions for a fund, similar to large single equity positions, which can be connected to market contagion events, and have systemic risk and market liquidity implications.

Similarly, we propose to add more detailed reporting for foreign exchange derivatives by adding separate sub-asset classes for forex swaps and currency swaps consistent with reporting to the Bank for International Settlements (''BIS''), while removing the less useful requirement of separate reporting for foreign exchange derivatives used for investment and hedging, as we have found the data of limited value because we do not believe that information is reported consistently across filers.[172] We believe that adding separate reporting for different types of foreign exchange instruments (*e.g.,* forex swaps and currency swaps) is appropriate because they have materially different risk characteristics, including different maturity profiles, and may be executed under different documentation which could affect their ability to be netted against one another. We refer to the BIS framework because we understand that it reflects a commonly accepted industry approach for classifying these instruments. Furthermore, given the significance of hedge funds' exposure to these instruments, we believe that more granular information would better inform our understanding of systemic risk issues that may arise from holdings in these different types of instruments. We also propose to divide the current ''interest rate derivatives'' sub-asset class into ''U.S. dollar interest rate derivatives'' and ''non-U.S. currency interest rate derivatives.'' We believe that added granularity would be important because we have found that Form PF data consistently shows interest rate derivatives as the sub-asset class to which qualifying hedge funds have the greatest exposure over time. A

https://home.treasury.gov/system/files/261/FSOC2021AnnualReport.pdf.

[168] *See* Form PF Glossary of Terms (proposed definitions of ''CDO'' and ''CLO''). The proposal would separate the current definition of ''CDO/CLO'' into a separate definition for each financial product. The definition of CDO would only include collateralized debt obligations (including cash flow and synthetic) and the definition of CLO would include collateralized loan obligations (including cash flow and synthetic) other than MBS, and would not include any positions held via CDS. *See also supra* footnote 166 (regarding the proposed alignment of Form PF with Form CPO–PQR).

[169] *See* United States Government Accountability Office, Report to Agency Officials, ''FINANCIAL STABILITY Agencies Have Not Found Leveraged Lending to Significantly Threaten Stability but Remain Cautious Amid Pandemic,'' December 2020, available at: *https://www.gao.gov/assets/gao-21-167.pdf.*

[170] *See also* Form PF Glossary of Terms (proposed revised definition of ''single name CDS'').

[171] The CFTC's Form CPO–PQR also requests information on single name financial CDS, and the revised IOSCO Global Fund Investment Survey also collects this information.

[172] In connection with these proposed changes, we also propose to make changes to the definition of ''foreign exchange derivative'' to improve data quality with respect to how advisers report foreign exchange derivative exposure. We propose to revise the definition to (1) now include any derivative whose underlying asset is a currency other than the base currency of the reporting fund, (2) provide additional information on the treatment of cross-foreign exchange versus regular foreign exchange, and (3) require reporting of both legs of cross currency foreign exchange derivatives to reflect exposures from such transactions. *See* Form PF Glossary of Terms (proposed revised definition of ''foreign exchange derivative'').

better understanding of whether these exposures are related to the U.S. dollar yield curve or other countries' yield curves is important from a systemic risk analysis perspective. Finally, we propose to add new sub-asset classes for various types of derivatives that are regularly used by hedge funds including correlation derivatives, inflation derivatives, volatility derivatives, and variance derivatives, which would both provide additional insight into how qualifying hedge funds use these types of financial instruments and further limit the number and type of derivatives that advisers report in the ''catch-all'' ''other derivatives'' category.[173]

We request comment on the proposed amendments.

139. As proposed, are the sub-asset classes for reporting on types of derivatives appropriate? For example, for forex derivatives, should we clarify, for cross-currency pairs (where U.S. dollars are not involved), that each leg of the transaction should be reported as long and/or short? What other types of derivatives sub-asset classes should be included or excluded, if any? Would the proposed sub-asset classes for reporting on derivatives be overly burdensome for advisers?

140. Form CPO–PQR requires separate reporting for futures, forwards, swaps and options. The proposed revisions captured in proposed Question 32 would collect similar detail for the interest rate derivative and foreign exchange categories, but not for other asset categories. Would it be helpful to collect this level of detail for other derivatives positions beyond interest rate and foreign exchange? Additionally, should we add additional and/or standardization of derivative reporting that would align with Financial Conduct Authority/European Securities and Markets Authority data collection by capturing, for each sub-asset class, the total gross notional value of contracts including the total notional of futures and delta-adjusted notional of options? Finally, should we amend the instructions to Question 30 to require reporting of closed out and OTC forward positions which have not yet expired/matured?

141. Should we give guidance on reporting total return swaps *(e.g.,* as ''other credit derivatives'' or ''interest rate swaps'')?

142. With respect to the proposed addition of a new sub-asset class for volatility derivatives, do hedge funds use volatility derivatives? Additionally, are the sub-asset class categories in the proposed volatility derivative section appropriate? If not, should we add other sub-asset class categories or combine some of these categories?

143. Should we require a more granular break out of interest rate derivative exposures? If so, what categories should we include? The definition of ''interest rate derivative'' instructs advisers to present interest rate derivatives as 10-year bond equivalents. As noted, the proposal would specify that the 10-year zero coupon bond equivalent would be required. Should we change how interest rate derivatives should be reported (*e.g.,* the total gross notional value of outstanding contracts including the total notional value of futures and delta-adjusted value of options)?

144. We propose to add new definitions for ''correlation derivative,'' ''inflation derivative,'' ''volatility derivative,'' and ''variance derivative.'' Are these definitions appropriate? If not, how would you modify one or more definitions?

145. As noted above, we believe adding separate reporting for different types of foreign exchange instruments (*e.g.,* forex swaps and currency swaps) is appropriate because they have materially different risk characteristics and may be executed under different documentation and we refer to the BIS framework because we understand that it reflects a commonly accepted industry approach for classifying these instruments. Do you agree with our view, and is the proposed approach appropriate? If not, what alternative approach do you suggest?

Cash and Commodities

We propose to make revisions to the sub-asset class categories for cash and commodities.

We would require advisers to break out cash and cash equivalents[174] between U.S. currency holdings and non-U.S. currency holdings, while also removing the current requirement to report on investments in funds for cash management purposes (other than money market funds) because in our experience advisers use inconsistent methods for determining whether a private fund investment is being used for cash management purposes and we believe that other information reported in current section 2b is more useful for assessing liquidity management (*e.g.,* current Question 33 with respect to unencumbered cash).[175]

Additionally, we propose to broaden the current power commodity sub-asset classes to also capture other energy commodities, and add additional commodity sub-asset classes (*e.g.,* other (non-gold) precious metals, agricultural commodities, and base metal commodities) to provide added granularity with respect to these financial products given their potential systemic risk implications and to better inform our and FSOC's understanding of the activities of hedge funds in these important commodities markets. We have found that a limitation of the current form is that very different commodities (*e.g.,* wheat and nickel) are reported together in the same sub-asset class (*i.e.,* ''other commodities'') making the reported data less meaningful for analysis. We believe that, with added granularity, we would be in a better position to identify concentrated exposures to particular commodities, data that could be valuable in the event of a dislocation in a particular commodity market.[176] The additional

[173] In connection with these proposed amendments, we also propose to add new definitions to the Glossary of Terms for ''correlation derivative,'' ''inflation derivative,'' ''volatility derivative,'' and ''variance derivative.'' See Form PF Glossary of Terms (proposed definitions of ''correlation derivatives,'' ''inflation derivative,'' ''volatility derivative,'' and ''variance derivative'').

[174] Some advisers include treasuries in their reporting of ''cash'' because it was part of the definition of ''cash and cash equivalents.'' We propose to revise the definition of ''cash and cash equivalents'' to reflect that treasuries should not be included in ''cash and cash equivalents'' sub-asset class. In connection with this proposed change we also propose to add a new separate definition for ''government securities.'' *See* Form PF Glossary of Terms (proposed revised definition of ''cash and cash equivalents'' and proposed definition of ''government securities''). *See also* discussion at Section II.B.2 of this Release regarding the revised definitions of cash and cash equivalents and government securities.

[175] Additionally, in many cases we would be able obtain more information about all internal fund investments (including whether a fund looks like a cash management vehicle) through the new information the proposal would require to be reported in section 1b. *See* discussion at Section II.B.2 of this Release.

[176] For example, we believe the addition of a base metal commodities sub-asset class would allow for identification of large players in the base metals market (such as those impacted by the March 2022 ''nickel squeeze''). During the March 2022 ''nickel squeeze,'' the price of nickel rose unusually steeply and rapidly in response to commodity price increases caused by Russia's invasion of Ukraine, and this event, coupled with one or more market participants holding large short positions, caused prices to increase in an extreme manner (*e.g.,* a one-day increase of 63% for the generic first futures contract on March 7, 2022). *See e.g.,* Shabalala, Zandi, Nickel booms on short squeeze while other metals retreat, Reuters (March 2022) *available at https://www.reuters.com/markets/europe/lme-nickel-jumps-another-10-after-record-rally-supply-fears-2022-03-08/;* Nagarajan, Shalini, Nickel Trading Halted at LME Until Friday After Wild Price Spike (businessinsider.com) (March 2022) *available at https://markets.businessinsider.com/news/commodities/nickel-price-london-metal-exchange-suspends-trading-shanghai-short-squeeze-2022-3#:~:text=The%20London%20Metal%20Exchange%20has,17%25%20to%20their%20daily%20limit.*

commodity sub-asset classes that we propose to add, *i.e.,* other (non-gold) precious metals, agricultural commodities and base metal commodities, were chosen because we believe they are most relevant from a systemic risk perspective given the size of these markets and what we currently know of hedge fund exposures to these markets.[177]

We request comment on the proposed amendments.

146. With respect to reporting on cash and cash equivalents, should we request separate reporting for US and non-US deposits? Would additional detail be burdensome for advisers? With respect to the proposed category ''other cash and cash equivalents (excluding bank deposits, certificates of deposit, money market funds and U.S. treasury bills, notes and bonds),'' should we require advisers to provide a description in Question 4 of what is reported in this sub-asset class?

147. We propose to add additional sub-asset classes for commodities. Are the proposed additional commodities sub-asset classes appropriate? If not, what alternatives do you suggest? Should we add more or fewer sub-asset classes for commodities? If we should add more, what additional sub-asset classes do you recommend? Should we add a sub-asset class for other physical assets?

Digital Assets

The proposal would add a new sub-asset class for digital assets and define the term ''digital asset.'' [178] We have observed the growth as well as the volatility of this asset class in recent years.[179] We understand that many hedge funds have been formed recently to invest in digital assets, while many existing hedge funds are also allocating a portion of their portfolios to digital assets.[180] Accordingly, we believe it is important to collect information on funds' exposures to digital assets in order to understand better their overall market exposures.

We request comment on the proposed amendments.

148. Should the sub-asset class for ''digital assets'' provide more granularity? For example, should we have separate sub-asset classes for digital assets that represent an ability to convert or exchange the digital asset for fiat currency or another asset, including another digital asset, and those that do not represent such a right to convert or exchange; for digital assets that represent a right to convert or exchange for fiat currency or another digital asset, those where the redemption obligation is supported by an unconditional guarantee of payment, such as some ''central bank digital currencies,'' and those redeemable upon demand from the issuer, whether or not collateralized by a pool of assets or a reserve; for digital assets that do not represent any direct or indirect obligation of any party to redeem; and for digital assets that represent an equity, profit, or other interest in an entity? Should we require advisers to report the digital asset by name (*e.g.,* Bitcoin and Ether) or describe its characteristics?

Open and Large Position Reporting

Advisers to qualifying hedge funds currently report (1) a fund's total number of ''open positions'' determined on the basis of each position and not with reference to a particular issuer or counterparty,[181] and (2) the percentage of a fund's net asset value and sub-asset class for each open position that represents five percent or more of a fund's net asset value.[182] We have found that advisers use different methods for identifying and counting their ''open positions,'' which has made making meaningful comparisons among funds difficult. This has also potentially obscured certain large exposures, which may make concentration assessments less exact. For example, an ''open position'' might indicate a position held physically, or synthetically through derivatives, or both. As such, we propose to require that advisers provide information about a fund's investment exposures based on ''reference assets,'' which would capture securities or other assets to which a fund has exposure, be it direct or indirect ownership, synthetic exposure, or exposure through derivatives.[183] The proposal is designed to provide insight into the extent of a fund's portfolio concentration and large exposures to any reference assets. The proposal would require advisers to report (1) the total number of reference assets to which a fund holds long and short netted exposure, (2) the percentage of net asset value represented by the aggregated netted exposures of reference assets with the top five long and short netted exposures, and (3) the percentage of net asset value represented by the aggregate netted exposures of reference assets representing the top ten long and short netted exposures. We are proposing to require reporting for the top five long and short netted positions and the top ten netted long and short positions because combined these two metrics provide a holistic view of a reporting fund's portfolio concentration. We also understand that these are commonly used industry metrics for assessing portfolio concentration levels. We propose to define ''netted exposure'' as the sum of all positions with legal and contractual rights that provide exposure to the same reference asset, taking into account all positions, including offsetting and partially offsetting positions, relating to the same reference asset (without regard to counterparties or issuers of a derivative or other instrument that reflects the price of the reference asset).[184]

The proposal also would require advisers to provide certain information on a fund's reference asset to which the fund has gross exposure (as of the end of each month of the reporting period) equal to or exceeding (1) one percent of net asset value, if the reference asset is a debt security and the reporting fund's gross exposure to the reference asset exceeds 20 percent of the size of the debt security issuance, (2) one percent of net asset value, if the reference asset is a listed equity security and the reporting fund's gross exposure to the reference asset exceeds 20 percent of average daily trading volume measured over 90 days preceding the reporting date, or (3) (a) five percent of the reporting fund's net asset value or (b) $1 billion. Advisers would be required to report: (1) the dollar value (in U.S. dollars) of all long and the dollar value (in U.S. dollars) of all short positions with legal and contractual rights that provide exposure to the reference asset; (2) netted exposure to the reference asset; (3) sub-asset class and instrument

[177] These proposed change with respect to commodities sub-asset classes would also better align Form PF with Form CPO–PQR.

[178] *See* discussion at Section II.B.3 of this Release. *See also* Form PF Glossary of Terms (proposed definitions of ''digital asset'').

[179] In early 2021 the digital asset market surpassed $1 trillion, mostly driven by the rise in Bitcoin's price, which some speculate may be driven in part by hedge fund investments. *See* Brettell, Karen and Chavez-Dreyfuss, Crypto market cap surges above $1 trillion for first time, *Reuters* (January 2021) *available at https://www.reuters.com/world/china/crypto-market-cap-surges-above-1-trillion-first-time-2021-01-07/.*

[180] *See* C. Williamson, Managers Taking Bigger Steps Into Crypto, *Pensions&Investments* (March 2022) *available at https://www.pionline.com/cryptocurrency/hedge-fund-managers-taking-bigger-steps-cryptocurrency.*

[181] Current Question 34.

[182] Current Question 35.

[183] *See* proposed Question 39.

[184] Netted exposure to a reference asset would either be long or short, and advisers would determine the value of each netted exposure to each reference asset in U.S. dollars, expressed as the delta adjusted notional value, or as the 10-year bond equivalent for reference assets that are fixed income assets. Advisers would not report exposure to cash and cash equivalents. *See* proposed Question 39. *See also* Form PF Glossary of Terms (proposed definition of ''netted exposure'').

type; (4) the title or description of the reference asset; (5) the reference asset issuer (if any) name and LEI; (6) CUSIP (if any);[185] and (7) if the reference asset is a debt security, the size of issue, and if the reference asset is a listed equity, the average daily trading volume, measured over 90 days preceding the reporting date. Additionally, advisers may at their option choose to provide the FIGI for the reference asset, but they are not required to do so.[186] We propose to define ''gross exposure'' to a ''reference asset'' as the sum of the absolute value of all long and short positions with legal and contractual rights that provide exposure to the reference asset.[187] We considered varying levels of thresholds and believe that the proposed thresholds described above are appropriate based on the following reasoning. First, the five percent threshold has been carried over from the current version of Form PF and is also a commonly used metric for identifying significant positions in a portfolio.[188] In addition, while a portfolio is generally viewed as diversified when it holds at least 20 different positions, when a position goes above five percent it reduces portfolio diversification. Second, the $1 billion threshold represents a level for large funds (*e.g.,* those with net asset values in excess of $20 billion) that is large enough so as to have potential systemic risk implications even if the position is less than five percent of the fund. Finally, the proposed one percent threshold is aimed at limiting filer burdens while still providing insight into the risks associated with a position that may be small relative to a fund's overall portfolio but which constitutes a large fraction of the market for a particular holding, given that a liquidation by one fund can trigger a disorderly liquidation. A disorderly liquidation of this kind may raise systemic risk concerns as it may lead to liquidation losses at other funds for which the position is more impactful and possibly lead to a cascade of additional unwinds.

The purpose of these amendments is to improve our ability to assess the magnitude of hedge fund portfolio concentration, as well as to identify directional exposure. From a systemic risk and an investor protection perspective, high portfolio concentration carries the risk of amplified losses that can occur when a fund's investment represents a large portion of a particular investment, asset class, or market segment. Leveraged portfolios further amplify this risk. The proposed amendments are designed to better capture a fund's concentration risk (*e.g.,* where gross exposure to a reference asset is large compared to the fund's NAV and/or compared to the market for a reference security). Reporting positions that are large compared to market size also may provide some insight about whether multiple firms are ''crowding'' into trades in certain types of securities or other financial assets. We believe that such ''crowding'' may increase the risk that one fund's forced selling may trigger systemic effects across a particular market. We also believe that collecting information about the composition of exposure to a reference asset would allow us and FSOC to link the information reported in proposed Question 40 to exposure reporting in proposed Question 32, which would give the reported data added context and facilitate understanding of a fund's investment portfolio and assessment of any implications for systemic risk and investor protection purposes. For example, in a convertible arbitrage trade involving a position in a convertible bond and an offsetting position in the equity securities of the same issuer, reference asset exposure might be obtained by positions in two different sub-asset classes (*i.e.,* investment grade convertible bonds and equities) and using a combination of instrument types (*e.g.,* physical ownership and futures or a swap). The combination of information reported in proposed Question 32 and proposed Question 40 would facilitate our ability to identify this type of situation, better understand a qualifying hedge fund's investment approach and whether it is taking on concentrated positions (potentially with leverage), and assess whether or not a qualifying hedge fund's activities may have systemic risk or investor protection implications.

We request comment on these proposed amendments.

149. The proposal would require advisers to report (1) the total number of reference assets to which a fund holds long and short netted exposure, (2) the percent of net asset value represented by the aggregated netted exposures of reference assets with the top five long and short netted exposures, and (3) the percent of net asset value represented by the aggregate netted exposures of reference assets representing the top ten long and short netted exposures. Are these requirements appropriate? If not, how should we modify them? For example, should we require reporting on more or fewer long and short netted exposures rather than just the top five and the top ten? Instead of requiring disclosure on specific exposures described above, should we require a full position disclosure filing similar to Form N–PORT?

150. Does our proposed ''reference asset'' definition work in the context of these questions? For example, does the definition capture interest rate derivatives? If not, how should we modify the definition or these questions to capture interest rate derivatives? If we should collect information about interest rate derivatives, should we specify reporting by maturity bucket and currency? If so, should we use the same maturity buckets that we have proposed for purposes of calculating ''adjusted'' exposure in proposed Question 32?

151. Should the ''reference asset'' definition be more specific or provide more guidance on how to ''look through'' certain instruments (*e.g.,* a correlation basket or an index (such as the NASDAQ) or ETFs or other pooled vehicles and private funds)?

152. Should we provide additional guidance in the definition of ''reference asset'' such as instructing advisers to refer to the ''issuer''? Should we provide instructions or guidance on how advisers should address ''reference assets'' that have varying term structures (*e.g.,* use maturity buckets)?

153. The proposal would require advisers to provide certain information on a fund's reference asset to which the fund has gross exposure (as of the end of each month of the reporting period) equal to or exceeding (1) one percent of net asset value, if the reference asset is a debt security and the reporting fund's gross exposure to the reference asset exceeds 20 percent of the size of the debt security issuance, (2) one percent of net asset value, if the reference asset is a listed equity security and the reporting fund's gross exposure to the reference asset exceeds 20 percent of average daily trading volume measured over 90 days preceding, or (3) either (a) five percent of the reporting fund's net asset value or (b) $1 billion. Are these thresholds appropriate? If not, how should they be modified? Should separate thresholds be used to compare netted exposures, and gross exposures, to equity volume and debt issue size?

[185] Advisers would also be required to provide at least one of the following other identifiers: (1) ISIN; (2) ticker if ISIN is not available); (3) other unique identifier (if ticker and ISIN are not available). For reference assets with no CUSIP, or other identifier, advisers would be required to describe the reference asset. See proposed Question 40(a).

[186] *See* proposed Question 40(a)(xi).

[187] *See* proposed Question 40 and Form PF Glossary of Terms (proposed revised definition of ''gross exposure'').

[188] *E.g.,* Schedule 13G/13D uses a five percent threshold.

For fixed income, is the reference to ''debt security issuance'' clear? While this reference is designed to capture a full issue size, should it instead reference individual tranches of an issue?

154. For position reporting in Question 40, should we also require advisers to report the number of shares, principal amount or other unit, currency value and percent of value compared to NAV? Would this be burdensome to report?

155. In Question 40, are there other unique identifiers, in addition to or in lieu of LEI or CUSIP that we should add in addition to those proposed (*e.g.,* for commodities or indices)? Alternatively, should we permit advisers to report FIGI in lieu of CUSIP in Question 40 rather the requiring advisers to report CUSIP?

b. Borrowing and Counterparty Exposure

Counterparty exposure. As noted above, we propose to revise and enhance how advisers report information about their relationships with creditors and other counterparties (including CCPs) and the associated collateral arrangements for their hedge funds.[189] For qualifying hedge funds, we propose to include a new consolidated counterparty exposure table, similar to the new consolidated counterparty exposure table proposed for hedge funds in section 1c of the form,[190] which would capture all cash, securities, and synthetic long and short positions by a reporting fund, a fund's credit exposure to counterparties, and amounts of collateral posted and received. This table would replace the information currently required by Questions 43, 44, 45, and 47, each of which would be deleted under the proposal.[191] Under the proposal, proposed Questions 42 and 43 would continue to collect information about a reporting fund's key individual counterparties, but in more detail. These revisions are designed to improve data quality and comparability, close data gaps and provide better insight into qualifying hedge funds' borrowing and financing relationships, their credit exposure to counterparties and collateral practices, and also would enhance the Commissions' and FSOC's ability to assess the activities of qualifying hedge funds and their counterparties for investor protection purposes and in monitoring systemic risk.

The proposed new consolidated counterparty exposure table would be designed to capture information on all non-portfolio credit exposure that a qualifying hedge fund has to its counterparties (including CCPs) and the exposure that creditors and other counterparties have to the fund, taking into account netting. The new table would require advisers to report in U.S. dollars, as of the end of each month of the reporting period, a qualifying hedge fund's borrowings and other transactions with creditors and other counterparties by type of borrowing or transaction (*e.g.,* unsecured, secured borrowing and lending under a prime brokerage agreement, secured borrowing and lending via repo or reverse repo, other secured borrowing and lending, derivatives cleared by a CCP, and uncleared derivatives) and the collateral posted or received by a reporting fund in connection with each type of borrowing or other transaction.[192] The proposed table also would require advisers to qualifying hedge funds to (1) classify each type of borrowing by creditor type (*i.e.,* U.S. depository institution, U.S. creditors that are not depository institutions, and non-U.S. creditors); (2) classify posted collateral by type (*e.g.,* cash and cash equivalents, government securities, securities other than cash and cash equivalents and government securities and other types of collateral or credit support (including the face amount of letters of credit and similar third party credit support) received and posted by a reporting fund, and secured borrowing and lending (prime brokerage or other brokerage agreement), and (3) report, at the end of each month of the reporting period, the expected increase in collateral required to be posted by the reporting fund if the margin increases by one percent of position size for each type of borrowing or other transaction. We believe that measuring the impact of a one percent margin change will allow for a meaningful assessment of qualifying hedge funds' vulnerability to changes in financing costs and identification of funds that are most sensitive to potential margin changes. We also believe that measuring this impact would provide a conventional way to obtain data on funds' vulnerability to margin increases that is easy to scale up for analysis purposes and allows for uniform comparisons across hedge funds to see which funds have lockup agreements and which funds do not. Furthermore, the proposed table is designed to consolidate existing questions and provide more specific instructions in an effort to eliminate information gaps and improve the reliability of data collected. We believe that this new approach would collect better information about a qualifying hedge fund's borrowing and financing, cleared and uncleared derivatives positions, and collateral practices as well as a fund's credit exposure to counterparties resulting from excess margin, haircuts and positive mark-to-market derivatives transactions, which we believe would enhance FSOC's systemic risk assessments.

We request comment on the proposed addition of this new table.

156. Is the information to be collected in the proposed new table appropriate? If not, how should we modify the proposed reporting requirements? Would reporting in the proposed new table be overly burdensome for advisers? If so, how should we modify the proposed table to reduce burdens on advisers?

157. Would the proposed table capture an accurate overall view of the non-portfolio credit exposure that a qualifying hedge fund has in aggregate to its counterparties (including CCPs) and the exposure that creditors and other counterparties have to the fund? Are the table instructions clear? Would the instructions properly capture a reporting fund's borrowing and other transactions with creditors? Do we need to modify the proposed instructions for calculating and reporting associated collateral to clarify any matters? Do we need to modify the instructions with

[189] *See* discussion at Section II.B.3 of this Release.

[190] *See* discussion at Section II.B.3 of this Release.

[191] In connection with the proposed removal of current Question 44, we propose to make a corresponding amendment to current Question 13, which would be redesignated as Question 19, to remove an instruction that would no longer be relevant.

[192] The instructions would direct advisers to classify borrowings and other transactions and associated collateral based on the governing legal agreement (*e.g.,* a prime brokerage or other brokerage agreement for cash margin and securities lending and borrowing, a global master repurchase agreement for repo/reverse repo, and ISDA master agreement for synthetic long positions, synthetic short positions and other derivatives), and instruct advisers how to report when there is cross-margining under a fund's prime brokerage agreement. We are also proposing to add new definitions of ''synthetic long position'' and ''synthetic short position'' to the Glossary of Terms. *See* Form PF Glossary of Terms (proposed definitions of ''synthetic long position'' and ''synthetic short position''). Additionally, the instructions would permit advisers to net a reporting fund's exposure with each counterparty and among affiliated entities of a counterparty to the extent such exposures may be contractually or legally set-off or netted across those entities and/or one affiliate guarantees or may otherwise be obligated to satisfy the obligations of another under the agreements governing the transactions. The instructions would also direct advisers to classify borrowing by creditor type (*e.g.,* percentage borrowed from U.S. depository institutions, U.S. creditors that are not U.S. depository institutions, non-U.S. creditors) based on the legal entity that is the contractual counterparty for such borrowing and not based on parent company or other affiliated group.

respect to netting to increase clarity or avoid undue burden?

158. We propose to specify how to classify certain types of transactions based on legal agreement. We are proposing to classify all transactions under a master securities loan agreement (''MSLA'') as other secured borrowing. Is another classification more appropriate? If so, what classification do you suggest? For example, should borrowing and collateral received and lending and posted collateral under an MSLA be reported in a separate category of borrowing or consolidated with prime broker borrowing? Are the instructions provided for cross margining reasonable and practicable, or should they be changed in any way?

159. In connection with the proposal, we propose to add a new definition for ''synthetic short position.'' Is the list of assets to be included or excluded from the definition appropriate or should we provide a different list of assets? If we should provide a different list, what assets should be included and excluded?

160. Is it clear that advisers should calculate the expected increase or decrease based on a margin increase of one percent of position size in proposed Question 41 or should we provide further guidance or clarify the question? Should the metric be something other than the expected increase or decrease based on a margin increase of one percent of position size? If so, what metric should be used?

161. As an alternative, should we include a drop-down box with possible types of other secured borrowings (*e.g.,* letters of credit, loans secured by other collateral such as real estate, equipment, receivables, etc.) and also include an ''other'' ''catch-all'' category that would need to be explained in Question 4?

Significant counterparty reporting. The proposal would require advisers, for each of their qualifying hedge funds, to identify all creditors and counterparties (including CCPs) where the amount a fund has borrowed (including any synthetic long positions) before posted collateral equals or is greater than either (1) five percent of the fund's net asset value or (2) $1 billion.[193] We believe this threshold is appropriate because it highlights two different but potentially significant risks. First, five percent of a fund's net asset value represents an amount of borrowing that, if repayment was required, could be a significant loss of financing that could result in a forced unwind and forced sales from the reporting fund's portfolio. Second, $1 billion represents an amount that, in the case of a very large fund, may not represent five percent of the fund's net asset value, but may be large enough to create stress for certain of its counterparties. This change is designed to specify how securities held should be treated, avoiding a common source of error in how advisers have completed the current form, and allowing both counterparty risks related to collateralized transactions to be viewed in one place, *i.e.,* the risk that collateral will not be returned, and the risk that the borrower of cash will fail to repay the amount borrowed, risks that we have found cannot be fully observed based on information collected on the current form. For the top five creditors and other counterparties from which a fund has borrowed the most (including any synthetic long positions) before posted collateral, advisers would be required to identify the counterparty (by name, LEI, and financial institutional affiliation) and to provide information detailing a fund's transactions and the associated collateral. We have proposed a ''top five'' reporting threshold as this level is consistent with the current threshold for reporting on collateral practices on Form PF.[194] Advisers would be required to present this information using a proposed individual counterparty exposure[195] table that follows the same format as the new consolidated counterparty exposure table described above for Question 41, including borrowings and other transactions by type and collateral posted and received by type. For all other creditors and counterparties from which the amount a fund has borrowed (including any synthetic long positions) before posted collateral that equals or is greater than either (1) five percent of the fund's net asset value or (2) $1 billion, advisers would be required to identify each counterparty (by name, LEI, and financial institution affiliation) and report the amount of such borrowings and the collateral posted by the fund in U.S. dollars.

Similarly, the proposal would require advisers, for each of their qualifying hedge funds, to identify all counterparties (including CCPs) to which a fund has net mark-to-market counterparty credit exposure after collateral that equals or is greater than either (1) five percent of the fund's net asset value or (2) $1 billion.[196] We believe this threshold is appropriate because both portions of the threshold highlight potential systemic risk: five percent of net asset value is a level that we believe represents significant exposure (based on the impact on performance) in the event of counterparty default, and $1 billion, while it may not equal five percent of a large hedge fund's assets, may indicate a larger systemic stress involving a fund's counterparties. For the top five of these counterparties, advisers would identify the counterparty (by name, LEI and financial institution affiliation) and provide information detailing a fund's relationship with these counterparties including associated collateral using the same table required for individual counterparty reporting.[197] The proposal also would require qualifying hedge funds to identify all other counterparties (by name, LEI, and financial institution affiliation) to which a fund has net mark-to-market exposure after collateral that equals or is greater than either (1) five percent of a fund's net asset value or (2) $1 billion and would require these advisers to report the amount of the exposure before and after collateral posted by either the counterparty or the reporting fund as applicable. The purpose of this new requirement is to enhance our ability to understand the impact a particular counterparty failure like those that occurred during the 2008 financial crisis and in the period since (*e.g.,* the failure of MF Global in 2011),[198] which we believe is important

[193] *See* proposed Question 42. Advisers would use calculations performed to complete the new table in proposed Question 41 for purposes of identifying the counterparties to be reported in proposed Question 42 and Question 43, and the calculation method would be designed to be similar to the calculations used to identify counterparties in proposed Question 27 and proposed Question 28 in order to facilitate aggregation and analysis of data across hedge funds and qualifying hedge funds. Furthermore, if more than five counterparties meet the threshold, advisers would complete an individual counterparty exposure table for the top five creditors or other counterparties to which a reporting fund owed the greatest amount in respect of cash borrowing entries (before posted collateral), and also identify all other creditors and counterparties (including CCPs) to which the reporting fund owed an amount in respect of cash borrowing entries (before posted collateral) equal to or greater than either (1) five percent of the reporting fund's net asset value as of the data reporting date or (2) $1 billion. *See also* Form PF Glossary of Terms (proposed definitions of ''cash borrowing entries'' and ''collateral posted entries'').

[194] *See* current Question 36.

[195] In connection with the proposal, we propose to add a new definition for ''individual counterparty exposure table'' to the Form PF Glossary of Terms.

[196] *See* proposed Question 43.

[197] Under the proposal, however, if an adviser completes the table in Question 42 for a particular counterparty, the adviser would not be required to complete the table twice.

[198] *See e.g.,* Gapper, John and Kaminska, Izabella, Downfall of MF Global—US broker-dealer bankruptcy highlights global reach of eurozone crisis, *Financial Times* (November 2011) *available at https://www.ft.com/content/2882d766-06fb-11e1-90de-00144feabdc0.*

for systemic risk assessments and from an investor protection perspective. In assessing the risk to a fund of a counterparty default, the proposal would look at whether a fund has net borrowing exposure or net lending exposure to a counterparty. If the fund is a net borrower with respect to a counterparty, we would measure cash borrowed by the fund against collateral posted by fund. Alternatively, when the fund is a net lender with respect to a counterparty, we would measure cash loaned to the counterparty against collateral posted by the counterparty to assess whether the counterparty has posted insufficient collateral (relative to the amount borrowed).[199]

These proposed amendments are designed to streamline the form by consolidating information currently collected in Question 47 into proposed Question 42, and to improve the quality and comparability of reported information and our ability to integrate the data obtained for analysis with other regulatory data sets by specifying how advisers determine borrowing and counterparty credit exposure.[200] The proposed changes, in conjunction with the proposed new consolidated counterparty exposure table, would also provide a better overall view of hedge funds' borrowing and other financing arrangements and counterparty credit exposure and associated collateral, which we believe would provide critical insight into (1) creditor and counterparty exposure to qualifying hedge funds through synthetic long positions through derivatives, (2) potential gaps in margin received by and posted by qualifying hedge funds and the size of any such gaps, (3) qualifying hedge funds' exposure to a large counterparty failure, and (4) the expected impact on a fund's financing arrangements of a change in margin requirements.

Finally, the proposal would remove the requirement from current Question 38 for advisers to report the percentage of the total amount of collateral and other credit support that a fund has posted to counterparties that may be re-hypothecated.[201] We are proposing this change because we believe that this reporting is burdensome for advisers, and we have found that the data obtained is generally not reliable because advisers cannot easily collect and report the required information as re-hypothecation commonly occurs from omnibus accounts into which advisers generally do not have visibility.[202] We request comment on the proposed amendments.

162. Should we amend counterparty reporting as proposed, including the proposed counterparty identifying information? Is the proposed identifying information appropriate? If not, what alternatives do you suggest? Would the proposed amendments lead to more accurate data regarding counterparties?

163. We have proposed to limit more detailed reporting in proposed Question 42 to the top five creditor and counterparties from which a fund has borrowed the most (including any synthetic long positions) before posted collateral, and in proposed Question 43 to the top five counterparties to which a fund has the greatest net mark to market counterparty credit exposure after collateral. Should we expand this question to require more detailed reporting for the top, for example, ten creditors and/or counterparties, as applicable? Alternatively, should we further limit the scope of creditor and/or counterparty reporting? Should we require that all creditor and/or counterparties be listed?

164. Do advisers find the re-hypothecation reporting burdensome? Are advisers able to collect and report information currently required by Question 38 given omnibus accounts?

165. Are securities lending and borrowing different from other types of trading and financing activities (*e.g.,* repo/reverse repo, prime broker borrowing) for purposes of counterparty monitoring and risk assessment? If so, should we treat them differently?

166. As proposed, calculations in these questions would exclude collateral that is not cash and cash equivalents or other securities to avoid including letters of credit and other illiquid assets (*e.g.,* real estate) posted as collateral. What other types of collateral would be omitted under this instruction? Would it omit types of collateral commonly accepted by creditors and other counterparties? If so, how should we modify the question?

167. This proposal would collect information about top counterparties based on a fund's borrowing from each counterparty legal entity, rather than borrowing from all entities affiliated with a major financial institution. Could this approach result in data gaps where a fund borrows from different counterparties with one affiliated group below the reporting threshold? Alternatively, should we require funds to aggregate borrowings from all affiliates of major counterparties, and report on each affiliate in this counterparty reporting? What data gaps might occur using this alternative approach? Is the proposed threshold (*i.e.,* equal to or greater than either (1) five percent of the fund's net asset value or (2) $1 billion) for identifying counterparties to which the fund is exposed appropriate? Will it capture those counterparties to which the fund may have material counterparty credit exposure? Should we adopt a combination of thresholds (*e.g.,* greater than five percent or $1 billion for individual counterparties and greater than 10 percent or $1 billion for any affiliated group of counterparties)?

c. Market Factor Effects

The proposal would require advisers to qualifying hedge funds to respond to all market factors to which their portfolio is directly exposed, rather than allowing advisers to omit a response to any market factor that they do not regularly consider in formal testing in connection with the reporting fund's risk management, as Form PF currently provides.[203] These proposed changes are designed to enhance investor protection efforts and systemic risk assessment by allowing the Commissions and FSOC to track better common market factor sensitivities, as well as correlations and trends in those market factor sensitivities.

We also propose to change the stress thresholds to (1) require advisers to report one threshold for each market factor, rather than two as is currently required, and (2) propose different thresholds for certain market factors to capture stress scenarios that are plausible but still infrequent market moves.[204] Information resulting from

[199] *See* Form PF Glossary of Terms (proposed definitions of ''cash borrowing entries,'' ''collateral posted entries,'' ''cash lending entries,'' and ''collateral received entries'') for a detailed description of these calculations.

[200] The proposal would require creditor legal name and LEI, which would aid in the identification of counterparties and facilitate analysis of the interconnectedness of market participants (*e.g.,* Form N–PORT and Form N–CEN already collect LEI for registered investment company counterparties, and including LEIs here would facilitate analysis across data sets).

[201] We would redesignate Question 38 as Question 45.

[202] *See* MFA Letter to Chairman Clayton, Sept. 17, 2018, available at *https://www.managedfunds.org/wp-content/uploads/2020/04/MFA.Form-PF-Recommendations.attachment.final_.9.17.18.pdf* (noting the rehypothecated securities are taken out of an omnibus account, which makes reporting for advisers with any certainty difficult).

[203] *See* current Question 42 and proposed Question 47. For market factors that have no direct effect on a reporting fund's portfolio, we propose to instruct filers to enter zero.

[204] For example, on the current form, advisers must report the effect of an increase or decrease in equity prices by five percent and by 20 percent, while under the proposal advisers would only

stress testing at thresholds in the current form (one low and one high) is not useful because the thresholds are either too frequent (for the lower threshold) or too extreme and may not result in accurate estimates (for the higher threshold). Based on our experience with this information, we do not believe that collecting data at multiple thresholds [205] for each market factor is significantly more meaningful than collecting market factor sensitivity at a single plausible but still infrequent threshold.

The proposal also would add a market factor test concerning non-parallel risk free interest rate movements. It would test hedge fund exposure to changes in the slope of the yield curve, which is currently untested and can be a source of systemic risk when there are sudden interest rate changes. For example, this market factor could provide meaningful information on hedge funds that take complex positions, such as market neutral strategies (*e.g.,* basis trading in particular) and other strategies that employ trades that take advantage of spreads in yield curves coupled with high use of leverage.

The proposal also would revise the instructions so advisers would report the long component and short component consistently with market convention, rather than opposite from market convention, as Form PF currently provides in order to reduce inadvertent mistakes in completing the form.[206] We request comment on the proposed amendments.

168. Should Form PF require advisers to qualifying hedge funds to respond to all market factors, as proposed? Alternatively, should Form PF allow advisers to omit a response to any market factor that it does not regularly consider in formal testing in connection with the reporting fund's risk management? Do advisers or their reporting funds regularly consider all, some, or other market factors we are proposing? If so which ones and why? Are adjustments needed for advisers that use a different stress test methodology than that required by the question as proposed?

169. Should we revise the stress thresholds, as proposed? Would the proposed thresholds capture stress scenarios that are plausible but still infrequent market moves? Is there a better way to meet this objective? Are adjustments needed for advisers that test thresholds similar, but not identical to, those proposed?

170. Should Form PF include a market factor concerning non-parallel risk free interest rate movements, as proposed? Would this proposed amendment provide meaningful exposure information for hedge funds that take complex positions, such as market neutral strategies (*e.g.,* basis trading in particular) and other strategies that employ trades that take advantage of spreads in yield curves coupled with a high use of leverage? Would any of the other market factors better describe the risks such strategies are exposed to?

171. Are the proposed amendments to how advisers would report long and short components consistent with market convention? Do market conventions vary by asset type? Would the proposed change relieve or increase burdens? Please provide supportive data. Is there a more effective way to require advisers to report long and short components that would be consistent with market conventions and allow for data comparability?

172. Are there any definitions or instructions that we should clarify or change in this question?

173. As an alternative, should Form PF require all advisers to all types of reporting funds to report market factor data? Which ones and why?

d. Additional Amendments to Section 2b

Currency exposure reporting. The proposal would require qualifying hedge funds to report for each month of the reporting period, in U.S. dollars, (1) the net long value and short value of a fund's currency exposure arising from foreign exchange derivatives and all other assets and liabilities denominated in currencies other than a fund's base currency, and (2) each currency to which the fund has long dollar value or short dollar value exposure equal to or exceeding either (a) five percent of a fund's net asset value or (b) $1 billion.[207] In responding, advisers would be required to include currency exposure obtained indirectly though positions held in other entities (*e.g.,* investment companies, other private funds, commodity pools or other companies, funds or entities) and could report reasonable estimates if consistent with internal methodologies and conventions of service providers.[208] This proposed requirement is designed to provide insight into whether notional currency exposures reported by qualifying hedge funds in Question 30 represent directional exposure or are hedges of equity and/or fixed income positions. This new question would allow us to understand whether a qualifying hedge fund's portfolio is exposed to a given currency, and it would also provide a view into the fund's currency exposure resulting from holdings in foreign securities (*e.g.,* Eurobonds). While current Question 30 requires advisers to separate currency exposure relating to hedging from other currency, we have found that this data has not been very useful for determining whether a currency position is speculative or a hedge. Additionally, we believe that it is important to consider a qualifying hedge fund's currency exposure to identify vulnerabilities to currency fluctuations and market events that affect different countries and regions. Finally, we believe the proposed threshold of either (1) five percent of a fund's net asset value or (2) $1 billion for reporting individual currency exposure is appropriate because it represents, in each prong of the threshold, a material level of portfolio exposure to currency risk at which we believe a deterioration in the value of a particular currency could have a significant negative impact on a fund's investors. We also believe that if multiple large funds have significant exposure to a currency that is rapidly devaluing, this circumstance could raise financial stability concerns, and this proposed reporting would better enable review of this type of situation. More broadly, we also would be able to use

report the effect of a 10 percent increase or decrease, which is a more plausible but still infrequent scenario.

[205] *See* current Question 42.

[206] The proposal would amend the instructions to provide that ''risk free interest rates'' would include interest rate swap rates in which a fixed rate is exchanged for a risk-free floating rate such as the secured overnight financing rate (''SOFR'') or the sterling overnight index average (''SONIA''). Additionally, the proposal would amend the instructions to specify that (1) for market factors involving interest rates and credit spreads, advisers should separate the effect on its portfolio into long and short components where (i) the long component represents the aggregate result of all positions whose valuation changes in the opposite direction from the market factor under a given stress scenario, and (ii) the short component represents the aggregate result of all positions whose valuation changes in the same direction as the market factor under a given stress scenario, and (2) for market factors other than interest rates and credit spreads, advisers should separate the effect on its portfolio into long and short components where (i) the long component represents the aggregate result of all positions whose valuation changes in the same direction as the market factor under a given stress scenario and (ii) the short component represents the aggregate result of all positions whose valuation changes in the opposite direction from the market factor under a given stress scenario. *See* proposed Question 47.

[207] Proposed Question 33.

[208] This instruction is designed to simplify and reduce the burdens of reporting sub-asset class exposures. Furthermore, the proposal would permit advisers to provide good faith estimates and take currency hedges into account, if consistent with their internal methodologies and information reported internally and to investors.

the information obtained to identify concentrations in particular currencies and assess the potential impact of market events that affect particular currencies. We request comment on the proposed amendments.

174. Should we add new Question 33, as proposed?

175. Would this new question enhance systemic risk analysis, including the impact of currency risk? Is there a better way to meet this objective? How could we modify the proposed question to better meet its objective?

176. Is the proposed threshold of either (1) five percent of a fund's net asset value or (2) $1 billion for reporting individual currency exposure appropriate? If not, what threshold is appropriate?

Turnover. The proposal would require reporting on a per fund basis on the value of turnover in certain asset classes rather than on an aggregate basis as currently required.[209] We believe that requiring this reporting on a per fund basis would provide more detailed information to us and FSOC while at the same time simplifying reporting for advisers. We understand that advisers do not currently aggregate turnover related information among funds. Aggregating solely for Form PF reporting is particularly burdensome as the required data is typically on separate reporting systems and advisers must ''roll-up'' data from these sources to report on the form.

We also propose to add new categories for turnover reporting that would disaggregate combined categories and better capture turnover of potentially relevant securities, such as various types of derivatives (*e.g.,* listed equity, interest rate, foreign exchange), which we believe would help support analysis of hedge fund market activity.[210] Furthermore, we propose to add a new consolidated foreign exchange and currency swaps category and make other changes.[211] During the March 2020 COVID–19-related market turmoil, FSOC sought to evaluate the role hedge funds played in disruptions in the U.S. treasury market by unwinding cash-futures basis trade positions and taking advantage of the near-arbitrage between cash and futures prices of U.S. treasury securities.[212] Because the existing requirement regarding turnover reporting on U.S. treasury securities is highly aggregated, the SEC staff, during retrospective analyses on the March 2020 market events, was unable to obtain a complete picture of activity relating to long treasuries and treasury futures. Given the significant size of hedge funds' exposures to certain derivative products, we believe it is important to gain more insight into trading activities with respect to these financial instruments to better enable the Commissions and FSOC to assess and monitor the activity of qualifying hedge funds for systemic risk implications.[213] Expanded reporting on turnover also would provide better information for assessing trading frequency in lieu of requiring advisers to report what percentage of their hedge funds' net asset value is managed using high-frequency trading strategies.[214]

We request comment on the proposed Question 34.

177. Would the proposed detailed turnover reporting provide additional insight into a fund's activities in key markets? Should additional categories be added to provide a clearer view of turnover and its potential to help us and FSOC identify and monitor activities that could indicate systemic risk in the market? If so, what categories do you suggest and why? Should we exclude any of the proposed categories? If so, why?

178. The current instructions state that turnover value should be reported as the sum of the absolute value of transactions, and as such the reported value of turnover for certain derivatives may be very large (reflecting notional value). Should we use a different measure for valuing turnover (*e.g.,* market value)? Recognizing that the current instructions result in consistency in reported value among questions on Form PF, would a different measure be more or less useful?

179. Do you agree that aggregating information may be burdensome for some advisers? Do some advisers maintain the required data on different systems such that ''rolling-up'' the data from different sources to report on the form would be complex and time consuming?

Country and industry exposure. We are proposing to require advisers to report all countries (by ISO country code)[215] to which a reporting fund has exposure equal to or exceeding either (1) five percent of its net asset value or (2) $1 billion, and to report the dollar value of long exposure and the dollar value of short exposure in U.S. dollars, for each monthly period to improve data comparability across funds.[216] Under the current approach, only certain regions are identified and these regions are not uniformly defined, which results in data that is not consistent.[217] In addition, at times we have needed to identify countries of interest not on this list. As such, we propose to replace the country of interest and regional reporting with this new country level information. Finally, we believe that the proposed threshold of either (1) five percent of net asset value or (2) $1 billion is appropriate because it represents a material level of portfolio exposure to risk relating to individual countries and geographic regions, and is a level that could significantly impact a fund and its investors if, for example, there are currency fluctuations or geopolitical instability. Furthermore, the data obtained would allow for identification of industry concentrations in particular countries and/or regions and help assess the potential impact of market events on these geographic segments. We believe that the five percent threshold level constitutes a reasonable shock to a fund's net asset value. For example, to the extent there is a market-wide event, a worst-case scenario would be for long positions to lose their full value, in this shock case

[209] Proposed Question 34. In connection with the proposed amendments, the proposal would move reporting on the value of turnover in certain asset classes and the geographical breakdown of investments from section 2a to section 2b.

[210] We also propose to break out some categories by futures, swaps, and options as different types of derivatives have different risk profiles and implications for systemic risk, and to add a category for ''other derivative instrument types'' so that all derivatives are reported.

[211] We propose to add instructions requiring advisers to report turnover in derivatives separately from turnover in physical holdings for asset classes in proposed Question 32 and to make other conforming changes to reflect changes to defined terms in the Form PF Glossary of Terms.

[212] *See* U.S. Credit Markets Interconnectedness and the Effects of the COVID–19 Economic Shock, U.S. Securities Exchange Commission, October 2020 available at *https://www.sec.gov/files/US-Credit-Markets_COVID-19_Report.pdf.* See Financial Stability Oversight Council 2021 Annual Report, available at *https://home.treasury.gov/system/files/261/FSOC2021AnnualReport.pdf.*

[213] As of the end of the third quarter of 2021, interest rate derivatives currently make up approximately 25 percent of gross notional exposure (GNE) reported on Form PF, while foreign exchange derivatives make up 15 percent of GNE. Additionally, commodity, credit, and other derivatives when combined make up five percent, or nearly $1.5 trillion. *See* Private Fund Statistics Q3 2021, *supra* footnote 7.

[214] *See* current Question 21. We propose to remove Question 21 as it would be redundant in light of the proposed expanded turnover reporting.

[215] This is similar to reporting on Form N–PORT and will improve the comparability of data between Form PF and Form N–PORT.

[216] Proposed Question 35. In connection with the proposed amendments, the proposal would move reporting on geographical breakdown of investments from section 2a to section 2b.

[217] Currently, consistent with staff guidance in Form PF Frequently Asked Questions 28.1 and 28.2 advisers may report geographical exposure based on internal methods and indicate in Question 4 if methods do not reflect risk and economic exposure. *See* Form PF Frequently Asked Questions, *supra* footnote 79.

at least five percent. Furthermore, and particularly for funds without a benchmark, five percent is often evaluated for industry, individual position, and country risk, and is a common and easy to measure threshold. With respect to the $1 billion threshold, we believe it constitutes sufficiently large nominal value exposure from a risk perspective.

We also propose to add a new question that would require advisers to provide information about each industry to which a reporting fund has exposure equal to or exceeding either (1) five percent of its net asset value or (2) $1 billion.[218] Advisers would be required to report, for each monthly period, the long dollar value and short dollar value of a reporting fund's exposure by industry based on the NAICS [219] code of the underlying exposure. The purpose of this new question would be to collect information that would provide insight into hedge funds' industry exposures in a standardized way to allow for comparability among funds and meaningful aggregation of data to assess overall industry-specific concentrations. Further, we believe the proposed threshold of either (1) five percent of net asset value or (2) $1 billion is appropriate because it represents a material level of portfolio exposure to risk relating to individual industries, and is a level that could significantly impact a fund and its investors if, for example, there are market or geopolitical events that affect performance by a particular industry, such as the burst of the ''tech bubble'' in the early 2000s or COVID–19's impact on airline, accommodation and food service industries. Furthermore, the data obtained would allow for identification of industry concentrations and help assess the potential impact of market events on industries. While we considered a lower threshold, we believe that the proposed threshold strikes an appropriate balance between identifying significant industry exposure and the burdens of reporting this information on Form PF. We believe this information would be useful to the Commissions and FSOC in monitoring systemic risk, particularly if multiple funds have significant concentrations in industries that are experiencing periods of stress or disruption.

When responding to these questions about country and industry exposure, advisers would be required to include exposure obtained indirectly though positions held in other entities (*e.g.,* investment companies, other private funds, commodity pools or other company, funds or entities). Without this requirement, a fund's exposure to geographic regions and industries could be obscured and hinder the Commissions' and FSOC's ability to assess risks and the potential impact of events and trends that affect a particular industry or geographic region, both of which could have implications for investors. While we believe that advisers typically maintain this information, the proposed instructions to these questions seek to minimize filer burdens by permitting advisers to report reasonable estimates if such reporting is consistent with internal methodologies and information reported internally and to investors.

We request comment on the proposed Question 35 and proposed Question 36.

180. Should we require advisers to report all countries (by ISO country code) [220] to which a reporting fund has exposure of equal to or exceeding (1) five percent or more of its net asset value or (2) $1 billion, and to report exposure in U.S. dollars? Is this threshold appropriate? If not, should the threshold be higher or lower? Do you agree that removing regional level reporting is appropriate? Are there any other alternatives? If so, what alternatives?

181. Should we require advisers to provide information about each industry to which a reporting fund has exposure equal to or exceeding (1) five percent or more of its net asset value or (2) $1 billion? Is this threshold appropriate? If not, should the threshold be higher or lower?

182. With respect to requiring advisers to provide information about portfolio industry exposure, what level of industry detail should be gathered (for example, 2-digit NAICS codes represent 20 unique industries)? Is it more burdensome to provide more detail, or does aggregation to broader industry categories create additional burden?

183. We propose to modify the instructions to require that investments be categorized based on concentration of risk and economic exposure. Should we add instructions or guidance for currency crosses or dollar denominated non-U.S. sovereign debt? Furthermore, current Question 77 (for private equity funds) also uses NAICS codes for reporting industry exposure. Should we use Global Industry Classification Standard (GICS) codes or another classification standard? Finally, how should ETFs and other exchange traded products be reported in this question? Are these financial instruments typically coded to industry sector? If not, what alternatives do you suggest and why?

184. We propose to require advisers, when responding to proposed Question 35 and proposed Question 36 to include exposure obtained indirectly though positions held in other entities (*e.g.,* investment companies, other private funds, commodity pools or other funds or entities). Is this appropriate? If not, why? Would this be overly burdensome for advisers?

Central clearing counterparty (CCP) reporting. We propose to require advisers to identify each CCP or other third party holding collateral posted by a qualifying hedge fund in respect of cleared exposures (including tri-party repo) equal to or exceeding either (1) five percent of a reporting fund's net asset value or (2) $1 billion.[221] The proposed new question would exclude counterparties already reported in proposed Question 42 and proposed Question 43,[222] and require advisers to provide information on: (1) the legal name of the CCP or third party; (2) LEI (if available); (3) whether the CCP or third party is affiliated with a major financial institution; (4) the reporting fund's posted margin (in U.S. dollars); and (5) the reporting fund's net exposure (in U.S. dollars). We are proposing this new question based on our experience with Form PF since adoption as we have found data gaps with respect to identifying qualifying hedge fund exposures to CCPs and other third parties that hold collateral in connection with cleared exposures. Furthermore, we understand that (1) many large hedge fund advisers already track margin posted for cleared exposures because margin requirements at any given time may well exceed the clearinghouse's exposure to a fund and therefore are an important credit risk exposure metric for a fund, and (2) that CCP recovery, resiliency and resolution also are current concerns for some advisers.[223] Given these factors, we

[218] Proposed Questions 36.

[219] North American Industry Classification System.

[220] This is similar to reporting on Form N–PORT and will improve the comparability of data between Form PF and Form N–PORT.

[221] Proposed Question 44.

[222] *See* discussion at Section II.C.2.b of this Release.

[223] *See* ''A Path Forward For CCP Resilience, Recovery, And Resolution,'' March 10, 2020 *available at https://www.blackrock.com/corporate/literature/whitepaper/path-forward-for-ccp-resilience-recovery-and-resolution.pdf. See* also J.P. Morgan Press Release, March 10, 2020, *available at https://www.jpmorgan.com/solutions/cib/markets/a-path-forward-for-ccp-resilience-recovery-and-resolution.*

believe that the burden of this proposed new question would be justified by valuable insight the data obtained would provide into an area that could have significant implications from a systemic risk perspective. Additionally, we have chosen a reporting threshold of equal to or exceeding either (1) five percent of net asset value or (2) $1 billion to be consistent with the thresholds for other counterparty exposure questions,[224] as we believe that a qualifying hedge fund is similarly exposed where a third party holds collateral irrespective of whether the third party is a CCP or other counterparty. The proposal would also remove current Question 39, which requires information about transactions cleared directly through a CCP, as the information collected is duplicative of information already collected in current Question 24. We request comment on the proposed addition of new Question 44.

185. Should we collect information about the exposure of qualifying hedge funds to CCPs and other third parties holding collateral in respect of cleared exposures? If so, what information should be collected on these exposures? Does the proposed question collect helpful information? Should we collect different information, more information or less information? Is the proposed reported threshold of equal to or exceeding either (1) five percent of a reporting fund's net asset value or (2) $1 billion appropriate? If not, how should the threshold be modified?

186. Do you agree that many large hedge fund advisers already track margin posted for cleared exposures because margin requirements at any given time may well exceed the clearinghouse's exposure to a fund and therefore are an important credit risk exposure metric for a fund? Additionally, do you agree that CCP recovery, resiliency, and resolution also are current concerns for some advisers?

Risk metrics. We propose to eliminate the requirement that an adviser indicate whether there are risk metrics other than, or in addition to, Value at Risk (''VaR'') that the adviser considers important to managing a reporting fund's risks.[225] Advisers generally do not report detailed information in response to this requirement. Currently, about 60 percent of advisers to qualifying hedge funds (representing about 75 percent of the aggregate gross asset value of qualifying hedge funds) report using VaR or market factor changes in managing their hedge funds.[226] Instead, we propose to require advisers to provide additional information about a reporting fund's portfolio risk profile, including reporting on portfolio correlation, investment performance by strategy and volatility of returns and drawdowns.[227] The proposal would expand the amount of data collected by collecting risk data in circumstances where advisers do not use VaR or market factor changes, and thus provide insight across all (rather than only some) qualifying hedge funds. This new information would provide uniform and consistently reported risk information that will enhance our ability to monitor and assess investment risks of qualifying hedge funds to gauge systemic risk. In particular, volatility of returns and drawdown data is a simple measure of risk that enables us to monitor risk-adjusted returns, changes in volatility and thereby risk profiles.

We request comment on the proposed removal of Question 41.

187. Do you agree with the proposed removal of Question 41? Instead, should we change this question to make it easier for advisers to report more detailed information? Do you believe that new Questions 48, 49 and 23(c) will provide better information about the risk profiles of qualifying hedge funds?

Investment performance by strategy. The proposal would require advisers to qualifying hedge funds that indicate more than one investment strategy for a fund in proposed Question 25 to report monthly gross investment performance by strategy if the adviser calculates and reports this data for such fund, whether to current and prospective investors, counterparties, or otherwise.[228] An adviser would be required to provide monthly performance results only if such results are calculated for a reporting fund (whether for purposes of reporting to current and prospective investors, counterparties, or otherwise), but would not be required to respond to this question if the adviser reports performance for the fund as an internal rate of return. This question is designed to integrate Form PF hedge fund data with the Federal Reserve Board's reporting on Financial Accounts of the United States, which the Federal Reserve uses to track the sources and uses of funds by sector, and which are a component of a system of macroeconomic accounts including the National Income and Product accounts and balance of payments accounts, all of which serve as a comprehensive set of information on the economy's performance. We also believe that this information could be helpful to the Commissions' and FSOC's monitoring and analysis of strategy-specific systemic risk in the hedge fund industry. We request comment on the proposed addition of new Question 49.

188. Do you agree with the addition of new Question 49 as proposed? If not, what alternatives would you suggest and why? Would responding to this question be burdensome? If it would be overly burdensome, how would you suggest we modify the proposal?

Portfolio correlation. The proposal would add a new question on portfolio correlation to collect data on the effects of a breakdown in correlation.[229] Based on feedback from advisers filing Form PF and data reported on Form PF, it appears that hedge funds using the most leverage tend to engage in long/short, relative value, and similar strategies that seek to pair trades in highly correlated instruments, possibly with a focus on factor models. For these hedge funds, VaR calculations that rely on static correlation matrices may not factor in periods of market turmoil when assumed correlations break down. Therefore, a breakdown in assumed correlations could cause these funds to de-lever and could have a significant impact on financial stability, particularly if there are ''crowded'' or overlapping positions across funds, which could lead to cascade effects. We recommend a new question that gathers data on the effects of a breakdown in assumed correlations rather than just historical correlations. The proposed new question would focus on assessing the risks associated with a correlation breakdown, and would require qualifying hedge funds to report for

[224] *See* discussion at Section II.C.2.b of this Release.

[225] *See* current Question 41.

[226] *See* Private Funds Statistics Q2 2020 (Table 58/59). Current Question 40 requires advisers to report certain risk data if the adviser regularly calculates VaR of the reporting fund. Current Question 42 requires advisers, for specific market factors, to determine the effect of specified changes on a reporting fund's portfolio, but permits advisers to omit a response to any market factor that they do not regularly consider in formal testing in connection with a reporting fund's risk management.

[227] *See* Proposed Question 48 (portfolio correlation), proposed Question 49 (investment performance breakdown by strategy), and proposed Question 23(c) (volatility of returns and drawdown reporting). *See* discussion at Section II.B.2 of this Release. We propose to also revise the title of Item C. of current section 2b to ''Reporting fund risk metrics and performance'' to reflect that the proposal would add new questions on performance to this section of the form.

[228] Proposed Question 49. The strategies in proposed Question 49 would be based on the strategies set forth in proposed Question 25 (the proposal would also revise the strategy categories in current Question 20, which we would redesignate as Question 25, to better reflect our understanding of hedge fund strategies and to improve data quality and comparability). *See* discussion at Section II.B.3 of this Release.

[229] Proposed Question 48.

their portfolios (as of the end of each month of the reporting period) (1) the average pairwise 3-month realized prior Pearson correlation of each portfolio position's periodic (*e.g.,* daily or weekly) total rates of return using the greatest available frequency of data over the measurement window (*e.g.,* daily or weekly), (2) the frequency of the data used over the prior 3-month window (*e.g.,* daily or weekly) (3) the expected annualized volatility utilizing 3-month realized prior Pearson correlations of each portfolio position's periodic (*e.g.,* daily or weekly) total rates of return and assuming realized prior volatilities of portfolio positions with the same frequency window as that chosen when computing 3-month realized correlations, and (4) what the resulting annualized volatility would be if a reporting fund uniformly reduced or increased pairwise correlations by 20 percentage points utilizing 3-month realized prior Pearson correlations of portfolio positions' periodic rates of return and assuming 3-month realized prior volatilities of portfolio positions' periodic rates of return with the same frequency window as that chosen when computing 3-month realized correlations. This question is designed to (1) isolate the impact of a breakdown in correlation on the volatility of long/short funds that may de-lever if there is an increase in their volatility, (2) avoid some of the pitfalls of VaR models such as relying on backwards looking assumptions on the relationship between securities, and (3) provide a measure of volatility sensitivity in addition to one-day VaR. We believe that this new question would not create a significant burden for advisers because portfolio positions' periodic total rates of return and corresponding correlation matrices are likely available for most qualifying hedge funds. We request comment on the proposed addition of new Question 48.

189. Are the effects of a breakdown in correlations useful for monitoring systemic risk? Would this question provide helpful information for purposes of comparing fund activities and assessing risk? Does it offer insight into funds with a range of strategies or is it useful for only some strategies? What other questions could isolate the effects of a breakdown in correlations? Will it be burdensome for advisers to qualifying hedge funds to respond to this question and, if so, what burdens will be imposed? Are total rates of return and corresponding correlation matrices readily available for most qualifying hedge funds? If not, what strategies would have the most difficulty completing this question? Are there less burdensome questions that could help isolate the effects of a breakdown in correlations?

190. As an alternative or in addition to measuring sensitivity to correlation, would any of the following approaches be preferable to our proposal: (1) subtract aggregate portfolio VaR from the sum of VaR computed at the asset class level, or some other sub-portfolio level, to measure the impact of diversification and the sensitivity to correlation, or (2) combine single factor stress tests for the portfolio assuming zero correlation?

191. As proposed, would responding to new Question 48 create an undue burden for advisers? If so, how should we modify the question to make it less burdensome for respondents? Does the flexibility embedded in the proposed question (*i.e.,* the flexibility for a fund to choose its own frequency of position marks (be it daily, weekly, monthly)) make it easier for funds to respond?

192. Is the proposed 20 percentage point sensitivity metric appropriate? If not, what alternative do you suggest?

Portfolio Liquidity. We propose to require advisers to include cash and cash equivalents when reporting portfolio liquidity, rather than excluding them, as the question currently provides.[230] We understand that reporting funds typically include cash and cash equivalents when analyzing their portfolio liquidity. We believe the proposed change would improve data quality by reducing inadvertent errors that result from requiring advisers to report in a way that is different from how they may report internally. We believe this proposed change is more reflective of industry practice, and it is preferable to receive reported data in a format that reflects how advisers typically analyze portfolio liquidity.

We also propose to amend the form's instructions to allow advisers to assign each investment to more than one period, rather than directing advisers to assign each investment to only one period, as Question 32 currently provides. We understand that directing advisers to assign an investment to only one period may make a reporting fund's portfolio appear less liquid than it is because it would not reflect that reporting funds may divide up sales in different periods (*e.g.,* a reporting fund could sell off a portion in the first time period, and sell of the remainder in subsequent time periods). Therefore, this proposed change is designed to reflect the liquidity of a reporting fund's portfolio more accurately.

While advisers would continue to be able to rely on their own methodologies to report portfolio liquidity, we propose to add an instruction explaining that estimates must be based on a methodology that takes into account changes in portfolio composition, position size, and market conditions over time. Based on experience with the form, we have found that some advisers have used static methodologies that do not consider portfolio composition and position size relative to the market, and therefore do not reflect a reasoned view about when positions could be liquidated at or near carrying value. Therefore, this proposed change is designed to continue to allow advisers to use their own methodologies, but improve data quality to ensure that the methodologies generate reporting that reflects a reasonable view of portfolio liquidity in light of changes in portfolio composition and size, and market conditions, over time.

Finally, to facilitate more accurate reporting, collect better data, and reduce filer errors, we propose to amend the table to be included in proposed Question 37 to reflect that information should be reported as a percentage of NAV consistent with SEC staff Form PF Frequently Asked Questions.[231]

We request comment on the proposed amendments.

193. Should proposed Question 37's portfolio liquidity requirements include cash and cash equivalents, as proposed, regardless of what types of advisers would complete it? Would this proposed amendment help the Commissions and FSOC better analyze portfolio liquidity? Would this proposed change make Form PF more consistent with how the industry analyzes portfolio liquidity? Is there a better way to meet these objectives? For example, should Form PF instead require advisers to report cash and cash equivalents for all reporting funds separately than other positions when reporting portfolio liquidity?

194. Do you agree that reporting funds typically include cash and cash equivalents when analyzing their portfolio's liquidity?

195. Should Form PF allow advisers to assign investments to more than one period, as proposed? Would this proposed change more accurately reflect the liquidity of a reporting fund's portfolio?

196. Should Form PF continue to allow advisers to rely on their own

[230] *See* current Question 32 and proposed Question 37.

[231] *See* Form PF Frequently Asked Questions, *supra* footnote 79, Question 32.3.

methodologies in reporting on portfolio liquidity?

197. Should Form PF include an instruction that provides that estimates must be based on a methodology that takes into account changes in portfolio composition, position size, and market conditions over time, as proposed? Would this proposed change improve data quality? Is there a better way to achieve this objective? If we add the instruction to this question, in particular, would it suggest that the instruction would not apply to other liquidity analysis, or other portfolio metrics?

198. As an alternative, should Form PF require all advisers to report portfolio liquidity for all reporting funds?

199. Should Form PF change how advisers report portfolio liquidity in any other ways? For example, should we require advisers to report information in dollars, in addition to or instead of reporting as a percentage of the portfolio, as Form PF currently requires? Would such a requirement help the Commissions and FSOC to compare portfolio liquidity with other data on Form PF that advisers report in dollars?

Financing Liquidity. Question 46 is designed to show the extent to which financing may become rapidly unavailable for qualifying hedge funds.[232] We propose to amend current Question 46 to improve data quality thereby supporting more effective systemic risk analysis.[233] Advisers would provide the dollar amount of financing that is available to the reporting fund, including financing that is available but not used, by the following types: (1) ''unsecured borrowing,'' (2) ''secured borrowing'' via prime brokerage, (3) secured borrowing via reverse repo, and (4) other secured borrowings.[234] Currently, the Commissions and FSOC infer this data from this question and current Question 43 (concerning the reporting fund's borrowings).[235] However, these inferences may not be accurate given the number of assumptions that currently go into making such inferences. This proposed information would help us understand the extent to which a fund's financing could be rapidly withdrawn and not replaced.

We request comment on the proposed amendments.

200. Should Form PF require advisers to report the amount of financing that is available to the reporting fund but not used, as a dollar amount, as proposed? Alternatively, should Form PF require advisers to report this information in a different way? For example, should Form PF require advisers to report the amount of financing that is available to the reporting fund but not used, as a percentage of total financing? Would it be more or less burdensome for advisers to report this information as a dollar amount than as a percentage of total financing? Please provide supportive data.

201. As an alternative, should Form PF require all advisers to report financing liquidity for any size hedge funds they advise? If so, why?

D. Proposed Amendments To Enhance Data Quality

We are also proposing several amendments to the instructions to Form PF to enhance data quality.[236] Specifically, we are proposing the following changes:

Reporting of percentages. For questions that require information to be expressed as a percentage, we propose to require that percentages be rounded to the nearest one hundredth of one percent rather than rounded to the nearest whole percent. We believe that this additional level of precision is important, especially for questions where it is common for filers to report low percentage values (*e.g.,* risk metric questions such as current Question 40 and current Question 42) to avoid situations where advisers round to zero and no data is reported, potentially obscuring small changes that may be meaningful from a risk analysis or stress testing perspective.

Value of investment positions and counterparty exposures. We propose to specify how private fund advisers determine the value of investment positions (including derivatives) and counterparty exposures. The proposed changes are designed to provide a more consistent presentation of reported information on investment and counterparty exposures to support more accurate aggregation and comparisons among private funds by us and FSOC in assessing systemic risk. Under the form's current instructions, advisers may report portfolios with similar exposures differently.[237] We understand that some advisers net legs of partially offsetting trades when calculating the value of derivatives positions in accordance with internal methodologies, but others do not, resulting in inconsistent reporting that may obscure a fund's risk profile. We propose to require these trades to be reported independently on a gross basis, consistent with derivatives reporting on Form N–PORT.[238] We also propose to instruct advisers that for all positions reported on Form PF, advisers should not include as ''closed-out'' a position if the position is closed out with the same counterparty and results in no credit or market exposure to the fund, making the approach on Form PF with respect to closed out positions consistent with rule 18f–4 of the Investment Company Act and our understanding of filers' current practices.[239]

Reporting of long and short positions. We propose to amend the instructions regarding the reporting of long and short positions on Form PF to improve the accuracy and consistency of reported data used for systemic risk analysis. We propose to specify that if a question requires the adviser to distinguish long positions from short positions, the adviser should classify positions based on the following: (1) a long position experiences a gain when the value of the market factor to which it relates increases (and/or the yield of that factor decreases), and (2) a short position experiences a loss when the value of the market factor to which it relates increases (and/or the yield of that factor decreases).

Calculating certain derivative values. We propose to amend the instruction to provide that, (1) for calculating the value of interest rate derivatives, ''value'' means the 10-year bond

[232] *See* 2011 Form PF Adopting Release, *supra* footnote 3, at text accompanying n.281.

[233] We would redesignate Question 46 as Question 50.

[234] Form PF defines ''unsecured borrowing'' as obligations for borrowed money in respect of which the borrower has not posted collateral or other credit support. Form PF defines ''secured borrowing'' as obligations for borrowed money in respect of which the borrower has posted collateral or other credit support. For purposes of this definition, reverse repos are secured borrowings. *See* Form PF Glossary of Terms. These categories are designed to be consistent with borrowing categories that qualifying hedge funds would report on the new counterparty exposure table.

[235] Current Question 43 collects data on the reporting fund's borrowing by type (*e.g.,* unsecured, and secured by type, *i.e.,* prime broker, reverse repo or other), while current Question 46 only collects a total amount of financing available, both used and unused, with no breakdown by type of financing.

[236] Proposed Instruction 15 (provides guidelines for advisers in responding to questions on Form PF relying on their own methodology).

[237] *See* Form PF: General Instruction 15.

[238] Specifically, proposed Instruction 15 requires that if a question in Form PF requests information regarding a ''position'' or ''positions,'' advisers must treat legs of a transaction even if offsetting or partially offsetting, or even if entered into with the same counterparty under the same master agreement as two separate positions, even if reported internally as part of a larger transaction. *See also* instructions to N–PORT, General Instruction G.

[239] *See* Use of Derivatives by Registered Investment Companies and Business Development Companies, IC Release No. 34084 (Nov. 2, 2020), Section II.E.2.c. [85 FR 83162, 83210] Dec. 21, 2020. *See also* Form PF Frequently Asked Questions, *supra* footnote 79, Question 44.1.

equivalent, and (2) for calculating the value of options, ''value'' means the delta adjusted notional value (expressed as a 10-year bond equivalent for options that are interest rate derivatives).[240] The amended instruction would also provide that in determining the value of these derivatives, advisers should not net long and short positions or offset trades, but should exclude closed-out positions that are closed out with the same counterparty provided that there is no credit or market exposure to the fund. The proposed amendments are designed to provide more consistent reporting by advisers, which we believe would help support more accurate aggregation of data, better comparisons among funds, and a more accurate picture for purposes of assessing systemic risk.[241]

Currency Conversions for Reporting in U.S. Dollars. We propose to amend Instruction 15 to clarify that if a question requests a monetary value, advisers should provide the information in U.S. dollars as of the data reporting date or other requested date (as applicable) and use a foreign exchange rate for the applicable date. We also propose to amend Instruction 15 to provide that if a question requests a monetary value for transactional data that covers a reporting period, advisers should provide the information in U.S. dollars, rounded to the nearest thousand, using foreign exchange rates as of the dates of any transactions to convert local currency values to U.S. dollars.[242]

We request comment on the proposed amendments to Instruction 15.

202. Should we require reporting of ''gross'' positions and exposure as proposed? Would the proposed approach cause advisers to report misleading data? Would the proposed approach cause compliance or operational issues? What other approach could we take to obtain consistent data that would better reveal risks associated with a particular fund? We understand that most advisers' risk management systems incorporate offsetting or netting methods, but they may take different approaches. Should we permit advisers to report using the offsetting or netting methods they use internally? Would that provide useful data? Should we instead require advisers to offset and net based on a consistent, prescribed method?

203. The proposal would instruct advisers to not include as ''closed-out'' a position if the position is closed out with the same counterparty and results in no credit or market exposure to the fund. Do you agree that the proposed changes would make the approach on Form PF with respect to closed out positions consistent with rule 18f–4 of the Investment Company Act and filers' current practices? If not, what alternative approach do you suggest?

204. Should we capture derivative exposure differently or request additional measures of derivatives? For example, the CFTC's Form CPO–PQR requires reporting of positive/negative open trade equity (OTE), which refers to the amount of unrealized gain/loss on open derivative positions. Would this measure improve our ability to assess and compare private fund activities and assess systemic risk?

205. Does reporting to the nearest one hundredth of one percent involve additional burdens compared to the current requirement to round to the nearest one percent? Would it meaningfully increase the accuracy of the reporting? Would permitting rounding to the nearest one percent on any of the questions on Form PF that request information expressed as a percentage reduce burdens on filers?

206. Are the proposed instructions with respect to classifying long and short positions consistent with industry conventions? Are these instructions clear for different types of products? If not, how should they be modified? For example, are there any elements of the Alternative Investment Fund Managers Directive or Open Protocol Enabling Risk Aggregation that would be helpful to incorporate?

207. The proposal would require that advisers report two or more legs of a transaction—even if offsetting—as separate positions. This proposed amendment is designed to elicit a more consistent presentation of investment and counterparty exposures. We understand, however, that this approach may inflate the value of a reporting fund's long and short investment exposures in a way that does not represent the adviser's view of a reporting fund's investment exposures and the associated risks. Is this a valid concern? Are there other approaches we should use for investment exposure reporting? For example, should we require netting of long and short positions under certain conditions (*e.g.,* identical underlying securities and same counterparty) when consistent with the adviser's internal recordkeeping and risk management? Should we require advisers to report exposures on both a ''gross'' basis as well as after all netting consistent with the adviser's internal recordkeeping and risk management?

208. The proposal would amend the instruction to provide that, (1) for calculating the value of interest rate derivatives, ''value'' means the 10-year bond equivalent, and (2) for calculating the value of options, ''value'' means the delta adjusted notional value (expressed as a 10-year bond equivalent for options that are interest rate derivatives). Is this approach appropriate? If not, what alternatives do you suggest?

209. Are the proposed instructions with respect to reporting in U.S. dollars when a question requests a monetary value appropriate? If not, how should they be modified? If a reporting fund's base currency is not U.S. dollars, how and when do advisers convert the base currency to U.S. dollars? Should Form PF include additional instructions on how or when to convert base currency to U.S. dollars? For example, should Form PF require advisers to report the conversion rate? Is further specificity needed regarding return series, volatility and other percentage measures for funds that have base currencies other than the U.S. dollar?

E. Proposed Additional Amendments

The proposal would make several additional amendments to the general instructions to Form PF. Specifically, we propose to amend Instruction 14 to allow advisers to request a hardship exemption electronically to make it easier to submit a temporary hardship exemption,[243] and provide, by way of an amendment to rule 204(b)–1(f) under the Advisers Act, that for purposes of determining the date on which a temporary hardship exemption is filed, ''filed'' means the earlier of the date the request is postmarked or the date it is received by the Commission.[244] We are

[240] *See* Form PF Glossary of Terms (proposed definition of ''10-year bond equivalent'' specifies the zero coupon bond equivalent).

[241] This is consistent with prior staff positions. *See* Form PF Frequently Asked Questions, *supra* footnote 79, Questions 24.3 and 26.1.

[242] See proposed Instruction 15.

[243] The proposal would also update the mailing address to which advisers requesting a temporary hardship exemption should mail their exemption filing, include the email address for submitting electronically the adviser's signed exemption filing in PDF format, add an instruction noting that filers should not complete or file any other sections of Form PF if they are filing a temporary hardship exemption. *See* Proposed Instruction 14. The proposal would indicate that the reference regarding the instruction pertaining to temporary hardship exemptions should refer to Instruction 14 instead of Instruction 13. *See* Form PF General Instruction 3, Section 5—Advisers requesting a temporary hardship exemption.

[244] We are also amending rule 204(b)–1(f) under the Advisers Act to remove certain filing instructions in the rule for temporary hardship exemptions and instead direct filers to the instructions in the form. *See* 204(b)–1(f)(2)(i) (indicating that advisers should complete and file Form PF in accordance with the instructions to Form PF, no later than one business day after the electronic Form PF filing was due).

proposing the latter change to assist advisers with determining what constitutes a ''filed'' temporary hardship exemption in the context of the requirement that the request be filed no later than one business day after a filer's electronic Form PF filing was due as required under Instruction 14. Additionally, the proposal would amend Instruction 18 based on recent rule changes made by the CFTC with respect to Form CPO–PQR.[245] While the CFTC no longer considers Form PF reporting on commodity pools as constituting substituted compliance with CFTC reporting requirements, some CPOs may continue to report such information on Form PF.

The proposal would revise the terms ''EEA,'' which Form PF defines as the European Economic Area and ''G10,'' which Form PF defines as The Group of Ten, to (1) remove outdated country compositions and (2) include an instruction that if the composition of the EEA or G10 changes after the effective date of these proposed amendments to Form PF if adopted, advisers would use the current composition as of the data reporting date. This proposed amendment is designed to address questions from advisers about whether to report data based on the composition of the EEA and G10 as of the effective date of these proposed amendments to Form PF if adopted, or the current composition of the EEA and G10, if it changes.

We request comment on the proposed amendments.

210. Would the proposed amendments to Instruction 14 and to rule 204(b)–1(f) under the Advisers Act make it easier to submit a temporary hardship exemption and assist advisers in determining the date on which a temporary hardship exemption is filed? If not, are there alternatives?

211. Would the proposed amendments to the Glossary of Terms appropriately update the terms and provide clarification? Is there a better way to meet these objectives? If so, please provide examples.

212. The proposal would amend Instruction 18 based on recent rule changes made by the CFTC with respect to Form CPO–PQR. Is this proposed change appropriate?

213. The proposal would remove the list of country compositions and include an instruction that if the composition of the EEA or G10 changes after the effective date of these proposed amendments to Form PF (if adopted), advisers would use the current composition as of the data reporting date. Is this approach appropriate? If not, what alternative approach do you suggest?

III. Economic Analysis

A. Introduction

The SEC is mindful of the economic effects, including the costs and benefits, of the proposed amendments. Section 202(c) of the Advisers Act provides that when the SEC is engaging in rulemaking under the Advisers Act and is required to consider or determine whether an action is necessary or appropriate in the public interest, the SEC shall also consider whether the action will promote efficiency, competition, and capital formation, in addition to the protection of investors.[246] The analysis below addresses the likely economic effects of the proposed amendments, including the anticipated and estimated benefits and costs of the amendments and their likely effects on efficiency, competition, and capital formation. The SEC 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, the SEC cannot quantify the effects of how regulators may adjust their policies and oversight of the private fund industry in response to the additional data collected under the proposed rule. Also, in some cases, data needed to quantify these economic effects are not currently available and the SEC does not have information or data that would allow such quantification. For example, costs associated with the proposal may depend on existing systems and levels of technological expertise within the private fund advisers, which could differ across reporting persons. While the SEC has attempted to quantify economic effects where possible, much of the discussion of economic effects is qualitative in nature. The SEC 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 and Affected Parties

1. Economic Baseline

As discussed above, the Commissions adopted Form PF in 2011, with additional amendments made to section 3 along with certain money market reforms in 2014.[247] Form PF complements the basic information about private fund advisers and funds reported on Form ADV.[248] Unlike Form ADV, Form PF is not an investor-facing disclosure form. Information that private fund advisers report on Form PF is provided to regulators on a confidential basis and is nonpublic.[249] The purpose of Form PF is to provide the Commissions and FSOC with data that regulators can deploy in their regulatory and oversight programs directed at assessing and managing systemic risk and protecting investors.[250]

Private funds and their advisers play an important role in both private and public capital markets. These funds, including hedge funds, currently have more than $18.0 trillion in gross private fund assets.[251] Hedge funds in particular have more than $9.7 trillion in gross private fund assets.[252] Private funds invest in large and small businesses and use strategies that range from long-term investments in equity

[245] *See* Form CPO–PQR Release, *supra* footnote 56.

[246] 15 U.S.C. 80b–2(c).

[247] *See supra* footnote 3. When the SEC adopted the amendments to section 3 in 2014 in connection with certain money market reforms, it noted that under the proposal it was concerned that some of the proposed money market reforms could result in assets shifting from registered money market funds to unregistered products such as liquidity funds, and that the proposed amendments were designed to help the SEC and FSOC track any potential shift in assets and better understand the risks associated with the proposed money market reforms. *See, e.g.,* D. Hiltgen, *Private Liquidity Funds: Characteristics and Risk Indicators* (DERA White Paper Jan. 2017) (''Hiltgen Paper''), *available at https://www.sec.gov/files/2017-03/Liquidity%20Fund%20Study.pdf;* 2011 Form PF Adopting Release; 2014 Form PF Amending Release at 466; Commissioner Aguilar Statement, July 23, 2014, *available at https://www.sec.gov/news/public-statement/2014-07-23-open-meeting-statment-laa.*

[248] Investment advisers to private funds report on Form ADV, on a public basis, general information about private funds that they advise, including basic organizational, operational information, and information about the fund's key service providers. Information on Form ADV is available to the public through the Investment Adviser Public Disclosure System, which allows the public to access the most recent Form ADV filing made by an investment adviser. *See, e.g.,* Form ADV, *available at https://www.investor.gov/introduction-investing/investing-basics/glossary/form-adv. See also* Investment Adviser Public Disclosure, *available at https://adviserinfo.sec.gov/.*

[249] As discussed above, SEC staff publish quarterly reports of aggregated and anonymized data regarding private funds on the SEC's website. *See supra* footnote 7; *see also* Private Fund Statistics Q3 2021

[250] *See supra* section I.

[251] These estimates are based on staff review of data from the Private Fund Statistics report for the third quarter of 2021, issued in March 2022. Private fund advisers who file Form PF currently have $18.1 trillion in gross assets. *See* Private Fund Statistics Q3 2021.

[252] *See* Division of Investment Management, Private Fund Statistics, (Aug. 21, 2021), *available at https://www.sec.gov/divisions/investment/private-funds-statistics.shtml.*

securities to frequent trading and investments in complex instruments. Their investors include individuals, institutions, governmental and private pension funds, and non-profit organizations.

Before Form PF was adopted, the SEC and other regulators, including the CFTC, had limited visibility into the economic activity of private fund advisers and relied largely on private vendor databases about private funds that covered only voluntarily provided private fund data and did not represent the total population.[253] Form PF represented an improvement in available data about private funds, both in terms of its reliability and completeness.[254] Generally, investment advisers registered (or required to be registered) with the Commission with at least $150 million in private fund assets under management must file Form PF. Smaller private fund advisers and all private equity fund advisers file annually to report general information such as the types of private funds advised (*e.g.,* hedge funds, private equity funds, or liquidity funds), fund size, use of borrowings and derivatives, strategy, and types of investors.[255] In addition, large private equity advisers provide data about each private equity fund they manage. Large hedge fund and liquidity fund advisers also provide data about each reporting fund they manage, and are required to file quarterly.[256]

The SEC and other regulators now have almost a decade of experience with analyzing the data collected on Form PF. The collected data has helped FSOC establish a baseline picture of the private fund industry for the use in assessing systemic risk[257] and improved the SEC's oversight of private fund advisers.[258] Form PF data also has enhanced the SEC's and FSOC's ability to frame regulatory policies regarding the private fund industry, its advisers, and the markets in which they participate, as well as more effectively evaluate the outcomes of regulatory policies and programs directed at this sector, including the management of systemic risk and the protection of investors.[259] Additionally, based on the data collected through Form PF filings, regulators have been able to regularly inform the public about ongoing private fund industry statistics and trends by generating quarterly Private Fund Statistics reports[260] and by making publicly available certain results of staff research regarding the characteristics, activities, and risks of private funds.[261] As discussed above, these data may also be used by the CFTC for the purposes of its regulatory programs, including examinations, investigations and investor protection efforts.[262]

However, this decade of experience with analyzing Form PF data has also highlighted certain limitations of information collected on Form PF, including information gaps and situations where more granular and timely information would improve the SEC's and FSOC's understanding of the private fund industry and the potential systemic risk relating to its activities, and improve regulators' ability to protect investors.[263] For example, as discussed above, when monitoring funds' activities during recent market events like the March 2020 COVID–19 turmoil, the existing aggregation of U.S. treasury securities with related derivatives did not reflect the role hedge funds played in the U.S treasury market.[264] Also during the COVID–19 market turmoil, FSOC sought to evaluate the role hedge funds played in disruptions in the U.S. treasury market by unwinding cash-futures basis trade positions and taking advantage of the near-arbitrage between cash and futures prices of U.S. treasury securities. Because the existing requirement regarding turnover reporting on U.S. treasury securities is highly aggregated, the SEC staff, during retrospective analyses on the March 2020 market events, was unable to obtain a complete picture of activity relating to long treasuries and treasury futures.[265] The need for more granular and timely information collected on Form PF is further heightened by the increasing significance of the private fund industry to financial markets, and resulting regulatory concerns regarding potential risks to U.S. financial stability from this sector.[266] The SEC's and FSOC's experiences analyzing Form PF data has also identified certain areas of Form PF where questions result in data received that is redundant to other questions, or instructions that result in unnecessary reporting burden for some advisers.[267]

[253] *See, e.g.,* SEC 2020 Annual Staff Report Relating to the Use of Form PF Data (Nov. 2020), *available at https://www.sec.gov/files/2020-pf-report-to-congress.pdf.*

[254] *Id.*

[255] *Id.*

[256] *Id.*

[257] *See, e.g.,* OFR, 2021 Annual Report to Congress (Nov. 2021), *available at https://www.financialresearch.gov/annual-reports/files/OFR-Annual-Report-2021.pdf;* Financial Stability Oversight Council, 2020 Annual Report, *available at https://home.treasury.gov/system/files/261/FSOC2020AnnualReport.pdf.*

[258] *See, e.g.,* SEC 2020 Annual Staff Report Relating to the Use of Form PF Data (Nov. 2020), *available at https://www.sec.gov/files/2020-pf-report-to-congress.pdf.*

[259] *See supra* footnotes 257, 258.

[260] *See supra* footnote 249.

[261] *See, e.g.,* David C. Johnson and Francis A. Martinez, *Form PF Insights on Private Equity Funds and Their Portfolio Companies* (OFR Brief Series No. 18–01, June 14, 2018), *available at https://www.financialresearch.gov/briefs/2018/06/14/form-pf-insights-on-private-equity-funds/;* Hiltgen Paper; G. Aragon, T. Ergun, M. Getmansky, and G. Girardi, *Hedge Funds: Portfolio, Investor, and Financing Liquidity,* (DERA White Paper, May 2017), *available at https://www.sec.gov/files/dera_hf-liquidity.pdf;* George Aragon, Tolga Ergun, and Giulio Girardi, *Hedge Fund Liquidity Management: Insights for Fund Performance and Systemic Risk Oversight* (DERA White Paper, Apr. 2021), *available at https://www.sec.gov/files/dera_hf-liquidity-management.pdf;* Mathis S. Kruttli, Phillip J. Monin, and Sumudu W. Watugala, *The Life of the Counterparty: Shock Propagation in Hedge Fund-Prime Broker Credit Networks* (OFR Working Paper No. 19–03, Oct., 2019), *available at https://www.financialresearch.gov/working-papers/files/OFRwp-19-03_the-life-of-the-counterparty.pdf;* Mathias S. Kruttli, Phillip J. Monin, Lubomir Petrasek, and Sumudu W. Watugala, *Hedge Fund Treasury Trading and Funding Fragility: Evidence from the COVID–19 Crisis* (Federal Reserve Board, Finance and Economics Discussion Series No. 2021–038, Apr. 2021), *available at https://www.federalreserve.gov/econres/feds/hedge-fund-treasury-trading-and-funding-fragility-evidence-from-the-covid-19-crisis.htm;* Mathias S. Kruttli, Phillip J. Monin, and Sumudu W. Watugala, *Investor Concentration, Flows, and Cash Holdings: Evidence from Hedge Funds* (Federal Reserve Board, Finance and Economics Discussion Series No. 2017–121 Dec. 15, 2017), *available at https://www.federalreserve.gov/econres/feds/investor-concentration-flows-and-cash-holdings-evidence-from-hedge-funds.htm.*

[262] *See supra* section I.

[263] *See supra* section I.

[264] *See supra* section II.C.2.a.

[265] *See supra* section II.C.2.d. This also includes the SEC's and FSOC's experience analyzing data from multiple regulatory filings. For example, one SEC staff paper has used Form PF data and Form N–MPF data to study rule 2a–7 risk limits and implications of money market reforms. *See, e.g.,* Hiltgen Paper.

[266] The private fund industry has experienced significant growth in size and changes in terms of business practices, complexity of fund structures, and investment strategies and exposures in the past decade. *See supra* footnote 7. *See also* Financial Stability Oversight Council Update on Review of Asset Management Product and Activities (2014), *available at https://www.treasury.gov/initiatives/fsoc/news/Documents/FSOC%20Update%20on%20Review%20of%20Asset%20Management%20Products%20and%20Activities.pdf.*

[267] Based on the PRA analysis in section IV.A.3, the current costs associated with filing Form PF report are estimated to be $4,173.75 per quarterly filing or $16,695 annually for smaller private fund advisers, $41,737.50 per quarterly filing or $166,950 annually for large hedge fund advisers, $19,477.50 per quarterly filing or $77,910 annually for large liquidity fund advisers, and $27,825 per quarterly filing or $111,300 annually for large private equity advisers. The calculation for large liquidity fund advisers incorporates the adjustment explained in footnote 9 to Table 6 (yielding an estimate of costs prior to the proposal of $29,216.25/105*70 = $19477.50). *See* Table 6. A 2018 industry survey of large hedge fund advisers observed filing costs that ranged from 35% to 72% higher than SEC cost estimates. *See* Managed Funds Association, ''A Streamlined Form PF: Reducing Regulatory Burden,'' September 17, 2018, p. 3, *available at https://www.managedfunds.org/wp-content/*

Continued

2. Affected Parties

The proposal amends the general instructions and basic information reporting requirements facing all categories of private fund advisers. As discussed above, these include, but are not limited to, advisers to hedge funds, private equity funds, real estate funds, securitized asset funds, liquidity funds, and venture capital funds.[268] The proposal further amends reporting requirements for large hedge fund advisers, including specific revisions for large hedge fund advisers to qualifying hedge funds.[269]

Hedge funds, the focus of part of the proposal, are one of the largest categories of private funds,[270] and as such play an important role in the U.S. financial system due to their ability to mobilize large pools of capital, take economically important positions in a market, and their extensive use of leverage, derivatives, complex structured products, and short selling.[271] While these features may enable hedge funds to generate higher returns as compared to other investment alternatives, the same features may also create spillover effects in the event of losses (whether caused by their investment and derivatives positions or use of leverage or both) that could lead to significant stress or failure not just at the affected fund but also across financial markets.[272]

In the third quarter of 2021, there were 9,484 hedge funds reported on Form PF, managed by 1,758 advisers, with nearly $9.8 trillion in gross assets under management, which represented approximately 54% of assets reported by private fund advisers.[273] Currently, hedge fund advisers with between $150 million and $2 billion in regulatory assets (that do not qualify as large hedge fund advisers) file Form PF annually, in which they provide general information about funds they advise such as the types of private funds advised, fund size, their use of borrowings and derivatives, strategy, and types of investors. Large hedge fund advisers (those with at least $1.5 billion in regulatory assets under management attributable to hedge funds)[274] file Form PF quarterly, in which they provide data about each hedge fund they managed during the reporting period (irrespective of the size of the fund). Large hedge fund advisers must report more information on Form PF about qualifying hedge funds (those with at least $500 million as of the last day of any month in the fiscal quarter immediately preceding the adviser's most recently completed fiscal quarter)[275] than other hedge funds they manage during the reporting period. In the third quarter of 2021, there were 2,013 qualifying hedge funds reported on Form PF, managed by 592 advisers, with $8.3 trillion in gross assets under management, which represented approximately 85 percent of the reported hedge fund assets.[276]

Private equity funds are another large category of funds in the private fund industry. In the third quarter of 2021, there were 15,835 private equity funds reported on Form PF, managed by 1,455 advisers, with $4.8 trillion in gross assets under management, which represented over one quarter of the reported gross assets in the private fund industry.[277] Many private equity funds focus on long-term returns by investing in a private, non-publicly traded company or business—the portfolio company—and engage actively in the management and direction of that company or business in order to increase its value.[278] Other private equity funds may specialize in making minority investments in fast-growing companies or startups.[279]

For the remaining categories of funds (real estate funds, securitized asset funds, liquidity funds, venture capital funds, and other private funds), advisers required to file Form PF had, in the third quarter of 2021, investment discretion over $3.5 trillion in gross assets under management.[280] These assets were managed by 1,442 fund advisers managing 12,019 funds.[281]

Private funds are typically limited to accredited investors and qualified clients such as pension funds, insurance companies, foundations and endowments, and high income and net worth individuals.[282] Private funds that rely on the exclusion from the definition of ''investment company'' provided in Section 3(c)(7) of the Investment Company Act are limited to investors that are also qualified purchasers (as defined in section 2(a)(51) of the Investment Company Act). Retail U.S. investors with exposure to private funds are typically invested in private funds indirectly through public and private pension plans and other institutional investors.[283] In the third quarter of 2021, public pension plans had $1,586

uploads/2018/09/MFA.Form-PF-Recommendations.attachment.final_.9.17.18.pdf. However, a 2015 academic survey of SEC-registered investment advisers to private funds affirmed the SEC's cost estimates for smaller private fund advisers' Form PF compliance costs, and observed that the SEC overestimated Form PF compliance costs for larger private fund advisers. *See* Wulf Kaal, *Private Fund Disclosures Under the Dodd-Frank Act,* 9 Brooklyn Journal of Corporate, Financial, and Commercial Law 428 (2015).

[268] *See supra* section I.

[269] Form PF currently defines ''hedge fund'' broadly to include any private fund (other than a securitized asset fund) that has any of the following three characteristics: (1) a performance fee or allocation that takes into account unrealized gains, or (2) a high leverage (*i.e.,* the ability to borrow more than half of its net asset value (including committed capital) or have gross notional exposure in excess of twice its net asset value (including committed capital)) or (3) the ability to short sell securities or enter into similar transactions (other than for the purpose of hedging currency exposure or managing duration). Any non-exempt commodity pools about which an investment adviser is reporting or required to report are automatically categorized as hedge funds. Excluded from the ''hedge fund'' definition in Form PF are vehicles established for the purpose of issuing asset backed securities (''securitized asset funds''). *See* Form PF Glossary of Terms. ''Large'' hedge fund advisers are those, collectively with their related persons, with at least $1.5 billion in hedge fund assets under management as of the last day of any month in the fiscal quarter immediately preceding the adviser's most recently completed fiscal quarter. Qualifying hedge funds are hedge funds that have a net asset value (individually or in combination with any feeder funds, parallel funds and/or dependent parallel managed accounts) of at least $500 million as of the last day of any month in the fiscal quarter immediately preceding the adviser's most recently completed fiscal quarter. *See supra* section II.C.

[270] *See infra* footnote 273.

[271] *See, e.g.,* Lloyd Dixon, Noreen Clancy, and Krishna B. Kumar, Hedge Fund and Systemic Risk, *RAND Corporation* (2012); John Kambhu, Til Schuermann, and Kevin Stiroh, Hedge Funds, Financial Intermediation, and Systemic Risk, *Federal Reserve Bank of New York's Economic Policy Review* (2007).

[272] *See supra* footnotes 257, 266.

[273] In the third quarter of 2021, hedge fund assets accounted for 54 percent of the gross asset value (''GAV'') ($9.8/$18.1 trillion) and 42.5 percent of the net asset value (''NAV'') ($5.1/$12.0 trillion) of all private funds reported on Form PF. Private Fund Statistics Q3 2021 at p. 5.

[274] *See supra* footnote 269.

[275] *Id.*

[276] In the third quarter of 2021, qualifying hedge fund assets accounted for 85 percent of the GAV ($8.3/$9.8 trillion) and 82 percent of the NAV ($4.2/$5.1 trillion) of all hedge funds reported on Form PF. Private Fund Statistics Q3 2021 at pp. 4–5.

[277] In the third quarter of 2021, private equity assets accounted for 26 percent of the GAV ($4.8/$18.1 trillion) and 35 percent of the NAV ($4.1/$12.0 trillion) of all private funds reported on Form PF. Private Fund Statistics Q3 2021 at p. 5.

[278] After purchasing controlling interests in portfolio companies, private equity advisers frequently get involved in managing those companies by serving on the company's board; selecting and monitoring the management team; acting as sounding boards for CEOs; and sometimes stepping into management roles themselves. *See, e.g.,* Private Equity Funds, Securities and Exchange Commission, *available at https://www.investor.gov/introduction-investing/investing-basics/investment-products/private-investment-funds/private-equity.*

[279] *Id.*

[280] Private Fund Statistics Q3 2021 at p. 5.

[281] Private Fund Statistics Q3 2021 at p. 4.

[282] *See, e.g.,* Private Equity Funds, Securities and Exchange Commission, (*Investor.gov:* Private Equity Funds), *available at https://www.investor.gov/introduction-investing/investing-basics/investment-products/private-investment-funds/private-equity;* Hedge Funds, Securities and Exchange Commission (*Investor.gov:* Hedge Funds), *available at https://www.investor.gov/introduction-investing/investing-basics/investment-products/private-investment-funds/hedge-funds.*

[283] *See supra* footnotes 251, 282.

billion invested in reporting private funds while private pension plans had $1,263 billion invested in reporting private funds, making up 13.2 percent and 10.5 percent of the overall beneficial ownership in the private equity industry, respectively.[284] Private fund advisers have also sought to be included in individual investors' retirement plans, including their 401(k)s.[285]

C. Benefits and Costs

1. Benefits

The proposal is designed to facilitate two primary goals the SEC sought to achieve with reporting on Form PF as articulated in the original adopting release, namely: (1) facilitating FSOC's understanding and monitoring of potential systemic risk relating to activities in the private fund industry and assisting FSOC in determining whether and how to deploy its regulatory tools with respect to nonbank financial companies; and (2) enhancing the SEC's abilities to evaluate and develop regulatory policies and improving the efficiency and effectiveness of the SEC's efforts to protect investors and maintain fair, orderly, and efficient markets.[286]

The SEC believes the proposal would accomplish these goals in three key ways, each discussed in detail in the following sections. First, the proposal would provide for solutions to potential reporting errors and issues of data quality when analyzing Form PF filings across advisers and when analyzing multiple different regulatory filings. Higher quality data across different funds and across different regulatory filings can allow the SEC and FSOC to develop an understanding of one set of advisers and apply it to other advisers more rapidly, or apply lessons from one financial market to other financial markets. This can help the SEC and FSOC develop more effective regulatory responses, and help the SEC protect investors by identifying areas in need of outreach, examinations, and investigations in response to potential systemic risks, conflicting arrangements between advisers and investors, and other sources of investor harm.

Second, the proposal would help Form PF more completely and accurately capture information relevant to ongoing trends in the private fund industry in terms of ownership, size, investment strategies, and exposures. This can improve the SEC's and FSOC's understanding of new developing systemic risks and potential conflicting arrangements, thereby further aiding in the development of regulatory responses, and also aiding the SEC in efforts to protect investors by identifying areas in need of outreach, examinations, and investigations.

Third, the proposal would streamline reporting and reduce reporting burdens without compromising investor protection efforts and systemic risk analysis. This would improve the efficiency and effectiveness of the SEC's efforts to protect investors and maintain fair, orderly and efficient markets.

The SEC anticipates that the increased ability for the SEC's and FSOC's oversight, resulting from the proposed amendments, could promote better functioning and more stable financial markets, which may lead to efficiency improvements. The SEC does not anticipate significant effects of the proposed amendments on competition in the private fund industry because the reported information generally would be nonpublic and similar types of advisers would have comparable burdens under the amended Form. For similar reasons, the SEC does not anticipate significant effects of the proposed amendments on capital formation.

The proposal would amend the general instructions (as well as implement additional amendments), section 1 (requiring basic information about advisers and the private funds they advise), and section 2 (requiring information about hedge funds advised by large private fund advisers) of Form PF. The benefits associated with each of these specific elements are discussed in greater detail below.

a. Proposed Amendments to General Instructions, Proposed Amendments To Enhance Data Quality, and Proposed Additional Amendments

The proposal would update the Form PF general instructions to revise how all private fund advisers satisfy certain requirements on Form PF, it would issue a series of amendments to enhance data quality, and it would lastly issue a series of additional amendments.[287] There are five categories of such proposals.

First, the proposal would amend the general instructions for reporting of master-feeder arrangements and parallel fund structures.[288] These revisions to the general instructions would improve consistency of reporting associated with measuring private fund interconnectedness and investment in other private funds by revising instructions for reporting of ownership structures and revising instructions that were previously ambiguous and resulted in reporting errors and issues of data quality across advisers. For example, as discussed above, Form PF currently provides advisers with flexibility to respond to questions regarding master-feeder arrangements, parallel fund structures, and use of funds of funds either in the aggregate or separately, as long as they do so consistently throughout Form PF. The revised instructions would specify how to respond to these questions to prevent some advisers from responding in the aggregate and some advisers from responding separately.[289] The proposal would also require reporting on the total value of parallel managed accounts.[290] The SEC anticipates these improved data would assist the SEC and FSOC in assessing potential risks to financial stability resulting from increasingly complex ownership and investment structures of private funds. While master-feeder arrangements, parallel fund structures, and use of funds of funds all allow private funds to benefit from larger pools of capital, diversify risk, and enjoy shared returns,[291] these same features have inherent risks of

[284] Private Fund Statistics Q3 2021 at p. 15.

[285] *See, e.g.,* Dep't of Labor, Information Letter (June 3, 2020), *available at https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/information-letters/06-03-2020.*

[286] *See supra* section I. While the proposed amendments are also designed to improve the usefulness of this data for the CFTC, this economic analysis does not include the benefits associated with enhancements to the CFTC's use of reporting on Form PF.

[287] *See supra* section II.A, II.D, II.E.

[288] *See supra* section II.A.1. However, an adviser would continue to aggregate these structures for purposes of determining whether the adviser meets a reporting threshold.

[289] Similar benefits would be obtained from proposed revisions to Instruction 7, which address that advisers to funds of funds currently have flexibility to choose whether to disregard a private fund's equity investments in other private funds for all Form PF purposes so long as they do so consistently throughout Form PF. Other proposed revisions could also provide benefits associated with consistency of reporting by revising instructions to avoid error across filers, such as the revisions to Instruction 8 that the instruction on which investments to include in determining reporting thresholds and responding to questions applies only to investments in funds that are not private funds, and to provide that advisers would not be required to look through a reporting fund's investments in any other fund that is not a private fund, other than a trading vehicle. *See supra* section II.A.2. Similar benefits would also be obtained from the proposed amendments updating instructions to provide conformity with CFTC's amendments to Form CPO–PQR, including those that specify when advisers that are also CPOs should complete particular sections of Form PF. *See supra* section II.E, *see also* Proposed Instruction 18.

[290] *See supra* section II.A.1.

[291] *See, e.g.,* Robert Harris, Tim Jenkinson, Steven Kaplan, Ruediger Stucke, *Financial Intermediation in Private Equity: How Well Do Funds of Funds Perform?,* 129 Journal of Financial Economics 2, 287–305 (Aug. 2018).

spillovers in losses, as losses in a master fund or underlying investment of a fund of funds cause losses in connected funds as well. Complex ownership structures may also create conflicts of interest when the same individuals serve as directors on boards of both master and feeder funds under a single owner,[292] and may also mask instances of fraud and a private fund's methods for committing fraud.[293] Investor protection efforts would therefore benefit from more consistent data providing connections from master funds to feeder funds and other ownership information.

Second, the proposal would amend the general instructions for reporting for private funds that invest in other funds or trading vehicles.[294] Specifically, the proposal would revise Instructions 7 and 8 to require advisers to include information pertaining to their trading vehicles when completing Form PF.[295] Because private funds may use trading vehicles for a wide variety of purposes, more complete and accurate visibility into asset class exposures, position sizes, and counterparty exposures relied on by trading vehicles can enhance the SEC's and FSOC's systemic risk and financial stability assessment efforts and the SEC's efforts to protect investors by identifying areas in need of outreach, examination, or investigation.

Third, the proposal would amend the general instructions for reporting timelines by revising Instruction 9 to require large hedge fund advisers and large liquidity fund advisers to update Form PF within a certain number of days after the end of each calendar quarter, rather than each fiscal quarter, as Form PF currently requires.[296] The SEC anticipates that these amendments would improve the consistency of reporting across different private fund advisers, across quarterly and annual filings, and across different regulatory forms,[297] which may improve the ability of regulators to analyze filing data across fund advisers and across different regulatory forms by resolving reporting errors and issues of data quality. These data analyses are important contributors to the SEC's and FSOC's efforts to assess systemic risk and develop a complete picture of private fund markets. The SEC anticipates that these improved reporting alignments may enhance the SEC's and FSOC's abilities to assess potential risks presented by private funds.[298] For example, as discussed above, academic research has used Form PF data and Form N–MPF data to study rule 2a–7 risk limits and implications of money market reforms.[299] Standardizing data across regulatory filings can lead to further industry insights from combined regulatory filing data, and these industry insights may improve systemic risk assessment and regulator investor protection efforts. However, as discussed above, because almost all large hedge fund advisers and large liquidity fund advisers already effectively file on a calendar quarter basis because their fiscal quarter ends on the calendar quarter, the SEC anticipates that these benefits may be marginal.[300]

Fourth, the proposal would issue a series of amendments that impact several sections of Form PF and which would broadly enhance data quality by potentially resolving reporting errors and issues of data quality. These amendments would specify that reported percentages be rounded to the nearest one hundredth of one percent, provide consistent instruction for reporting of investment and counterparty exposures, provide consistent instruction on the reporting of long and short positions, and provide consistent instruction for reporting of derivative values.[301] We believe the resulting improved data quality would improve the ability of the SEC and FSOC to evaluate market risk and measure industry trends, thereby increasing the efficiency with which regulatory responses are developed, improving systemic risk assessment and regulator programs to protect investors.

Lastly, the proposal would issue a series of additional amendments that would amend instructions related to temporary hardship exemptions, provide conformity with the CFTC's amendments to Form CPO–PQR (including those that specify when advisers that are also CPOs should complete particular sections of Form PF), and revise definitions of the terms EEA and G10 within Form PF.[302] The additional amendments updating instructions to the temporary hardship exemption to Form PF, by way of an amendment to rule 204(b)–1(f) under the Advisers Act, would make it easier to submit a temporary hardship exemption and would assist advisers in determining what constitutes a ''filed'' temporary hardship exemption.[303] These amendments may facilitate more successful submissions of temporary hardship exemptions by private fund advisers who require one, and may thereby reduce costs to those private fund advisers. Similarly, by providing conformity with the CFTC's amendments to Form CPO–PQR, including those that specify when advisers that are also CPOs should complete particular sections of Form PF, and revising definitions associated with the terms EEA and G10, the proposal may reduce confusion for advisers filing Form PF, thereby reducing the burden of filing.[304]

[292] *See, e.g.,* Todd Ehret, *Platinum Fraud Charges Shine Light On Cayman Director Responsibilities,* Reuters Financial Regulatory Forum, March 30, 2017, *available at https://www.reuters.com/article/bc-finreg-cayman-private-structure/platinum-fraud-charges-shine-light-on-cayman-director-responsibilities-idUSKBN17030J.*

[293] *See, e.g.,* Melvyn Teo, *Lessons Learned from Hedge Fund Fraud,* Eureka Hedge, Oct. 2009, *available at https://www.eurekahedge.com/Research/News/506/Lessons-Learned-From-Hedge-Fund-Fraud.*

[294] These proposed amendments would include requiring advisers to include the value of a private fund's investments in other private funds when determining whether the adviser must file Form PF; requiring an adviser to include the value of a reporting fund's investments in other private funds when responding to questions on the fund, but to not look through its investments in other private funds when responding to questions about the reporting fund's investment and other activities; amending the general instructions to explain how advisers would report information if the reporting fund holds investments or conducts activities through a trading vehicle; amending Instruction 8 to indicate that the instruction on which investments to include in determining reporting thresholds and responding to questions applies only to investments in funds that are not private funds; and providing that advisers would not be required to look through a reporting fund's investments in any other fund that is not a private fund, other than a trading vehicle. *See supra* section II.A.2.

[295] *See supra* section II.A.2.

[296] *See supra* section II.A.3.

[297] *See supra* section II.A.3.

[298] While the amendments to general instructions associated with reporting timelines would primarily offer economic benefits associated with improvement in data quality and resolutions to data gaps, the proposed amendments to reporting timelines would also provide a potential improvement to regulators' ability to evaluate markets for investor protection efforts and systemic risk assessment, in that they accelerate the provision of data from quarterly reporting. *See supra* section II.A.3. Moreover, as the proposal would make reporting timelines more consistent, there could be reduced costs associated with regulatory filings, as private fund advisers reduce their need to track differentiated calendar quarter and fiscal quarter data.

[299] *See supra* section III.B.1.

[300] *See supra* section II.A.3. Specifically, and as discussed above, based on staff analysis of Form ADV data as of December 2021, 99.2 percent of private fund advisers already effectively file on a calendar basis because their fiscal quarter or year ends on the calendar quarter or year end, respectively. The 0.8 percent of private fund advisers that have a non-calendar fiscal approach represents approximately 274 private funds, totaling $200 billion in gross asset value. *See supra* section II.A.3.

[301] *See supra* section II.D.

[302] *See supra* section II.E, Proposed Instruction 18.

[303] *See supra* section II.E.

[304] *See supra* section II.E, Proposed Instruction 18.

b. Proposed Amendments to Basic Information About the Adviser and the Private Funds it Advises

The proposed amendments to section 1, which requires all private fund advisers to report information about the adviser and the private funds they manage, include revisions to section 1a (concerning basic identifying information),[305] revisions to section 1b (concerning all of a private fund adviser's private funds),[306] and revisions to section 1c (more specifically concerning all of a private fund adviser's hedge funds).[307] The proposed changes would provide greater insight into all private funds' operations and strategies, and would further assist in assessing industry trends. This section discusses how the SEC believes the proposed changes would thereby enhance the SEC's and FSOC's systemic risk assessment efforts and the SEC's efforts to protect investors by identifying areas in need of outreach, examination, or investigation. This would be accomplished in four key ways.

First, the proposed changes would provide more prescriptive requirements to improve comparability across advisers and reduce reporting errors and issues of data quality by aligning data across filers and across regulatory filings, based on experience with the form. This greater alignment could improve the efficiency with which the SEC and FSOC evaluate market risk and measure industry trends, thereby increasing the efficiency with which regulatory responses are developed, improving systemic risk assessment and regulator programs to protect investors. For example, revisions to section 1a (relating to adviser reporting of identifying information for all private funds they advise) would revise instructions on the use of LEIs and RSSD IDs for advisers and related persons, and could help link data more efficiently between Form PF and other regulatory filings that use these universal identifiers.[308] Several revisions to section 1b (relating to adviser reporting of basic information for all private funds they advise) would modify instructions and could prevent advisers from inadvertently reporting different fund types on different regulatory filings (or, when different reporting on two different forms is appropriate, the revised instructions are designed to solicit the reason for differentiated reporting), facilitating more robust data analyses that use combined data from multiple regulatory forms.[309] Revisions to section 1c would require advisers to indicate which investment strategies best describe the reporting fund's strategies on the last day of the reporting period, addressing any ambiguity about how to report information if the reporting fund changes strategies over time.[310] The SEC believes these revisions to section 1, and others,[311] would improve the accuracy and reliability of Form PF data, thereby potentially improving the SEC's and FSOC's efforts to assess developing systemic risks and FSOC's efforts to assess broader financial instability, as well as potentially improving the SEC's efforts to protect investors by identifying areas in need of outreach, examination, or investigation.

Second, the proposal would expand the data collected by the forms into newly emerging areas of risk. These expanded areas of reporting broadly capture key trends in (i) private fund advisers' ownership structures, and (ii) private fund advisers' investment and trading strategies, including increasing exposures to new asset classes, changing exposures across different categories of counterparties, and increasing use of financial tools for increasing fund performance.

With respect to updated reporting on ownership structures, as discussed above, interconnected ownership structures have inherent risks of spillovers in losses, as losses in a master fund or underlying investment of a fund of funds cause losses in connected funds as well, and so enhanced data on detailed ownership structures could improve systemic risk assessment efforts.[312] These improved data could also contribute to efforts to protect investors from conflicts of interest and other sources of potential harm.[313] The types of enhancements to Form PF's data on interconnected ownership structures include, for example, requiring advisers to provide LEIs for themselves and any of their related persons, such as reporting funds and parallel funds,[314] and expanding the required reporting detail on the value of the reporting fund's investments in funds of funds.[315] Similar to the amendments to general instructions, the SEC believes that these revisions would improve measurement of these complex ownership structures, thereby potentially improving the SEC's and FSOC's efforts to assess developing systemic risks and FSOC's efforts to assess broader financial instability, as well as potentially improving the SEC's efforts to protect investors from conflicting arrangements and identify other areas in need of outreach, examination, or investigation.[316]

Many revisions would also keep Form PF filings up to date with key developing trends among private fund advisers' investing and trading practices. These revisions would improve consistency of reporting of modern private fund issues across fund advisers, provide more complete and accurate information on developing trends, and improve the SEC's and FSOC's abilities to effectively and efficiently assess new systemic risks and other potential sources of investor harm, as well as inform the SEC's and FSOC's broader views on the private fund landscape.

For example, in Form PF section 1c, the proposal would require hedge funds to report whether their investment strategy includes digital assets,[317] which are a growing and increasingly important area of hedge fund strategy.[318] The proposal would

[305] *See supra* section II.B.1.

[306] *See supra* section II.B.2.

[307] *See supra* section II.B.3.

[308] *See supra* section II.B.1. For example, the proposed reporting of a fund's and its adviser's LEI is consistent with the way fund relationships are reported in the Global LEI system. *See, e.g.,* LEI ROC, *Policy on Fund Relationships and Guidelines for the Registration of Investment Funds in the Global LEI System* (May 20, 2019), *available at https://www.leiroc.org/publications/gls/roc_20190520-1.pdf.*

[309] *See supra* section II.B.2. For example, the Division of Investment Management relies on Form PF and Form ADV filings in providing quarterly summaries of private fund industry statistics and trends. *See, e.g.,* Division of Investment Management, Private Fund Statistics, (Aug. 21, 2021), *available at https://www.sec.gov/divisions/investment/private-funds-statistics.shtml.*

[310] *See supra* section II.B.3.

[311] Other proposed revisions that would provide this benefit include the proposal revising reporting of regulatory versus net assets under management; reporting of assumptions the adviser makes in responding to questions on Form PF; reporting of types of fund; reporting of master-feeder arrangements, internal/external private funds, and parallel fund structures; reporting of monthly gross and net asset values; reporting of the value of unfunded commitments; reporting on the value of borrowing activity; reporting of fair value hierarchy; reporting of beneficial ownership; reporting of fund performance; more granular reporting of hedge fund strategies; more granular reporting of hedge fund counterparty exposures including identification of counterparties representing a fund's greatest exposure; and more granular reporting of hedge fund trading and clearing mechanisms. *See supra* section II.B.

[312] *See supra* section III.C.1.a.

[313] *Id.*

[314] *See supra* section II.B.1.

[315] *See supra* section II.B.2.

[316] *See supra* section III.C.1.a.

[317] *See supra* section II.B.3.

[318] *See, e.g.,* AIMA, PwC, and Elwood Asset Management, *3rd Annual Global Crypto Hedge Fund Report 2021, available at https://www.aima.org/educate/aima-research/third-annual-global-crypto-hedge-fund-report-2021.html* (concluding that approximately a fifth of hedge funds were investing in such assets in 2021, with

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therefore help the SEC and FSOC to assess new sources of potential systemic risk and develop regulatory responses, and would further allow the SEC to analyze new areas of potential investor harm to determine any necessary outreach, examination, or investigation.

As another example, the proposal would introduce several questions on counterparty exposures, corresponding to both CCP exposures and bilateral counterparty (*i.e.,* non-CCP) exposures. These additions to Form PF include requiring advisers to report hedge fund borrowing, lending, and collateral with respect to transactions involving both their bilateral counterparties and CCPs, requiring reporting of hedge fund derivative and repo activity that was cleared by a CCP (as well as activity not cleared by a CCP), and instructing advisers on what exposures to net.[319] There are two economic considerations associated with counterparty exposure reporting on Form PF. First and foremost, bilateral exposures and CCP exposures have different risk profiles, with CCPs offering risk reduction mechanisms and other economic benefits by netting trading across counterparties and across different assets within an asset class or by centralizing clearance and settlement activities.[320] The SEC therefore believes the proposal could help Form PF provide insight into relative trends in bilateral trading versus central counterparty trading and resulting systemic risks from counterparty exposures. Second, while CCPs reduce the systemic risk associated with the failure of any single hedge fund or other private fund, the failure of a large CCP itself could potentially represent a substantial systemic risk event in the future.[321] While a systemic risk event such as the failure of a CCP has never occurred in the United States, CCPs in other countries have failed,[322] and the SEC believes the proposal could help Form PF provide new insights into the potential for such systemic risk events in the future. FSOC has also designated many CCP institutions as ''systemically important,'' [323] and recommends that regulators continue to coordinate to evaluate threats from both default and non-default losses associated with CCPs.[324]

The SEC therefore believes these revisions, and others like them,[325] would help the SEC and FSOC better understand the modern landscape of the private fund industry, thereby potentially improving the SEC's and FSOC's efforts to assess developing systemic risks and FSOC's efforts to assess broader financial instability, as well as potentially improving the SEC's efforts to protect investors by identifying areas in need of outreach, examination, or investigation.

Third, there are revisions that would expand the scope of certain questions from only covering qualifying hedge funds advised by large hedge fund advisers to covering all hedge funds advised by any private fund adviser. By expanding the universe of private funds that are covered by several questions, the proposal would enhance the SEC's and FSOC's ability to conduct broad, representative measurements regarding the private fund industry. For example, the proposal would require all advisers to report whether each reporting fund they advise provides investors with withdrawal or redemption rights in the ordinary course, rather than only requiring large hedge fund advisers to report it for the qualifying hedge funds they advise, as Form PF currently requires.[326] Because the activities of private fund advisers may differ significantly depending on their size, this enhanced coverage would potentially enhance regulators' abilities to obtain a representative picture of the private fund industry and lead to more robust conclusions regarding emerging industry trends and characteristics. The SEC believes these proposed amendments, and others,[327] would enhance regulator's picture of the private fund industry, thereby potentially improving the SEC's and FSOC's efforts to assess developing systemic risks and FSOC's efforts to assess broader financial instability, as well as potentially improving the SEC's efforts to protect investors by identifying areas in need of outreach, examination, or investigation.

Lastly, certain proposed changes would streamline reporting and reduce reporting burden by removing certain questions where other questions provide the same or superseding information. For example, the proposal would remove current Question 19, which requires advisers to hedge funds to report whether the hedge fund has a single primary investment strategy or multiple strategies, and would also remove current Question 21, which requires advisers to hedge funds to approximate what percentage of the hedge fund's net asset value was managed using high frequency trading strategies.[328] The SEC believes that these revisions would directly lower the costs and help reduce part of the burden on advisers of completing Form PF filings.[329]

c. Proposed Amendments to Information About Hedge Funds Advised by Large Private Fund Advisers

The proposed changes to section 2 would provide greater insight into operations and strategies into hedge funds advised by large private fund advisers specifically, and would also assist in assessing broader hedge fund industry trends. This section discusses how the SEC believes the proposed changes would thereby enhance the SEC's and FSOC's investor protection and systemic risk assessment efforts. This would be accomplished in three key ways.

As with section 1, first, the proposed changes would provide more prescriptive requirements to improve comparability across advisers and reduce reporting errors and issues of data quality, based on experience with the form. This would be accomplished by standardizing reporting of information across different advisers and across different regulatory filings. For example, the proposed amendments to Question 30 (on qualifying hedge fund exposures to different types of assets) would replace the existing

on average three percent of their total hedge fund assets under management invested, and 86 percent of those hedge funds intended to deploy more capital into this asset class by the end of 2021); *see also supra* footnote 111 and accompanying text.

[319] *See supra* section II.B.3.

[320] Siro Aramonte and Wenqian Huang, *Costs and Benefits of Switching to Central Clearing,* BIS Quarterly Review (Dec. 2019), *available at https://www.bis.org/publ/qtrpdf/r_qt1912z.htm;* Albert J. Menkveld & Guillaume Vuillemey, *The Economics of Central Clearing,* 13 Ann. Rev. Fin. Econ. 153 (2021).

[321] *Id.*

[322] For example, the Hong Kong Futures Guarantee Corporation failed during the stock market crash of 1987. *See* Menkveld & Vuillemey, *supra* footnote 320.

[323] Financial Stability Oversight Council, 2012 Annual Report, Appendix A, *available at https://home.treasury.gov/system/files/261/2012-Annual-Report.pdf.*

[324] Financial Stability Oversight Council, 2021 Annual Report, p. 14, *available at https://home.treasury.gov/system/files/261/FSOC2021AnnualReport.pdf.*

[325] Other proposed revisions that would provide this benefit include the proposal reporting of withdrawal and redemption rights; reporting of other inflows and outflows; more granular reporting of hedge fund strategies; more granular reporting of hedge fund counterparty exposures including identification of counterparties representing a fund's greatest exposure; and more granular reporting of hedge fund trading and clearing mechanisms. *See supra* section II.B.

[326] *See supra* section II.B.2.

[327] The proposed revisions to reporting of base currency would provide similar benefits. *See supra* section II.B.

[328] *See supra* section II.B.3.

[329] These benefits from streamlined reporting and reduced reporting burden would be offset by increased costs associated with the additional and more granular detail that would be required on Form PF under the proposal. *See infra* section III.C.2, IV.A.3.

complex table in Question 30 with reporting instructions that would use a series of drop-down menu selections and provide additional narrative reporting instructions and additional information on how to report exposures.[330] Similarly, advisers to qualifying hedge funds would now be required to report the 10-year zero coupon bond equivalent for all sub-asset classes with interest rate risk, rather than providing advisers with a choice to report duration, WAT, or an unspecified 10-year equivalent.[331] Several revisions (relating to adviser reporting of basic information for all hedge funds that it advises) would revise instructions relating to reporting of adjusted long and short exposures and market factor effects on a hedge fund's portfolio.[332] These revisions could potentially prevent, for example, data errors associated with reporting of long and short components of a portfolio or discrepancies across advisers in their choices of which market factors to report (as Form PF currently allows advisers to omit a response to any market factor that they do not regularly consider in formal risk management testing).[333] As another example, the proposal would provide for a new sub-asset class in investment exposure reporting for ADRs, in line with how ADRs are reported on the CFTC's Form CPO–PQR, potentially improving assessment of currency risk across regulatory filings.[334] As a final example, the proposal would revise reporting for positions held physically, synthetically, or through derivatives and indirect exposure, and would require reporting turnover on a per fund basis instead of in the aggregate as well as providing for more granular reporting of turnover.[335] The SEC believes these revisions, and others,[336] would align Form PF data across filers, thereby potentially improving the efficiency with which the SEC and FSOC evaluate market risk and measure industry trends, thereby increasing the efficiency with which regulatory responses are developed, improving systemic risk assessment and regulatory programs to protect investors.

Second, the proposed changes would help Form PF provide greater insight into newly emerging areas of risk, including increasing exposures to new asset classes, changing exposures across different categories of counterparties, and changing risk management practices (such as changing practices around posting of collateral). The SEC believes these proposed changes would help Form PF more completely and accurately capture information relevant to ongoing trends in the private fund industry. For example, in addition to the more general investment strategy questions in section 1c described above,[337] section 2b would define the term ''digital asset'' and would require large advisers to qualifying hedge funds to report their total exposures to digital assets.[338] As another example, large advisers to qualifying hedge funds would be required to report exposures to additional commodity sub-asset classes (*e.g.,* other (non-gold) precious metals, agricultural commodities, and base metal commodities).[339] They would also be required to report all other counterparties (by name, LEI, and financial institution affiliation) to which a fund has net mark-to-market exposure after collateral that equals or is greater than either (1) five percent of a fund's net asset value or (2) $1 billion, facilitating regulators' abilities to understand the impact a particular counterparty failure like those that occurred during the 2008 financial crisis and in the period since (*e.g.,* the failure of MF Global in 2011).[340] Advisers would also be required to report certain of their exposures to CCPs,[341] and would be required to report each CCP (or other third party) holding collateral in respect of cleared exposures in excess of 5 percent of the fund's net asset value, or $1 billion.[342] As discussed above, these (and other) new granular reporting requirements would represent new possible sources of systemic risk for the SEC and FSOC to evaluate, and also new areas of focus for the SEC's regulatory outreach, examination, and investigation.[343] The SEC believes these revisions, and others,[344] would improve the SEC's and FSOC's efforts to assess developing systemic risks and FSOC's efforts to assess broader financial stability, as well as potentially improve the SEC's efforts to protect investors by identifying areas in need of outreach, examination, or investigation.

Lastly, the proposal would remove certain questions where other questions provide the same or superseding information, which the SEC believes would streamline reporting and reduce reporting burden. For example, the proposal would remove section 2a entirely, proposing that the aggregated information in section 2a is redundant to information required to be reported in other sections,[345] and would remove the requirement from Question 38 for advisers to report the percentage of the

[330] *See supra* section II.C.2.

[331] *Id.*

[332] *See supra* section II.C.2.a; II.C.2.c.

[333] *Id.* For example, higher quality data on short positions could facilitate more accurate and timely identification of significant market participants during periods of volatility related to shorting activity, such as the January 2021 ''meme stock'' episodes. *See, e.g.,* Staff Report on Equity and Options Market Structure Conditions in Early 2021 (Oct. 14, 2021), *available at https://www.sec.gov/files/staff-report-equity-options-market-struction-conditions-early-2021.pdf.*

[334] *See supra* section II.C.2.a.

[335] As discussed above, when monitoring funds' activities during recent market events like the March 2020 COVID–19 turmoil, the existing aggregation of U.S. treasury securities with related derivatives did not reflect the role hedge funds played in the U.S. treasury market. *See supra* section II.C.2.a, III.B.1. Also during the COVID–19 market turmoil, FSOC sought to evaluate the role hedge funds played in disruptions in the U.S. treasury market by unwinding cash-futures basis trade positions and taking advantage of the near-arbitrage between cash and futures prices of U.S. treasury securities. Because the existing requirement regarding turnover reporting on U.S. treasury securities is highly aggregated, the SEC staff, during retrospective analyses on the March 2020 market events, was unable to obtain a complete picture of activity relating to long treasuries and treasury futures. *See supra* section II.C.2.d, III.B.1.

[336] Other proposed revisions that would provide this benefit include the proposal revising reporting of reportable sub-asset classes, including those for certain categories of listed equity securities, repos, asset-backed securities and other structured products, derivatives, and cash and commodities; revising reporting of open and large position reporting; revising reporting of counterparty exposures including reporting of significant counterparties; revising currency reporting; requiring significant country and industry exposure; requiring additional reporting on fund portfolio risk profiles; requiring more granular reporting of investment performance by strategy; amending reporting of portfolio liquidity; and amending reporting of financing liquidity. *See supra* section II.C.

[337] *See supra* section III.C.1.b.

[338] *See supra* section II.C.2.a.

[339] *See supra* section II.C.2.a.

[340] *See supra* section II.C.2.a, footnote 198 and accompanying text.

[341] *See supra* section II.C.2.b.

[342] *See supra* section II.C.2.d.

[343] *See supra* section III.C.1.b. For example, the SEC believes the addition of a base metal commodities sub-asset class would allow for identification of large players in the base metals market (such as those impacted by the March 2022 ''nickel squeeze,'' during which the price of nickel rose unusually steeply and rapidly in response to commodity price increases caused by Russia's invasion of Ukraine). *See supra* footnote 176.

[344] Other proposed revisions that would provide this benefit include revising reporting for positions held physically, synthetically, or through derivatives and indirect exposure; revising reportable sub-asset classes, including those for certain categories of listed equity securities, repos, asset-backed securities and other structured products, derivatives, and other cash and commodities; further revising reporting of counterparty exposures including reporting of significant counterparties (in addition to the revisions to CCP exposures); revising currency reporting; requiring more granular reporting of turnover; requiring significant country and industry exposure; requiring additional reporting on fund portfolio risk profiles; requiring more granular reporting of investment performance by strategy; requiring new reporting on portfolio correlation; amending reporting of portfolio liquidity; and amending reporting of financing liquidity. *See supra* section II.C.

[345] *See supra* section II.C.1.

total amount of collateral and other credit support that a fund has posted to counterparties that may be re-hypothecated.[346] The SEC believes that these revisions, and others,[347] would directly lower the costs and reduce the burden to advisers of completing Form PF filings.

2. Costs

The proposed amendments to Form PF would lead to certain additional costs for private fund advisers. Any portion of these costs that is not borne by advisers would ultimately be passed on to private funds' investors. These costs would vary depending on the scope of the required information, which is determined based on the size and types of funds managed by the adviser as well as each fund's investment strategies, including choices of asset classes and counterparties. These costs are quantified, to the extent possible, by examination of the analysis in section IV.A.3.

The SEC anticipates that the costs to advisers associated with Form PF would be composed of both direct compliance costs and indirect costs. Direct costs for advisers would consist of internal costs (for compliance attorneys and other non-legal staff of an adviser, such as computer programmers, to prepare and review the required disclosure) and external costs (including filing fees as well as any costs associated with outsourcing all or a portion of the Form PF reporting responsibilities to a filing agent, software consultant, or other third-party service provider).[348]

The SEC believes that the direct costs associated with the proposed amendments would be most significant for the first updated Form PF report that a private fund adviser would be required to file because the adviser would need to familiarize itself with the new reporting form and may need to configure its systems to gather the required information efficiently. In subsequent reporting periods, the SEC anticipates that filers would incur significantly lower costs because much of the work involved in the initial report is non-recurring and because of efficiencies realized from system configuration and reporting automation efforts accounted for in the initial reporting period. This is consistent with the results of a survey of private fund advisers, finding that the majority of respondents identified the cost of subsequent annual Form PF filings at about half of the initial filing cost.[349]

The SEC anticipates that the proposed amendments aimed at improving data quality and comparability would impose limited direct costs on advisers given that advisers already accommodate similar requirements in their current Form PF reporting and can utilize their existing capabilities for preparing and submitting an updated Form PF. The SEC expects that most of the costs would arise from the proposed requirements to report additional and more granular information on Form PF. These direct costs would mainly include an initial cost to setup a system for collecting, verifying additional more granular information, and limited ongoing costs associated with periodic reporting of this additional information.[350] We believe that the proposed amendment to rule 204(b)–1(f) under the Advisers Act would have minimal costs associated with it, as the proposed amendment only makes it easier to submit a temporary hardship exemption and assists advisers in determining what constitutes a ''filed'' temporary hardship exemption.[351] As discussed in the benefits section, the SEC believes that part of the costs to advisers arising from the proposed amendments would be mitigated by the cost savings resulting from reduced ambiguities and inefficiencies that currently exist in the reporting requirements, as this may reduce the amount of time and effort required for some advisers to prepare and submit Form PF information.[352]

Indirect costs for advisers would include the costs associated with additional actions that advisers may decide to undertake in light of the additional reporting requirements on Form PF. Specifically, to the extent that the proposed amendments provide an incentive for advisers to improve internal controls and devote additional time and resources to managing their risk exposures and enhancing investor protection, this may result in additional expenses for advisers, some of which may be passed on to the funds and their investors.

Form PF collects confidential information about private funds and their trading strategies, and the inadvertent public disclosure of such competitively sensitive and proprietary information could adversely affect the funds and their investors. However, the SEC anticipates that these adverse effects would be mitigated by certain aspects of the Form PF reporting requirements and controls and systems designed by the SEC for handling the data. For example, because data on Form PF generally could not, on its own, be used to identify individual investment positions, the ability of a

[346] *See supra* section II.C.1.

[347] Other proposed revisions that would provide this benefit include the proposal consolidating Question 47 into Question 36; removing the requirement from Question 38 for advisers to report the percentage of the total amount of collateral and other credit support that a fund has posted to counterparties that may be re-hypothecated; and requiring reporting turnover on a per fund basis instead of in the aggregate. *See supra* section II.C.

[348] *See* section IV.A.3 (for an analysis of the direct costs associated with the new Form PF requirements for quarterly and annual filings).

[349] *See* Wulf Kaal, *Private Fund Disclosures Under the Dodd-Frank Act,* 9 Brooklyn Journal of Corporate, Financial, and Commercial Law 428 (2015).

[350] Based on the PRA analysis in section IV.A.3, initial costs associated with filing the first updated Form PF report are estimated to increase by $4,790 for smaller private fund advisers, $15,557 for large hedge fund advisers, $8,780 for large liquidity fund advisers, and $8,780 for large private equity advisers. These figures are calculated as the cost of filing under the proposal minus the cost of filing prior to the proposal for each category of adviser. *See* Table 5. Direct internal compliance costs associated with the proposal are estimated at $1,866.25 per quarterly filing or $7,465 annually for smaller private fund advisers. Direct internal compliance costs associated with the proposal are estimated at $6,582.5 per quarterly filing or $26,330 annually for large hedge fund advisers. Direct internal compliance costs associated with the proposal are estimated at $3,172.5 per quarterly filing or $12,690 annually for large liquidity fund advisers. Direct internal compliance costs associated with the proposal are estimated at $3,885 per quarterly filing or $15,540 annually for large private equity advisers. These figures are calculated as the cost of filing under the proposal minus the cost of filing prior to the proposal for each category of adviser, with an additional correction for large liquidity fund advisers to incorporate the adjustment explained in footnote 9 to Table 6 (yielding an estimate of costs prior to the proposal of $29,216.25/105*70 = $19477.50). *See* Table 6. It is estimated that there will be no additional direct external costs and no changes to filing fees associated with the proposed amendments. *See* Table 8. The SEC anticipates that there may be additional first-time filing costs for filers who do not currently file on a calendar quarter basis, but that these costs are likely to be small and not likely to impact subsequent filings beyond the first. As discussed above, a 2018 industry survey of large hedge fund advisers found filing costs that ranged from 35% to 72% higher than SEC cost estimates. These industry cost estimates would therefore suggest costs associated with the proposed changes to Form PF that are potentially 35% to 72% higher than those estimated here. *See* MFA Letter to Chairman Clayton, *supra* note 202, at 3. However, a 2015 survey of SEC-registered investment advisers to private funds affirmed the SEC's cost estimates for smaller private fund advisers' Form PF compliance costs, and found that the SEC overestimated Form PF compliance costs for larger private fund advisers. These academic literature cost estimates would therefore suggest that the costs associated with the proposed changes to Form PF estimated here are potentially conservatively large. *See* Wulf Kaal, *Private Fund Disclosures Under the Dodd-Frank Act,* 9 Brooklyn Journal of Corporate, Financial, and Commercial Law 428 (2015). *See also supra* footnote 267.

[351] *See supra* section II.E.

[352] The proposal also seeks to limit unnecessary costs by avoiding redundancies between new questions and existing questions. For example, if the proposal is adopted, the SEC would remove current Question 22, as it would be redundant in light of the proposed expanded turnover reporting. *See supra* footnote 214.

competitor to use Form PF data to replicate a trading strategy or trade against an adviser is limited. The SEC has controls and systems for the use and handling of the proposed modified and new Form PF data in a manner that reflects the sensitivity of the data and is consistent with the maintenance of its confidentiality. The SEC has substantial experience with the storage and use of nonpublic information reported on Form PF as well as other nonpublic information that the SEC handles in the course of business.

D. Reasonable Alternatives

1. Alternatives to Proposed Amendments to General Instructions, Proposed Amendments To Enhance Data Quality, and Proposed Additional Amendments

The SEC has considered alternatives to the proposed amendments to general instructions, proposed amendments to enhance data quality, and the proposed additional amendments considered in this proposal (including the amendments to the process for requesting temporary hardship exemptions, by way of an amendment to rule 204(b)–1(f) under the Advisers Act). The alternatives considered have been in the form of different choices of framing, level of additional detail requested by Form PF, level of detail removed from Form PF, and precise information targeted.

For example, in the general instructions, the SEC considered an alternative that would require advisers to report only at the master fund level or only at the feeder fund level. As another example, with respect to trading vehicles, the proposal currently would require advisers to report a trading vehicle as a separate reporting fund, the adviser must report the trading vehicle as a hedge fund, qualifying hedge fund, liquidity fund, private equity fund, or other type of fund, if it meets certain requirements, but the SEC considered an alternative that would only require advisers to report trading vehicles as investments in another fund. As a final example, the SEC considered requiring annual filers to file within 30 calendar days after the end of their fiscal year, rather than 120 calendar days.

While many alternatives may be able to capture more detailed information, or may be able to capture relevant information with a smaller reporting burden for advisers, the SEC believes that each of the amendments to general instructions, amendments to enhance data quality, and additional amendments as proposed improve data quality and enhance the usefulness of reported data without imposing undue reporting burden. As discussed above we request suggestions and comments on each proposed revision and addition.[353]

2. Alternatives to Proposed Amendments to Basic Information About the Adviser and the Private Funds It Advises

The SEC has also considered alternatives to the proposed amendments to basic information about advisers and the private funds they advise. As above, these alternatives are in the form of different choices of framing, level of additional detail requested by Form PF, level of detail removed from Form PF, and precise information targeted.

For example, with respect to identifying information for private funds in section 1a, the SEC considered an alternative that would provide more granularity for advisers to list categories of funds, such as differentiating between different types of funds of funds (for example, differentiating between multi-manager funds of funds and multi-asset funds of funds). As another example, with respect to basic information reported for all private funds in section 1b, the SEC considered alternatives that would limit reporting information about withdrawal rights, redemption rights, and contributions to only funds and advisers of a certain size. The SEC also considered various alternatives with respect to reporting of digital assets, such as distinguishing between digital assets that represent an ability to convert or exchange the digital asset for fiat currency or another asset, including another digital asset, and those that do not represent such a right to convert or exchange; for digital assets that represent a right to convert or exchange for fiat currency or another digital asset, those where the redemption obligation is supported by an unconditional guarantee of payment, such as some ''central bank digital currencies,'' and those redeemable upon demand from the issuer, whether or not collateralized by a pool of assets or a reserve; for digital assets that do not represent any direct or indirect obligation of any party to redeem; and for digital assets that represent an equity, profit, or other interest in an entity. As a final example, with respect to basic information reported for all hedge funds, the proposal would currently require advisers to identify each creditor or other counterparty (including CCPs) to which the reporting fund owes cash and synthetic financing borrowing (before posted collateral) equal to or greater than either (1) five percent of net asset value of the reporting fund as of the data reporting date or (2) $1 billion, but the SEC considered alternatives that would change the proposed thresholds, either increasing or decreasing Form PF's definition of what constitutes a significant counterparty.

The SEC believes that each of the amendments as proposed improve data quality and enhance the usefulness of reported data without imposing undue reporting burden, but as discussed above we request suggestions and comments on each proposed revision and addition.[354]

3. Alternatives to Proposed Amendments to Information About Hedge Funds Advised by Large Private Fund Advisers

The SEC has considered alternatives to the proposed amendments to information about hedge funds advised by large private fund advisers. As above, these alternatives are in the form of different choices of framing, level of additional detail requested by Form PF, level of detail removed from Form PF, and precise information targeted.

For example, with respect to investment exposure reporting, the proposal would continue to require reporting on qualifying hedge fund exposures to different types of assets, but would revise the instructions and format of this reporting. As an alternative, the SEC considered a proposal that would require or permit large hedge fund advisers to file portfolio position-level information for qualifying hedge funds similar to what is required for large liquidity fund advisers, and large hedge fund advisers who do so would be allowed to forgo responding to certain specific investment exposure questions in section 2, including Question 30. We believe that the questions as currently proposed improve data quality and enhance the usefulness of reported data without imposing undue reporting burden, but we request comment on each proposed revision and addition.[355]

As another example, the SEC considered alternative approaches for instructing reporting advisers on how to net long and short positions for each sub-asset class. One prong of the proposed instructions for netting long and short positions relies on a newly defined term ''reference asset,'' with which we propose to define as ''a security or other investment asset to which the reporting fund is exposed

[353] *See supra* section II.A, II.D, II.E.

[354] *See supra* section II.B.

[355] *See supra* section II.C.

through direct ownership, synthetically, or indirect ownership,'' [356] and instructs advisers to net positions that have the same underlying reference asset across instrument types. The SEC has considered instead tailoring these instructions to different asset classes. For example, the SEC considered instructing advisers to net repo exposures in accordance with GAAP rules for balance sheet netting, or instructing advisers with exposures whose underlying reference assets are treasury securities to net within predefined maturity buckets. However, the SEC believes that providing netting instructions through the proposed single definition of ''reference asset'' improves data quality and enhances the usefulness of report data without imposing undue burden.[357]

As final example, the SEC also considered requiring advisers to report DV01 instead of the 10-year zero coupon bond equivalent. We understand that the 10-year zero coupon bond equivalent is the most widely used duration measure currently applied in the industry, and would require the fewest number of private funds to update their calculations of duration to comply with the reporting requirement, but as discussed above the SEC requests comment on whether DV01 would be a more appropriate reporting requirement.[358]

Broadly, the SEC believes that each of the amendments as proposed improve data quality and enhance the usefulness of reported data without imposing undue reporting burden, but as discussed above we request suggestions and comments on each proposed revision and addition.[359]

4. Alternatives to the Definition of the Term ''Hedge Fund''

The SEC has also considered amending the definition of ''hedge fund'' which is defined in the Glossary of Terms as any private fund (other than a securitized asset fund) (a) with respect to which one or more investment advisers (or related persons of investment advisers) may be paid a performance fee or allocation calculated by taking into account unrealized gains (other than a fee or allocation the calculation of which may take into account unrealized gains solely for the purpose of reducing such fee or allocation to reflect net unrealized losses); (b) that may borrow an amount in excess of one-half of its net asset value (including any committed capital) or may have gross notional exposure in excess of twice its net asset value (including any committed capital); or (c) that may sell securities or other assets short or enter into similar transactions (other than for the purpose of hedging currency exposure or managing duration).[360] As noted above, the current definition of ''hedge fund'' is designed to include any private fund having any one of three common characteristics of a hedge fund: (1) a performance fee, (2) leverage, or (3) short selling. In particular, this existing definition in Form PF of ''hedge fund'' focuses on a reporting fund's ability to engage in certain borrowing and short selling, rather than actual or intended borrowing and short selling. Some reporting funds may consider themselves ''private equity funds,'' but advisers report them as hedge funds, because the reporting fund's governing documents permit the fund to engage in certain borrowing and short selling (even though it did not do so at any time in the past 12 months).

As discussed above, hedge funds and private equity funds are two separate categories of private funds, and typically differ in their characteristics, such as a hedge fund being more likely to engage in extensive use of (non-subscription lines of credit) leverage, derivatives, complex structured products, and short selling, and a private equity fund being more likely to focus on long-term returns and engage actively in the management and direction of the companies it invests in.[361] Under the existing definition, an adviser to a fund that holds itself out as a private equity fund and is permitted in its fund governing documents to engage in certain short-selling, but has not done so in the past 12 months, would be reported in Form PF data as a hedge fund with zero short exposure. Depending on how widespread this definitional mismatch is, it could have an impact on data quality.[362]

Accordingly, the SEC is requesting additional information on the issue.[363] In doing so, the SEC is requesting comment on a potential alternative definition of ''hedge fund,'' under which, to qualify as a hedge fund under the leverage prong of the potential alternative definition, a fund would have to satisfy subsection (b) of the definition (the leverage prong), as it does today, but also must have actually borrowed or used any leverage during the past 12 months, excluding any borrowings secured by unfunded commitments (*i.e.,* subscription lines of credit). Additionally, to qualify as a hedge fund under the short selling prong of the potential alternative definition (the short selling prong), the fund must have actually engaged in certain short selling during the past 12 months. The SEC also considered alternative definitions requiring, for example, longer or shorter time periods, different time periods for borrowing versus short selling, or requirements for the reporting fund to provide redemption rights in the ordinary course.

A revised definition could better ensure advisers report information in closer accordance with their characteristics.[364] For example, an adviser to a private fund that has actually engaged in short selling in the preceding 12 months would meet this alternative definition of hedge fund and thus report the value of its short positions as part of section 2, Item B.[365] Meanwhile, for example, an adviser to a private fund that holds itself out as a private equity fund, has not borrowed or used any leverage during the preceding 12 months (excluding subscription lines of credit), and has not sold securities or other assets short (or entered into similar transactions) would not meet this alternative definition of a hedge fund, and would report information more relevant for a private equity fund such as, among other items, the average debt-to-equity ratio of its portfolio investments.[366] The SEC also believes an alternative definition would reduce the unnecessary reporting burden faced by advisers to deemed hedge funds that

[356] *See* Proposed Form PF Glossary of Terms. The proposal would also instruct advisers to net fixed income positions that fall within certain predefined maturity buckets. *See supra* section II.C.

[357] *See supra* section II.C.

[358] *See supra* section II.C.

[359] *See supra* section II.C.

[360] *See supra* section II.C.

[361] *See supra* section III.B.2.

[362] The SEC does not have data on how many reporting funds would be considered deemed hedge funds, but the SEC estimates that up to 30 percent of qualifying hedge funds could be deemed hedge funds that advisers should report as private equity funds. *See* Form PF data from current Question 49(a), as of the third quarter of 2021.

[363] *See supra* section II.C.

[364] This benefit may be mitigated to the extent that any private fund advisers deliberately seek to fill hedge fund reporting requirements because they believe their burden of reporting the hedge fund sections of Form PF is lower than the burden they would face from reporting the private equity sections of Form PF. Any such private fund advisers could, under the proposed definition, have their funds take on de minimis leverage or short selling, and therefore still be instructed to report as a hedge fund. However, we estimate that Form PF filing is on average more burdensome for large hedge fund advisers than for large private equity advisers, and so there may be very few, if any, private fund advisers deliberately filing as a hedge fund adviser instead of as a private equity adviser. *See infra* section IV.A.3

[365] *See supra* section II.C.2.

[366] *See supra* section II.C.2; *see also* Form PF, section 4.

hold themselves out as private equity funds but currently comply with instructions to report information on Form PF section 2; however, this benefit would be partially mitigated by the impacted private fund advisers who would now need to report on necessary Form PF sections for private equity fund advisers.[367]

A potential unintended consequence of the existing reporting approach for hedge funds could be incomplete data sets for private equity funds, as well as less accurate reporting about hedge funds. However, a revised definition that focuses on actual or contemplated use may also result in incomplete data sets for hedge funds, which are a class of funds that may be systemically significant. In particular, when first adopting the definition, the Commissions reasoned that even a reporting fund for which leverage or short selling is an important part of its strategy may not engage in that practice during every reporting period.[368] Because a reporting fund may vary from year to year in its use of leverage or short selling, a revised definition that focuses on actual or contemplated use would also cause fluctuations in the data from year to year, depending on which funds use leverage or short selling in a particular year, potentially impacting the quality or usefulness of resulting data. The potential costs of this alternative definition also include transition filing costs for advisers impacted by the definition, who would be required to update their reporting methods to capture information from their funds relevant for reporting on Form PF as a private equity fund instead of as a hedge fund, and completing corresponding sections of the form targeted at each category.[369]

The SEC has also considered conforming changes to the definition of ''hedge fund'' for the purposes of Form ADV.[370] Form ADV relies on a definition of ''hedge fund'' for the purposes of only one question, which requires advisers to identify the type of private fund they advise by selecting from a list of funds, including hedge funds.[371] As a result, we do not believe there would be any substantial additional economic effects of making conforming changes to Form ADV. By amending the definition in Form ADV so that it would be consistent with how the proposal would define it in Form PF, this alternative would maintain the baseline consistency of information between Form PF and Form ADV. The SEC anticipates that the costs associated with a potential alternative definition of ''hedge fund'' on Form ADV would be de minimis, as private fund advisers would not be required to complete any more or fewer questions on Form ADV, at any more or fewer intervals.

E. Request for Comment

The SEC requests comment on all aspects of our economic analysis, including the potential costs and benefits of the proposed amendments and alternatives thereto, and whether the amendments, if the SEC were to adopt them, would promote efficiency, competition, and capital formation. In addition, the SEC requests comments on our selection of data sources, empirical methodology, and the assumptions the SEC has made throughout the analysis. Commenters are requested to provide empirical data, estimation methodologies, and other factual support for their views, in particular, on costs and benefits estimates. In addition, the SEC requests comment on:

214. Whether there are any additional costs and benefits associated with the proposed amendments to Form PF that we should include in our analysis? What additional materials and data should the SEC consider for estimating these costs and benefits?

215. Whether our assumptions about costs associated with the proposal are accurate? For example, is it accurate to assume that certain costs may be mitigated given that advisers already accommodate similar requirements in their current Form PF and Form ADV reporting and can utilize their existing capabilities for preparing and submitting an updated Form PF?

216. Whether there are any additional benefits or costs that should be included associated with the reasonable alternatives considered?

IV. Paperwork Reduction Act

CFTC:

The information collection titled ''Form PF and Rule 204(b)–1'' (OMB Control No. 3235–0679) was issued to the SEC and implements sections 404 and 406 of the Dodd-Frank Act by requiring private fund advisers that have at least $150 million in private fund assets under management to report certain information regarding the private funds they advise on Form PF. The SEC makes information on Form PF available to the CFTC, subject to the confidentiality provisions of the Dodd-Frank Act, and the CFTC may use information collected on Form PF in its regulatory programs, including examinations, investigations and investor protection efforts relating to private fund advisers.

CFTC rule 4.27 [372] does not impose any additional burden upon registered CPOs and CTAs that are dually registered as investment advisers with the SEC (''dual registrants''). There is no requirement to file Form PF with the CFTC, and any filings made by dual registrants with the SEC are made pursuant to the Advisers Act. While

[367] *See supra* section II.C.2; III.C.2; *see also infra* section IV.A.3. We estimate that for advisers who would be required to file an initial filing as a large private equity adviser instead of a large hedge fund adviser because of the potential alternative definition of ''hedge fund,'' the impact on their filing costs would be the difference in the proposed new cost of filing for large private equity advisers minus the current cost of filing for large hedge fund advisers. We estimate this figure would be negative, reflecting a cost savings. Thus, the potential alternative definition would reduce the costs for initial filers who would be impacted by the definition of ''hedge fund'' by approximately $30,883. *See infra* section IV.A.3, Table 5. We estimate that for the advisers who would be impacted by the potential alternative definition of ''hedge fund'' and would have to make ongoing annual filings as a large private equity adviser instead of ongoing quarterly filings as a large hedge fund adviser, the impact of the alternative definition on their filing costs would be the difference in the proposed new cost of filing for large private equity advisers minus four times the cost of filing prior to the proposal for large hedge fund advisers. We again estimate this figure to be negative, and estimate an ongoing annual cost savings to these advisers of $135,240. *See infra* section IV.A.3, Table 6. Because Form PF defines large hedge fund advisers by considering a threshold of $1.5 billion in assets under management but defines large private equity advisers by considering a threshold of $2 billion in assets under management, there may be private fund advisers who, under the potential alternative definition, would no longer be required to file as a large hedge fund adviser, and would also not be required to instead report as a large private equity adviser.

[368] *See supra* footnote 3; *see also* 2011 Form PF Adopting Release, at text accompanying footnote 78.

[369] We estimate that the average cost of a transition filing is $19.25. *See* Table 7.

[370] *See supra* section II.C. Form ADV filers include advisers registered with the SEC and those applying for registration with the SEC, as well as exempt reporting advisers. Some private fund advisers that are required to report on Form ADV are not required to file Form PF (for example, exempt reporting advisers and advisers with less than $150 million in private fund assets under management). Other advisers are required to file Form PF and are not required to file Form ADV (for example, advisers to commodity pools that are not private funds). Based on the staff review of Form ADV filings and the Private Fund Statistics, less than 10 percent of funds reported on Form ADV but not on Form PF in 2020.

[371] *See* Form ADV: Instructions for Part 1A, Instruction 6 and Form ADV Part 1A, Schedule D, section 7.B.(1), Question 10 (''Question 10'') (defining the term ''hedge fund,'' and specifying that the definition applies for purposes of Question 10). Form ADV also uses the term ''hedge fund'' in Part 2A, but does not refer to the definition provided for Question 10.

[372] CFTC rule 4.27, 17 CFR 4.27, was adopted pursuant to the CFTC's authority set forth in section 4n of the Commodity Exchange Act (''CEA''), 7 U.S.C. 6n. CFTC regulations are found at Title 17 Chapter I of the Code of Federal Regulations (''CFR'').

CFTC rule 4.27(d) states that dually registered CPOs and CTAs that file Form PF with the SEC will be deemed to have filed Form PF with the CFTC for purposes of any enforcement action regarding any false or misleading statement of material fact in Form PF, the CFTC is not imposing any additional burdens herein. Therefore, any burden imposed by Form PF on entities registered with both the CFTC and the SEC has been fully accounted for within the SEC's calculations regarding the impact of this collection of information under the PRA, as set forth below.[373]

SEC:

The proposal would revise an existing ''collection of information'' within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[374] The SEC is submitting the collection of information to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[375] The title for the collection of information is ''Form PF and Rule 204(b)–1'' (OMB Control Number 3235–0679), and includes both Form PF and rule 204(b)–1 (''the rules'').[376] 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.

A. Form PF

Compliance with the information collection titled ''Form PF and Rule 204(b)–1'' is mandatory. The respondents are investment advisers that (1) are registered or required to be registered under Advisers Act section 203, (2) advise one or more private funds, and (3) managed private fund assets of at least $150 million at the end of their most recently completed fiscal year (collectively, with their related persons).[377] Form PF divides respondents into groups based on their size and types of private funds they manage, requiring some groups to file more information more frequently than others. The types of respondents are (1) smaller private fund advisers, that report annually (*i.e.,* private fund advisers that do not qualify as large private fund advisers), (2) large hedge fund advisers, that report more information quarterly (*i.e.,* advisers with at least $1.5 billion in hedge fund assets under management), (3) large liquidity fund advisers, that report more information quarterly (*i.e.,* advisers that manage liquidity funds and have at least $1 billion in combined money market and liquidity fund assets under management), and (4) large private equity advisers, that report more information annually (*i.e.,* advisers with at least $2 billion in private equity fund assets under management). As discussed more fully in section II above and as summarized in sections IV.A.1 and IV.A.3.a below, the proposal would revise how all types of respondents report certain information on Form PF.

1. Purpose and Use of the Information Collection

The rules implement provisions of Title IV of the Dodd-Frank Act, which amended the Advisers Act to require the SEC to, among other things, establish reporting requirements for advisers to private funds.[378] The information collected on Form PF is designed to facilitate FSOC's monitoring of systemic risk in the private fund industry and assist FSOC in determining whether and how to deploy its regulatory tools with respect to nonbank financial companies.[379] The SEC also may use information collected on Form PF in its regulatory programs, including examinations, investigations, and investor protection efforts relating to private fund advisers.[380]

The proposed amendments are designed to enhance FSOC's ability to monitor systemic risk as well as bolster the SEC's regulatory oversight of private fund advisers and investor protection efforts. The proposal would amend the form's general instructions, as well as section 1 of Form PF, which would apply to all Form PF filers. The proposal also would amend section 2 of Form PF, which would apply to large hedge fund advisers that advise qualifying hedge funds (*i.e.,* hedge funds with a net asset value of at least $500 million).

2. Confidentiality

Responses to the information collection will be kept confidential to the extent permitted by law.[381] Form PF elicits non-public information about private funds and their trading strategies, the public disclosure of which could adversely affect the funds and their investors. The SEC does not intend to make public Form PF information that is identifiable to any particular adviser or private fund, although the SEC may use Form PF information in an enforcement action and FSOC may use it to assess potential systemic risk.[382] SEC staff issues certain publications designed to inform the public of the private funds industry, all of which use only aggregated or masked information to avoid potentially disclosing any proprietary information.[383] The Advisers Act precludes the SEC from being compelled to reveal Form PF information except (1) to Congress, upon an agreement of confidentiality, (2) to comply with a request for information from any other Federal department or agency or self-regulatory organization for purposes within the scope of its jurisdiction, or (3) to comply with an order of a court of the United States in an action brought by the United States or the SEC.[384] Any department, agency, or self-regulatory organization that receives Form PF information must maintain its confidentiality consistent with the level of confidentiality established for the SEC.[385] The Advisers Act requires the SEC to make Form PF information available to FSOC.[386] For advisers that are also commodity pool operators or commodity trading advisers, filing Form PF through the Form PF filing system is filing with both the SEC and CFTC.[387] Therefore, the SEC makes Form PF information available to FSOC and the CFTC, pursuant to Advisers Act section 204(b), making the information subject to the confidentiality protections applicable to information required to be filed under that section. Before sharing any Form PF information, the SEC requires that any such department, agency, or self-regulatory organization represent to the SEC that it has in place controls designed to ensure the use and handling of Form PF information in a manner consistent with the protections required by the Advisers Act. The SEC has instituted procedures to protect the confidentiality of Form PF information in a manner consistent with the protections required in the Advisers Act.[388]

[373] 44 U.S.C. 3501–3521.

[374] 44 U.S.C. 3501 through 3521.

[375] 44 U.S.C. 3507(d); 5 CFR 1320.11.

[376] The SEC also submitted the collection of information to OMB in connection with the 2022 SEC Form PF Proposal (ICR Reference No. 202202–3235–026) (conclusion date May 17, 2022) *available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202202-3235-026;* 2022 SEC Form PF Proposal, *supra* footnote 3.

[377] *See* 17 CFR 275.204(b)–1.

[378] *See* 15 U.S.C. 80b–4(b) and 15 U.S.C. 80b–11(e).

[379] *See* Form PF.

[380] *Id.*

[381] *See* 5 CFR 1320.5(d)(2)(vii) and (viii).

[382] *See* 15 U.S.C. 80b–10(c) and 15 U.S.C. 80b–4(b).

[383] S*ee e.g.,* Private Funds Statistics, issued by staff of the SEC Division of Investment Management's Analytics Office, which we have used in this PRA as a data source, *available at https://www.sec.gov/divisions/investment/private-funds-statistics.shtml.*

[384] *See* 15 U.S.C. 80b–4(b)(8).

[385] *See* 15 U.S.C. 80b–4(b)(9).

[386] *See* 15 U.S.C. 80b–4(b)(7).

[387] *See* 2011 Form PF Adopting Release, *supra* footnote 3 at n.17.

[388] *See* 5 CFR 1320.5(d)(2)(viii).

3. Burden Estimates

We are revising our total burden estimates to reflect the proposed amendments, updated data, and new methodology for certain estimates.[389] The tables below map out the Form PF requirements as they apply to each group of respondents and detail our burden estimates.

a. Proposed Form PF Requirements by Respondent

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Table 1: Proposed Form PF Requirements by Respondent

Form PF	Smaller private fund advisers	Large hedge fund advisers	Large liquidity fund advisers	Large private equity advisers
Section 1a and section 1b (basic information about the adviser and the private funds it advises) **Proposed revisions**	Annually	Quarterly	Quarterly	Annually
Section 1c (additional information concerning hedge funds) **Proposed revisions**	Annually, if they advise hedge funds	Quarterly	Quarterly, if they advise hedge funds	Annually, if they advise hedge funds
Section 2 (additional information concerning qualifying hedge funds) **Proposed revisions**	No	Quarterly	No	No
Section 3 (additional information concerning liquidity funds) **No proposed revisions**	No	No	Quarterly	No
Section 4 (additional information concerning private equity funds) **No proposed revisions**	No	No	No	Annually
Section 5 (temporary hardship request) **The proposal would revise filing instructions**	Optional, if they qualify	Optional, if they qualify	Optional, if they qualify	Optional, if they qualify
Transition Filings (indicating the adviser is no longer obligated to file on a quarterly basis) **No proposed revisions**	Not applicable	If they cease to qualify as a large hedge fund adviser	If they cease to qualify as a large liquidity fund adviser	Not Applicable
Final Filings (indicating the adviser is no longer subject to the rules) **No proposed revisions**	If they qualify	If they qualify	If they qualify	If they qualify

[389] For the previously approved estimates, *see* ICR Reference No. 202011–3235–019 (conclusion date Apr. 1, 2021), *available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202011-3235-019.*

b. Annual Hour Burden Estimates

Below are tables with annual hour burden estimates for (1) initial filings, (2) ongoing annual and quarterly filings, and (3) transition filings, final filings, and temporary hardship requests.

Table 2: Annual Hour Burden Estimates for Initial Filings

Respondent[1]		Number of Respondents = Aggregate Number of Responses[2]	Hours Per Response[3]	Hours Per Response Amortized Over 3 Years[4]	Aggregate Hours Amortized Over 3 Years[5]
Smaller Private Fund Advisers	Requested	309 responses[6]	50 hours ÷ 3 =	17 hours	5,253 hours
	Previously Approved	272 responses	40 hours	23 hours	6,256 hours
	Change	37 responses	10 hours	(6) hour	(1,003) hours
Large Hedge Fund Advisers	Requested	15 responses[7]	345 hours ÷ 3 =	115 hours	1,725 hours
	Previously Approved	17 responses	325 hours	658 hours	11,186 hours
	Change	(2) responses	20 hours	(543) hours	(9,461) hours
Large Liquidity Fund Advisers	Requested	1 responses[8]	210 hours ÷ 3 =	70 hours	70 hours
	Previously Approved	2 responses	200 hours	588 hours	1,176 hours
	Change	(1) responses	10 hours	(518) hours	(1,106) hours
Large Private Equity Advisers	Requested	13 responses[9]	210 hours ÷ 3 =	70 hours	910 hours
	Previously Approved	9 responses	200 hours	133 hours	1,197 hours
	Change	4 responses	10 hours	(63) hours	(287) hours

Notes:

1. We expect that the hourly burden will be most significant for the initial report because the adviser will need to familiarize itself with the new reporting form and may need to configure its systems in order to efficiently gather the required information. In addition, we expect that some large private fund advisers will find it efficient to automate some portion of the reporting process, which will increase the burden of the initial filing but reduce the burden of subsequent filings.
2. This concerns the initial filing; therefore, we estimate one response per respondent. The proposed changes are due to using updated data to estimate the number of advisers.
3. Hours per response changes are due to the proposed amendments.
4. We propose to amortize the initial time burden over three years because we believe that most of the burden would be incurred in the initial filing. We propose to use a different methodology to calculate the estimate than the methodology staff used for the previously approved burdens. We believe the previously approved burdens for initial filings inflated the estimates by using a methodology that included subsequent filings for the next two years, which, for annual filers, included 2 subsequent filings, and for quarterly filers, included 11 subsequent filings. For the requested burden, we propose to calculate the initial filing, as amortized over the next three years, by including only the hours related to the initial filing, not any subsequent filings. This approach is designed to more accurately estimate the initial burden, as amortized over three years. (For example, to estimate the previously approved burden for a large hedge fund adviser making its initial filing, staff estimated that the adviser would have an amortized average annual burden of 658 hours: ((1 initial filing x 325 hours) + (11 subsequent filings (because it files quarterly) x 150 hours) = 1,975 hours. 1,975 hours / 3 years = approximately 658 previously approved hours per response, amortized over three years).) Changes are due to using the revised methodology and the proposed amendments.
5. (Number of responses) x (hours per response amortized over three years) = aggregate hours amortized over three years. Changes are due to (1) using updated data to estimate the number of advisers, (2) the new methodology to estimate the hours per response, amortized over three years, and (3) the proposed amendments.
6. Private Funds Statistics show 2,394 smaller private fund advisers filed Form PF in the third quarter of 2021. Based on filing data from the last five years, an average of 12.9 percent of them did not file for the previous due date. (2,394 x 0.129 = 309 advisers.)
7. Private Funds Statistics show 592 large hedge fund advisers filed Form PF in the third quarter of 2021. Based on filing data from the last five years, an average of 2.6 percent of them did not file for the previous due date. (592 x 0.026 = 15 advisers.)
8. Private Funds Statistics show 24 large liquidity fund advisers filed Form PF in the third quarter of 2021. Based on filing data from the last five years, an average of 1.5 percent of them did not file for the previous due date. (24 x 0.015 = 0.36 advisers, rounded up to 1 adviser.)
9. Private Funds Statistics show 369 large private equity advisers filed Form PF in the third quarter of 2021. Based on filing data from the last five years, an average of 3.5 percent of them did not file for the previous due date. (369 x 0.035 = 13 advisers.)

Table 3: Annual Hour Burden Estimates for Ongoing Annual and Quarterly Filings

Respondent[1]		Number of Respondents[2]		Number of Responses[3]		Hours Per Response[4]		Aggregate Hours[5]
Smaller Private Fund Advisers	Requested	2,085 advisers[6]	x	1 response	x	20 hours	=	41,700 hours
	Previously Approved	2,055 advisers	x	1 response	x	15 hours	=	30,825 hours
	Change	30 advisers		0		5 hours		10,875 hours
Large Hedge Fund Advisers	Requested	577 advisers[7]	x	4 responses	x	160 hours	=	369,280 hours
	Previously Approved	537 advisers	x	4 responses	x	150 hours	=	322,200 hours
	Change	40 advisers		0		10 hours		47,080 hours
Large Liquidity Fund Advisers	Requested	23 advisers[8]	x	4 responses	x	75 hours	=	6,900 hours
	Previously Approved	20 advisers	x	4 responses	x	70 hours	=	5,600 hours
	Change	3 advisers		0		5 hour		1,300 hours
Large Private Equity Advisers	Requested	356 advisers[9]	x	1 response	x	105 hours	=	37,380 hours
	Previously Approved	313 advisers	x	1 response	x	100 hours	=	31,300 hours
	Change	43 advisers		0		5 hour		6,080 hours

Notes:

1. We estimate that after an adviser files its initial report, it will incur significantly lower costs to file ongoing annual and quarterly reports, because much of the work for the initial report is non-recurring and likely created system configuration and reporting efficiencies.
2. Changes to the number of respondents are due to using updated data to estimate the number of advisers.
3. Smaller private fund advisers and large private equity advisers file annually. Large hedge fund advisers and large liquidity fund advisers file quarterly.
4. Hours per response changes are due to the proposed amendments.
5. Changes to the aggregated hours are due to (1) using updated data to estimate the number of advisers and (2) the proposed amendments.
6. Private Funds Statistics show 2,394 smaller private fund advisers filed Form PF in the third quarter of 2021. We estimated that 309 of them filed an initial filing, as discussed in Table 2: Annual Hour Burden Estimates for Initial Filings. (2,394 total smaller advisers – 309 advisers that made an initial filing = 2,085 advisers that make ongoing filings.)
7. Private Funds Statistics show 592 large hedge fund advisers filed Form PF in the third quarter of 2021. We estimated that 15 of them filed an initial filing, as discussed in Table 2: Annual Hour Burden Estimates for Initial Filings. (592 total large hedge fund advisers – 15 advisers that made an initial filing = 577 advisers that make ongoing filings.)
8. Private Funds Statistics show 24 large liquidity fund advisers filed Form PF in the third quarter of 2021. Estimates for Initial Filings. (24 total large liquidity fund advisers – 1 adviser that made an initial filing = 23 advisers that make ongoing filings.)
9. Private Funds Statistics show 369 large private equity advisers filed Form PF in the third quarter of 2021. We estimated that 13 of them filed an initial filing, as discussed in Table 2: Annual Hour Burden Estimates for Initial Filings. (369 total large private equity advisers – 13 advisers that made an initial filing = 356 advisers that make ongoing filings.)

Table 4: Annual Hour Burden Estimates for Transition Filings, Final Filings, and Temporary Hardship Requests

Filing Type[1]		Aggregate Number of Responses[2]		Hours Per Response		Aggregate Hours[3]
Transition Filing from Quarterly to Annual	Requested	68 responses[4]	x	0.25 hours	=	17 hours
	Previously Approved	45 responses	x	0.25 hours	=	11.25 hours
	Change	23 responses		0 hours		5.75 hours
Final Filings	Requested	233 responses[5]	x	0.25 hours	=	58.25 hours
	Previously Approved	54 responses	x	0.25 hours	=	13.5 hours
	Change[6]	179 responses		0 hours		44.75 hours
Temporary Hardship Requests	Requested	3 responses[7]	x	1 hour	=	3 hours
	Previously Approved	4 responses	x	1 hour	=	4 hours
	Change	(1) responses		0 hours		(1) hour

Notes:

1. Advisers make limited Form PF filings in three situations. First, any adviser that transitions from filing quarterly to annually because it has ceased to qualify as a large hedge fund adviser or large liquidity fund adviser, must file a Form PF indicating that it is no longer obligated to report on a quarterly basis. Second, any adviser that is no longer subject to Form PF's reporting requirements, must file a final filing indicating this. Third, an adviser may request a temporary hardship exemption if it encounters unanticipated technical difficulties that prevent it from making a timely electronic filing. A temporary hardship exemption extends the deadline for an electronic filing for seven business days. To request a temporary hardship exemption, the adviser must file a request on Form PF. The proposal would amend how advisers file temporary hardship exemption requests, as discussed in section II.E of this Release; however, the proposed amendment would not result in any changes to the hours per response.
2. Changes to the aggregate number of responses are due to using updated data. Changes for final filings also are due to using a different methodology, as discussed below.
3. Changes to the aggregate hours are due to the changes in the aggregate number of responses.
4. Private Funds Statistics show 616 advisers filed quarterly reports in the third quarter of 2021. Based on filing data from the last five years, an average of 11.1 percent of them filed a transition filing. (616 x 0.111 = 68 responses.)
5. Private Funds Statistics show 3,379 advisers filed Form PF in the third quarter of 2021. Based on filing data from the last five years, an average of 6.9 percent of them filed a final filing. (3,379 x 0.069 = approximately 233 responses.)
6. Changes for final filings are due to using a different methodology. The previously approved estimates used a percentage of quarterly filers to estimate how many advisers filed a final report. We propose to use a percentage of all filers to estimate how many advisers filed a final report, because all filers may file a final report, not just quarterly filers. Therefore, this proposed methodology is designed to more accurately estimate the number of responses for final filings.
7. Based on experience receiving temporary hardship requests, we estimate that 1 out of 1,000 advisers will file a temporary hardship exemption annually. Private Funds Statistics show 3,379 advisers filed Form PF in the third quarter of 2021. (3,379 / 1,000 = approximately 3 responses.)

c. Annual Monetized Time Burden Estimates

Below are tables with annual monetized time burden estimates for (1) initial filings, (2) ongoing annual and quarterly filings, and (3) transition filings, final filings, and temporary hardship requests.[390]

Table 5: Annual Monetized Time Burden of Initial Filings

Respondent[1]		Per Response[2]	Per Response Amortized Over 3 years[3]		Aggregate Number of Responses[4]		Aggregate Monetized Time Burden Amortized Over 3 Years
Smaller Private Fund Advisers	Requested	$18,250[5]	÷ 3 = $6,083	x	309 responses	=	$1,879,647
	Previously Approved	$13,460		x	272 responses	=	$3,661,120
	Change	$4,790			37 responses		($1,781,473)
Large Hedge Fund Advisers	Requested	$118,680[6]	÷ 3 = $39,560	x	15 responses	=	$593,400
	Previously Approved	$103,123		x	17 responses	=	$1,753,091
	Change	$15,557			(2) responses		($1,159,691)
Large Liquidity Fund Advisers	Requested	$72,240[7]	÷ 3 = $24,080	x	1 responses	=	$24,080
	Previously Approved	$63,460		x	2 responses	=	$126,920
	Change	$8,780			(1) responses		($102,840)
Large Private Equity Advisers	Requested	$72,240[8]	÷ 3 = $24,080	x	13 responses	=	$313,040
	Previously Approved	$63,460		x	9 responses	=	$571,140
	Change	$8,780			4 responses		($258,100)

[390] The hourly wage rates are based on (1) SIFMA's *Management & Professional Earnings in the Securities Industry 2013*, modified by SEC staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead; and (2) SIFMA's *Office Salaries in the Securities Industry 2013*, modified by SEC staff to account for an 1,800-hour work-year and inflation, and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

Notes:

1. We expect that the monetized time burden will be most significant for the initial report, for the same reasons discussed in Table 2: Annual Hour Burden Estimates for Initial Filings. Accordingly, we anticipate that the initial report will require more attention from senior personnel, including compliance managers and senior risk management specialists, than will ongoing annual and quarterly filings. Changes are due to using (1) updated hours per response estimates, as discussed in Table 2: Annual Hour Burden Estimates for Initial Filings, (2) updated aggregate number of responses, as discussed in Table 2: Annual Hour Burden Estimates for Initial Filings, and (3) updated wage estimates. Changes to the aggregate monetized time burden, amortized over three years, also are due to amortizing the monetized time burden, which the previously approved estimates did not calculate, as discussed below.
2. For the hours per response in each calculation, *see* Table 2: Annual Hour Burden Estimates for Initial Filings.
3. We propose to amortize the monetized time burden for initial filings over three years, as we do with other initial burdens in this PRA, because we believe that most of the burden would be incurred in the initial filing. The previously approved burden estimates did not calculate this.
4. *See* Table 2: Annual Hour Burden Estimates for Initial Filings.
5. For smaller private fund advisers, we estimate that the initial report will most likely be completed equally by a compliance manager at a cost of $339 per hour and a senior risk management specialist at a cost of $391 per hour. (($339 per hour x 0.5) + ($391 per hour x 0.5)) x 50 hours per response = $18,250.
6. For large hedge fund advisers, we estimate that for the initial report, of a total estimated burden of 345 hours, approximately 60 percent will most likely be performed by compliance professionals and 40 percent will most likely be performed by programmers working on system configuration and reporting automation (that is approximately 207 hours for compliance professionals and approximately 138 hours for programmers). Of the work performed by compliance professionals, we anticipate that it will be performed equally by a compliance manager at a cost of $339 per hour and a senior risk management specialist at a cost of $391 per hour. Of the work performed by programmers, we anticipate that it will be performed equally by a senior programmer at a cost of $362 per hour and a programmer analyst at a cost of $263 per hour. (($339 per hour x 0.5) + ($391 per hour x 0.5)) x 207 hours = $75,555. (($362 per hour x 0.5) + ($263 per hour x 0.5)) x 138 hours = $43,125. $75,555 + $43,125 = $118,680.
7. For large liquidity fund advisers, we estimate that for the initial report, of a total estimated burden of 210 hours, approximately 60 percent will most likely be performed by compliance professionals and approximately 40 percent will most likely be performed by programmers working on system configuration and reporting automation (that is approximately 126 hours for compliance professionals and 84 hours for programmers). Of the work performed by compliance professionals, we anticipate that it will be performed equally by a compliance manager at a cost of $339 per hour and a senior risk management specialist at a cost of $391 per hour. Of the work performed by programmers, we anticipate that it will be performed equally by a senior programmer at a cost of $362 per hour and a programmer analyst at a cost of $263 per hour. (($339 per hour x 0.5) + ($391 per hour x 0.5)) x 126 hours = $45,990. (($362 per hour x 0.5) + ($263 per hour x 0.5)) x 84 hours = $26,250. $45,990 + $26,250 = $72,240.
8. For large private equity advisers, we expect that for the initial report, of a total estimated burden of 210 hours, approximately 60 percent will most likely be performed by compliance professionals and approximately 40 percent will most likely be performed by programmers working on system configuration and reporting automation (that is approximately 126 hours for compliance professionals and 84 hours for programmers). Of the work performed by compliance professionals, we anticipate that it will be performed equally by a compliance manager at a cost of $339 per hour and a senior risk management specialist at a cost of $391 per hour. Of the work performed by programmers, we anticipate that it will be performed equally by a senior programmer at a cost of $362 per hour and a programmer analyst at a cost of $263 per hour. (($339 per hour x 0.5) + ($391 per hour x 0.5)) x 126 hours = $45,990. (($362 per hour x 0.5) + ($263 per hour x 0.5)) x 84 hours = $26,250. $45,990 + $26,250 = $72,240.

Table 6: Annual Monetized Time Burden of Ongoing Annual and Quarterly Filings

Respondent[1]		Per Response[2]		Aggregate Number of Responses		Aggregate Monetized Time Burden
Smaller Private Fund Advisers	Requested	$6,040[3]	x	2,085 responses[4]	=	$12,593,400
	Previously Approved	$4,173.75	x	2,055 responses	=	$8,577,056
	Change	$1,866.25		30 responses		$4,016,344
Large Hedge Fund Advisers	Requested	$48,320[5]	x	2,308 responses[6]	=	$111,522,560
	Previously Approved	$41,737.50	x	2,148 responses	=	$89,652,150
	Change	$6,582.50		160 responses		$21,870,410
Large Liquidity Fund Advisers	Requested	$22,650[7]	x	92 responses[8]	=	$2,083,800
	Previously Approved	$29,216.25	x	80 responses	=	$2,337,300
	Change[9]	($6,566.25)		12 responses		($253,500)
Large Private Equity Advisers	Requested	$31,710[10]	x	356 responses[11]	=	$11,288,760
	Previously Approved	$27,825	x	313 responses	=	$8,709,225
	Change	$3,885		43 responses		$2,579,505

Notes:

1. We expect that the monetized time burden will be less costly for ongoing annual and quarterly reports than for initial reports, for the same reasons discussed in Table 3: Annual Hour Burden Estimates for Ongoing Annual and Quarterly Filings. Accordingly, we anticipate that senior personnel will bear less of the reporting burden than they would for the initial report. Changes are due to using (1) updated wage estimates, (2) updated hours per response estimates, as discussed in Table 3: Annual Hour Burden Estimates for Ongoing Annual and Quarterly Filings, and (3) updated number of respondents, as discussed in Table 3: Annual Hour Burden Estimates for Ongoing Annual and Quarterly Filings. Changes to estimates concerning large liquidity fund advisers primarily appear to be due to correcting a calculation error, as discussed below.
2. For all types of respondents, we estimate that both annual and quarterly reports would be completed equally by (1) a compliance manager at a cost of $339 per hour, (2) a senior compliance examiner at a cost of $260, (3) a senior risk management specialist at a cost of $391 per hour, and (4) a risk management specialist at a cost of $218 an hour. ($339 x 0.25 = $84.75) + ($260 x 0.25 = $65) + ($391 x 0.25 = $97.75) + ($218 x 0.25 = $54.50) = $302. To calculate the cost per response for each respondent, we used the hours per response from Table 3: Annual Hour Burden Estimates for Ongoing Annual and Quarterly Filings.
3. Cost per response for smaller private fund advisers: ($302 per hour x 20 hours per response = $6,040 per response.)
4. (2,085 smaller private fund advisers x 1 response annually = 2,085 aggregate responses.)

5. Cost per response for large hedge fund advisers: ($302 per hour x 160 hours per response = $48,320 per response.)
6. (577 large hedge fund advisers x 4 responses annually = 2,308 aggregate responses.)
7. Cost per response for large liquidity fund advisers: ($302 per hour x 75 hours per response = $22,650 per response.
8. (23 large liquidity fund advisers x 4 responses annually = 92 aggregate responses.)
9. The previously approved estimates appear to have mistakenly used 105 hours instead of the actual estimate for large liquidity fund advisers (which was 70 hours per response), causing the monetized time burden to be inflated in error. Therefore, the extent of these changes are primarily due to using the correct hours per response, which we now estimate as 75 hours, as discussed in Table 3: Annual Hour Burden Estimates for Ongoing Annual and Quarterly Filings.
10. Cost per response for large private equity advisers: ($302 per hour x 105 hours per response = $31,710 per response.)
11. (356 private equity advisers x 1 response annually = 356 aggregate responses.)

Table 7: Annual Monetized Time Burden for Transition Filings, Final Filings, and Temporary Hardship Requests

Filing Type[1]		Per Response		Aggregate Number of Responses[2]		Aggregate Monetized Time Burden
Transition Filing from Quarterly to Annual	Requested	$19.25[3]	x	68 responses	=	$1,309
	Previously Approved	$17.75	x	45 responses	=	$798.75
	Change	$1.50		23 responses		$510.25
Final Filings	Requested	$19.25[4]	x	233 responses	=	$4,485.25
	Previously Approved	$17.75	x	54 responses	=	$958.50
	Change	$1.50		179 responses		$3,526.75
Temporary Hardship Requests	Requested	$237.50[5]	x	3 responses	=	$712.50
	Previously Approved	$221.63	x	4 responses	=	$886.52
	Change	$15.87		(1) responses		($174.02)

Notes:

1. All changes are due to using updated data concerning wage rates and the number of responses.
2. *See* Table 4: Annual Hour Burden Estimates for Transition Filings, Final Filings, and Temporary Hardship Requests.
3. We estimate that each transition filing will take 0.25 hours and that a compliance clerk would perform this work at a cost of $77 an hour. (0.25 hours x $77 = $19.25.)
4. We estimate that each final filing will take 0.25 hours and that a compliance clerk would perform this work at a cost of $77 an hour. (0.25 hours x $77 = $19.25.)
5. We estimate that each temporary hardship request will take 1 hour. We estimate that a compliance manager would perform five-eighths of the work at a cost of $339 and a general clerk would perform three-eighths of the work at a cost of $68. (1 hour x ((5/8 of an hour x $339 = $212) + (3/8 of an hour x $68 = $25.50)) = $237.50 per response.

d. Annual External Cost Burden Estimates

Below is a table with annual external cost burden estimates for initial filings as well as ongoing annual and quarterly filings. There are no filing fees for transition filings, final filings, or temporary hardship requests and we continue to estimate there would be no external costs for those filings, as previously approved.

Table 8: Annual External Cost Burden for Ongoing Annual and Quarterly Filings as well as Initial Filings

Respondent[1]		Number of Responses Per Respondent[2]	Filing Fee Per Filing[3]	Total Filing Fees	External Cost of Initial Filing[4]	External Cost of Initial Filing Amortized Over 3 Years[5]	Number of Initial Filings[6]	Aggregate External Cost of Initial Filing Amortized Over 3 Years[7]	Total Aggregate External Cost[8]
Smaller Private Fund Advisers	Requested	1 x	$150 =	$150	$10,000	÷ 3 = $3,333	x 309	= $1,029,897	$1,388,997[9]
	Previously Approved	1 x	$150 =	$150	Not Applicable				$349,050
	Change	0	$0	$0	Not Applicable				$1,039,947
Large Hedge Fund Advisers	Requested	4 x	$150 =	$600	$50,000	÷ 3 = $16,667	x 15	= $250,005	$605,205[10]
	Previously Approved	4 x	$150 =	$600	$50,000		x 17	= $850,000	$1,182,400
	Change	0	$0	$0	$0		(2)	($599,995)	($577,195)
Large Liquidity Fund Advisers	Requested	4 x	$150 =	$600	$50,000	÷ 3 = $16,667	x 1	= $16,667	$31,067[11]
	Previously Approved	4 x	$150 =	$600	$50,000		x 2	= $100,000	$113,200
	Change	0	$0	$0	$0		(1)	($83,333)	($82,133)
Large Private Equity Advisers	Requested	1 x	$150 =	$150	$50,000	÷ 3 = $16,667	x 13	= $216,671	$272,021[12]
	Previously Approved	1 x	$150 =	$150	$50,000		x 9	= $450,000	$498,300
	Change	0	$0	$0	$0		4	($233,329)	($226,279)

Notes:

1. We estimate that advisers would incur the cost of filing fees for each filing. For initial filings, advisers may incur costs to modify existing systems or deploy new systems to support Form PF reporting, acquire or use hardware to perform computations, or otherwise process data that Form PF requires.
2. Smaller private fund advisers and large private equity advisers file annually. Large hedge fund advisers and large liquidity fund advisers file quarterly.
3. The SEC established Form PF filing fees in a separate order. Since 2011, filing fees have been and continue to be $150 per annual filing and $150 per quarterly filing. *See* Order Approving Filing Fees for Exempt Reporting Advisers and Private Fund Advisers, Advisers Act Release No. 3305 (Oct. 24, 2011) [76 FR 67004 (Oct. 28, 2011)].
4. In the previous PRA submission for the rules, staff estimated that the external cost burden for initial filings would range from $0 to $50,000 per adviser. This range reflected the fact that the cost to any adviser may depend on how many funds or the types of funds it manages, the state of its existing systems, the complexity of its business, the frequency of Form PF filings, the deadlines for completion, and the amount of information the adviser must disclose on Form PF. Staff also estimated that smaller private fund advisers would be unlikely to bear such costs because the information they must provide is limited and will, in many cases, already be maintained in the ordinary course of business. Given the proposed amendments, we propose to estimate that the external cost burden for smaller private fund advisers would range from $0 to $10,000, per smaller private fund adviser. This range reflects the proposed amendments and is designed to reflect that the cost to any smaller private fund adviser may depend on how many funds or the type of funds it manages, the state of its existing systems, and the complexity of its business. We propose to use the upper range to calculate the estimate for smaller private fund advisers: $10,000. Also, given the proposed amendments, we continue to estimate that the external cost burden for initial filings for large hedge fund advisers, large liquidity fund advisers, and large private equity advisers would continue to range from $0 to $50,000 for the same reasons as the current estimates for those types of advisers. We propose to use the upper range to calculate the estimates: $50,000.
5. We propose to amortize the external cost burden of initial filings over three years, as we do with other initial burdens in this PRA, because we believe that most of the burden would be incurred in the initial filing. The previously approved burden estimates did not calculate this.
6. *See* Table 2: Annual Hour Burden Estimates for Initial Filings.
7. Changes to the aggregate external cost of initial filings, amortized over three years are due to (1) the proposed amendments, (2) using updated data, and (3) amortizing the external cost of initial filings over three years, which the previously approved PRA did not calculate.
8. Changes to the total aggregate external cost are due to (1) the proposed amendments, (2) using updated data, and (3) amortizing the external cost of initial filings over three years, which the previously approved PRA did not calculate.
9. Private Funds Statistics show 2,394 smaller private fund advisers filed Form PF in the third quarter of 2021. (2,394 smaller private fund advisers x $150 total filing fees) + $1,029,897 aggregate external cost of initial filing amortized over three years = $1,388,997 total aggregate external cost.
10. Private Funds Statistics show 592 large hedge fund advisers filed Form PF in the third quarter of 2021. (592 large hedge fund advisers x $600 total filing fees) + $250,005 aggregate external cost of initial filing amortized over three years = $605,205 total aggregate external cost.
11. Private Funds Statistics show 24 large liquidity fund advisers filed Form PF in the third quarter of 2021. (24 large liquidity fund advisers x $600 total filing fees) + $16,667 aggregate external cost of initial filing amortized over three years = $31,067 total aggregate external cost.
12. Private Funds Statistics show 369 large private equity advisers filed Form PF in the third quarter of 2021. (369 large private equity advisers x $150 total filing fees) + $216,671 aggregate external cost of initial filing amortized over three years = $272,021 total aggregate external cost.

e. Summary of Estimates and Change in Burden

Table 9: Aggregate Annual Estimates

Description[1]	Requested	Previously Approved	Change
Respondents	3,379 respondents[2]	3,225 respondents	154 respondents[3]
Responses	5,483 responses[4]	5,056 responses	427 responses[5]
Time Burden	463,296 hours[6]	409,768 hours	53,528 hours[7]
Monetized Time Burden (Dollars)	$140,305,194[8]	$122,152,100.25	$18,153,094[9]
External Cost Burden (Dollars)	$2,297,290[10]	$3,628,850	($1,331,560)[11]

Notes:

1. Changes are due to (1) the proposed amendments, (2) using updated data, and (3) using different methodologies to calculate certain estimates, as described in this PRA.
2. Private Funds Statistics show the following advisers filed Form PF in the third quarter of 2021: 2,394 smaller private fund advisers + 592 large hedge fund advisers + 24 large liquidity fund advisers + 369 large private equity advisers = 3,379 advisers.
3. Changes are due to using updated data.
4. For initial filings (Table 2): (309 smaller private fund adviser responses + 15 large hedge fund adviser responses + 1 large liquidity fund adviser response + 13 large private equity adviser responses = 338 responses.) For ongoing annual and quarterly filings (Table 6): (2,085 smaller private fund adviser responses + 2,308 large hedge fund adviser responses + 92 large liquidity fund adviser responses + 356 large private equity adviser responses = 4,841 responses.) (338 responses for initial filings + 4,841 responses for ongoing annual and quarterly filings + 68 responses for transition filings + 233 responses for final filings + 3 responses for temporary hardship requests = 5,483 responses.)
5. Changes are due to using updated data concerning the number of filers.
6. For initial filings: (5,253 hours for smaller private fund advisers + 1,725 hours for large hedge fund advisers + 70 hours for large liquidity fund advisers + 910 hours for large private equity advisers = 7,958 hours). For ongoing annual and quarterly filings: (41,700 hours for smaller private fund advisers + 369,280 hours for large hedge fund advisers + 6,900 for hours large liquidity fund advisers + 37,380 hours for large private equity advisers = 455,260 hours). (7,958 hours for initial filings + 455,260 for ongoing annual and quarterly filings + 17 hours for transition filings + 58.25 hours for final filings + 3 hours for temporary hardship requests = 463,296 hours.
7. Although we would expect the time burden to increase more, given the proposed amendments, we estimate a smaller increase primarily because we propose to use a different methodology to calculate initial burden hours, as discussed in Table 2: Annual Hour Burden

Estimates for Initial Filings, because the previously approved burdens for initial filings appear to have inflated the estimates.

8. For initial filings: ($1,879,647 for smaller private fund advisers + $593,400 for large hedge fund advisers + $24,080 for large liquidity fund advisers + $313,040 for large private equity advisers = $2,810,167). For ongoing annual and quarterly filings: ($12,593,400 for smaller private fund advisers + $111,522,560 for large hedge fund advisers + $2,083,800 for large liquidity fund advisers + $11,288,760 for large private equity advisers = $137,488,520). ($2,810,167 for initial filings + $137,488,520 for ongoing annual and quarterly filings + $1,309 for transition filings + $4,485.25 for final filings + $712.50 for temporary hardship requests = $140,305,194.
9. Although we would expect the monetized time burden to increase more, given the proposed amendments, we estimate a smaller increase primarily because we propose to use a different methodology to calculate it. We believe the previously approved burden inflated the estimates by using a methodology that inflated an element of the total: the monetized time burden for initial filings. To calculate the monetized time burden for initial filings, the previously approved estimates included subsequent filings. For the requested total burden, we propose to calculate the initial filing element by including only the hours related to the initial filing, not any subsequent filings. We also propose to amortize the monetized time burden for an initial filing over three years, by dividing the initial filing burden by three years, as discussed in Table 5: Annual Monetized Time Burden of Initial Filings. The proposed methodology is designed to more accurately reflect the estimates.
10. For the external cost burden: $1,388,997 for smaller private fund advisers + $605,205 for large hedge fund advisers + $31,067 for large liquidity fund advisers + $272,021 for large private equity advisers = $2,297,290.
11. Although we would expect the external cost burden to increase, given the proposed amendments, we estimate it would decrease primarily because we propose to use a different methodology to calculate it. We believe the previously approved burden inflated the estimates by (1) multiplying the filing fees by three years and (2) not amortizing the external costs for initial filings: ($742,950 aggregate annual filing fees x 3 years = $2,228,850 in filing fees) + $1,400,000 external costs of initial filings = $3,628,850). We propose to not multiply the aggregate annual filing fees by three years because we are estimating the external cost burden for one year, not three. We propose to amortize the external cost for initial filings over three years, by dividing the external cost of an initial filing by three years, as discussed in Table 8: Annual External Cost Burden for Ongoing Annual and Quarterly Filings as well as Initial Filings. The proposed methodology is designed to more accurately reflect the estimates.

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B. Request for Comments

We request comment on whether our estimates for burden hours and external costs as described above are reasonable. Pursuant to 44 U.S.C. 3506(c)(2)(B), the SEC solicits comments in order to (1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the SEC, including whether the information will have practical utility; (2) evaluate the accuracy of the SEC'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 Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090, with reference to File No. S7–22–22. 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. S7–22–22, and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

V. Regulatory Flexibility Act Certification

CFTC:

The Regulatory Flexibility Act (the "RFA") [391] requires that Federal agencies consider whether the rules they propose will have a significant economic impact on a substantial

[391] 5 U.S.C. 601, *et. seq.*

number of ''small entities'' [392] whenever an agency publishes a general notice of proposed rulemaking for any rule, pursuant to the notice-and-comment provisions of the Administrative Procedure Act.[393]

Registered CPOs and CTAs that are dually registered as investment advisers with the SEC are only required to file Form PF with the SEC pursuant to the Advisers Act. CFTC rule 4.27(d) provides that dually registered CPOs and CTAs that file Form PF with the SEC will be deemed to have filed Form PF with the CFTC, for purposes of any enforcement action regarding any false or misleading statement of material fact in Form PF. The CFTC is not imposing any additional obligation herein beyond what is already required of these entities when filing Form PF with the SEC.

Entities impacted by the Form PF are the SEC's regulated entities and no small entity on its own would meet the Form PF's minimum reporting threshold of $150 million in regulatory assets under management attributable to private funds. Also, any economic impact imposed by Form PF on small entities registered with both the CFTC and the SEC has been accounted for within the SEC's initial regulatory flexibility analysis regarding the impact of this collection of information under the RFA. Accordingly, the Chairman, on behalf of the CFTC, hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed rules will not have a significant economic impact on a substantial number of small entities.

SEC:

The Regulatory Flexibility Act of 1980 (''Regulatory Flexibility Act'') [394] requires the SEC to prepare and make available for public comment an initial regulatory flexibility analysis of the impact of the proposed rule amendments on small entities, unless the SEC certifies that the rules, if adopted would not have a significant economic impact on a substantial number of small entities.[395] For the purposes of the Advisers Act and the Regulatory Flexibility Act, 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.[396]

Pursuant to section 605(b) of the Regulatory Flexibility Act, the SEC hereby certifies that the proposed amendments to Advisers Act rule 204(b)–1 and Form PF would not, if adopted, have a significant economic impact on a substantial number of small entities. By definition, no small entity on its own would meet rule 204(b)–1 and Form PF's minimum reporting threshold of $150 million in regulatory assets under management attributable to private funds. Based on Form PF and Form ADV data as of December 2021, the SEC estimates that no small entity advisers are required to file Form PF. The SEC does not have evidence to suggest that any small entities are required to file Form PF but are not filing Form PF. Therefore, there would be no significant economic impact on a substantial number of small entities. The SEC encourages written comments on the certifications. Commentators are asked to describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

VI. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''),[397] the SEC 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 the following:

- 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.

The SEC requests comment on whether the proposal would be a ''major rule'' for purposes of SBREFA. The SEC solicits comment and empirical data on the following:

- 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

CFTC:

The CFTC is not proposing any amendments to its rules in this rulemaking.

SEC:

The SEC is proposing amendment to rule 204(b)–1 [17 CFR 275.204(b)–1] pursuant to its authority set forth in sections 204(b) and 211(e) of the Advisers Act [15 U.S.C. 80b–4 and 15 U.S.C. 80b–11], respectively.

The SEC is proposing amendments to rule 279.9 pursuant to its authority set forth in sections 204(b) and 211(e) of the Advisers Act [15 U.S.C. 80b–4 and 15 U.S.C. 80b–11], respectively.

List of Subjects in 17 CFR Parts 275 and 279

Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, title 17, chapter II of the Code of Federal Regulations is proposed to be amended as follows.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

■ 1. The general authority citation for part 275 continues to read as follows.

Authority: 15 U.S.C. 80b–2(a)(11)(G), 80b–2(a)(11)(H), 80b–2(a)(17), 80b–3, 80b–4, 80b–4a, 80b–6(4), 80b–6a, and 80b–11, unless otherwise noted.

* * * * *

■ 2. Amend § 275.204(b)–1 by:

■ a. Revising paragraph (f)(2)(i) to remove the phrases ''in paper format,'' and '', Item A of Section 1a and Section 5 of Form PF, checking the box in Section 1a indicating that you are requesting a temporary hardship exemption'';

■ b. Redesignating paragraph (f)(4) as paragraph (f)(5); and

■ c. Adding new paragraph (f)(4).

The addition reads as follows:

§ 275.204(b)–1 Reporting by investment advisers to private funds.

* * * * *

(f) * * *

(4) A request for a temporary hardship exemption is considered filed upon the earlier of the date the request is postmarked or the date it is received by the Commission.

* * * * *

[392] *See* 5 U.S.C. 603(a) and 5 U.S.C. 605(b).

[393] 5 U.S.C. 553. The Administrative Procedure Act is found at 5 U.S.C. 551 *et seq.*

[394] 5 U.S.C. 601, *et. seq.*

[395] *See* 5 U.S.C. 603(a) and 5 U.S.C. 605(b).

[396] 17 CFR 275.0–7.

[397] 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).

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

■ 3. 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.

■ 4. § 279.9 Form, PF, reporting by investment bankers to private funds. Form PF [referenced in § 279.9] is revised to read as follows. The revised version of Form PF is attached as Appendix A.

Note: The text of Form PF does not, and the amendments will not, appear in the Code of Federal Regulations.

By the Commissions.

Dated: August 10, 2022.

Christopher Kirkpatrick,

Secretary, Commodity Futures Trading Commission.

Vanessa A. Countryman,

Secretary, Securities and Exchange Commission.

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Appendix A

FORM PF (Paper Version)

Reporting Form for Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors

OMB APPROVAL	
OMB Number:	3235-0679
Expires:	[Date]
Estimated average burden hours per response:	[XX.XX]

Form PF: General Instructions **Page 1**

Read these instructions carefully before completing Form PF. Failure to follow these instructions, properly complete Form PF, or pay all required fees may result in your Form PF being delayed or rejected.

In these instructions and in Form PF, "you" means the *private fund adviser* completing or amending this Form PF. If you are a "separately identifiable department or division" (SID) of a bank, "you" means the SID rather than the bank (except as provided in Question 1(a)). Terms that appear in *italics* are defined in the Glossary of Terms to Form PF.

1. Who must complete and file a Form PF?

You must complete and file a Form PF, if:

A. You are registered or required to register with the *SEC* as an investment adviser;

OR

You are registered or required to register with the *CFTC* as a *CPO* or *CTA* and you are also registered or required to register with the *SEC* as an investment adviser;

AND

B. You manage one or more *private funds*.

AND

C. You and your *related persons*, collectively, had at least $150 million in *private fund assets under management* as of the last day of your most recently completed fiscal year.

Many *private fund advisers* meeting these criteria will be required to complete only Section 1 of Form PF and will need to file only on an annual basis. *Large private fund advisers*, however, will be required to provide additional data, and *large hedge fund advisers* and *large liquidity fund advisers* will need to file every quarter. See Instructions 3 and 9 below.

For purposes of determining whether you meet the reporting threshold, you are not required to include the *regulatory assets under management* of any *related person* that is *separately operated*. See Instruction 5 below for more detail.

If your *principal office and place of business* is outside the United States, for purposes of this Form PF you may disregard any *private fund* that, during your last fiscal year, was not a *United States person*, was not offered in the United States, and was not beneficially owned by any *United States person*.

2. I have a *related person* who is required to file Form PF. May I and my *related person* file a single Form PF?

Related persons may (but are not required to) report on a single Form PF information with respect to all such *related persons* and the *private funds* they advise. You must identify in your response to Question 1 the *related persons* as to which you are reporting and, where information is

requested about you or the *private funds* you advise, respond as though you and such *related persons* were one firm.

3. How is Form PF organized?

Section 1 – All Form PF filers

Section 1a All *private fund advisers* required to file Form PF must complete Section 1a. Section 1a asks general identifying information about you and the types of *private funds* you advise.

Section 1b All *private fund advisers* required to file Form PF must complete Section 1b. Section 1b asks for certain information regarding the *private funds* that you advise.

Section 1c All *private fund advisers* that are required to file Form PF and advise one or more *hedge funds* must complete Section 1c. Section 1c asks for certain information regarding the *hedge funds* that you advise.

Section 2 – *Large hedge fund advisers*

Section 2 If you and your *related persons*, collectively, had at least $1.5 billion in *hedge fund assets under management* as of the last day of any month in the fiscal quarter immediately preceding your most recently completed fiscal quarter, you must complete a separate Section 2 with respect to each *qualifying hedge fund* that you advise. You are not required to include the *regulatory assets under management* of any *related person* that is *separately operated.*

In addition, you must complete a separate Section 2 for each *parallel fund* that is part of a *parallel fund structure* that, in the aggregate, comprises a *qualifying hedge fund* (even if that *parallel fund* is not itself a *qualifying hedge fund*); and you must complete a separate Section 2 for the *master fund* of any *master-feeder arrangement* that, in the aggregate, comprises a *qualifying hedge fund* (even if that *master fund* is not itself a *qualifying hedge fund*) in accordance with Instruction 6.

Section 3 – *Large liquidity fund advisers*

Section 3 You are required to complete Section 3 if (i) you advise one or more *liquidity funds* and (ii) as of the last day of any month in the fiscal quarter immediately preceding your most recently completed fiscal quarter, you and your *related persons*, collectively, had at least $1 billion in *combined money market and liquidity fund assets under management*. You are not required to include the *regulatory assets under management* of any *related person* that is *separately operated.*

You must complete a separate Section 3 with respect to each *liquidity fund* that you advise.

Section 4 – *Large private equity advisers*

Section 4 You are required to complete Section 4 if you and your *related persons*, collectively, had at least $2 billion in *private equity fund assets under management* as of the last day of your most recently completed fiscal year. You are not required to include the *regulatory assets under management* of any *related person* that is *separately operated.*

You must complete a separate Section 4 with respect to each *private equity fund* that you advise.

Section 5 – Advisers requesting a temporary hardship exemption

Section 5 See Instruction 14 for details.

4. **I am a subadviser or engage a subadviser for a private fund. Who is responsible for reporting information about that private fund?**

Only one *private fund adviser* should complete and file Form PF for each *private fund.* If the adviser that filed *Form ADV Section 7.B.1* with respect to any *private fund* is required to file Form PF, the same adviser must also complete and file Form PF for that *private fund.* If the adviser that filed *Form ADV Section 7.B.1* with respect to any *private fund* is not required to file Form PF (e.g., because it is an *exempt reporting adviser*) and one or more other advisers to the fund is required to file Form PF, another adviser must complete and file Form PF for that *private fund.*

Where a question requests aggregate information regarding the *private funds* that you advise, you should only include information regarding the *private funds* for which you are filing Section 1b of Form PF.

5. **For purposes of determining whether I meet any reporting threshold, when am I required to aggregate information regarding parallel funds, parallel managed accounts, master-feeder arrangements, and funds managed by related persons?**

- You must aggregate any *private funds* that are part of the same *master-feeder arrangement* (even if you did not, or were not permitted to, aggregate these *private funds* for purposes of *Form ADV Section 7.B.1*).
- You must aggregate any *private funds* that are part of the same *parallel fund structure.*
- Any *dependent parallel managed account* must be aggregated with the largest *private fund* to which that *dependent parallel managed account* relates.
- You must treat any *private fund* or *parallel managed account* advised by any of your *related persons* as though it were advised by you (including *related persons* that you have not identified in Question 1(b) as *related persons* for which you are filing Form PF, though you may exclude *related persons* that are *separately operated).* Where you are aggregating *dependent parallel managed accounts* to determine whether you meet a reporting threshold, assets held in the accounts should be treated as assets of the *private funds* with which they are aggregated.

6. **How do I report information regarding parallel funds, parallel managed accounts, master-feeder arrangements, and funds reported by related persons?**

You must separately report each component fund of *master feeder arrangements* and *parallel fund structures.* However:

- Do not report a *feeder fund* that invests all of its assets in (i) a single *master fund,* and/or (ii) *cash and cash equivalents (i.e.,* a disregarded feeder fund). In reporting a *master fund,* you must identify whether each *feeder* fund is a disregarded *feeder fund* in Question 7 and "look through" to any disregarded *feeder funds'* investors in responding to Questions 21 - 22, 51 – 53 and 61 – 65.
- Do not report information regarding *parallel managed accounts* (except in Question 16).
- Report information for any *private fund* advised by any of your *related persons* unless you have identified that *related person* in Question 1(b) as a *related person* for which you are filing Form PF.

Example 1. You advise a *master-feeder arrangement* with two *feeder funds. Feeder fund X* has invested $500 in the *master fund* and holds a *foreign exchange derivative* with a notional value of $100. *Feeder fund* Y invests $200 in the *master fund* and has no other assets or liabilities, except cash. The *master fund* has used the $700 received from the *feeder funds* to invest in *corporate bonds.* None of these funds has any other assets or liabilities.

For purposes of determining whether any of the funds comprises a *qualifying hedge fund*, this *master-feeder arrangement* should be treated as a single *private fund* whose only investments are $700 in *corporate bonds* and a *foreign exchange derivative* with a notional value of $100.

For reporting purposes, if the aggregated *master-feeder arrangement* comprises a *qualifying hedge fund,* the *master fund* is reported as a *qualifying hedge fund* (complete Section 2 (even if is not a *qualifying hedge* fund by itself) and report *feeder fund X* and *feeder fund Y* as *internal private fund* investors in Question 7).

A separate report for *feeder fund* X is required because the fund holds assets in addition to its investment in the *master fund* and *cash and cash equivalents* (complete Section 1b and 1c). Further, if *feeder fund* X meets the threshold to be a *qualifying hedge fund,* it also must be reported as a *qualifying hedge fund* (complete Section 2).

A separate report is not required for *feeder fund* Y because it invests in a single *master fund* and has no other assets or liabilities except cash.

Example 2. You advise a *parallel fund structure* consisting of two *hedge funds*, named *parallel fund* A and *parallel fund* B. You also advise a related *dependent parallel managed account.* The account and each fund have invested in *corporate bonds* of Company X and have no other assets or liabilities. The value of *parallel fund* A's investment is $400, the value of *parallel fund* B's investment is $300 and the value of the *dependent parallel managed* account's investment is $200. For purposes of determining whether either of the *parallel funds* is a *qualifying hedge fund*, the entire *parallel fund structure* and the related *dependent parallel managed account* should be treated as a single *private fund* whose only asset is $900 of *corporate bonds* issued by Company X.

For reporting purposes, both *parallel fund* A and *parallel fund* B must be reported separately (for each of *parallel fund* A and B, complete section 1b and 1c, and Section 2 if the *parallel fund structure* is a *qualifying hedge fund).* Y ou would disregard the value of the investment by the *dependent parallel managed account* when reporting for *parallel fund* A and B, and instead, report the value of that investment ($200) in Question 16 for the largest *parallel fund, parallel fund A.*

7. **I advise a *private fund* that invests in other *private funds* (e.g., a "fund of funds") or trading vehicles. How should I treat these investments for purposes of Form PF?**

Reporting thresholds. You must include the value of *private fund* investments in other *private funds* in determining whether you are required to file Form PF. However, you may include or exclude a *private fund's* investments in other *private funds* (including *internal private funds* and *external private funds)* in determining whether you meet thresholds for filing as a *large hedge fund adviser, large liquidity fund adviser,* or *large private equity adviser* and whether a reporting fund is a *qualifying hedge fund.*

Funds that invest substantially all of their assets in other *private funds.* If you advise a *private fund* that (i) invests substantially all of its assets in the equity of *private funds* (including *internal private funds and external private funds*) and (ii) aside from such *private fund* investments, holds only *cash and cash equivalents* and instruments acquired for the purpose of hedging currency exposure, then you are only required to complete Section 1b for that fund.

Trading vehicles. If the *reporting fund* holds assets, incurs leverage, or conducts trading or other activities through a *trading vehicle,* and the *reporting fund* is the only equity owner of the *trading vehicle,* you may either (i) identify the *trading vehicle* in Section 1b, Question 7(b), and report answers on an aggregated basis for the *reporting fund* and such *trading vehicle,* or (ii) report the *trading vehicle* as a separate *reporting fund.* However, you must report a *trading vehicle* as a separate *reporting fund* if the *trading vehicle* holds assets, incurs leverage or conducts trading or other activities on behalf of more than one *reporting fund.* If you report a *trading vehicle* as a separately reported fund, you must report it as a *hedge fund* if a *hedge fund* invests through the *trading vehicle* and you must report it as a *qualifying hedge fund* if a *qualifying hedge fund* invests in the *trading vehicle.* Otherwise, you must report it as a *liquidity fund, private equity fund,* or other type of fund based on its activities.

Responding to questions. Except as otherwise provided in the instructions for a particular question in Form PF, include the *value* of a *reporting fund's* investments in other *private funds* (both *internal and external)* in responding to questions under this Form PF. For example, (i) include the *value* of the *reporting fund's* investments in other *private funds* in reporting *gross asset value and net asset value* in Question 11 and 12, but (ii) exclude the *value* of a *reporting fund's* investment in other private funds in Question 3, the instructions to which explain that you must not include the *value* of a *reporting fund's* investments in other *internal private funds* in responding to the question.

Do not "look through" the *reporting fund's* investments in *internal private funds* or *external private funds* (other than a *trading vehicle* as explained above) in responding to questions on the Form, unless the question instructs you to report exposure obtained indirectly through positions in such funds or other entities. For example, do not look through to the creditors of or counterparties to other *private funds* in responding to questions that ask about a *reporting fund's borrowing* and counterparty exposure (*e.g.,* Questions 18, 26, 27, 28). However, selected questions in Section 2 of the Form require you to report indirect exposure resulting from positions held through other entities

including *private funds,* and you must "look through" the *reporting fund's* investments in *internal private funds* and *external private funds* in responding to these questions. (See Question 32, Question 33, Question 35, Question 36, Question 39, and Question 40.)

Solely for purposes of this Instruction 7, you may treat as a *private fund* any issuer formed under the laws of a jurisdiction other than the United States that has not offered or sold its securities in the United States or to *United States persons* but that would be a *private fund* if it had engaged in such an offering or sale.

8. **I advise a *private fund* that invests in funds or other entities that are not *private funds* or *trading vehicles*. How should I treat these investments for purposes of Form PF?**

Include the *value* of investments in any fund or other entity for all purposes under this Form PF. For example, you must include the value of these investments in determining reporting thresholds and responding to questions. For example, include the value of these investments in determining gross asset value in Question 11 and net asset value in Question 12.

Do not "look through" a *reporting fund's* investments in any fund or other entity, unless the question instructs you to report exposure obtained indirectly through positions in such funds or other entities. For example, do not "look through" to the creditors of or counterparties to any fund or other entity in responding to questions that ask about a *reporting fund's borrowing* and counterparty exposure (*e.g.,* Questions 18, 26, 27, 28). However, selected questions in Section 2 of the Form require you to report indirect exposure resulting from positions held through entities, such as a fund or other entity, and you must "look through" the *reporting fund's* investments such funds or other entities in responding to these questions. (See Question 32, Question 33, Question 35, Question 36, Question 39, and Question 40.)

9. **When am I required to update Form PF?**

You are required to update Form PF at the following times:

Periodic filings (large hedge fund advisers)	Within 60 calendar days after the end of each calendar quarter, you must file a *quarterly update* that updates the answers to all Items in this Form PF relating to the *hedge funds* that you advise. If your fiscal year does not end at the end of a calendar quarter, you must file a *quarterly update* that updates the answers to all Items in this Form PF within 60 days after the end of the next calendar quarter after your fiscal year end. You may, however, submit an initial filing for the next calendar quarter after your fiscal year end that updates information relating only to the *hedge funds* that you advise so long as you amend your Form PF within 120 calendar days after the end of your fiscal year to update information relating to any other *private funds* that you advise. When you file such an amendment, you are not required to update information previously filed for such quarter.
Periodic filings (large liquidity fund advisers)	Within 15 calendar days after the end of each calendar quarter, you must file a *quarterly update* that updates the answers to all Items in this Form PF relating to the *liquidity funds* that you advise.

If your fiscal year does not end at the end of a calendar quarter, you must file a *quarterly update* that updates the answers to all Items in this Form PF within 15 days after the end of the next calendar quarter after your fiscal year end.

You may, however, submit an initial filing for the next calendar quarter after your fiscal year end that updates information relating only to the *liquidity funds* that you advise so long as you amend your Form PF within 120 calendar days after the end of your fiscal year to update information relating to any other *private funds* that you advise (subject to the next paragraph). When you file such an amendment, you are not required to update information previously filed for such quarter.

If you are both a *large liquidity fund adviser* and a *large hedge fund adviser*, you must file your *quarterly updates* with respect to the *liquidity funds* that you advise within 15 calendar days and with respect to the *hedge funds* you advise within 60 calendar days.

Periodic filings (all other advisers)

Within 120 calendar days after the end of your fiscal year, you must file an *annual update* that updates the answers to all Items in this Form PF.

Large hedge fund advisers and large liquidity fund advisers are not required to file *annual updates* but instead file *quarterly updates* for the next calendar quarter after their fiscal year end.

Transition filing

If you are transitioning from quarterly to annual filing because you are no longer a *large hedge fund adviser* or *large liquidity fund adviser*, then you must complete and file Item A of Section 1a and check the box in Section 1a indicating that you are making your final quarterly filing. You must file your transition filing no later than the last day on which your next *quarterly update* would be timely.

Final filing

If you are no longer required to file Form PF, then you must complete and file Item A of Section 1a and check the box in Section 1a indicating that you are making your final filing. You must file your final filing no later than the last day on which your next Form PF update would be timely. This applies to all Form PF filers.

Failure to update your Form PF as required by these instructions is a violation of *SEC* and, where applicable, *CFTC* rules and could lead to revocation of your registration.

10. How do I obtain *private fund* identification numbers for my *reporting funds*?

Each *private fund* must have an identification number for purposes of reporting on *Form ADV* and Form PF. *Private fund* identification numbers can only be obtained by filing *Form ADV*.

If you need to obtain a *private fund* identification number and you are required to file a *quarterly update* of Form PF prior to your next annual update of *Form ADV*, then you must acquire the identification number by filing an other-than-annual amendment to your *Form ADV* and following the instructions on Form ADV for generating a new number. When filing an other-than-annual amendment for this purpose, you must complete and file all of *Form ADV Section*

7.B.1 for the new *private fund.*

See Instruction 6 to Part 1A of *Form ADV* for additional information regarding the acquisition and use of *private fund* identification numbers.

11. Who must sign my Form PF or update?

The individual who signs the Form PF depends upon your form of organization: For a sole proprietorship, the sole proprietor.

- For a partnership, a general partner.
- For a corporation, an authorized principal officer.
- For a limited liability company, a managing member or authorized person.
- For a SID, a principal officer of your bank who is directly engaged in the management, direction or supervision of your investment advisory activities.
- For all others, an authorized individual who participates in managing or directing your affairs.

The signature does not have to be notarized and should be a typed name.

If you and one or more of your *related persons* are filing a single Form PF, then Form PF may be signed by one or more individuals; however, the individual, or the individuals collectively, must have authority, as provided above, to sign both on your behalf and on behalf of all such *related persons.*

12. How do I file my Form PF?

You must file Form PF electronically through the Form PF filing system on the Investment Adviser Registration Depository website (www.iard.com), which contains detailed filing instructions. Questions regarding filing through the Form PF filing system should be addressed to the Financial Industry Regulatory Authority (FINRA) at 240-386-4848.

13. Are there filing fees?

Yes, you must pay a filing fee for your Form PF filings. The Form PF filing fee schedule is published at http://www.sec.gov/iard and http://www.iard.com.

14. What if I am not able to file electronically?

A temporary hardship exemption is available if you encounter unanticipated technical difficulties that prevent you from making a timely filing with the Form PF filing system, such as a computer malfunction or electrical outage. This exemption does not permit you to file on paper; instead, it extends the deadline for an electronic filing for seven "business days" (as such term is used in *SEC* rule 204(b)-1(f)).

To request a temporary hardship exemption, you must complete and file on paper Item A of Section 1a and Section 5 of Form PF, checking the box in Section 1a indicating that you are requesting a temporary hardship exemption. Do not complete or file any other sections of Form PF. Mail one manually signed original and one copy of your exemption filing to: U.S. Securities and Exchange Commission, Investment Adviser Regulation Office, Mail Stop X-XX, 100 F Street NE, Washington, DC 20549 or submit electronically your signed exemption filing in PDF format by email to FormPF@sec.gov. You must preserve in your records a copy of any temporary hardship exemption filing. Any request for a temporary hardship exemption must be filed no later than one

business day after the electronic Form PF filing was due. For more information, see *SEC* rule 204(b)-1(f).

15. May I rely on my own methodologies in responding to Form PF? How should I enter requested information?

You may respond to this Form using your own internal methodologies and the conventions of your service providers, provided the information is consistent with information that you report internally and to current and prospective investors. However, your methodologies must be consistently applied and your responses must be consistent with any instructions or other guidance relating to this Form. You may explain any of your methodologies, including related assumptions, in Question 4.

In responding to Questions on this Form, the following guidelines apply unless otherwise specifically indicated:

- provide the requested information as of the close of business on the *data reporting date*;
- if information is requested for any month or quarter, provide the requested information as of the close of business on the last calendar day of the month or quarter, respectively;
- if a question requests information expressed as a percentage, enter the response as a percentage (not a decimal) rounded to the nearest one hundredth of one percent;
- if a question requests a monetary value, provide the information in U.S. dollars as of the *data reporting date* (or other requested date), rounded to the nearest thousand, using a foreign exchange rate for the applicable date;
- if a question requests a monetary value for transactional data that covers a reporting period, provide the information in U.S. dollars, rounded to the nearest thousand, using foreign exchange rates as of the dates of any transactions to convert local currency values to U.S. dollars (see questions 14, 23(c)(iv)(B), 23(c)(iv)(C), 23(c)(iv)(D), 29, 30(a) and 34);
- if a question requests a numerical value other than a percentage or a dollar value, provide information rounded to the nearest whole number;
- if a question requests information regarding a "position" or "positions," treat two or more legs of a transaction even if offsetting or partially offsetting, or even if entered into with the same counterparty under the same master agreement as two separate positions, even if reported internally as part of a larger transaction. However, exclude closed-out positions that are closed out with the same counterparty provided that there is no credit or market exposure to the *reporting fund*;
- if a question requires you to distinguish long positions from short positions, classify positions as follows: a long position experiences a gain when the price of the market factor to which it relates increases (and/or the yield of that factor decreases), and a short position experiences a loss when the price of the market factor to which it relates increases (and/or the yield of that factor decreases).
- do not net long and short positions;
- for derivatives (other than *interest rate derivatives* and options), "value" means *gross notional*

value; for *interest rate derivatives, value* means the *10 year bond equivalent*; for options, "value" means delta adjusted notional value (expressed as a *10 year bond equivalent* for options that are *interest rate derivatives*); in determining the "value" of derivatives positions, do not net long and short positions or offsetting or partially offsetting trades; but exclude closed-out positions that are closed out with the same counterparty provided that there is no credit or market exposure to the *reporting fund*;

- for all other investments and for all *borrowings* where the reporting fund is the creditor, "*value*" means market value or, where there is not a readily available market value, fair value; for *borrowings* where the reporting fund is the debtor, "*value*" means the value you report internally and to current and prospective investors;
- for question 25, the numerator you use to determine the percentage of *net asset value* should be measured on the same basis as *gross asset value*. Your response to this question may total more than 100%.

16. How do I amend Form PF, for example, to make a correction?

If you discover that information you filed on Form PF was not accurate at the time of filing, you may correct the information by re-filing and checking the box in Section 1a indicating that you are amending a previously submitted filing. You are not required to update information that you believe in good faith properly responded to Form PF on the date of filing even if that information is subsequently revised for purposes of your recordkeeping, risk management or investor reporting (such as estimates that are refined after completion of a subsequent audit).

Large hedge fund advisers and *large liquidity fund advisers* that comply with their fourth quarter filing obligations by submitting an initial filing followed by an amendment in accordance with Instruction 9 will not be viewed as affirming responses regarding one fund solely by providing updated information regarding another fund at a later date.

17. How may I preserve on Form PF the anonymity of a *private fund* that I advise?

If you seek to preserve the anonymity of a *private fund* that you advise by maintaining its identity in your books and records in numerical or alphabetical code, or similar designation, pursuant to rule 204-2(d), you may identify the *private fund* on Form PF using the same code or designation in place of the fund's name.

18. How should I treat a *commodity pool* for purposes of Form PF?

Commodity pools should be treated as *hedge funds* for purposes of Form PF. If you are reporting on Form PF regarding a *commodity pool* that is not a *private fund*, then you may treat it as a *private fund* for purposes of Form PF. However, such a *commodity pool* is not required to be included when determining whether you exceed one or more reporting thresholds. If such a *commodity pool* is a *qualifying hedge fund* and you are otherwise required to report information in section 2 of Form PF, then you must report regarding the *commodity pool* in section 2 of Form PF.

Federal Information Law and Requirements for a Collection of Information

Section 204(b) of the *Advisers Act* [15 U.S.C. § 80b-4(b)] authorizes the *SEC* to collect the information that Form PF requires. The information collected on Form PF is designed to facilitate the Financial Stability Oversight Council's ("FSOC") monitoring of systemic risk in the private fund industry and to assist FSOC in determining whether and how to deploy its regulatory tools with respect to nonbank financial companies. The *SEC* and *CFTC* may also use information collected on Form PF in their regulatory programs, including

examinations, investigations and investor protection efforts relating to private fund advisers. Filing Form PF is mandatory for advisers that satisfy the criteria described in Instruction 1 to the Form. *See also* 17 C.F.R. § 275.204(b)-1. The SEC does not intend to make public information reported on Form PF that is identifiable to any particular adviser or *private fund*, although the SEC may use Form PF information in an enforcement action. *See* Section 204(b) of the *Advisers Act*.

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 control number. The Office of Management and Budget has reviewed this collection of information under 44 U.S.C. § 3507. Any member of the public may direct any comments concerning the accuracy of the burden estimate and any suggestion for reducing this burden to: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

Form PF Section 1a	Information about you and your *related persons* (to be completed by all Form PF filers)	Page 1 of 55

Section 1a: Information about you and your *related persons*

Check the box that indicates what you would like to do:

a. If you are not a *large hedge fund adviser* or *large liquidity fund adviser*:

- ☐ Submit your first filing on Form PF
  for the period ended:
- ☐ Submit an *annual update*
  for the period ended:
- ☐ Amend a previously submitted filing
  for the period ended:
- ☐ Submit a final filing
- ☐ Request a temporary hardship exemption

b. If you are a *large hedge fund adviser* or *large liquidity fund adviser*:

- ☐ Submit your first filing on Form PF
  for the [1st, 2nd, 3rd, 4th] quarter, which ended:
- ☐ Submit a *quarterly update* (including fourth quarter updates)
  for the [1st, 2nd, 3rd, 4th] quarter, which ended:
- ☐ Amend a previously submitted filing
  for the [1st, 2nd, 3rd, 4th] quarter, which ended:
- ☐ Transition to annual reporting
- ☐ Submit a final filing
- ☐ Request a temporary hardship exemption

Item A. Information about you

1. (a) Provide your name and the other identifying information requested below.

(This should be your full legal name. If you are a sole proprietor, this will be your last, first, and middle names. If you are a SID, *enter the full legal name of your bank. Please use the same name that you use in your* Form ADV.*)*

Legal name	SEC 801-Number	NFA ID Number, if any	Large trader ID, if any	Large trader ID suffix, if any	*LEI*, if any

(b) Provide the following information for each of the *related persons*, if any, with respect to which you are reporting information on this Form PF:

Legal name	SEC 801-Number	NFA ID Number, if any	Large trader ID, if any	Large trader ID suffix, if any	*LEI*, if any

Form PF Section 1a	**Information about you and your *related persons*** (to be completed by all Form PF filers)	Page **2** of **55**

2. Signatures of sole proprietor or authorized representative *(see Instruction 11 to Form PF)*.

Signature on behalf of the *firm* and its *related persons:*

I, the undersigned, sign this Form PF on behalf of, and with the authority of, the *firm*. In addition, I sign this Form PF on behalf of, and with the authority of, each of the *related persons* identified in Question 1(b) (other than any *related person* for which another individual has signed this Form PF below).

To the extent that Section 1 or 2 of this Form PF is filed in accordance with a regulatory obligation imposed by *CEA* rule 4.27, the *firm*, each *related person* for which I am signing this Form PF, and I shall accept that any false or misleading statement of a material fact therein or material omission therefrom shall constitute a violation of section 6(c)(2) of the *CEA*.

Name of individual:	
Signature:	
Title:	
Email address:	
Telephone contact number (include area code and, if outside the United States, country code):	
Date:	

Signature on behalf of *related persons:*

I, the undersigned, sign this Form PF on behalf of, and with the authority of, the *related person(s)* identified below.

To the extent that Section 1 or 2 of this Form PF is filed in accordance with a regulatory obligation imposed by *CEA* rule 4.27, each *related person* identified below and I shall accept that any false or misleading statement of a material fact therein or material omission therefrom shall constitute a violation of section 6(c)(2) of the *CEA*.

Name of each *related person* on behalf of which this individual is signing:	
Name of individual:	
Signature:	
Title:	
Email address:	
Telephone contact number (include area code and, if outside the United States, country code):	
Date:	

Form PF Section 1a	Information about you and your *related persons* (to be completed by all Form PF filers)	Page 3 of 55

Item B. Information about assets of *private funds* that you advise

3. Provide a breakdown of your *regulatory assets under management* and your *net assets under management* as follows:

(If you are filing a quarterly update *for your first, second or third fiscal quarter, you are only required to update row (a), in the case of a* large hedge fund adviser, *or row (b), in the case of a* large liquidity fund adviser. *To avoid double counting, (i) do not include the* value *of your* private funds' *investments in other* internal private funds, *and (ii) if* one or more *of your* private funds *invests or conducts activities through a* trading vehicle, *do not report the* trading vehicle *separately, and instead include the assets of the* trading vehicle *as part of the* regulatory assets under management *and* net assets *of the* trading vehicle's private fund *equity owner.)*

	Regulatory assets under management	***Net assets under management***
(a) *Hedge funds*		
(b) *Liquidity funds*		
(c) *Private equity funds*		
(d) *Real estate funds*		
(e) *Securitized asset funds*		
(f) *Venture capital funds*		
(g) *Other private funds*		
(h) Funds and accounts other than *private funds* (i.e., the remainder of your assets under management)		

Item C. Miscellaneous

4. You may use the space below to explain any assumptions that you made in responding to any question in this Form PF. Assumptions must be in addition to, or reasonably follow from, any instructions or other guidance relating to Form PF. If you are aware of any instructions or other guidance that may require a different assumption, provide a citation and explain why that assumption is not appropriate for this purpose. To the extent responses relate to a particular Question, provide the Question number(s), as applicable.

Question number	**Description**
[drop-down list for question number or "all" options.]	

Section 1b: Information about the *private funds* you advise

You must complete a separate Section 1b for each *private fund* that you advise, except as provided by Instruction 6.

Item A. *Reporting fund* identifying information

5. (a) Name of the *reporting fund*
   (b) *Private fund* identification number of the *reporting fund*
   (c) *NFA* identification number of the *reporting fund*, if applicable
   (d) *LEI* of the *reporting fund*, if any

6. (a) For purposes of reporting on this Form PF, what type of fund is the *reporting fund*? [Select one]
   [drop-down list for *hedge fund that is not a qualifying hedge fund, qualifying hedge fund, liquidity fund, private equity fund, real estate fund, securitized asset fund, venture capital fund,* or "other."]

   If you identify the reporting fund *as "other," describe the* reporting fund *in Question 4, including why it would not qualify for any of the other selections. If you identify the* reporting fund *as a different type of fund on* Form ADV, *explain why in Question 4.*

   (b) Is the *reporting fund* a *commodity pool*?
   ☐ Yes ☐ No

   (c) Does the *reporting fund* operate as a *UCITS*?
   ☐ Yes ☐ No

   (d) If you checked yes in (c), in what countries does the *reporting fund* operate as a *UCITS*?
   [Drop-down list]

   (e) Does the *reporting fund* operate as an *AIF*?
   ☐ Yes ☐ No

   (f) If you checked yes in (e), in what countries does the *reporting fund* operate as an *AIF*?
   [Drop-down list]

   (g) Does the *reporting fund* market itself as a *money market fund* outside the United States?
   ☐ Yes ☐ No

   (h) If you checked yes in (g), in what countries does the *reporting fund* market itself as a *money market fund*? [Drop-down list]

Form PF Section 1b	Information about the *private funds* you advise (to be completed by all Form PF filers that advise *hedge funds*)	Page 5 of 55

7. (a) Is the *reporting fund* the *master fund* of a *master-feeder arrangement*? If so, check "yes" below, and complete (i) and (ii) for each *feeder fund*. Otherwise, check "no." *See Instructions 5, 6, and 7 for information on treatment of* master-feeder arrangements.*)*

☐ Yes ☐ No

(i) Name of *feeder fund*.....

(ii) *Private fund* identification number of the *feeder fund* .....

(iii) Is the *feeder fund* a separate *reporting fund*? If so, check "yes," below. If the feeder fund is a "disregarded" *feeder fund* in accordance with Instruction 6, check "no."

☐ Yes ☐ No

(b) Do any *internal private funds* (other than the *feeder funds* identified in (a) above) invest in the *reporting fund*? If so, check "yes" and complete (i), (ii), and (iii) for each such *internal private fund*. Otherwise, check "no."

☐ Yes ☐ No

(i) Name of *internal private fund*.....

(ii) *Internal private fund's LEI*, if it has one.....

(iii) *Private fund* identification number of the *internal private fund*....

8. (a) Is the *reporting fund* a component of a *parallel fund structure*? If so, check "yes" below. Otherwise, check "no." (See Instructions 5 and 6 for information regarding the treatment of *parallel funds.)*

☐ Yes ☐ No

If you responded "yes" to Question 7(a), complete (b) through (e) below for each component in the *parallel fund structure*.

(b) Name of the *parallel fund*	
(c) *Private fund* identification number of the *parallel fund*	
(d) *NFA* identification number of the *parallel fund*, if applicable	
(e) *LEI* of the *parallel fund*, if any	

9. If the reporting fund holds assets, incurs leverage or conducts trading or other activities through a *trading vehicle*, provide the following information about each *trading vehicle*.

(a) Legal name .....

(b) *LEI, if any*.....

(c) Other identifying information (indicate type used, if applicable. *E.g.*, RSSD ID).....

10. (a) Does the reporting fund provide investors with withdrawal/redemption rights in the ordinary course?

☐ Yes ☐ No

(b) If the *reporting fund* provides investors with withdrawal/redemption rights in the ordinary course, indicate whether withdrawals/redemptions are permitted (regardless of whether there are notice requirements, "gates," lock-ups, or other restrictions on withdrawals/redemptions) (check one):

- ☐ any business day
- ☐ at intervals of least two business days and up to a month
- ☐ at intervals longer than monthly up to quarterly
- ☐ at intervals longer than quarterly up to annually
- ☐ at intervals of more than one year

Item B. Assets, financing, and investor concentration

11.

	Date	*Gross Asset Value*
(a) *Gross asset value* of the *reporting fund* as of the end of the *reporting period*.....	[Drop-down list of month, day, year]	
(b) If you are filing a *quarterly update*, provide the *reporting fund's gross asset value* as of the end of the first month of the *reporting period*.....	[Drop-down list of month, day, year]	
(c) If you are filing a *quarterly update*, provide the *reporting fund's gross asset value* as of the end of the second month of the *reporting period*.....	[Drop-down list of month, day, year]	

(The amount of the gross asset value *of the* reporting fund *as of the end of the* reporting period *may differ from the amount you reported in response to question 11 of* Form ADV Section 7.B.1. *For instance, the amounts may not be the same if you are filing Form PF on a quarterly basis or because you may not aggregate a* master-feeder arrangement *for purposes of this Form PF.)*

12.

	Date	*Net Asset Value*
(a) *Net asset value* of the *reporting fund* as of the end of the *reporting period*.....	[Drop-down list of month, day, year]	
(b) If you are filing a *quarterly update*, provide the *reporting fund's net asset value* as of the end of the first month of the *reporting period*.....	[Drop-down list of month, day, year]	
(c) If you are filing a *quarterly update*, provide the *reporting fund's net asset value* as of the end of the second month of the *reporting period*.....	[Drop-down list of month, day, year]	

Form PF Section 1b	Information about the *private funds* you advise (to be completed by all Form PF filers that advise *hedge funds*)	Page 7 of 55

13. *Value* of *unfunded commitments* included in *gross asset value* and *net asset value* reported in Questions 11 and 12 (if the *reporting fund* does not contract for *unfunded commitments*, enter NA).....

14. Provide the following information concerning the *reporting fund's* activity during the *reporting period.*

(For the purpose of this question, contributions include all new contributions from investors, but exclude contributions of committed capital *that you have already included in* gross asset value *calculated in accordance with Form ADV, Part 1A, Instruction 6.e.(3). Withdrawals and redemptions from the* reporting fund *include all withdrawals, redemptions and other distributions of any kind to investors.)*

(If you are filing a quarterly update, *provide this information for* each month *of the reporting period.)*

(a) Contributions to the *reporting fund* during the *reporting period*.....

(b) Withdrawals and redemptions from the *reporting fund* during the *reporting period*...

15. (a) Value of *reporting fund's* investments in equity of *external private funds:* _____

(b) Check "yes" if the reporting fund is a *feeder fund* in a *master-feeder arrangement* and complete the information below for the *master fund* in which this fund invests. Otherwise, check "no."

☐ Yes ☐ No

(i) Name of *master fund*.....

(ii) *Private fund* identification number of the *master fund:*.....

(iii) The *master fund's LEI*, if any.....

(iv) *Value* of the *private fund's* investments in equity of the *master fund:*.....

(c) Check "yes" if the *reporting fund* invests in any *internal private funds* and complete the information below for each such *internal private fund.* Otherwise, check "no." Do not complete (c)(i) through (c)(iv) for a *master fund* identified in (b), above.

☐ Yes ☐ No

(i) Name of *internal private fund*.....

(ii) Private fund identification number of the *internal private fund*.....

(iii) The *internal private fund's LEI*, if any.....

(iv) *Value* of the *private fund's* investments in equity of the *internal private fund:*

16. *Value* of all *parallel managed accounts* related to the *reporting fund:* _____

(If any of your parallel managed accounts *relates to more than one of the* private funds *you advise, only report the value of the account once, in connection with the largest* private fund *to which it relates)*

Form PF Section 1b	Information about the *private funds* you advise (to be completed by all Form PF filers that advise *hedge funds*)	Page 8 of 55

17. What is the *reporting fund's* base currency?
[drop-down list of currencies]
Other _____

18. Provide the following information regarding the *value* of the *reporting fund's borrowings* and the types of creditors.

(You are not required to respond to this question for any reporting fund *with respect to which you are answering questions in Section 2. Do not net out amounts that the* reporting fund *loans to creditors or the value of collateral pledged to creditors.)*

(The percentages borrowed from the specified types of creditors should add up to approximately 100%.)

(a) Dollar amount of total *borrowings*	
(b) Percentage borrowed from *U.S. depository institutions*	
(c) Percentage borrowed from U.S. creditors that are not *U.S. depository institutions*	
(d) Percentage borrowed from non-U.S. creditors	

19. (a) Does the *reporting fund* have any outstanding derivatives positions?

☐ Yes ☐ No

(b) If you responded "yes" to Question 19(a), provide the aggregate *value* of all derivatives positions of the *reporting fund*.....

20. Provide a summary of the *reporting fund's* assets and liabilities categorized using the hierarchy below and indicate the date as of which this categorization was performed. For assets and liabilities that you report internally and to current and prospective investors as representing fair value, or for which you are required to determine fair value in order to report the *reporting fund's* regulatory assets under management on Form ADV, categorize them into the following categories based on the valuation assumptions utilized:

Level 1 – Quoted prices (unadjusted) in active markets for identical assets or liabilities.

Level 2 – Other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.

Level 3 – Unobservable inputs, such as your assumptions or the fund's assumptions used to determine the fair value of the asset or liability.

For any assets and liabilities that you report internally and to current and prospective investors as representing a measurement attribute other than fair value, and for which you are not required to determine fair value in order to report the *reporting fund's* regulatory assets under management on Form ADV, separately report these assets and liabilities in the "cost-based" measurement column.

Do not report *cash and cash equivalents* in any other column except for the *cash and cash equivalents column.*

(If the fund's financial statements are prepared in accordance with U.S. generally accepted accounting principles ("U.S. GAAP") or another accounting standard that requires the categorization of assets and liabilities using a fair value hierarchy similar to that established under U.S. GAAP, then respond to this question using the fair value hierarchy established under the applicable accounting standard. Report the absolute value of all liabilities. If you report assets as a negative value, you must provide an explanation in Question 4.)

(You should use the estimated values for the fiscal year for which you are reporting if the audit of the financial statement is not yet completed when the Form PF is required to be filed and explain that the

information is an estimate in Question 4. You may, but are not required to, amend when the audited financial statements are complete.)

(This question requires the use of fair values and cost-based measurements, which may be different from the values contemplated by Instruction 15. You are only required to respond to this question if you are filing an annual update *or a* quarterly update *for your fourth fiscal quarter.)*

As of date [drop-down box for month, day, year]

	Level 1	Level 2	Fair Value Level 3	Cost-based	*Cash and Cash Equivalents*
Assets					
Liabilities					

21. Specify the approximate percentage of the *reporting fund's* equity that is beneficially owned by the five beneficial owners having the largest equity interests in the *reporting fund.*_____

(For purposes of this question, if you know that two or more beneficial owners of the reporting fund *are* affiliated *with each other, you should treat them as a single beneficial owner. If the* reporting fund *is the* master fund *in* a *master feeder arrangement, include the beneficial owners of a disregarded* feeder fund *described by Instruction 6 as beneficial owners of the* reporting fund.*)*

22. Specify the approximate percentage of the *reporting fund's* equity that is beneficially owned by the following groups of investors. If you select "other," describe in Question 4 the type of investor, why it would not qualify for any of the other groups, and any other information to explain your selection.

(Include each investor in only one group. The total should add up to approximately 100%. With respect to beneficial interests outstanding prior to March 31, 2012, that have not been transferred on or after that date, you may respond to this question using good faith estimates based on data currently available to you. If the reporting fund *is the* master fund in a *master feeder arrangement, include the beneficial owners of a disregarded* feeder fund *described by Instruction 6 as beneficial owners of the* reporting fund.*)*

(a) Individuals that are *United States persons* (including their trusts).....

(b) Individuals that are not *United States persons* (including their trusts).....

(c) Broker-dealers that are *United States persons*.....

(d) Broker-dealers that are not *United States persons*.....

(e) Insurance companies that are *United States persons*.....

(f) Insurance companies that are not *United States persons*.....

(g) Investment companies registered with the *SEC*.....

(h) *External Private funds*.....

(i) *Internal private funds*.....

(j) Non-profits that are *United States persons*.....

(k) Non-profits that are not *United States persons*.....

(l) U.S. pension plans (excluding governmental pension plans).....

(m) Non-U.S. pension funds (plans and funds that are not U.S. private or governmental pension plans.....

(n) Banking or thrift institutions that are *United States persons*.....

(o) Banking or thrift institutions that are not *United States persons*.....

(p) U.S. state or municipal *government entities* (excluding governmental pension plans) .....

(q) U.S. state or municipal governmental pension plans.....

(r) Sovereign wealth funds and foreign official institutions (excluding pension funds).

(s) Investors that are not *United States persons* and about which the foregoing beneficial ownership information is not known and cannot reasonably be obtained because the beneficial interest is held through a chain involving one or more third-party intermediaries .....

(t) Other.....

Item C. *Reporting fund* performance

23. Complete (a) unless the *reporting fund's* performance is reported to current and prospective investors, counterparties, or otherwise, as an *internal rate of return* since inception, in which case, complete (b).

(a) Provide the *reporting fund's* gross and net performance, as reported to current and prospective investors, counterparties, or otherwise. If such information is reported to current and prospective investors, counterparties, or otherwise, in a currency other than U.S. dollars, report the data using that currency, and identify the currency in Question 4.

If the fund reports different performance results to different groups, provide the most representative results and explain your selection in Question 4. You are required to provide monthly and quarterly performance results only if such results are calculated for the *reporting fund* (whether for purposes of reporting to current or prospective investors, counterparties, or otherwise).

If you are submitting an initial filing or an *annual update*, complete (i) through (xvi) (concerning monthly and quarterly data), only if you calculate such results, and complete (xvii) (concerning yearly data). (For example, if you are submitting an initial filing or an *annual update* and you do not calculate monthly or quarterly performance results, complete (xvii) only.)

If you are submitting a *quarterly update*, complete the following:

- Complete (i) through (iii) (concerning monthly data), if you calculate such results; and
- Complete (xiii) through (xvi) for the applicable quarter. (For example, if you are filing a quarterly update for the first quarter of *reporting funds'* fiscal year, complete (xiii) (concerning the first quarter), but do not complete (xiv) (concerning the second quarter), (xv) (concerning the third quarter), or (xvi) (concerning the fourth quarter); and
- Complete (xvii) (data concerning the *reporting fund's* most recently completed fiscal year) only if the quarterly update is for the fourth quarter of *reporting fund's* fiscal year.

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If the quarterly update is not the fourth quarter of the *reporting fund's* fiscal year, do not complete (xvii).

(If your fiscal year is different from the reporting fund's *fiscal year, then for any portion of the* reporting fund's *fiscal year that has not been completed as of the* data reporting date, *provide the relevant information from that portion of the* reporting fund's *preceding fiscal year.)*

(Performance results for monthly and quarterly periods should not be annualized. If any period precedes the date of the fund's formation, enter "NA". You are not required to include performance results for any period with respect to which you previously provided performance results for the reporting fund *on Form PF.)*

	End date [drop-down list of month, day, year]	**Gross performance**	**Net of management fees, incentive fees, and allocations**
Monthly Data			
(i) 1st month of *reporting period*			
(ii) 2nd month of *reporting period*			
(iii) 3rd month of *reporting period*			
(iv) 4th month of *reporting period*			
(v) 5th month of *reporting period*			
(vi) 6th month of *reporting period*			
(vii) 7th month of *reporting period*			
(viii) 8th month of *reporting period*			
(ix) 9th month of *reporting period*			
(x) 10th month of *reporting period*			
(xi) 11th month of *reporting period*			
(xii) 12th month of *reporting period*			
Quarterly Data			
(xiii) First quarter of *reporting fund's* fiscal year			
(xiv) Second quarter of *reporting fund's* fiscal year			
(xv) Third quarter of *reporting fund's* fiscal year			
(xvi) Fourth quarter of *reporting fund's* fiscal year			
Yearly Data			
(xvii) *Reporting fund's* most recently completed fiscal year			

(b) If the *reporting fund's* performance is reported to current and prospective investors, counterparties, or otherwise, as an *internal rate of return* since inception, provide the reporting fund's performance below. If such information is reported to current and prospective investors, counterparties, or otherwise, in a currency other than U.S. dollars, report the data using that currency, and identify the currency in Question 4.

If the fund reports different performance results to different groups, provide the most representative results and explain your selection in Question 4. You are required to provide quarterly performance results since inception only if such results are calculated for the *reporting fund* (whether for purposes of reporting to current and prospective investors, counterparties, or otherwise). Internal rates of return for periods longer than one year must be annualized, while internal rates of return for periods one year or less must not be annualized.

(i) Inception date used for *internal rate of return* calculation:.....

(ii) Inception through the first quarter of *reporting fund's* fiscal year.....

(iii) Inception through the second quarter of *reporting fund's* fiscal year.....

(iv) Inception through the third quarter of *reporting fund's* fiscal year.....

(v) Inception through the end of the *reporting fund's* most recently completed fiscal year.....

(c) If you calculate a market value on a daily basis for any position in the *reporting fund's* portfolio, report the following:

(i) Provide the *reporting fund aggregate calculated value* at the end of the *reporting period,* and if you are filing a *quarterly update,* also report the *reporting fund aggregate calculated value* as of the end of the first and second month of the *reporting period.*

(ii) Provide the *reporting fund's* volatility of the natural log of the daily *rate of return* for each month of the *reporting period,* computed as the standard deviation of the natural log of one plus each of the daily *rates of return* in the month, annualized by the square root of 252 trading days. When calculating the natural log of a daily *rate of return,* the rate of return, which is expressed as a percent, must first be converted to a decimal value and then one must be added to the decimal value.

	Monthly volatility of returns
(A) 1st month of *reporting period*	
(B) 2nd month of *reporting period*	
(C) 3rd month of *reporting period.*	
(D) 4th month of *reporting period*	
(E) 5th month of *reporting period*	
(F) 6th month of *reporting period*	
(G) 7th month of *reporting period*	
(H) 8th month of *reporting period*	

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(I) 9th month of *reporting period*	
(J) 10th month of *reporting period*	
(K) 11th month of *reporting period*	
(L) 12th month of *reporting period*	

(iii) Is the *reporting fund's* volatility of the daily *rates of return* reported to current and prospective investors, counterparties, or otherwise using a different computation than Question 23(ii)? If yes, describe it in Question 4.

☐ Yes ☐ No

(iv)*(A)* Did the *reporting fund* have a negative daily *rate of return* for one or more days during the *reporting period*?

☐ Yes ☐ No

(B) If you responded "yes" to (iv)(*A*), report the following for the most recent peak to trough drawdown:

Amount in base currency _____ Beginning Date_____ End Date_____

If the drawdown was continuing on the *data reporting date*, do not enter an end date and check here ☐

(C) Largest peak to trough drawdown of the *reporting fund* over the *reporting period*:

Amount in base currency _____ Beginning Date_____ End Date_____

If the drawdown was continuing on the *data reporting date*, check here ☐

(D) Largest single day drawdown of the *reporting fund* over the *reporting period:*

Amount in base currency _____ Date_____

(E) Number of days with a negative daily *rate of return* in the *reporting period* _____.

Section 1c: Information about the *hedge funds* you advise

You must complete a separate Section 1c for each *hedge fund* that you advise, except as provided by Instruction 6.

Item A. *Reporting fund* identifying information

24. (a) Name of the *reporting fund* .....

(b) *Private fund* identification number of the *reporting fund* .....

Item B. Certain information regarding the *reporting fund*

25. Indicate which of the investment strategies below best describe the *reporting fund's* strategies on the last day of the *reporting period.* For each strategy that you have selected, provide a good faith estimate of the percentage of the *reporting fund's net asset value* represented by that strategy. If, in your view, the *reporting fund's* allocation among strategies is appropriately represented by the percentage of deployed capital, you may also provide that information.

(Select the investment strategies that best describe the reporting fund's strategies, even if the descriptions below do not precisely match your characterization of those strategies; select "other" only if a strategy that the reporting fund *uses is significantly different from any of the strategies identified below.)*

(The strategies listed below are mutually exclusive (i.e., do not report the same assets under multiple strategies). If providing percentages of capital, the total should add up to approximately 100%.)(If you select "other" as an investment strategy for the reporting fund, *describe in Question 4 the investment strategy, why it would not qualify for any of the other categories, and any other information to explain the selection "other")*

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Strategy	% of NAV (required)	% of capital (optional)
☐ Equity, Market Neutral		
☐ Equity, Long Bias		
☐ Equity, Short Bias		
☐ Equity, Factor Driven		
☐ Equity, Statistical Arbitrage		
☐ Equity, Emerging Markets		
☐ Macro, Global Macro		
☐ Convertible Arbitrage		
☐ Relative Value, Fixed Income Corporate		
☐ Relative Value, Fixed Income Arbitrage. (*E.g.*, *U.S. treasuries*, *sovereign bonds*, Eurodollar futures, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, and to-be-announced securities, etc.)		
☐ Relative Value, Volatility Arbitrage		
☐ Event Driven, Distressed		
☐ Event Driven, Risk Arbitrage/Merger Arbitrage		
☐ Event Driven, Special Situations		
☐ Credit, Asset Based Lending		
☐ Credit, Litigation Finance		
☐ Credit, Emerging Markets		
☐ Credit, Asset Backed/Structured Products. (*E.g.*, asset backed securities, credit default swaps, collateralized loan obligation, etc.)		
☐ Managed Futures/*CTA*, Fundamental		

☐ Managed Futures/*CTA*, Quantitative		
☐ Investment in other funds		
☐ Real Estate		
☐ Real Estate Investment Trusts		
☐ Real Assets Excluding Real Estate		
☐ *Digital assets*		
☐ *Cash and cash equivalents* (not otherwise allocated to another strategy)		
☐ Other:		

26. Consolidated Counterparty Exposure Table

Report in the *consolidated counterparty exposure table* below the *reporting fund's borrowing and collateral received (B/CR)* and *lending and posted collateral (L/PC)* aggregated across all creditors and counterparties (including all *CCPs*) in U.S. dollars as of the end of the *reporting period. (You are not required to complete this question if the* reporting fund *is a* qualifying hedge fund *and you complete the* consolidated counterparty exposure table *in Section 2).*

You must net the *reporting fund's* exposure with each counterparty and among affiliated entities of a counterparty to the extent such exposures may be contractually or legally set-off or netted across those entities or one affiliate guarantees or may otherwise be obligated to satisfy the obligations of another under the agreements governing the transactions. Netting must be used to reflect net cash borrowed from or lent to a counterparty, but must not be used to offset securities borrowed and lent against one another, when reporting prime brokerage and repo/reverse repo transactions.

In completing the table, classify *borrowing and collateral received* and *lending and posted collateral* according to type (*e.g., unsecured borrowing, secured borrowing*, derivatives cleared by a *CCP*, and uncleared derivatives) and the governing legal agreement (*e.g.*, a prime brokerage or other brokerage agreement for cash margin and securities lending and borrowing, a global master repurchase agreement for *repo/reverse repo*, or an ISDA master agreement for *synthetic long positions, synthetic short positions* and derivatives). Report transactions under a master securities loan agreement as other *secured borrowing.*

□ Check this box if one or more prime brokerage agreements provide for cross-margining of derivatives and secured financing transactions. If you have checked this box, and collateral does not clearly pertain to secured financing vs. derivatives transactions, report exposures and collateral as follows:

- For secured financing, exposures and collateral should be reported in sections (b), (c) and (d) as applicable
- For derivatives,
  - Report the *gross notional value* and the mark-to-market exposure of the derivatives transactions with other derivatives transactions (lines (e)(i) or lines (f)(i) and (ii))

- Report associated collateral as collateral received *(B/CR)* or posted collateral *(L/PC)* under the prime brokerage agreement (lines (b)(ii) and (iii)).

- For derivatives cleared by a *CCP*, for cases where the prime broker gathers additional collateral in excess of that required by exchanges, report collateral posted by the *reporting fund* to meet exchange requirements in the cleared derivatives section on lines (e)(ii) and (iii), and any additional collateral gathered by the prime broker under a cross margining agreement should appear on lines (b) (ii) and (iii).

Consolidated Counterparty Exposure Table	***B/CR***	***L/PC***
(a) *Unsecured borrowing – cash and cash equivalents*		Not Applicable
(b) *Secured borrowing* and lending (prime brokerage or other brokerage agreement)		
(i) *cash and cash equivalents* received in cash margin borrowing, or received or paid by the *reporting fund* in securities lending and short sale transactions		
(ii) *cash and cash equivalents* received or posted by the *reporting fund* as collateral for derivatives under any cross-margining agreement		
(iii) *government securities* and other securities received and posted by the *reporting fund*		
(c) *Secured borrowing* and lending via *repo* and *reverse repo* (include tri-party repo)		
(i) *cash and cash equivalents*		
(ii) *government securities* and other securities (other than *cash and cash equivalents)* received and posted by the *reporting fund*		
(d) Other *secured borrowing* and lending (describe in Question 4)		
(i) *cash and cash equivalents*		
(ii) *government securities* and other securities (other than *cash and cash equivalents)* received and posted by the *reporting fund*		
(e) Derivative positions cleared by a *CCP*		
(i) mark-to-market exposure of derivatives transactions before collateral		
(ii) *cash and cash equivalents* received and posted by the *reporting fund* as collateral		
(iii) *government securities* and other securities received and posted by the *reporting fund* as collateral		
(f) Derivative positions that are not cleared by a *CCP* (uncleared)		
(i) *gross notional value* of *synthetic long positions* and *synthetic short positions*		
(ii) mark-to-market exposure of derivatives transactions before collateral		
(iii) *cash and cash equivalents* received and posted by the *reporting fund* as collateral		
(iv) *government securities* and other securities received and posted by the *reporting fund* as collateral		

27. Identify each creditor or other counterparty (including *CCPs*) to which the *reporting fund* owed an amount in respect of *cash borrowing entries* (before posted collateral) which is equal to or greater than either (1) 5% of *net asset value* as of the *data reporting date*, or (2) $1 billion. If there are more than five such counterparties, report the five counterparties to which the *reporting fund* owed the largest dollar amount in *cash borrowing entries* before taking into account collateral posted by the *reporting fund*. *(You are not required to complete this question if the* reporting fund *is a* qualifying hedge fund *and you complete Question 42 in Section 2).*

In the table below, report the legal entity name and *LEI* of each creditor or other counterparty, if it has one, in columns (i) and (ii). Indicate whether the creditor or counterparty is affiliated with a major financial institution in column (iii). If you select "other," name and describe the financial institution in Question 4. Do not treat affiliated counterparty entities as a single group, except that, if the applicable contractual and legal documentation requires cross margining, report the *LEI* of the contractual counterparty, typically the prime broker.

Report the *reporting fund's cash borrowing entries* for each reported creditor or counterparty in column (iv) as a negative number. Report in column (v) the *collateral posted entries* posted by the *reporting fund* for each reported creditor or other counterparty as a positive number.

(i) Legal name of the counterparty	(ii) Counterparty *LEI, if any*	(iii) Indicate below if the counterparty is affiliated with a major financial institution	*(iv) Borrowing* by *reporting fund (in U.S. dollars)*	(v) Collateral posted by *reporting fund* (in U.S. dollars)
(a)		[drop-down list of counterparty names] Other: ____ [Not applicable]		
(b)		[drop-down list of counterparty names] Other: _____ [Not applicable]		
(c)		[drop-down list of counterparty names] Other: _____ [Not applicable]		
(d)		[drop-down list of counterparty names] Other: _____ [Not applicable]		
(e)		[drop-down list of counterparty names] Other: _____ [Not applicable]		

28. Provide the following information for counterparties to which the *reporting fund* had net mark to market counterparty credit exposure, **after** taking into account collateral received or posted by the *reporting fund*, which is equal to or greater than either (1) 5% of the *reporting fund's net asset value* as of the *data reporting date*, or (2) $1 billion. Include *CCPs* or other third parties holding collateral posted by the *reporting fund* in respect of cleared exposures (including tri-party repo). If there are

more than five such counterparties, report the five to which the *reporting fund* had the greatest mark to market exposure after taking into account collateral. *(You are not required to complete this question if the* reporting fund *is a* qualifying hedge fund *and you complete Question 43 in Section 2).*

For counterparties to which the *reporting fund* had net *borrowing* exposure, the *reporting fund's* net mark to market counterparty credit exposure **before** collateral equals the *reporting fund's cash borrowing entries.* The *reporting fund's* net mark to market counterparty credit exposure **after** collateral is the amount (if any) by which the *reporting fund's collateral posted entries* exceed such *cash borrowing entries.*

For counterparties to which the *reporting fund* had net lending exposure, the *reporting fund's* net mark to market counterparty exposure **before** collateral means the *cash lending entries.*
The *reporting fund's* net mark to market counterparty credit exposure **after** collateral equals the amount (if any) by which the *reporting fund's cash lending entries* exceeds the *collateral received entries.*

For all counterparties (whether the *reporting fund* had *borrowing* or lending exposure), these computations will produce a positive value for the counterparties to which the *reporting fund* had net mark to market counterparty credit exposure **after** collateral. This may occur where the *reporting fund's* posted collateral exceeded *borrowings* by the *reporting fund* from a counterparty. It also may occur where collateral received by the *reporting fund* fell short of the *reporting fund's* net mark to market counterparty credit exposure through *cash and cash equivalents* received by a counterparty in margin borrowing, securities lending, *repo* and *reverse repo* transactions, and mark to market exposure in derivatives transactions.

Report the legal entity name and LEI of each creditor or other counterparty, if it has one, in column (i) and (ii) below. Indicate if the counterparty is affiliated with a major financial institution in column (iii). If you select "other," name and describe the financial institution in Question 4. In columns (iv) and (v), provide the *reporting fund's* net mark to market counterparty credit exposure, **before** taking into account collateral (which will be a negative number where the reporting fund is a net borrower, and a positive number where the reporting fund is a net lender), and net mark to market counterparty credit exposure, **after** taking into account collateral (which will always be a positive number for counterparties included in this table).

Do not treat affiliated counterparty entities as a single group, except that, if the applicable contractual and legal documentation requires cross margining, report the legal entity name and *LEI* of the contractual counterparty, typically the prime broker.

(i) Legal name of the counterparty	(ii) Counter-party *LEI, if any*	(iii) Indicate if the counterparty is affiliated with a major financial institution	(iv) Net mark to market exposure before collateral (in U.S. dollars)	(v) Net mark to market exposure after collateral (in U.S. dollars)
(a)		[drop-down list of counterparty names] Other: _____ [Not applicable]		
(b)		[drop-down list of counterparty names] Other: _____ [Not applicable]		

(c)		[drop-down list of counterparty names] Other: _____ [Not applicable]		
(d)		[drop-down list of counterparty names] Other: _____ [Not applicable]		
(e)		[drop-down list of counterparty names] Other: _____ [Not applicable]		

29. Provide the following information regarding your use of trading and clearing mechanisms during the *reporting period.*

(Provide good faith estimates of the mode in which each category was traded and cleared by the reporting fund, *and not the market as a whole. For purposes of this question, a "trade" includes any transaction, whether entered into on a bilateral basis or through an exchange, trading facility or other system and whether long or short. With respect to clearing, transactions for which margin is held in a customer omnibus account at a* CCP *should be considered cleared by a* CCP. *Tri-party* repo *applies where* repo/*reverse repo collateral is executed using collateral management and settlement services of a third party that does not act as a* CCP. *Sponsored* repo/reverse repo, including sponsored tri-party repo *applies to transactions in which the* reporting fund *has been sponsored by a sponsoring member of the Fixed Income Clearing Corporation (FICC).)*

(Enter "NA" in each part of this question for which the reporting fund *engaged in no relevant trades.}*

(In column (i) "value traded," report the total value *in U.S. dollars of the reporting fund's transactions in the instrument category and trading mode during the reporting period. In determining the "value traded" of derivatives trades for purposes of Questions 29(b) and 29(c), you should use the weighted-average of the notional amount of the aggregate derivatives transactions entered into by the* reporting fund *during the* reporting period, *except for the following: (1) for options, you would use the delta adjusted notional value, (2) for interest rate derivatives, you would use the* 10-year bond equivalent.)

(In column (ii), "end of reporting period value *of positions," report the sum of the absolute value of all of the* reporting fund's *long and short positions in each category and mode at (a) to (d) on the last date of the* reporting period. *If you complete Section 2 for the* reporting fund, *the sum of the end of the* reporting period value *of positions in each category should be consistent with the sum of long and short positions for sub-asset classes in that category reported in Question 32.)*

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	(i) ***value*** **traded (in U.S. dollars)**	**(ii) End of reporting period *value* of positions**
(a) securities (other than derivatives) that were traded by the *reporting fund.*		
On a regulated exchange		
OTC		
(b) *interest rate derivatives* that were traded by the *reporting fund*		
On a regulated exchange or swap execution facility		
OTC (and cleared by a CCP)		
*OTC/*bilaterally transacted (and not cleared by a *CCP*)		
(c) *derivatives* (other than *interest rate derivatives)* that were traded by the *reporting fund* and:		
On a regulated exchange or swap execution facility		
OTC (and cleared by a *CCP)*		
*OTC/*bilaterally transacted (and not cleared by a *CCP*)		
(d) *repo/reverse repo* trades that were entered into by the *reporting fund* and:		
Cleared by a *CCP* (other than sponsored *repo/reverse repo)*		
Cleared by a *CCP* (sponsored *repo/ reverse repo).*		
Bilaterally transacted (and not cleared by a *CCP and not settled on tri-party platform*)		
Tri-party *repo/reverse repo (and not cleared by a CCP)*		

30. For transactions of the *reporting fund* that are not described in any of the categories listed in items (a) through (d) of Question 29, provide:

(a) the *value* traded (in U.S. dollars) during the *reporting period*, calculated according to the method prescribed for column (i) of Question 29, and

(b) the end of *reporting period value* of positions, calculated according to the method prescribed for column (ii) of Question 29.

Section 2: Information about *qualifying hedge funds* that you advise.

You must complete a separate Section 2 for each *qualifying hedge fund* that you advise, except as provided by Instruction 6. With respect to master-feeder *arrangements* and *parallel fund structures* that collectively comprise *qualifying hedge funds*, report the component funds as provided in the General Instructions. See Instructions 3, 5, and 6.

Item A. Reporting fund identifying information

31. (a) Name of the *reporting fund* .....

(b) *Private fund* identification number of the *reporting fund* .....

Item B. Reporting fund exposures and trading

32. *Reporting fund* exposures.

For each month of the *reporting period*, report the information required by (a) to (c) below for the *reporting fund's* long and short positions, by *sub-asset class* (and *instrument type*, if applicable). Report the absolute value of short positions. You are not required to report for *sub-asset classes* for which there are no relevant positions.

For this question, *sub-asset classes are: listed equity* issued by financial institutions; American Depositary Receipts; other single name *listed equity;* indices on *listed equity*; other *listed equity*; *unlisted equity* issued by financial institutions; other *unlisted equity; investment grade corporate bonds* issued by financial institutions (other than *convertible bonds*); *investment grade corporate bonds* not issued by financial institutions (other than *convertible bonds*); *non-investment grade corporate bonds* issued by financial institutions (other than *convertible bonds*); *non-investment grade corporate bonds* not issued by financial institutions (other than *convertible bonds*); *investment grade convertible bonds* issued by financial institutions; *investment grade convertible bonds not* issued by financial institutions; *non-investment grade convertible bonds* issued by financial institutions; non-*investment grade convertible bonds not* issued by financial institutions; *U.S. treasury bills; U.S. treasury notes and bonds; agency securities; GSE bonds; sovereign bonds* issued by *G10* countries other than the U.S, other *sovereign bonds* (including supranational bonds); U.S. state and local bonds; *leveraged loans;* loans (excluding *leveraged loans* and *repo);* overnight *repo,* term *repo* (other than overnight); open *repo; MBS; ABCP; CDO* (senior or higher); *CDO* (mezzanine); *CDO* (junior equity); *CLO* (senior or higher); *CLO* (mezzanine); *CLO* (junior equity); other *ABS,* other *structured products;* U.S. dollar *interest rate derivatives;* non-U.S. currency *interest rate derivatives;* sovereign *single name CDS;* financial institution *single name CDS;* other *single name CDS, index CDS; exotic CDS; foreign exchange derivatives; correlation derivatives; inflation derivatives; volatility derivatives; variance derivatives; other derivatives,* agricultural *commodities;* crude oil *commodities;* natural gas *commodities*; power and other energy *commodities;* gold *commodities*; other (non-gold) precious metal *commodities;* base metal commodities; *other commodities*; real estate; *digital assets*; U.S. currency holdings; non-U.S. currency holdings; certificates of deposit; other deposits; *money market funds*; other *cash and cash equivalents* (excluding bank deposits, certificates of deposit, *money market funds, and U.S. treasury bills, notes and bonds*); *investments in other sub-asset classes.*

Choose the *sub-asset class* (and *instrument type*, if applicable) that describes the *sub-asset class* exposure and *instrument type* of the *reporting fund's* positions with the highest degree of precision. Include positions held in side-pockets as positions of the *reporting fund.* Include any closed out and OTC forward positions that have not yet expired/matured. Provide the absolute value of short positions. Report cash borrowed via *reverse repo* as the short value of *repos*. See definitions of *repo* and *reverse repo* in the Glossary.

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(a) (1) Except for the *sub-asset classes* identified by (a)(2) below, report the dollar *value* of long positions and the dollar *value of* short positions in each *sub-asset class* by *instrument type:* For this purpose, *instrument types* are: cash/physical instruments, futures, forwards, swaps, listed options, unlisted options, other derivative products, *ETFs,* other *exchange-traded products,* U.S. registered investment companies (excluding *ETFs* and *money market funds), investments in non-U.S. investment companies, internal private funds, external private funds, commodity pools,* and any other company, fund or entity. For *foreign exchange derivatives,* report forex swaps and currency swaps separately. In determining dollar *value,* do not net long and short positions within *sub-asset classes* or *instrument types* (with the exception of spot foreign exchange longs and shorts).

In determining the *reporting fund's* exposure to *sub-asset classes* for positions held indirectly through entities, *e.g., ETFs,* other *exchange traded products,* U.S. registered investment companies (excluding *ETFs* and *money market funds*), *investments in non-U.S. investment companies, external private funds, internal private funds, commodity pools*, or other companies, funds or entities, you may allocate the position among *sub—asset classes* and *instrument types* using reasonable estimates consistent with your internal methodologies and conventions of service providers. If the *reporting fund's* position in any such entity represents less than (1) 5% of the *reporting fund's net asset value* and (2) $1 billion, you may report entire entity position in one sub-asset class and *instrument type* that best represents the *sub-asset class* exposure of the entity, unless you would allocate the exposure more granularly under you own internal methodologies and conventions of your service providers.

(i) Long:
(ii) Short:

(2) Report the dollar *value* of long positions and the dollar value of short positions for the *sub-asset class* (not by *instrument type*) for these *sub-asset classes*: *leveraged loans,* loans (excluding *leveraged loans* and *repo);* overnight *repo,* term *repo* (other than overnight), open *repo;* sovereign *single name CDS;* financial institution *single name CDS;* other *single name CDS, index CDS; exotic CDS;* U.S. currency holdings, non-U.S. currency holdings, certificates of deposit, other deposits, *money market funds,* other *cash and cash equivalents* (excluding bank deposits, certificates of deposit, *money market funds, and U.S. treasury bills, notes and bonds).*

(i) Long:
(ii) Short:

Describe the nature of the *reporting fund's* investment positions in Question 4, if you report long or short dollar *value* equal to or exceeding either (1) 5% of the *reporting fund's net asset value* or (2) $1 billion in any of these *sub-asset classes:* loans (excluding *leveraged loans* and *repo*), other *structured products, other derivatives, other commodities, digital assets, investments in other sub-asset classes.*)

(b) *Adjusted exposure* (1) For each *sub-asset class* in which the *reporting fund* held relevant positions, calculate the *adjusted exposure* of long and short positions by netting positions in the same underlying *reference asset* across *instrument type*, and for fixed income assets, within the same term, using the following maturity buckets: 0-1yr, 2 year, 2-5 year, 5-10 year, 10 year, 10-15 year, 15 year, 15-20 year, and 20+ year. You may net counterparties consistent with the information you report internally and to current and prospective investors.

(i) Long:
(ii) Short:

(2) If, under your methodologies for internal reporting and reporting to investors, you do not net all positions across all *instrument types* in monitoring the economic exposure of the

reporting fund's investment positions, you must also (i) report *adjusted exposure* for each *sub-asset class* calculated using your internal methodologies, and (ii) describe in Question 4 how your internal methodologies differ from the calculations required by subsection (b)(1).

(c) Interest rate risk (*10-year bond equivalent*). For *sub-asset classes* with interest rate risk, report the *10-year bond equivalent* of the *sub-asset class* long position dollar *value* and short position dollar *value* (by *instrument* type, if applicable) and *adjusted exposure*. Report *10 year bond equivalent* as a long value for positions that have a gain when rates decline, and as a short value for positions that have a loss when rates decline,

(NOTE: *10-year bond equivalent* is required for these *sub-asset classes: investment grade corporate bonds* issued by financial institutions (other than *convertible bonds*); *investment grade corporate bonds* not issued by *financial institutions* (other than *convertible bonds*); *non-investment grade corporate bonds* issued by financial institutions (other than *convertible bonds*); *non-investment grade corporate bonds* not issued by *financial institutions* (other than *convertible bonds*); *investment grade convertible bonds* issued by *financial institutions; investment grade convertible bonds not* issued by financial institutions; *non-investment grade convertible bonds* issued by *financial institutions;* non-*investment grade convertible bonds not* issued by financial institutions; *U.S. treasury bills, U.S. treasury notes and bonds; U.S. agency securities; GSE bonds; sovereign bonds* issued by *G10* countries other than the U.S, other *sovereign bonds* (including supranational bonds); U.S. state and local bonds; *leveraged loans* , loans (excluding *leveraged loans* and *repo*); overnight *repo,* term *repo* (other than overnight), open *repo, MBS, ABCP,* Senior or higher *CDO,* Mezzanine *CDO,* Junior equity *CDO,* Senior or higher *CLO,* Mezzanine *CLO,* Junior equity *CLO,* other *ABS,* other *structured product;* U.S. dollar *interest rate derivatives*, non-U.S. currency *interest rate derivatives;* certificates of deposit).

33. (a) For each month of the *reporting period,* report the net long value and net short value of the *reporting fund's* currency exposure arising from *foreign exchange derivatives* and all other assets and liabilities of the *reporting fund* that are denominated in a currency other than the *reporting fund's* base currency.

Currency	1st Month		2nd Month		3rd Month	
	Long value	Short value	Long value	Short value	Long value	Short value
[drop-down of currencies]						
[drop-down of currencies]						

(b) For each month of the *reporting period,* identify each currency to which the *reporting fund* has long dollar *value* or short dollar *value* exposure equal to or exceeding either (1) 5% of the *reporting fund's net asset value* or (2) $1 billion and report the long dollar *value* and short dollar *value* of this exposure in U.S. dollars.

In responding to this question, include the spot currency exposure arising from all holdings, including assets denominated in foreign currencies, and derivative products with currency exposure. Include currency exposure obtained indirectly (e.g., through ETFs, exchange traded products, U.S. registered investment companies, non-U.S. registered investment companies, internal private funds, external private funds, commodity pools, or other companies, funds or entities). You may report reasonable estimates, if consistent with your internal methodologies and conventions of service providers.)

Currency	1st Month		2nd Month		3rd Month	
	Long value	Short value	Long value	Short value	Long value	Short value
[drop-down of currencies]						
[drop-down of currencies]						

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34. For each month of the *reporting period*, provide the *value* of turnover during the month in each of the asset classes listed below for the *reporting fund*.

(The value *of turnover is the sum of the absolute* values *of transactions in the relevant asset class during the period.).*

	1st Month	2nd Month	3rd Month
Listed equity (exclude *listed equity derivatives*).....			
Corporate bonds (other than *convertible bonds;* exclude derivative exposure to *corporate bonds*)....			
Convertible bonds (exclude derivative exposure to *convertible bonds*).....			
Sovereign bonds and municipal bonds (exclude derivative exposure)			
U.S. treasury bills.....			
U.S. treasury notes and bonds			
Agency securities			
GSE bonds.....			
Sovereign bonds issued by *G10* countries other than the U.S.....			
Other *sovereign bonds* (including supranational bonds).....			
U.S state and local bonds.....			
Listed equity derivatives.....			
Interest rate derivatives.....			
U.S. dollars			
Futures.....			
Swaps.....			
Options.....			
Other derivative instrument types			
Non-U.S. currencies			
Futures			
Swaps			
Options			
Other derivative instrument types			
Foreign Exchange Derivatives			
Swaps			
Options			
Other instrument types			
Derivative exposure to			
U.S treasury securities			
Derivative exposure to sovereign bonds issued by G10 countries other than the U.S....			

Derivative exposure to other sovereign bonds			
Other Derivatives...			

35. For each month of the *reporting period,* identify by ISO country code, each country to which the *reporting fund* has long dollar *value* or short dollar *value* exposure equal or exceeding either (1) 5% of the *reporting fund's net asset value* or (2) $1 billion., and report the long dollar *value* and short dollar *value* of this exposure in U.S. dollars.

(See Instruction 15 for information on calculating the numerator for purposes of this Question. Categorize investments based on concentrations of risk and economic exposures, and include country exposure obtained indirectly (e.g., through ETFs, exchange traded products, U.S. *registered investment companies*, non-U.S. *registered investment companies*, internal private funds, external private funds, commodity pools, *or other companies, funds or entities. You may report reasonable estimates, if consistent with your internal methodologies and conventions of service providers.)*

ISO Code	1st Month		2nd Month		3rd Month	
	Long value	Short value	Long value	Short value	Long value	Short value
[drop-down of ISO Code]						
[drop-down of ISO Code]						

36. For each month of the *reporting period,* identify the *reporting fund's* exposure by industry, based on the NAICS codes of the underlying exposures, equal or exceeding either (1) 5% of the *reporting fund's net asset value* or (2) $1 billion, and report the long dollar *value* and short dollar *value* of this exposure in U.S. dollars.

Include industry exposure obtained indirectly (*e.g.*, through *ETFs, exchange traded products,* U.S. registered investment companies, non-U.S. registered investment companies, *internal private funds, external private funds, commodity pools,* or other companies, funds or entities). *You may respond to this Question using reasonable estimates based on your internal methodologies consistent with information you report internally and to investors.*

NAICS Code	1st Month		2nd Month		3rd Month	
	Long value	Short value	Long value	Short value	Long value	Short value
[drop-down of NAICS Code]						
[drop-down of NAICS Code]						

37. Provide the following information regarding the liquidity of the *reporting fund's* portfolio.

Specify the percentage by value of the reporting fund's positions that may be liquidated within each of the periods specified below. Each investment can be assigned to more than one period, but assignments should be based on the shortest period during which you believe that such position could reasonably be liquidated at or near its carrying value. Use good faith estimates for liquidity based on market conditions over the reporting period and assuming no fire-sale discounting. Estimates must be based on a methodology that takes into account changes in portfolio composition, position size and market conditions over time. In the event that individual positions are important contingent parts of the same trade, group all those positions under the liquidity period of the least liquid part (so, for example, in a convertible bond arbitrage trade, the liquidity of the short should be the same as the convertible bond). Include cash and cash equivalents.

(The total should add up to approximately 100%.)

	% of NAV
1 day or less	
2 days – 7 days	
8 days – 30 days	
31 days – 90 days	
91 days – 180 days	
181 days – 365 days	
Longer than 365 days	

1st Month	2nd Month	3rd Month

38. *Value* of *reporting fund's unencumbered cash*.....

39. Report the following with respect to the reporting fund's long and short *netted exposure* to *reference assets* at the end of each month of the *reporting period:*

For purposes of this Question 39, *netted exposure* means the sum of all positions with legal and contractual rights that provide exposure to the same *reference asset.* Take into account all positions, including offsetting and partially offsetting positions, relating to the same *reference asset* (without regard to counterparties or issuers of a derivative or other instrument that reflects the price of the *reference asset*). The *netted exposure* to a *reference asset* will be either long or short. Determine the value of each *netted exposure* to each *reference asset* in U.S. dollars, expressed as the delta adjusted notional value, or as the *10-year bond equivalent* for reference assets that are fixed income assets.

Do not report exposure to *cash and cash equivalents.*

	1st Month		2nd Month		3rd Month	
	Long	*Short*	*Long*	*Short*	*Long*	*Short*
(a) Total number of *reference assets* to which the *reporting fund* holds long and short *netted exposure* (approximate)						
(b) Percent of *net asset value* represented by the aggregated *netted exposures* of *reference assets* with the top five (5) long and short *netted exposures.*						
(c) Percent of *net asset value* represented by the aggregate *netted exposures* of *reference assets* representing the top ten (10) long and short *netted exposures.*						

40. As of the end of each month in the *reporting period,* provide the information requested below for each *reference asset* to which the *reporting fund* has *gross exposure* equal to or exceeding:

(i) 1% of *net asset value*, if the *reference asset* is a debt security and the *reporting fund's gross exposure* to the *reference asset* exceeds 20% of the size of the debt security issuance;
(ii) 1% of *net asset value*, if the *reference asset* is a *listed equity security* and the *reporting fund's gross exposure* to the *reference asset* exceeds 20% of average daily trading volume measured over 90 days preceding the reporting date; or
(iii) either (1) 5% of the *reporting fund's net asset value* or (2) $1 billion.

For purpose of this Question 40, the *reporting fund's gross exposure* to a *reference asset* means the sum of the absolute value of all long and short positions with legal and contractual rights that provide exposure to the *reference asset*.

(a) First month of the *reporting period*, Position 1, 2, 3, etc.
- (i) Dollar *value* (in U.S. dollars) of all long positions with legal and contractual rights that provide exposure to the *reference asset*.
- (ii) Dollar *value* (in U.S. dollars) of all short positions with legal and contractual rights that provide exposure to the *reference asset*.
- (iii) *Netted exposure* to *reference asset* (as defined by Question 39 Instructions).
- (iv) *Sub-asset class and instrument type:* Instruction: *Select all that apply*. [two drop down menus]
- (v) Title or description of *reference asset*:
- (vi) *Reference asset* issuer (if any) name and *LEI*.
- (vii) CUSIP (if any), and at least one of the following other identifiers: (i) ISIN; (ii) Ticker if ISIN is not available); (iii) Other unique identifier (if ticker and ISIN are not available) [Must indicate type of identifier used].
- (viii) For *reference assets* with no CUSIP or other identifier, describe the *reference asset*.
- (ix) If the *reference asset* is a debt security, size of issue:
- (x) If the *reference asset* is a *listed equity*, average daily trading volume, measured over 90 days preceding the *reporting date*.
- (xi) FIGI (optional)

(b) Second month of the *reporting period*, Position 1, 2, 3, etc. (same list of information to collect)

(c) Third month of the *reporting period*, Position 1, 2, 3, etc. (same list of information to collect)

41. [*Consolidated Counterparty Exposure Table*]

Report in the *consolidated counterparty exposure table* below the *reporting fund's borrowing and collateral received (B/CR)* and *lending and posted collateral (L/PC)* aggregated across all counterparties (including all *CCPs*) in U.S. dollars as of the end of each month of the *reporting period*.

You must net the *reporting fund's* exposure with each counterparty and among affiliated entities of a counterparty to the extent such exposures may be contractually or legally set-off or netted across those entities and/or one affiliate guarantees or may otherwise be obligated to satisfy the obligations of another under the agreements governing the transactions. Netting must be used to reflect net cash borrowed from or lent to a counterparty, but must not be used to offset securities borrowed and lent against one another, when reporting prime brokerage and repo/reverse repo transactions.
Classify *borrowing* by creditor type (*e.g.*, percentage borrowed from *U.S. depository institutions*, U.S. creditors that are not *U.S depository institutions*, non-U.S. creditors) based on the legal entity that is the contractual counterparty for such borrowing and not based on parent company or other affiliated group.

In completing the table, classify *borrowing and collateral received* and *lending and posted collateral* according to type, (*e.g.*, *unsecured, secured borrowing,* derivatives cleared by a *CCP,* and uncleared derivatives) and the governing legal agreement, *e.g.*, a prime brokerage or other brokerage agreement for cash margin and securities lending and borrowing, a global master repurchase agreement for repo/reverse repo, or an ISDA master agreement for *synthetic long positions, synthetic short positions* and other derivatives. Report transactions under master securities loan agreement as other *secured borrowing*.

□ Check this box if one or more prime brokerage agreements provide for cross-margining of derivatives and secured financing transactions. If you have checked this box, and collateral does not clearly pertain to secured financing vs. derivatives transactions, report exposures and collateral as follows:

- For secured financing, exposures and collateral should be reported in sections (b), (c) and (d) as applicable
- For derivatives,
  - Report the *gross notional value* and the mark-to-market of the derivatives transactions with other derivatives transactions (line (e)(i) or lines (f)(i) and (ii)
  - Report associated collateral as collateral received *(B/CR)* or posted collateral *(L/PC)* under the prime brokerage agreement (lines (b)(ii),(iii), (iv) and (v)).
- For derivatives cleared by a *CCP*, for cases where the prime broker gathers additional collateral in excess of that required by exchanges, report collateral posted by the *reporting fund* to meet exchange requirements in the cleared derivatives section on lines (e)(ii), (iii), (iv), and (v) and any additional collateral gathered by the prime broker under a cross margining agreement should appear on lines (b)(ii), (iii),(iv) and (v).

	1st Month		2st Month		3st Month	
	B/CR	*L/PC*	*B/CR*	*L/PC*	*B/CR*	*L/PC*
(a) *Unsecured borrowing – cash and cash equivalents*		Not Applicable		Not Applicable		Not Applicable
(A) percentage borrowed from *U.S. depository institutions*		Not Applicable		Not Applicable		Not Applicable
(B) percentage borrowed from U.S. creditors that are not *U.S. depository institutions*		Not Applicable		Not Applicable		Not Applicable
(C) percentage borrowed from non-U.S. creditors		Not Applicable		Not Applicable		Not Applicable

(b) *Secured borrowing* and lending (prime brokerage or other brokerage agreement)

(i) *cash and cash equivalents* received in cash margin borrowing, or received or paid by the *reporting fund* in securities lending and short sale transactions						
(ii) *cash and cash equivalents* received and posted by the *reporting fund* as collateral for derivatives under any cross-margining agreement						
(iii) *government securities* (other than *cash and cash equivalents*) received and posted by the *reporting fund*						

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	1st Month		2st Month		3st Month	
	B/CR	*L/PC*	*B/CR*	*L/PC*	*B/CR*	*L/PC*
(iv) securities (other than *cash and cash equivalents* and *government securities)* received and posted by the *reporting fund*						
(v) other collateral or credit support (including face amount of letters of credit and similar third party credit support) received and posted by the *reporting fund*						
(vi) percentage of *secured borrowing* (prime brokerage or other brokerage agreement) (sum of (b)(i), (iii), (iv) and (v))						
(A) borrowed from *U.S. depository institutions*		Not Applicable		Not Applicable		Not Applicable
(B) borrowed from U.S. creditors that are not *U.S. depository institutions*		Not Applicable		Not Applicable		Not Applicable
(C) borrowed from non-U.S. creditors		Not Applicable		Not Applicable		Not Applicable
(vii) at the end of each month of the *reporting period*, expected increase in collateral required to be posted by the *reporting fund,* if required margin increases by 1% of position size.	Not Applicable		Not Applicable		Not Applicable	

(c) *Secured borrowing* and lending via *repo* and *reverse repo* (include tri-party repo)

(i) *cash and cash equivalents*						
(ii) *government securities* (other than *cash and cash equivalents)* received and posted by the *reporting fund*						
(iii) securities (other than *cash and cash equivalents* and *government securities)* received and posted by the *reporting fund*						
(iv) other collateral or credit support (including face amount of letters of credit and similar third party credit support) received and posted by the *reporting fund*						
(v) percentage of *secured borrowing* via *repo* and *reverse repo* (sum of (c)(i), (ii), (iii) and (iv))						
(A) borrowed from *U.S. depository institutions*		Not Applicable		Not Applicable		Not Applicable
(B) borrowed from U.S. creditors that are not *U.S. depository institutions*		Not Applicable		Not Applicable		Not Applicable
(C) borrowed from non-U.S. creditors		Not Applicable		Not Applicable		Not Applicable
(vi) at the end of the each month of the *reporting period*, expected increase in collateral required to be posted by the *reporting fund,* if required margin increases by 1%	Not Applicable		Not Applicable		Not Applicable	

(d) Other *secured borrowing* and lending (describe in Question 4)

(i) *cash and cash equivalents*						
(ii) *government securities* (other than *cash and cash equivalents*) received and posted by the *reporting fund*						

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	1st Month		2st Month		3st Month	
	B/CR	*L/PC*	*B/CR*	*L/PC*	*B/CR*	*L/PC*
(iii) securities (other than *cash and cash equivalents* and *government securities)* received and posted by the *reporting fund*						
(iv) other collateral or credit support (including face amount of letters of credit and similar third party credit support) received and posted by the *reporting fund*						
(v) percentage of other *secured borrowing* (sum of (d)(i), (ii), (iii) and (iv))						
(A) borrowed from *U.S. depository institutions*		Not Applicable		Not Applicable		Not Applicable
(B) borrowed from U.S. creditors that are not *U.S. depository institutions*		Not Applicable		Not Applicable		Not Applicable
(C) borrowed from non-U.S. creditors		Not Applicable		Not Applicable		Not Applicable
(vi) at the end of each month of the *reporting period*, expected increase in collateral required to be posted by the *reporting fund*, if required margin increases by 1%	Not Applicable		Not Applicable		Not Applicable	

(e) Derivative positions cleared by a *CCP*

(i) mark-to-market exposure of derivatives transactions before collateral						
(ii) *cash and cash equivalents* received and posted by the *reporting fund* as collateral						
(iii) *government securities* (other than *cash and cash equivalents*) received and posted by the *reporting fund* as collateral						
(iv) securities (other than *cash and cash equivalents* and *government securities)* received and posted by the *reporting fund* as collateral						
(v) other collateral or credit support (including face amount of letters of credit and similar third party credit support) received and posted by the *reporting fund*						
(vi) at the end of each month of the *reporting period*, expected increase in collateral required to be posted by the *reporting fund*, if required margin increases by 1%	Not Applicable		Not Applicable		Not Applicable	

(f) Derivative positions that are not cleared by a *CCP* (uncleared)

(i) *gross notional value* of *synthetic long positions* and *synthetic short positions*						
(ii) mark-to-market exposure of derivatives transactions before collateral						
(iii) *cash and cash equivalents* received and posted by the *reporting fund* as collateral						
(iv) *government securities* (other than *cash and cash equivalents*) received and posted by the *reporting fund* as collateral						

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	1st Month		2st Month		3st Month	
	B/CR	*L/PC*	*B/CR*	*L/PC*	*B/CR*	*L/PC*
(v) securities (other than *cash and cash equivalents* and *government securities)* received and posted by the *reporting fund* as collateral						
(vi) other collateral or credit support (including face amount of letters of credit and similar third party credit support) received and posted by the *reporting fund*						
(vii) percentage of *synthetic long positions* (sum of (f)(i), (iii), (iv) and (v))						
(A) from *U.S. depository institutions*		Not Applicable		Not Applicable		Not Applicable
(B) from U.S. creditors that are not *U.S. depository institutions*		Not Applicable		Not Applicable		Not Applicable
(C) from non-U.S. creditors		Not Applicable		Not Applicable		Not Applicable
(viii) at the end of each month of the *reporting period*, expected increase in collateral required to be posted by the *reporting fund,* if required margin increases by 1%	Not Applicable		Not Applicable		Not Applicable	

42. Identify each creditor or other counterparty (including *CCPs*) to which the *reporting fund* owed an amount in respect of *cash borrowing entries* (before posted collateral) which is equal to or greater than either (1) 5% of *net asset value* as of the *data reporting date,* or (2) $1 billion. In subsection (a), complete an *individual counterparty exposure table* for the five creditors and counterparties to which the *reporting fund* owed the greatest dollar amount in *cash borrowing entries* (before posted collateral). Follow the instructions for the *consolidated counterparty exposure table* in completing each *individual counterparty exposure table.*

Identify in subsection (b) all other creditors and counterparties (including *CCPs*) that were not the top five listed in the *individual counterparty tables,* but to which the *reporting fund* owed an amount in respect of *cash borrowing entries* (before posted collateral) which is equal to or greater than either (1) 5% of the *reporting fund's net asset value* as of the *data reporting date*, or (2) $1 billion.

For the entities identified in subsection (b), report the legal entity name and *LEI* of each creditor or other counterparty, if it has one, as indicated in subsections (a)(i) or in subsection (b) at columns *(a)* and *(c)*. Indicate whether the creditor or counterparty is affiliated with a major financial institution in subsection (a)(i)*(c)* or in subsection (b) at column *(c)*. If you select "other," name and describe the financial institution in Question 4. You may not treat affiliated counterparty entities as a single group, except that, if the applicable contractual and legal documentation requires cross margining, report the *LEI* of the contractual counterparty, typically the prime broker.

For subsection (b), for each entity identified, report the *cash borrowing entries* as determined above in column *(d)* as a negative number and report total *collateral posted entries* by the *reporting fund* in column *(e)* as a positive number.

(a) *Individual Counterparty Exposure Table* - Top 5 Creditor Counterparties [1, 2, 3, 4, 5]: *(Because* borrowing *and cash lending should be netted for each counterparty, only one entry is required in each row of this table.)*

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(i) *(a)* Counterparty name,
(b) LEI, and
(c) indicate if affiliated with a major financial institution [drop-down menu]

	B/CR	*L/PC*
(ii) *Unsecured borrowing – cash and cash equivalents*		NA

(iii) *Secured borrowing* and lending (prime brokerage or other brokerage agreement

□ Check this box if one or more prime brokerage agreements provide for cross-margining of derivatives and secured financing transactions. If you have checked this box, and collateral does not clearly pertain to secured financing vs. derivatives transactions, report exposures and collateral as follows:

- For secured financing, exposures and collateral should be reported in sections (iii), (iv) and (v) as applicable
- For derivatives,
  - Report the *gross notional value* and the mark-to-market of the derivatives transactions with other derivatives transactions (lines (vi)(A) and (vii)(A) and (B))
  - Report associated collateral as collateral received (B/CR) or posted collateral (L/PC) under the prime brokerage agreement (lines (iii)(B),(C), (D) and (E)).
- For derivatives cleared by a *CCP*, for cases where the prime broker gathers additional collateral in excess of that required by exchanges, report collateral posted by the *reporting fund* to meet exchange requirements in the cleared derivatives section on lines (vi)(B), (C), (D), and (E), and enter any additional collateral gathered by the prime broker under a cross margining agreement on lines (iii)(B),(C), (D) and (E).

(A) *cash and cash equivalents* received in cash margin borrowing, or received or paid by the *reporting fund* in securities lending and short sale transactions		
(B) *cash and cash equivalents* received and posted by the *reporting fund* as collateral for derivatives under any cross-margining agreement		
(C) *government securities* (other than *cash and cash equivalents*) received and posted by the *reporting fund*		
(D) securities (other than *cash and cash equivalents* and *government securities)* received and posted by the *reporting fund*		
(E) other collateral or credit support (including face amount of letters of credit and similar third party credit support) received and posted by the *reporting fund*		

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	B/CR	*L/PC*
(iv) *Secured borrowing* and lending via *repo* and *reverse repo* (include tri-party repo		
(A) *cash and cash equivalents*		
(B) *government securities* (other than *cash and cash equivalents)* received and posted by the *reporting fund*		
(C) securities (other than *cash and cash equivalents* and *government securities)* received and posted by the *reporting fund*		
(D) other collateral or credit support (including face amount of letters of credit and similar third party credit support) received and posted by the *reporting fund*		
(v) Other *secured borrowing* and lending (describe in Question 4)		
(A) *cash and cash equivalents*		
(B) *government securities* (other than *cash and cash equivalents*) received and posted by the *reporting fund*		
(C) securities (other than *cash and cash equivalents* and *government securities)* received and posted by the *reporting fund*		
(D) other collateral or credit support (including face amount of letters of credit and similar third party credit support) received and posted by the *reporting fund*		
(vi) Derivative positions cleared by a *CCP*		
(A) mark-to-market exposure of derivatives transactions before collateral		
(B) *cash and cash equivalents* received and posted by the *reporting fund* as collateral		
(C) *government securities* (other than *cash and cash equivalents*) received and posted by the *reporting fund* as collateral		
(D) securities (other than *cash and cash equivalents* and *government securities)* received and posted by the *reporting fund* as collateral		
(E) other collateral or credit support (including face amount of letters of credit and similar third party credit support) received and posted by the *reporting fund*		
(vii) Derivative positions that are not cleared by a *CCP* (uncleared)		
(A) *gross notional value* of *synthetic long positions* and *synthetic short positions*		
(B) mark-to-market exposure of derivatives transactions before collateral		
(C) *cash and cash equivalents* received and posted by the *reporting fund* as collateral		
(D) *government securities* (other than *cash and cash equivalents*) received and posted by the *reporting fund* as collateral		
(E) securities (other than *cash and cash equivalents* and *government securities)* received and posted by the *reporting fund* as collateral		

	B/CR	*L/PC*
(F) other collateral or credit support (including face amount of letters of credit and similar third party credit support) received and posted by the *reporting fund*		

(b) Other Creditors and Counterparties

(a) Legal name of creditor or other counterparty	*(b)* Counterparty *LEI, if any*	*(c)* Indicate if creditor or other counterparty is affiliated with a major financial institution	*(d) Borrowing* by the reporting fund (in U.S. dollars)	*(e)* Collateral posted by the *reporting fund* (in U.S. dollars)
(i)		[drop-down list of counterparty names] Other: [Not applicable]		
(ii)		[drop-down list of counterparty names] Other: [Not applicable]		
(iii)		[drop-down list of counterparty names] Other: [Not applicable]		

43. Provide the information required by this question for counterparties to which the *reporting fund* had net mark to market counterparty credit exposure, **after** taking into account collateral received or posted by the *reporting fund,* which is equal to or greater than either (1) 5% of the *reporting fund's net asset value* as of the *data reporting date,* or (2) $1 billion. Include *CCPs* or other third parties holding posted collateral of the *reporting fund* in respect of cleared exposures (including tri-party *repo*).

For counterparties to which the reporting fund had net *borrowing* exposure,

the *reporting fund's* net mark to market counterparty credit exposure **before** collateral equals the *reporting fund's cash borrowing entries.* The *reporting fund's* net mark to market counterparty credit exposure **after** collateral is the amount (if any) by which the *collateral posted entries* exceed such *cash borrowing entries.*

For counterparties to which the *reporting fund* had net lending exposure, the *reporting fund's* net mark to market counterparty credit exposure **before** collateral means the *cash lending entries.* The *reporting fund's* net mark to market counterparty credit exposure **after** collateral equals the amount (if any) by which the *reporting fund's cash lending entries* exceed the *collateral received entries.*

For all counterparties (whether the *reporting fund* had borrowing or lending exposure), these computations will produce a positive value for the counterparties to which the *reporting fund* had net mark to market counterparty credit exposure **after** collateral. This may occur where the *reporting fund's* posted collateral exceeded *borrowings* by the *reporting fund* from a counterparty. It also may occur where collateral received by the *reporting fund* fell short of the *reporting fund's* net mark to market counterparty credit exposure through *cash and cash equivalents* received by a counterparty in margin borrowing, securities lending, *repo* and *reverse repo* transactions, and mark to market exposure in derivatives transactions.

Provide the information required by the *individual counterparty exposure table at* subsection (a) for the five counterparties to which the *reporting fund* had the greatest dollar net mark to market counterparty credit exposure **after** collateral. Do not report any counterparties that are reported in above in Question 42(a)) and do not include counterparties to which the *reporting fund's* net market to market counterparty exposure (after

collateral) was not greater than either (1) 5% of the *reporting fund's net asset value* on the *data reporting date*, or (2) $1 billion.

If there are more than five counterparties to which the *reporting fund* had net mark to market counterparty credit exposure **after** collateral which was equal to or greater than either (1) 5% of the *reporting fund's net asset value* as of the *data reporting date*, or (2) $1 billion (and which are not reported in Question 42(a)), identify these additional counterparties in subsection (b). Report, for each such counterparty, the *reporting fund's* net mark to market counterparty credit exposure, **before** taking into account collateral (column *(d)*) which will be a negative number where the reporting fund is a net borrower, and a positive number where the *reporting fund* is a net lender, and net mark to market counterparty credit exposure, **after** taking into account collateral (column *(e)*), which will always be a positive number for any counterparties included in this table.

In the *individual counterparty table*, report the legal entity name and *LEI* of each creditor or other counterparty, if it has one, as indicated in subsection (a)(i)*(a)* and (a) (i)*(b)* or in subsection (b), columns *(a)* and *(b)*. Indicate in subsection (a)(i)*(c)* or subsection (b), column *(c)*, if the counterparty is affiliated with a major financial institution. If you select "other," name and describe the financial institution in Question 4. You may not treat affiliated counterparty entities as a single group, except that, if the applicable contractual and legal documentation requires cross margining, report the legal entity name and *LEI* of the contractual counterparty, typically the prime broker.

43(a) *Individual Counterparty Exposure Table* - Top "Debtor" Counterparties *Complete the Individual Counterparty Exposure Table (see Q42(a)) for each of the top "debtor" counterparties)*

43(b) Other Counterparties

(a) Legal name of counterparty	*(b)* Counterparty *LEI, if any*	*(c)* Indicate if counterparty is affiliated with a major financial institution	*(d)* Net mark to market exposure before collateral (in U.S. dollars)	*(e)* Net mark to market exposure after collateral (in U.S. dollars)
(i)		[drop-down list of counterparty names] Other: [Not applicable]		
(ii)		[drop-down list of counterparty names] Other: [Not applicable]		
(iii)		[drop-down list of counterparty names] Other: [Not applicable]		

44. Identify each *CCP* or other third party holding collateral posted by the reporting fund in respect of cleared exposures (including tri-party repo) equal to or exceeding either (1) 5% of the *reporting fund's net asset value* as of the *data reporting date* or (2) $1 billion. *(Exclude counterparties reported in Questions 42 and 43)*

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CCP or Third party legal name	*LEI, if any*	CCP/third party affiliation with a major financial institution (if any)	Posted Margin (in U.S. dollars)	Net Exposure (in U.S. dollars)
(a)		[drop-down list of counterparty names] Other: [Not applicable]		
(b)		[drop-down list of counterparty names] Other: [Not applicable]		
(c)		[drop-down list of counterparty names] Other: [Not applicable]		

45. (a) Of the total amount of collateral and other credit support that counterparties have posted to the *reporting fund*, what percentage:

(i) may be rehypothecated? [ ]

(ii) has the *reporting fund* rehypothecated? [ ]

Item C. Reporting fund risk metrics and performance

46. (a) During the *reporting period*, did you regularly calculate the *VaR* of the *reporting fund*?
(Please respond without regard to whether you reported the result of this calculation internally or to investors.)

☐ Yes ☐ No

(b) If you responded "yes" to Question 46(a), provide the following information.
(If you regularly calculate the VaR *of the* reporting fund *using multiple combinations of confidence interval, horizon and historical observation period, complete a separate response to this Question 46(b) for each such combination.)*

(i) Confidence interval used (e.g., 100%-alpha%) *(as a percentage)* ..... [ ]

(ii) Time horizon used *(in number of days)*..... [ ]

(iii) What weighting method was used to calculate *VaR*?

☐None ☐ Exponential ☐ Other:

(iv) If you responded "exponential" to Question 46(b)(iii), provide the weighting factor used *(as a decimal to two places)*..... [ ]

(v) What method was used to calculate *VaR*?

☐ Historical simulation ☐ Monte Carlo simulation

☐ Parametric ☐ Other:

(vi) Historical lookback period used *(in number of years; enter "NA" if none used)*.....	
(vii) *VaR* at the end of the 1st month of the *reporting period (as a % of NAV)*.....	
(viii) *VaR* at the end of the 2nd month of the *reporting period (as a % of NAV)*.....	
(ix) *VaR* at the end of the 3rd month of the *reporting period (as a % of NAV)*.....	

47. For each of the market factors identified below, determine the effect of the specified changes on the *reporting fund's* portfolio and provide the results. For market factors that have no direct effect on the *reporting fund*'s portfolio, enter zero.

(For market factors involving interest rates and credit spreads, separate the effect on your portfolio into long and short components where (i) the long component represents the aggregate result of all positions whose valuation changes in the opposite direction from the market factor under a given stress scenario, and (ii) the short component represents the aggregate result of all positions whose valuation changes in the same direction as the market factor under a given stress scenario.) (For market factors other than interest rates and credit spreads, separate the effect on your portfolio into long and short components where (i) the long component represents the aggregate result of all positions whose valuation changes in the same direction as the market factor under a given stress scenario and (ii) the short component represents the aggregate result of all positions whose valuation changes in the opposite direction from the market factor under a given stress scenario.)

(Assume that changes in a market factor occur instantaneously and that all other factors are held constant. If the specified change in any market factor would make that factor less than zero, use zero instead.)

(Please note the following regarding the market factors identified below:

(i) A change in "equity prices" means that the prices of all equities move up or down by the specified amount, without regard to whether the equities are listed on any exchange or included in any index;

(ii) "Risk free interest rates" means rates of interest accruing on sovereign bonds *issued by governments having the highest credit quality, such as U.S. treasury securities; and interest rate swap rates in which a fixed rate is exchanged for a risk-free floating rate such as the secured overnight financing rate (SOFR) or the sterling overnight index average (SONIA);*

(iii) "Non-parallel risk free interest rate movements" means only risk free rates in the indicated segment of the yield curve move, and no other rates, factors or prices move, and that all rates within the indicated segment of the yield curve move by the same amount;

(iv) A change in "credit spreads" means that all spreads against risk free interest rates change by the specified amount;

(v) A change in "currency rates" means that the values of all currencies move up or down by the specified amount relative to the reporting fund's base currency*;*

(vi) A change in "commodity prices" means that the prices of all physical commodities move up or down by the specified amount;

(vii) A change in "option implied volatilities" means that the implied volatilities of all the options that the reporting fund *holds increase or decrease by the specified number of percentage points (additive, not multiplicative); and*

(viii) A change in "default rates" means that the rate at which debtors default on all instruments of the specified type increases or decreases by the specified number of percentage points.)

Not relevant	Relevant/not formally tested	Market factor – changes in market factor	Effect on long components of portfolio (as % of *NAV*)	Effect on short components of portfolio (as % of *NAV*)
☐	☐	Equity prices:		
		Equity prices increase 10%		
		Equity prices decrease 10%		
☐	☐	Risk free interest rates (changes represent a parallel shift in the yield curve):		
		All risk free interest rates increase 50 *bp*		
		All risk free interest rates decrease 50 *bp*		
☐	☐	Non-parallel risk free interest rate movements:		
		0-3 year rates only increase 50 *bp*		
		0-3 year rates only decrease 50 *bp*		
		>3-10 year rates only increase 50 *bp*		
		>3-10 year rates only decrease 50 *bp*		
		Only all >10 year rates increase 50 *bp*		
		Only all >10 year rates decrease 50 *bp*		
☐	☐	Credit spreads:		
		Credit spreads increase 100 *bp*		
		Credit spreads decrease 100 *bp*		
☐	☐	Currency rates:		
☐	☐	Currency rates increase 10%		
		Currency rates decrease 10%		
☐	☐	Commodity prices:		
☐	☐	Commodity prices increase 10%		
		Commodity prices decrease 10%		
☐	☐	Option implied volatilities:		
		Implied volatilities increase 10 percentage points.		
		Implied volatilities decrease 10 percentage points.		

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☐	☐	Default rates (*ABS*):		
		Default rates increase 10 percentage points		
		Default rates decrease 10 percentage points		
☐	☐	Default rates (*corporate bonds* and *CDS*):		
		Default rates increase 10 percentage points		
		Default rates decrease 10 percentage points		

48. Portfolio correlation

(a) For the *reporting fund's* investment portfolio as of the last day of each month of the *reporting period*, what is the average pairwise 3-month realized prior Pearson correlation of the periodic (e.g., daily or weekly) total rates of return for each portfolio position using the greatest available frequency of data over that window (e.g. daily or weekly)?
(b) What is the frequency of the data used over the prior 3-month window (e.g. daily or weekly)?
(c) For the *reporting fund's* investment portfolio as the last day of each month of the *reporting period*, utilizing 3-month realized prior Pearson correlations of the periodic (e.g., daily or weekly) total rates of return for each portfolio position and assuming 3-month realized prior volatilities of portfolio positions' periodic (e.g., daily or weekly) total rates of return with the same frequency window as that chosen when computing 3-month realized correlations, what is the expected annualized volatility?
(d) For your portfolio as of the last day of each month of the *reporting period*, utilizing 3-month realized prior Pearson correlations of portfolio positions' periodic (*e.g.*, daily or weekly) rates of return and assuming 3-month realized prior volatilities of the periodic (*e.g.*, daily or weekly) total rates of return for each portfolio position with the same frequency window as that chosen when computing 3-month realized correlations, if you uniformly reduced pairwise correlations by twenty percentage points, what would be the resulting annualized volatility?
(e) For your portfolio as of the last day of each month of the *reporting period*, utilizing 3-month realized prior Pearson correlations of the periodic (*e.g.*, daily or weekly) total rates of return for each portfolio position and assuming 3-month realized prior volatilities of portfolio positions' periodic (e.g., daily or weekly) rates of return with the same frequency window as that chosen when computing 3-month realized correlations, if you uniformly increased pairwise correlations by twenty percentage points, what would be the resulting annualized volatility?

(*In responding to this Question, cap the correlation at 100%,-100% in the event this Question would result in a correlation outside of that range.*)

49. If you indicated more than one investment strategy for the *reporting fund* in Question 25 and you calculate and report performance results to current and prospective investors, counterparties, or otherwise, for one or more of the investment strategies reported in Question 25, report the gross performance results attributable to each such strategy during the *reporting period* in base currency terms.

You are required to provide monthly performance results only if such results are calculated for the *reporting fund* (whether for purposes of reporting to current and prospective investors, counterparties, or otherwise). *You are not required to respond to this question if you report performance for the* reporting fund *as an internal rate of return.*

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Investment Strategy	1st Month	2nd Month	3d Month	Quarterly

Item D. Financing information

50. Financing liquidity:

(a) Provide the aggregate dollar amount of *borrowing* by and cash financing available to the *reporting fund* (including all drawn and undrawn, committed and uncommitted lines of credit as well as any term financing) ..... [ ]

(b) Provide the dollar amount of financing that is available to the *reporting fund* but not used by type:

(i) *unsecured borrowing* ....

(ii) *secured borrowing* via prime brokerage .....

(iii) *secured borrowing* via *reverse repo* ....

(iv) other *secured borrowings* ....

(c) Divide the amount reported in response to part (a) among the periods specified below depending on the longest period for which the creditor is contractually committed to provide such financing.

(If a creditor (or syndicate or administrative/collateral agent) is permitted to vary unilaterally the economic terms of the financing or to revalue posted collateral in its own discretion and demand additional collateral, then the financing should be deemed uncommitted for purposes of this question. Uncommitted financing should be included under "1 day or less.")

(The total should add up to 100%.)

	% of total financing
1 day or less	
2 days – 7 days.....	
8 days – 30 days	
31 days – 90 days	
91 days – 180 days	
181 days – 365 days.....	
Longer than 365 days.....	

Item E. Investor information

51. (a) As of the *data reporting date*, what percentage of the *reporting fund's net asset value*, if any, is subject to a "side-pocket" arrangement? [ ]

(This question relates to whether assets are currently in a side-pocket and not the potential for assets to be moved to a side-pocket.)

(b) Have additional assets been placed in a side-pocket since the end of the prior *reporting period*?
(Check "NA" if you reported no assets under Question 51(a) in the current period and/or the prior period.)

☐ Yes ☐ No ☐ NA

52. Provide the following information regarding the *reporting fund's* restrictions on investor withdrawals and redemptions.

(For Questions 52 and 53, please note that the standards for imposing suspensions and restrictions on withdrawals/redemptions may vary among funds. Make a good faith determination of the provisions that would likely be triggered during conditions that you view as significant market stress.)

(If you responded "yes" to Question [x] in Section 1b, then you must respond to Questions 49(a)-(d).)

As of the *data reporting date*, what percentage of the *reporting fund's net asset value*, if any:

(a)	May be subjected to a suspension of investor withdrawals/redemptions by an adviser or fund governing body *(this question relates to an adviser's or governing body's right to suspend and not just whether a suspension is currently effective)*.....	
(b)	May be subjected to material restrictions on investor withdrawals/redemptions (e.g., "gates") by an adviser or fund governing body *(this question relates to an adviser's or governing body's right to impose a restriction and not just whether a restriction has been imposed)*	
(c)	Is subject to a suspension of investor withdrawals/redemptions *(this question relates to whether a suspension is currently effective and not just an adviser's or governing body's right to suspend)*.....	
(d)	Is subject to a material restriction on investor withdrawals/redemptions (e.g., a "gate") *(this question relates to whether a restriction has been imposed and not just an adviser's or governing body's right to impose a restriction)*.....	

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53. Investor liquidity (as a % of *net asset value*):
(Divide the reporting fund's net asset value *among the periods specified below depending on the shortest period within which investors are entitled, under the fund documents, to withdraw invested funds or receive redemption payments, as applicable. Assume that you would impose gates where applicable but that you would not completely suspend withdrawals/redemptions and that there are no redemption fees. Please base on the notice period before the valuation date rather than the date proceeds would be paid to investors.)*
(The total should add up to approximately 100%.)

	% of *NAV* locked for
1 day or less	
2 days – 7 days	
8 days – 30 days	
31 days – 90 days	
91 days – 180 days	
181 days – 365 days	
longer than 365 days	

Section 3: Information about the *liquidity funds* that you advise

You must complete a separate Section 3 for each *liquidity fund* that you advise. However, with respect to *master-feeder arrangements* and *parallel fund structures*, you may report collectively or separately about the component funds as provided in the General Instructions.

Item A. *Reporting fund* identifying and operational information

54. (a) Name of the *reporting fund* ..... [ ]

(b) *Private fund* identification number of the *reporting fund* ..... [ ]

55. Does the *reporting fund* use the amortized cost method of valuation in computing its *net asset value*?

☐ Yes ☐ No

56. Does the *reporting fund* use the penny rounding method of pricing in computing its *net asset value*?

☐ Yes ☐ No

57. (a) Does the *reporting fund* have a policy of complying with the *risk limiting conditions* of *rule 2a-7*?

☐ Yes ☐ No

(b) If you responded "no" to Question 57(a) above, does the *reporting fund* have a policy of complying with the following provisions of *rule 2a-7*:

(i) the diversification conditions?	☐ Yes	☐ No
(ii) the credit quality conditions?	☐ Yes	☐ No
(iii) the liquidity conditions?	☐ Yes	☐ No
(iv) the maturity conditions?	☐ Yes	☐ No

Item B. *Reporting fund* assets

58. Provide the following information for each month of the *reporting period.*

	1st Month	2nd Month	3rd Month
(a) Net asset value of *reporting fund* as reported to current and prospective investors			
(b) Net asset value per share of *reporting fund* as reported to current and prospective investors *(to the nearest hundredth of a cent)*			
(c) Net asset value per share of *reporting fund (to the nearest hundredth of a cent; exclude the value of any capital support agreement or similar*			
(d) *WAM* of *reporting fund (in days)*			

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(e) *WAL* of *reporting fund (in days)*			
(f) *7-day gross yield* of *reporting fund (to the nearest hundredth of one percent)*			
(g) Dollar amount of the *reporting fund's* assets that are *daily liquid assets*			
(h) Dollar amount of the *reporting fund's* assets that are *weekly liquid assets*			
(i) Dollar amount of the *reporting fund's* assets that have a *maturity* greater than 397 days			

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Item C. Financing information

59. (a) Is the amount of total *borrowing* reported in response to Question 18 equal to or greater than 5% of the *reporting fund's net asset value*?

☐ Yes ☐ No

(b) If you responded "yes" to Question 59(a) above, divide the dollar amount of total *borrowing* reported in response to Question 18 among the periods specified below depending on the type of *borrowing*, the type of creditor and the latest date on which the reporting fund may repay the principal amount of the *borrowing* without defaulting or incurring penalties or additional fees.

(If a creditor (or syndicate or administrative/collateral agent) is permitted to vary unilaterally the economic terms of the financing or to revalue posted collateral in its own discretion and demand additional collateral, then the borrowing *should be deemed to have a maturity of 1 day or less for purposes of this question. For amortizing loans, each amortization payment should be treated separately and grouped with other* borrowings *based on its payment date.)*

(The total amount of borrowings *reported below should equal approximately the total amount of* borrowing *reported in response to Question 18.)*

	1 day or less	2 days to 7 days	8 days to 30 days	31 days to 397 days	Greater than 397 days
(i) *Unsecured borrowing*					
(A) *U.S. financial institutions*					
(B) *Non-U.S. financial institutions*					
(C) Other U.S. creditors					
(D) Other non-U.S. creditors					

(ii) *Secured borrowing*

(A) *U.S. financial institutions*					
(B) *Non-U.S. financial institutions*					
(C) Other U.S. creditors					
(D) Other non-U.S. creditors					

60. (a) Does the *reporting fund* have in place one or more committed liquidity facilities?

☐ Yes ☐ No

(b) If you responded "yes" to Question 60(a), provide the aggregated dollar amount of commitments under the liquidity facilities.....

Item D. Investor information

61. Specify the number of outstanding shares or units of the *reporting fund's* stock or similar securities .....

62. Provide the following information regarding investor concentration.

(For purposes of this question, if you know that two or more beneficial owners of the reporting fund *are* affiliated *with each other, you should treat them as a single beneficial owner.)*

(a) Specify the percentage of the *reporting fund's* equity that is beneficially owned by the beneficial owner having the largest equity interest in the *reporting fund*.....

(b) How many investors beneficially own 5% or more of the *reporting fund's* equity?.....

63. Provide a good faith estimate, as of the *data reporting date*, of the percentage of the *reporting fund's* outstanding equity that was purchased using *securities lending collateral* .....

64. Provide the following information regarding the restrictions on withdrawals and redemptions by investors in the *reporting fund.*

(For Questions 64 and 65, please note that the standards for imposing suspensions and restrictions on withdrawals/redemptions may vary among funds. Make a good faith determination of the provisions that would likely be triggered during conditions that you view as significant market stress.)

As of the *data reporting date*, what percentage of the *reporting fund's net asset value*, if any:

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(a) May be subjected to a suspension of investor withdrawals/redemptions by an adviser or fund governing body *(this question relates to an adviser's or governing body's right to suspend and not just whether a suspension is currently effective)*.....	
(b) May be subjected to material restrictions on investor withdrawals/redemptions (e.g., "gates") by an adviser or fund governing body *(this question relates to an adviser's or governing body's right to impose a restriction and not just whether a restriction been imposed)*	
(c) Is subject to a suspension of investor withdrawals/redemptions *(this question relates to whether a suspension is currently effective and not just an adviser's or governing body's right to suspend)*.....	
(d) Is subject to a material restriction on investor withdrawals/redemptions (e.g., a "gate") *(this question relates to whether a restriction has been imposed and not just an adviser's or governing body's right to impose a restriction)*...	

65. Investor liquidity (as a % of *net asset value*):

(Divide the reporting fund's net asset value *among the periods specified below depending on the shortest period within which investors are entitled, under the fund documents, to withdraw invested funds or receive redemption payments, as applicable. Assume that you would impose gates where applicable but that you would not completely suspend withdrawals/redemptions and that there are no redemption fees. Please base on the notice period before the valuation date rather than the date proceeds would be paid to investors.*
The total should add up to 100%.)

	% of *NAV* locked for
1 day or less	
2 days – 7 days.....	
8 days – 30 days	
31 days – 90 days	
91 days – 180 days	
181 days – 365 days.....	
Longer than 365 days.....	

Item E. Portfolio Information

66. For each security held by the *reporting fund*, provide the following information for each month of the *reporting period.*

(a) Name of the issuer.....

(b) Title of the issue (including coupon, if applicable).....

(c) CUSIP.....

(d) *LEI*, if available .....

(e) In addition to CUSIP and *LEI*, provide at least one of the following other identifiers, if available:

(i) ISIN.....

(ii) CIK.....

(iii) Other unique identifier .....

(f) The category of investment that most closely identifies the instrument .....

(Select from among the following categories of investment: U.S. Treasury Debt; U.S. Government Agency Debt; Non-U.S. Sovereign, Sub-Sovereign and Supra-National debt; Certificate of Deposit; Non- Negotiable Time Deposit; Variable Rate Demand Note; Other Municipal Security; Asset Backed Commercial Paper; Other Asset Backed Securities; U.S. Treasury Repurchase Agreement, if collateralized only by U.S. Treasuries (including Strips) and cash;
U.S. Government Agency Repurchase Agreement, collateralized only by U.S. Government agency securities, U.S. Treasuries, and cash; Other Repurchase Agreement, if any collateral falls outside Treasury, Government Agency and cash; Insurance Company Funding Agreement; Investment Company; Financial Company Commercial Paper; Non-Financial Company Commercial Paper; or Tender Option Bond. If Other Instrument, include a brief description.)

(g) For repos, specify whether the repo is "open" (*i.e.*, the repo has no specified end date and, by its terms, will be extended or "rolled" each business day (or at another specified period) unless the investor chooses to terminate it), and provide the following information about the securities subject to the repo (*i.e.*, the collateral):

(If multiple securities of an issuer are subject to the repo, the securities may be aggregated, in which case provide: (i) the total principal amount and value and (ii) the range of maturity dates and interest rates.)

(i) Whether the repo is "open" .....

(ii) Name of the collateral issuer .....

(iii) CUSIP.....

(iv) *LEI*, if available .....

(v) Maturity date .....

(vi) Coupon or yield .....

(vii) The principal amount, to the nearest cent.....

(viii) Value of the collateral, to the nearest cent.....

(ix) The category of investment that most closely represents the collateral .....

(Select from among the following categories of investment: Asset- Backed Securities; Agency Collateralized Mortgage Obligations; Agency Debentures and Agency Strips; Agency Mortgage-Backed Securities; Private Label Collateralized Mortgage Obligations; Corporate Debt Securities; Equities; Money Market; U.S. Treasuries (including strips); Other Instrument. If Other Instrument, include a brief description, including, if applicable, whether it is a collateralized debt obligation, municipal debt, whole loan, or

international debt).

(h) If the rating assigned by a *credit rating agency* played a substantial role in the *reporting fund's* (or its adviser's) evaluation of the quality, maturity or liquidity of the security, provide the name of each *credit rating agency* and the rating each assigned to the security.

(i) The maturity date used to calculate *WAM*.....

(j) The maturity date used to calculate *WAL*.....

(k) The ultimate legal maturity date (*i.e.*, the date on which, in accordance with the terms of the security without regard to any interest rate readjustment or *demand feature*, the principal amount must unconditionally be paid) .....

(l) If the security has a *demand feature* on which the *reporting fund* (or its adviser) is relying when evaluating the quality, maturity, or liquidity of the security, provide the following information:

(If the security does not have such a demand feature, *enter "NA.")*

(i) Identity of the *demand feature* issuer(s) .....

(ii) If the rating assigned by a *credit rating agency* played a substantial role in the *reporting fund's* (or its adviser's) evaluation of the quality, maturity or liquidity of the *demand feature*, its issuer, or the security to which it relates, provide the name of each *credit rating agency* and the rating assigned by each *credit rating agency* .....

(iii) The period remaining until the principal amount of the security may be recovered through the *demand feature*.....

(iv) The amount (*i.e.*, percentage) of fractional support provided by each *demand feature* issuer.....

(v) Whether the *demand feature* is a *conditional demand feature* .....

(m) If the security has a *guarantee* (other than an unconditional letter of credit reported in response to Question 66(l) above) on which the *reporting fund* (or its adviser) is relying when evaluating the quality, maturity, or liquidity of the security, provide the following information:

(If the security does not have such a guarantee, *enter "NA.")*

(i) Identity of the *guarantor(s)* .....

(ii) If the rating assigned by a *credit rating agency* played a substantial role in the *reporting fund's* (or its adviser's) evaluation of the quality, maturity or liquidity of the *guarantee*, the *guarantor*, or the security to which the *guarantee* relates, provide the name of each *credit rating agency* and the rating assigned by each *credit rating agency*.....

(iii) The amount (*i.e.*, percentage) of fractional support provided by each *guarantor*.....

(n) If the security has any enhancements, other than those identified in response to Questions 66(l) and (m) above, on which the *reporting fund* (or its adviser) is relying when evaluating the quality, maturity, or liquidity of the security, provide the following information:

(If the security does not have such an enhancement, enter "NA.")

(i) Identity of the enhancement provider(s) .....

(ii) The type of enhancement(s) .....

(iii) If the rating assigned by a *credit rating agency* played a substantial role in the *reporting*

fund's (or its adviser's) evaluation of the quality, maturity or liquidity of the enhancement, its provider, or the security to which it relates, provide the name of each *credit rating agency* used and the rating assigned by the credit rating agency……

(iv) The amount (*i.e.*, percentage) of fractional support provided by each enhancement provider .....

(o) The yield of the security as of the reporting date:……..

(p) The total *value* of the *reporting fund's* position in the security, and separately, if the *reporting fund* uses the amortized cost method of valuation, the amortized cost value, in both cases to the nearest cent:

(i) Including the value of any sponsor support.....

(ii) Excluding the value of any sponsor support.....

(q) The percentage of the *reporting fund's* net assets invested in the security, to the nearest hundredth of a percent.....

(r) Is the security categorized as a level 3 asset or liability in Question 20?

(s) Is the security a *daily liquid asset*?

(t) Is the security a *weekly liquid asset*?

(u) Is the security an *illiquid security*?

(v) Explanatory notes. Disclose any other information that may be material to other disclosures related to the portfolio security.

(If none, leave blank.)

Item F. Parallel Money Market Funds

67. If the *reporting fund* pursues substantially the same investment objective and strategy and invests side by side in substantially the same positions as a *money market fund* advised by you or any of your *related persons*, provide the *money market fund's* EDGAR series identifier .....

(If neither you nor any of your related persons *advise such a* money market fund, *enter "NA.")*

Section 4: – Information about *private equity funds* that you advise.

You must complete a separate Section 4 for each *private equity fund* that you advise. However, with respect to *master-feeder arrangements* and *parallel fund structures*, you may report collectively or separately about the component funds as provided in the General Instructions.

Item A. *Reporting fund* identifying information

68. (a) Name of the *reporting fund* ..... [ ]

(b) *Private fund* identification number of the *reporting fund* ..... [ ]

Item B. Reporting fund financing and investments

69. (a) Do you or any of your *related persons* guarantee, or are you or any of your *related persons* otherwise obligated to satisfy, the obligations of any portfolio company in which the *reporting fund* invests?

(You are not required to respond "yes" simply because a portfolio company is a primary obligor and is also your related person.*)*

☐ Yes ☐ No

(b) If you responded "yes" to Question 69(a) above, report the total dollar *value* of all such guarantees and other obligations.....

70. What is the weighted average debt-to-equity ratio of the *controlled portfolio companies* in which the *reporting fund* invests *(expressed as a decimal to the tenths place)*? [ ]

(Weighting should be based on gross assets of each controlled portfolio company *as a percentage of the aggregate gross assets of the* reporting fund's controlled portfolio companies.*)* [ ]

71. What is the highest debt-to-equity ratio of any *controlled portfolio company* in which the reporting fund invests *(expressed as a decimal to the tenths place)*? [ ]

72. What is the lowest debt-to-equity ratio of any *controlled portfolio company* in which the reporting fund invests *(expressed as a decimal to the tenths place)*? [ ]

73. What is the aggregate gross asset value of the *reporting fund's controlled portfolio companies*? [ ]

74. What is the aggregate principal amount of *borrowings* categorized as current liabilities on the most recent balance sheets of the *reporting fund's controlled portfolio companies*? [ ]

75. What is the aggregate principal amount of *borrowings* categorized as long-term liabilities on the most recent balance sheets of the *reporting fund's controlled portfolio companies*? [ ]

76. What percentage of the aggregate *borrowings* of the *reporting fund's controlled portfolio companies* is payment-in-kind (PIK) or zero-coupon debt? [ ]

77. During the *reporting period*, did the *reporting fund* or any of its *controlled portfolio companies* experience an event of default under any of its indentures, loan agreements or

other instruments evidencing obligations for borrowed money?

(Do not include a potential event of default (i.e., an event that would constitute an event of default with the giving of notice, the passage of time or otherwise) unless it has become an event of default.)

☐ Yes ☐ No

78. (a) Does any *controlled portfolio company* of the *reporting fund* have in place one or more bridge loans or commitments (subject to customary conditions) for a bridge loan?

☐ Yes ☐ No

(b) If you responded "yes" to Question 78(a), identify each *person* that has provided all or part of any bridge loan or commitment to the relevant *controlled portfolio company*. For each such *person*, provide the applicable outstanding amount or commitment amount.

		Name	Outstanding amount of financing, if drawn	Amount of commitment, if undrawn
		[repeat drop-down list of creditor/counterparty names] Other:		
		[repeat drop-down list of creditor/counterparty names] Other:		
		[repeat drop-down list of creditor/counterparty names] Other:		

79. (a) Is any of the *reporting fund's controlled portfolio companies* a *financial industry portfolio company*?

☐ Yes ☐ No

(b) If you responded "yes" to Question 79(a), then for each of the *reporting fund's controlled portfolio companies* that constitutes a *financial industry portfolio company*, provide the following information.

Legal Name	Address of principal office (include city, state and country)	*NAICS code*	*LEI*, if any	Debt-to-equity ratio of portfolio company	Gross asset value of portfolio company	% of *reporting fund's* gross assets invested in this portfolio company	% of portfolio company beneficially owned by the *reporting fund*

80. Provide a breakdown of the *reporting fund's* investments in portfolio companies by industry, based on the *NAICS codes* of the companies.
(The total should add up to 100%.)

NAICS code	% of reporting fund's total portfolio company investment

81. (a) Provide a geographical breakdown of the gross value of the *reporting fund's* investments in portfolio companies (by percentage of the total gross value of the *reporting fund's* investments in portfolio companies).
(The total should add up to approximately 100%.)

Region	%
(i) Africa	
(ii) Asia and Pacific (other than the Middle East)	
(iii) Europe (*EEA*)	
(iv) Europe (other than *EEA*)	
(v) Middle East	
(vi) North America	
(vii) South America	
(viii) Supranational	

(b) Provide the gross value of the *reporting fund's* investments in portfolio companies in the following countries (by percentage of the total gross value of the *reporting fund's* investments in portfolio companies).
(The total may not add up to 100%.)

Country	%
(i) Brazil	
(ii) China (including Hong Kong)	
(iii) India	
(iv) Japan	
(v) Russia	
(vi) United States	

If you or any of your *related persons* (other than the *reporting fund*) invest in any companies that are portfolio companies of the *reporting fund*, provide the aggregate dollar amount of these investments

Form PF Section 5	Request for temporary hardship exemption (to be completed by private fund advisers requesting exemption)	Page 55 of 55

Section 5: Request for temporary hardship exemption

You must complete Section 5 if you are requesting a temporary hardship exemption pursuant to *SEC* rule 204(b)-1(f).

A. For which type of Form PF filing are you requesting a temporary hardship exemption?

1. If you are not a *large hedge fund adviser* or *large liquidity fund adviser*:
   - ☐ Initial filing
   - ☐ *Annual update*
   - ☐ Final filing
2. If you are a *large hedge fund adviser* or *large liquidity fund adviser*:
   - ☐ Initial filing
   - ☐ *Quarterly update*
   - ☐ Filing to transition to annual reporting
   - ☐ Final filing

B. Provide the following information regarding your request for a temporary hardship exemption (attach a separate page if additional space is needed).

1. Describe the nature and extent of the temporary technical difficulties when you attempt to submit the filing to the Form PF filing system on the IARD:

2. Describe the extent to which you previously have submitted documents in electronic format with the same hardware and software that you are unable to use to submit this filing:

3. Describe the burden and expense of employing alternative means (e.g., a service provider) to submit the filing in electronic format in a timely manner:

4. Provide any other reasons that a temporary hardship exemption is warranted:

GLOSSARY OF TERMS

10-year bond equivalent	For interest rate sensitive positions, the equivalent position in a 10-year zero coupon bond, expressed in the base currency of the *reporting fund*.
7-day gross yield	Based on the 7 days ended on the *data reporting date*, calculate the *liquidity fund*'s yield by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one share at the beginning of the period and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then multiplying the base period return by (365/7) with the resulting yield figure carried to the nearest hundredth of one percent. The *7-day gross yield* should not reflect a deduction of shareholders fees and fund operating expenses.
ABCP	Asset backed commercial paper, including (but not limited to) structured investment vehicles, single-seller conduits and multi-seller conduit programs. Do not include any positions held via *CDS* (these should be recorded in the *CDS* category).
ABS	Securities derived from the pooling and repackaging of cash flow producing financial assets.
Adjusted exposure	The *value* of positions after netting as specified by instructions to Question 32.
Advisers Act	U.S. Investment Advisers Act of 1940, as amended.
Affiliate	With respect to any *person*, any other *person* that directly or indirectly *controls*, is *controlled* by or is under common *control* with such person. The term *affiliated* means that two or more *persons* are *affiliates*.
Agency securities	Any security issued by a *person* controlled or supervised by and acting as an instrumentality of the government of the United States pursuant to authority granted by the Congress of the United States and guaranteed as to principal or interest by the United States. Include bond derivatives and positions held indirectly through another entity (e.g., through an *ETF, exchange traded product,* U.S. registered investment companies, *non-U.S. registered investment companies, internal private fund or external private fund, commodity pool*, or other company, fund or entity).
AIF	An alternative investment fund that is not regulated under the UCITS Directive, as defined in the Directive of the European Parliament and of the Council on alternative investment fund managers (No. 2011/61/EU), as amended, or an alternative investment fund that is captured by the Alternative Investment Fund Managers (Amendment etc.) (EU Exit) Regulations 2019, as amended.

Annual update	An update of this Form PF with respect to any fiscal year.
Borrowing and collateral received ("B/CR")	The mark-to-market value, as of the *data reporting date,* of the following: (i) *cash and cash equivalents* received as *borrowing,* (ii) securities *borrowed* or received by the *reporting fund* (include securities borrowed in connection with short sales, securities lending and *repo*), (iii) collateral posted by a counterparty to the *reporting fund's* account, (iv) negative market-to-market value of derivatives (from the *reporting fund's* point of view), and (v) the *gross notional value* of *synthetic long positions.*
Borrowings	*Secured borrowings* and *unsecured borrowings*, collectively. *Borrowings* by a *reporting fund* include, but are not limited to (i) *cash and cash equivalents* received with an obligation to repay; (ii) securities lending transactions (count *cash and cash equivalents* and securities received by the *reporting fund* in the transaction, including securities borrowed by the *reporting fund* for short sales); (iii) *repo* or *reverse repo* (count the *cash and cash equivalents* and securities received by the *reporting fund);* (iv) negative mark-to-market of derivative transactions from the *reporting fund*'s point of view; and (v) the *gross notional value* of *synthetic long positions.*
bp	Basis points.
Cash and cash equivalents	Cash (including U.S. and non-U.S. currencies) and cash equivalents. For purposes of this definition, cash equivalents are: (i) bank deposits, certificates of deposit, bankers acceptances and similar bank instruments held for investment purposes; (ii) the net cash surrender value of an insurance policy; or (iii) investments in *money market funds.* <u>Do not</u> include any *digital asset* in *cash and cash equivalents.*
Cash borrowing entries	For Questions 26 and 41, the sum of amounts attributable to an individual counterparty included the entries on the following lines of the *reporting fund's consolidated counterparty exposure table*: (a) *unsecured borrowing – cash and cash equivalents,* (b)(i) *cash and cash equivalents* received by the *reporting fund* in margin loans and securities lending transactions, (c)(i) *cash and cash equivalents* received by the *reporting fund* related to *repo* and *reverse repo* (include tri-party repo), (d)(i) *cash and cash equivalents* received by the *reporting fund* related to other *secured borrowing,* (e)(i) - negative mark to market exposure of derivative positions cleared by a *CCP* and (f)(i) and (ii) *gross notional value* of *synthetic long positions* and negative mark to market exposure of uncleared derivative positions (not cleared by a *CCP*).

Cash lending entries	For Questions 26 and 41, the sum of amounts attributable to an individual counterparty included the entries on the following lines of the *reporting fund's consolidated counterparty exposure table*: (b)(i) - *cash and cash equivalents* posted by *reporting fund* to the counterparty in margin borrowing and securities lending transactions, (c)(i) - *cash and cash equivalents* posted by the *reporting fund* relating to *repo* and *reverse repo* (include tri-party repo), (d)(i) - *cash and cash equivalents* posted by the *reporting fund* relating to other *secured borrowing*, (e) (i) - positive mark to market exposure in derivative positions cleared by a *CCP*, and (f) (i) and (ii) - *gross notional value* of *synthetic short positions* and positive mark to market exposure in uncleared derivative positions (not cleared by a *CCP*).
CCP	Central clearing counterparties (or central clearing houses) (for example, CME Clearing, The Depository Trust & Clearing Corporation, Fedwire and LCH Clearnet Limited).
CDO	Collateralized debt obligations (including cash flow and synthetic). Do not include any positions held via *CDS* (these should be recorded in the *CDS* category).
CDS	Credit default swaps, including any *LCDS*.
CEA	U.S. Commodity Exchange Act, as amended.
CFTC	U.S. Commodity Futures Trading Commission.
CITS	Undertakings for Collective Investment in Transferable Securities, as defined in the UCITS Directive of the European Parliament and of the Council (No. 2009/65/EC), as amended, or as captured by the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019, as amended.
CLO	Collateralized loan obligations (including cash flow and synthetic) other than *MBS*. Do not include any positions held via *CDS* (these should be recorded in the *CDS* category).
Collateral posted entries	For Question 26, the sum of amounts attributable to an individual counterparty included the entries on the following lines of the *reporting fund's consolidated counterparty exposure table*: (b)(ii) - *cash and cash equivalents* posted by the *reporting fund* as collateral for derivatives under a cross-margining agreement; (b) (iii) - *government securities* and other securities posted by the *reporting fund* to the counterparty in margin borrowing, securities lending transactions, and as margin for derivatives under any cross-margining agreement;

(c)(ii) - *government securities* and other securities posted by the *reporting fund* relating to *repo* and *reverse repo* (include tri-party repo),
(d)(ii) - *government securities* and other securities posted by the *reporting fund* relating to other *secured borrowing*,
(e)(ii) and (iii) - *cash and cash equivalents, government securities* and other securities posted by the *reporting fund* as collateral relating to derivative positions cleared by a *CCP* and
(f)(iii) and (iv) - *cash and cash equivalents, government* securities and other securities posted by the reporting fund as collateral relating to uncleared derivative positions (not cleared by a *CCP)*.

For Question 41, entries on the following lines of the *reporting fund's counterparty credit exposure and collateral table*:
(b)(ii) - *cash and cash equivalents* posted by the *reporting fund* as collateral for derivatives under a cross-margining agreement;
(b) (iii), and (iv) *government securities* and other securities posted by the *reporting fund* to the counterparty in margin borrowing, securities lending transactions, and as margin for derivatives under any cross-margining agreement;
(c)(ii) and (iii) - *government securities* and other securities posted by the *reporting fund* relating to repo and reverse repo (include tri-party repo),
(d)(ii) and (iii) - *government securities* and other securities posted by the *reporting fund* relating to other secured borrowing,
(e)(ii), (iii) and (iv) - *cash and cash equivalents, government securities* and other securities posted by the *reporting fund* as collateral relating to derivative positions cleared by a *CCP* and
(f)(iii), (iv) and (v) - *cash and cash equivalents, government securities* and other securities posted by the *reporting fund* as collateral relating to uncleared derivative positions (not cleared by a *CCP*).

Collateral received entries

For Question 26, the sum of amounts attributable to an individual counterparty included the entries on the following lines of the *reporting fund's consolidated counterparty exposure table*:
(b)(ii) - *cash and cash equivalents* received by the *reporting fund* as collateral for derivatives under any cross-margining agreement;
(b)(iii) - *government securities* and other securities received by the *reporting fund* in cash margin borrowing and securities lending transactions,
(c)(ii) - *government securities* and other securities received by the *reporting fund* related to *repo* and *reverse repo* (include tri-party repo),
(d)(ii) - *government securities* and other securities received related to other *secured borrowing*,
(e)(ii) and (iii) – *cash and cash equivalents, government securities* and other securities received as collateral in derivative positions cleared by a *CCP* and
(f)(iii) and (iv) - *cash and cash equivalents, government securities* and other securities received as collateral in uncleared derivative positions (not cleared by a *CCP*).

For Question 41, entries on the following lines of the *reporting fund's*

	counterparty credit exposure and collateral table: (b)(ii) - *cash and cash equivalents* received by the *reporting fund* as collateral for derivatives under any cross-margining agreement; (b)(iii) and (iv) - *government securities* and other securities received by the *reporting fund* in cash margin borrowing and securities lending transactions, (c)(ii) and (iii) - *government securities* and other securities received by the *reporting fund* related to *repo* and *reverse repo* (include tri-party repo), (d)(ii) and (iii) - *government securities* and other securities received related to other *secured borrowing*, (e)(ii), (iii) and (iv) – *cash and cash equivalents, government securities* and other securities received as collateral in derivative positions cleared by a *CCP* and (f)(iii), (iv) and (v) - *cash and cash equivalents, government securities* and other securities received as collateral in uncleared derivative positions (not cleared by a *CCP*).
Combined money market and liquidity fund assets under management	With respect to any adviser, the sum of: (i) such adviser's *liquidity fund assets under management*; and (ii) such adviser's *regulatory assets under management* that are attributable to *money market funds* that it advises.
Committed capital	Any commitment pursuant to which a *person* is obligated to acquire an interest in, or make capital contributions to, the *private fund*.
Commodities	Has the meaning provided in the *CEA*. For questions regarding *commodities*, provide the *value* of all exposure to *commodities* that you hold physically, synthetically or through derivatives (whether cash or physically settled), or indirectly through another entity (e.g., through an *ETF, exchange traded product,* U.S. registered investment companies, *non-U.S. registered investment companies, internal private fund or external private fund, commodity pool*, or other company, fund or entity).
Commodity pool	A "commodity pool," as defined in section 1a(10) of the *CEA*.
Conditional demand feature	Has the meaning provided in *rule 2a-7*.
Consolidated counterparty exposure table	For hedge funds, other than *qualifying hedge funds*, the Section 1c table (at Question 26) that collects the *reporting fund's borrowing and collateral received* and *lending and posted collateral* aggregated across all creditors and counterparties as of the end of the *reporting period*. For *qualifying hedge funds*, the Section 2 table (at Question 41) that collects the *reporting fund's borrowing and collateral received* and *lending and posted collateral* aggregated across all creditors and counterparties as of the end of the *reporting period*.

Control	Has the meaning provided in *Form ADV*. The term *controlled* has a corresponding meaning.
Controlled portfolio company	With respect to any *private equity fund*, a portfolio company that is *controlled* by the *private equity fund*, either alone or together with the *private equity fund's affiliates* or other *persons* that are, as of the *data reporting date*, part of a club or consortium including the *private equity fund*.
Convertible bonds	Convertible *corporate bonds* (not yet converted into shares or cash). Include bond derivatives, but do not include any positions held via *CDS* (these should be recorded in the *CDS* category). Include positions held indirectly through another entity (e.g., through an *ETF, exchange traded product,* U.S. registered investment companies, *non-U.S. registered investment companies, internal private fund or external private fund, commodity pool*, or other company, fund or entity).
Corporate bonds	Bonds, debentures and notes, including commercial paper, issued by corporations and other non-governmental entities. Do not include preferred equities. Include bond derivatives, but do not include any positions held via *CDS* (these should be recorded in the *CDS* category). Include positions held indirectly through another entity (e.g., through an *ETF, exchange traded product,* U.S. registered investment companies, *non-U.S. registered investment companies, internal private fund or external private fund, commodity pool*, or other company, fund or entity).
Correlation derivative	A derivative transaction for which the underlying asset is the between the price or rate movements of two instruments.
CPO	A "commodity pool operator," as defined in section 1a(11) of the *CEA*.
Credit derivatives	*Single name CDS*, *index CDS* and *exotic CDS*.
Credit rating agency	Any nationally recognized statistical rating organizations, as that term is defined in section 3(a)(62) of the Securities Exchange Act of 1934.
CTA	A "commodity trading advisor," as defined in section 1a(12) of the *CEA*.
Daily liquid assets	Has the meaning provided in *rule 2a-7*.
Data reporting date	If you are a *large hedge fund adviser* or a *large liquidity fund adviser* responding to Items on this Form PF relating to any *hedge fund* or *liquidity fund*, the *data reporting date* is the last calendar day of the most recently completed calendar quarter for all Items on Form PF relating to such *hedge funds* and *liquidity funds*. If you are filing an initial filing or *annual update* for any other *private fund*, the *data reporting date* is the last calendar day of your most recently completed fiscal year.

Demand feature	Has the meaning provided in *rule 2a-7*.
Dependent parallel managed account	With respect to any *private fund*, any related *parallel managed account* other than a *parallel managed account* that individually (or together with other *parallel managed accounts* that pursue substantially the same investment objective and strategy and invest side by side in substantially the same positions) has a *gross asset value* greater than the *gross asset value* of such *private fund* (or, if such *private fund* is a *parallel fund*, the *gross asset value* of the *parallel fund structure* of which it is a part).
Digital asset	An asset that is issued and/or transferred using distributed ledger or blockchain technology ("distributed ledger technology"), including, but not limited to, so-called "virtual currencies," "coins," and "tokens."
EEA	European Economic Area. If the composition of the EEA has changed after the effective date of this Form PF, use the current composition of the EEA as of the data reporting date.
ETF	Exchange-traded fund.
Exchange traded products	An investment traded on a stock exchange that invests in underlying securities or assets, such as an *ETF* or exchange traded note.
Exempt reporting adviser	Has the meaning provided in *Form ADV*.
Exotic CDS	*CDS*s referencing bespoke baskets or tranches of *CDOs*, *CLOs* and other structured investment vehicles, including credit default tranches.
External private funds	*Private funds* that neither you nor your *related persons* advise.
Feeder fund	See *master-feeder arrangement*.
Financial industry portfolio company	Any of the following: (i) a nonbank financial company, as defined in the Financial Stability Act of 2010; or (ii) any bank, savings association, bank holding company, financial holding company, savings and loan holding company, credit union or other similar company regulated by a federal, state or foreign banking regulator, including the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the National Credit Union Administration or the Farm Credit Administration.
Firm	The *private fund adviser* completing or amending this Form PF.
Foreign exchange derivative	Any derivative whose underlying asset is a currency other than the base currency of the *reporting fund* or is an exchange rate. Cross-currency interest rate swaps and currency forwards should be included in *foreign exchange derivatives* and excluded from *interest rate derivatives*.

	If one leg of the *foreign exchange derivative* is the base currency of the *private fund*, only the foreign currency side of the transaction should be counted. If neither leg of the *foreign exchange derivative* is in the base currency, both legs should be counted.
Form ADV	Form ADV, as promulgated and amended by the *SEC*.
Form ADV Section 7.B.1	Section 7.B.1 of Schedule D to *Form ADV*.
G10	The Group of Ten. If the composition of the G10 has changed after the effective date of this Form PF, use the current composition of the G10.
Government entity	Has the meaning provided in *Form ADV*.
Government securities	Are: (i) *U.S. treasury securities*; (ii) *agency securities*; and (iii) any certificate of deposit for any of the foregoing.
Gross asset value	Value of gross assets, calculated in accordance with Part 1A, Instruction 6.e(3) of *Form ADV*.
Gross exposure	The sum of the absolute value of all of the *reporting fund's* long and short positions with legal and contractual rights to a *reference asset*.
Gross notional value	The nominal or notional value of all transactions that have been entered into but not yet settled as of the *data reporting date*. For contracts with variable nominal or notional principal amounts, the basis for reporting is the nominal or notional principal amounts as of the *data reporting date* computed as the number of shares or units of the underlying *reference asset* times current price on the *data reporting date*.
GSE bonds	Notes, bonds and debentures issued by private entities sponsored by the U.S. federal government but not guaranteed as to principal and interest by the U.S. federal government. Include GSE MBS. Include bond derivatives, but do not include any positions held via *CDS* (these should be recorded in the *CDS* category). Include positions held indirectly through another entity (e.g., through an *ETF, exchange traded product,* U.S. registered investment companies, *non-U.S. registered investment companies, internal private fund or external private fund, commodity pool*, or other company, fund or entity).
Guarantee	For purposes of Question 66, has the meaning provided in paragraph (a)(16)(i) of *rule 2a-7*.
Guarantor	For purposes of Question 66, the provider of any *guarantee*.
Hedge fund	Any *private fund* (other than a *securitized asset fund*): (a) with respect to which one or more investment advisers (or related persons of investment advisers) may be paid a performance fee or

allocation calculated by taking into account unrealized gains (other than a fee or allocation the calculation of which may take into account unrealized gains solely for the purpose of reducing such fee or allocation to reflect net unrealized losses);

(b) that may borrow an amount in excess of one-half of its net asset value (including any committed capital) or may have gross notional exposure in excess of twice its net asset value (including any committed capital); or

(c) that may sell securities or other assets short or enter into similar transactions (other than for the purpose of hedging currency exposure or managing duration).

Solely for purposes of this Form PF, any commodity pool about which you are reporting or required to report on Form PF is categorized as a hedge fund. For purposes of this definition, do not net long and short positions. Include any borrowings or notional exposure of another person that are guaranteed by the private fund or that the private fund may otherwise be obligated to satisfy.

Hedge fund assets under management — With respect to any adviser, *hedge fund assets under management* are the portion of such adviser's *regulatory assets under management* that are attributable to *hedge funds* that it advises.

Illiquid security — Has the meaning provided in *rule 2a-7*.

Index CDS — *CDSs* referencing a standardized basket of credit entities, including *CDS* indices and indices referencing leveraged loans.

Individual counterparty exposure table — The tables at Questions 42 and 43 that collect the *reporting fund's borrowing and collateral received* and *lending and posted collateral* for each identified creditors and other counterparties as of the end of the *reporting period*.

Inflation derivative — A derivative transaction for which the underlying asset is the rate of inflation in a given country, or the price or yield of inflation-linked debt securities.

Instrument type — The instrument types specified by Question 32.

Interest rate derivative — Any derivative whose underlying asset is the obligation to pay or the right to receive a given amount of money accruing interest at a given rate. Cross-currency interest rate swaps should be included in *foreign exchange derivatives* and excluded from *interest rate derivatives*.
This information must be presented in terms of the *10-year bond equivalents*.

Internal private funds — *Private funds* that you or any of your *related persons* advise.

Investment grade — A security is *investment grade* if it is sufficiently liquid that it can be sold at or near its carrying value within a reasonably short period of time and is subject to no greater than moderate credit risk.

Internal rate of return — The discount rate that causes the net present value of all cash flows throughout the life of the fund to be equal to zero. *See also, rate of return*.

Investments in non-U.S. registered investment companies	Investments in investment companies (other than *private funds, money market funds* and *ETFs*) organized outside the U.S. and not registered as investment companies under the Investment Company Act of 1940.
Investments in other sub-asset classes	Any investment not included in another *sub-asset class.*
ISDA	International Swaps and Derivatives Association
Large hedge fund adviser	Any *private fund adviser* that is required to file Section 2 of Form PF for a *qualifying hedge fund.* See Instruction 3 to determine whether you are required to file this section.
Large liquidity fund adviser	Any *private fund adviser* that is required to file Section 3 of Form PF. See Instruction 3 to determine whether you are required to file this section.
Large private equity adviser	Any *private fund adviser* that is required to file Section 4a of Form PF. See Instruction 3 to determine whether you are required to file this section.
Large private fund adviser	Any *large hedge fund adviser*, *large liquidity fund adviser* or *large private equity adviser*.
LCDS	Loan credit default swaps.
LEI	With respect to any company, the "legal entity identifier" assigned by or on behalf of an internationally recognized standards setting body and required for reporting purposes by the U.S. Department of the Treasury's Office of Financial Research or a financial regulator. Do not substitute any other identifier that does not meet this definition.
Lending and posted collateral (L/PC)	The mark-to-market value, as of the *data reporting date*, of the following: (i) *cash and cash equivalents* received by a counterparty from the *reporting fund* with the obligation to repay (exclude portfolio investments), (ii) securities borrowed or received by a counterparty in a *reverse repo* or securities lending transaction, (iii) collateral posted by the *reporting fund* to a counterparty, (iv) positive mark-to-market value of derivatives (from the reporting fund's point of view) and (v) gross notional value of *synthetic short positions*. Do not include in lending and posted collateral any portfolio holdings or transactions for investment purposes, such as debt or equity securities issued by a counterparty, or the credit exposure of the *reporting fund* obtained by making secured or unsecured loans or similar transactions as part of the *reporting fund's* investment strategy. For example, in the case of an option on a debt security, report counterparty credit exposure in respect of the positive or negative mark-to-market value of the option and associated posted collateral; do not report the credit risk of the underlying debt security.
Leveraged loans	Loans that are made to entities whose senior unsecured long term indebtedness is non-investment grade. This may include loans made in

	connection with the financing structure of a leveraged buyout. Do not include any positions held via LCDS (these should be recorded in the CDS category). Include positions held indirectly through another entity (e.g., through an ETF, exchange traded product, U.S. registered investment companies, non-U.S. registered investment companies, internal private fund or external private fund, commodity pool, or other company, fund or entity).
Liquidity fund	Any private fund that seeks to generate income by investing in a portfolio of short term obligations in order to maintain a stable net asset value per unit or minimize principal volatility for investors.
Liquidity fund assets under management	With respect to any adviser, *liquidity fund assets under management* are the portion of such adviser's *regulatory assets under management* that are attributable to *liquidity funds* it advises (including *liquidity funds* that are also *hedge funds*).
Listed equity	Equities, including preferred equities, listed on a regulated exchange. Include synthetic or derivative exposures to equities. Include positions held indirectly through another entity (e.g., through an *ETF, exchange traded product,* U.S. registered investment companies, *non-U.S. registered investment companies, internal private fund or external private fund, commodity pool*, or other company, fund or entity).
Listed equity derivatives	All synthetic or derivative exposures to equities, including preferred equities, listed on a regulated exchange. Include *e.g.*, single stock futures, equity index futures, derivatives relating to ADRs, and other derivatives relating to indices on *listed equities*, dividend swaps, total return swaps (contracts for difference), warrants and rights.
LV	*Value* of long positions, measured as specified in Instruction 15.
Master fund	See *master-feeder arrangement*.
Master-feeder arrangement	An arrangement in which one or more funds (*"feeder funds"*) invest all or substantially all of their assets in a single *private fund* (*"master fund"*). A fund would also be a *feeder fund* investing in a *master fund* for purposes of this definition if it issued multiple classes (or series) of shares or interests and each class (or series) invests substantially all of its assets in a single *master fund*.
Maturity	The maturity of the relevant asset, determined without reference to the maturity shortening provisions contained in paragraph (i) of *rule 2a-7* regarding interest rate readjustments.
MBS	Mortgage backed securities, including residential, commercial and agency. Do not include any positions held via *CDS* (these should be recorded in the *CDS* category).

Money market fund	Has the meaning provided in *rule 2a-7*.
NAICS code	With respect to any company, the six-digit North American Industry Classification System code that best describes the company's primary business activity and principal source of revenue. If the company reports a business activity code to the U.S. Internal Revenue Service, you may rely on that code for this purpose.
Net asset value or *NAV*	With respect to any *reporting fund*, the gross assets reported in response to Question 12 minus any outstanding indebtedness or other accrued but unpaid liabilities.
Net assets under management	*Net assets under management* are your *regulatory assets under management* minus any outstanding indebtedness or other accrued but unpaid liabilities.
Netted exposure	The *reporting fund's* exposure to a *reference asset,* after netting under instructions at Question 39.
NFA	The National Futures Association.
Non-investment grade	A security is *non-investment grade* if it is not an *investment grade* security.
Non-U.S. financial institution	Any of the following: (i) a financial institution chartered outside the United States; (ii) a financial institution that is separately incorporated or otherwise organized outside the United States but has a parent that is a financial institution chartered in the United States; or (iii) a branch or agency that resides in the United States but has a parent that is a financial institution chartered outside the United States.
OTC	With respect to any instrument, the trading of that instrument over the counter.
Other ABS	*ABS* products that are not covered by another *sub-asset class*.
Other commodities	*Commodities* other than agriculture, base metals, crude oil, natural gas, gold, other (non-gold) precious metals, and power and other energy commodities. For questions regarding *other commodities*, provide the *value* of all exposure to *other commodities* that you hold physically, synthetically or through derivatives (whether cash or physically settled), and positions held indirectly through another entity (e.g., through an *ETF, exchange traded product,* U.S. registered investment companies, *non-U.S. registered investment companies, internal private fund or external private fund, commodity pool*, or other company, fund or entity).
Other derivatives	Any derivative not included as another *instrument type or sub-asset class*.
Other loans	All loans other than *leveraged loans*. *Other loans* includes (but is not limited to) bilateral or syndicated loans to corporate entities.

Other private fund	Any *private fund* that is not a *hedge fund, liquidity fund, private equity fund, real estate fund, securitized asset fund* or *venture capital fund.*
Other structured products	Any *structured products* not included in another *sub-asset class.* Do not include any positions held via *CDS* (these should be recorded in the *CDS* category).
Parallel fund	See *parallel fund structure.*
Parallel fund structure	A structure in which one or more *private funds* (each, a "*parallel fund*") pursues substantially the same investment objective and strategy and invests side by side in substantially the same positions as another *private fund.*
Parallel managed account	With respect to any *private fund*, a *parallel managed account* is any managed account or other pool of assets that you advise and that pursues substantially the same investment objective and strategy and invests side by side in substantially the same positions as the identified *private fund.*
Person	Has the meaning provided in *Form ADV.*
Position calculated value	The value of a portfolio position using the most recent price or value available for purposes of managing the investment portfolio. Where a given position is valued less frequently than daily, the last price used should be carried forward, though a current foreign exchange rate may be applied if the position is not valued in the *reporting fund's* base currency. *Position calculated values* do not need to be subjected to fair valuation procedures. The *position calculated value* may be calculated using the adviser's own internal methodologies and conventions of the adviser's service providers, provided that these are consistent with information reported internally.
Principal office and place of business	Has the meaning provided in *Form ADV.*
Private equity fund	Any *private fund* that is not a *hedge fund, liquidity fund, real estate fund, securitized asset fund* or *venture capital fund* and does not provide investors with redemption rights in the ordinary course.
Private equity fund assets under management	With respect to any adviser, *private equity fund assets under management* are the portion of such adviser's *regulatory assets under management* that are attributable to *private equity funds* it advises.
Private fund	Any issuer that would be an investment company as defined in section 3 of the Investment Company Act of 1940 but for section 3(c)(1) or 3(c)(7) of that Act. If any *private fund* has issued two or more series (or classes) of equity interests whose values are determined with respect to separate portfolios of securities and other assets, then each such series (or class) should be regarded as a separate *private fund.* This only applies with respect to series (or classes)

that you manage as if they were separate funds and not a fund's side pockets or similar arrangements.

Private fund adviser — Any investment adviser that (i) is registered or required to register with the *SEC* (including any investment adviser that is also registered or required to register with the *CFTC* as a *CPO* or *CTA*) and (ii) advises one or more *private funds*.

Private fund assets under management — With respect to any adviser, *private fund assets under management* are the portion of such adviser's *regulatory assets under management* that are attributable to *private funds* it advises.

Qualifying hedge fund — Any *hedge fund* that has a *net asset value* (individually or in combination with any *feeder funds, parallel funds* and/or *dependent parallel managed accounts*) of at least $500 million as of the last day of any month in the fiscal quarter immediately preceding your most recently completed fiscal quarter. In determining whether a *hedge fund* meets this threshold, you may exclude the fund's investments in other *private funds* (including *internal private funds* and *external private funds*).

Quarterly update — An update of this Form PF with respect to any fiscal quarter.

Rate of return — For a *reporting fund*, the *rate of return* is the percentage change in the *reporting fund aggregate calculated value* in the *reporting fund*'s base currency from one date to another and adjusted for subscriptions and redemptions. For a portfolio position, the *rate of return* is the percentage change in the *position calculated value*, adjusted for income earned. *See also, internal rate of return.*

Real estate fund — Any *private fund* that is not a *hedge fund*, that does not provide investors with redemption rights in the ordinary course and that invests primarily in real estate and real estate related assets.

Reference asset — A security or other investment asset to which the *reporting fund* is exposed through direct ownership (*i.e.*, a physical or cash position), synthetically (*i.e.*, the subject of a derivative or similar instrument held by the *reporting fund*), or indirect ownership *(e.g., through ETFs,* other *exchange traded products,* U.S. registered investment companies, *non-U.S. registered investment companies, internal private funds, external private funds, commodity pools,* or other companies, fund or entities. In the case of futures contracts permitting multiple deliverable assets, the *reference asset* should be the then-current cheapest to deliver instrument. You may identify the *reporting fund's reference assets* according to your internal methodologies and the conventions of service providers, provided that these methodologies and conventions are consistently applied and do not conflict with any instructions or guidance relating to this Form, and reported information is consistent with information you report internally and to investors and counterparties.

Regulatory assets under management	Regulatory assets under management, calculated in accordance with Part 1A, Instruction 5.b of *Form ADV*.
Related person	Has the meaning provided in *Form ADV*.
Repo	Any purchase of securities coupled with an agreement to sell the same (or similar) securities at a later date at an agreed upon price (*i.e.*, a "securities in" transaction). Do not include any positions held via *CDS* (these should be recorded in the *CDS* category).
Reporting fund	A *private fund* as to which you must report information on Form PF. Typically, each *private fund* is a *reporting fund*.
Reporting fund aggregate calculated value	Calculated in U.S. dollars (or the *reporting fund*'s base currency, if specified in a question). Every position in the *reporting fund's* portfolio, including *cash and cash equivalents*, with the most recent price or value applied to the position for purposes of managing the investment portfolio. Where one or more portfolio positions are valued less frequently than daily, the last price used should be carried forward, though a current foreign exchange rate may be applied if the position is not valued in U.S. dollars or the *reporting fund*'s base currency, as required. It is not necessary to adjust the *reporting fund aggregate calculated value* for accrued fees or expenses. *Reporting fund aggregate calculated values* do not need to be subjected to fair valuation procedures. The inclusion of income accruals is recommended but not required; however, the approach should be consistent over time. The *reporting fund aggregate calculated value* may be calculated using the adviser's own internal methodologies and conventions of the adviser's service providers, provided that these are consistent with information reported internally.
Reporting period	With respect to an *annual update*, the twelve month period ending on the *data reporting date*. With respect to a *quarterly update*, the three month period ending on the *data reporting date*.
Reverse repo	Any sale of securities coupled with an agreement to repurchase the same (or similar) securities at a later date at an agreed upon price (*i.e.*, a "securities out" transaction).
Risk limiting conditions	The conditions specified in paragraphs (d) of *rule 2a-7*.
RSSD ID	The identifier assigned by the National Information Center of the Board of Governors of the Federal Reserve System, if any.
Rule 2a-7	Rule 2a-7 promulgated by the *SEC* under the Investment Company Act of 1940.
SEC	U.S. Securities and Exchange Commission.

Secured borrowing	Obligations for borrowed money in respect of which the borrower has posted collateral or other credit support. For purposes of this definition, *reverse repos* are *secured borrowings*.
Securities lending collateral	Cash pledged to the *reporting fund's* beneficial owners as collateral in respect of securities lending arrangements.
Securitized asset fund	Any *private fund* whose primary purpose is to issue asset backed securities and whose investors are primarily debt-holders.
Separately operated	For purposes of this Form, a *related person* is *separately operated* if you are not required to complete Section 7.A. of Schedule D to *Form ADV* with respect to that *related person*.
Single name CDS	*CDSs* referencing a single entity. Includes sovereign *single name CDS*, financial institution *single name CDS*, and other *single name CDS*.
Sovereign bonds	Any notes, bonds and debentures issued by a national government (including central governments, other governments and central banks but excluding U.S. state and local governments), whether denominated in a local or foreign currency. Include bond derivatives, but do not include any positions held via *CDS* (these should be recorded in the *CDS* category). Include positions held indirectly through another entity (e.g., through an *ETF*, *exchange traded product*, U.S. registered investment companies, *non-U.S. registered investment companies*, *internal private fund or external private fund*, *commodity pool*, or other company, fund or entity).
Structured products	Pre-packaged investment products, typically based on derivatives and including structured notes.
Sub-asset class	Each sub-asset class identified in Question 32.
Synthetic long position	A total return derivative or similar contract under which (i) the *reporting fund* receives returns of a risky reference asset in exchange for paying the returns of a different, riskless reference asset, or (ii) the *reporting fund* sells deep-in-the-money puts on a risky reference asset in exchange for an option premium. Total return derivatives may include, for example, a derivative that receives the total return or credit spread of equity or debt securities issued by individual issuers, or baskets or indices of such securities, including swaps, forwards, deep-in-the-money options and credit default swaps which receive the credit spread (also sometimes described as "short credit protection"). Exclude total return derivatives that have been cleared through a *CCP*; include uncleared *OTC* derivative positions only. Include derivatives providing the return of equity securities, real estate, *digital assets*, commodities, sovereign bonds, corporate bonds, municipal

	bonds, and other assets. Do not include *interest rate derivatives, volatility derivatives, variance derivatives* or *foreign exchange derivatives*. Do not include deep-in-the-money call options purchased by the *reporting fund* if the *reporting fund* has already paid the option premium in full, but include them if the premium is being paid over time.
Synthetic short position	A total return derivative or similar contract under which (i) the *reporting fund* pays returns of a risky reference asset in exchange for receiving the returns of a different, riskless reference asset, or (ii) the *reporting fund* sells deep-in-the-money calls on a risky reference asset in exchange for an option premium. Total return derivatives may include, for example, a derivative where the fund pays the total return or credit spread of equity or debt securities issued by individual issuers, or baskets or indices of such securities, including swaps, forwards, deep-in-the-money options, and credit default swaps which pay the credit spread (also sometimes described as "long credit protection"). Exclude total return derivatives that have been cleared through a *CCP*; include uncleared *OTC* derivative positions only. Include derivatives where the fund pays the return of equity securities, real estate, *digital assets*, commodities, sovereign bonds, corporate bonds, municipal bonds and other assets. Do not include *interest rate derivatives, volatility derivatives, variance derivatives* or *foreign exchange derivatives*. Do not include deep-in-the-money put options purchased by the *reporting fund* if the *reporting fund* has already paid the option premium in full; do include them if the premium is being paid over time.
Trading vehicle	A separate legal entity, wholly-owned by one or more *reporting funds,* that holds assets, incurs leverage, or conducts trading or other activities as part of a *reporting fund's* investment activities but does not operate a business.
U.S. depository institution	Any U.S. domiciled depository institution, including any of the following: (i) a depository institution chartered in the United States, including any federally-chartered or state-chartered bank, savings bank, cooperative bank, savings and loan association, or an international banking facility established by a depositary institution chartered in the United States; (ii) banking offices established in the United States by a financial institution that is not organized or chartered in the United States, including a branch or agency located in the United States and engaged in banking not incorporated separately from its financial institution parent, United States subsidiaries established to engage in international business, and international banking facilities; (iii) any bank chartered in any of the following United States affiliated areas: U.S. territories of American Samoa, Guam, and the U.S. Virgin Islands; the Commonwealth of the Northern Mariana Islands; the Commonwealth of Puerto Rico; the Republic of the Marshall Islands; the Federated States of Micronesia; and the Trust Territory of the Pacific Islands (Palau); or (iv) a credit union (including a natural person or corporate credit union).

U.S. financial institution	Any of the following: (i) a financial institution chartered in the United States (whether federally-chartered or state-chartered); (ii) a financial institution that is separately incorporated or otherwise organized in the United States but has a parent that is a financial institution chartered outside the United States; or (iii) a branch or agency that resides outside the United States but has a parent that is a financial institution chartered in the United States.
U.S. treasury securities	Direct obligations of the U.S. Government. Include *U.S. treasury security* derivatives Include positions held indirectly through another entity (e.g., through an *ETF, exchange traded product,* U.S. registered investment companies, *non-U.S. registered investment companies, internal private fund or external private fund, commodity pool,* or other company, fund or entity).
Unencumbered cash	The sum of the *private fund*'s (i) *cash and cash equivalents, (ii) government securities, and (iii)* the *value* of overnight *repos* used for liquidity management where the assets purchased are *U.S. treasury securities* or *agency securities* minus the sum of the following (without duplication): (i) *cash and cash equivalents* and *government securities* transferred to a collateral taker pursuant to a title transfer arrangement; and (ii) *cash and cash equivalents* and *government securities* subject to a security interest, lien or other encumbrance (this could include *cash and cash equivalents* and *government securities* in an account subject to a control agreement).
Unfunded commitments	*Committed capital* that has not yet been contributed to the *reporting fund* by investors.
United States person	Has the meaning provided in rule 203(m)-1 under the Advisers Act, which includes any natural person that is resident in the United States.
Unlisted equity	Equities, including preferred equities,that are not listed on a regulated exchange. Include synthetic or derivative exposures to equities and positions held indirectly through another entity (e.g., through an *ETF, exchange traded product,* U.S. registered investment companies, *non-U.S. registered investment companies, internal private fund or external private fund, commodity pool,* or other company, fund or entity).
Unsecured borrowing	Obligations for borrowed money in respect of which the borrower has not posted collateral or other credit support.
Value	See Instruction 15.
VaR	For a given portfolio, the loss over a target horizon that will not be exceeded at some specified confidence level.
Variance derivative	A derivative transaction for which the underlying asset is the price or yield variance of one or more assets or indices.

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Venture capital fund	Any *private fund* meeting the definition of venture capital fund in rule 203(l)-1 of the *Advisers Act*.
Volatility derivative	A derivative transaction for which the underlying asset is the price or yield volatility of one or more assets or indices.
WAL	Weighted average portfolio maturity of a *liquidity fund* calculated taking into account the maturity shortening provisions contained in paragraph (i) of *rule 2a-7*, but determined without reference to the exceptions in paragraph (i) of *rule 2a-7* regarding interest rate readjustments.
WAM	Weighted average portfolio maturity of a *liquidity fund* calculated taking into account the maturity shortening provisions contained in paragraph (i) of *rule 2a-7*.
Weekly liquid assets	Has the meaning provided in *rule 2a-7*.

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Note: The following Commodity Futures Trading Commission (CFTC) appendices will not appear in the Code of Federal Regulations.

CFTC Appendices to Amendments to Form PF To Amend Reporting Requirements for All Filers and Large Hedge Fund Advisers—CFTC Voting Summary and Commissioners' Statements

CFTC Appendix 1—Voting Summary

On this matter, Chairman Behnam and Commissioners Johnson and Goldsmith Romero voted in the affirmative. Commissioners Mersinger and Pham voted in the negative.

CFTC Appendix 2—Statement of Chairman Rostin Behnam

I appreciate all of the hard work of the staff in the Commodity Futures Trading Commission's Market Participants Division as well as the staff at the Securities and Exchange Commission, the Department of the Treasury, the Federal Reserve Board, and the Financial Stability Oversight Council for their work on this proposal. I look forward to the public's thoughtful comments on the proposal to improve the usefulness of Form PF.

CFTC Appendix 3—Statement of Commissioner Kristin N. Johnson

Transparency is an integral component of the regulatory framework that ensures the safety and soundness and enduring preeminence our financial markets.

Working in collaboration with our colleagues at the Securities and Exchange Commission (SEC) to enhance oversight and improve visibility through thoughtfully designed and well-calibrated collection approaches is consistent with our mission and statutory mandate—to ''insure the financial integrity of all transactions subject to this Act and the avoidance of systemic risk.'' [398]

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) [399] incorporated innovative regulatory features for promoting the stability of the US financial system, including establishing the Financial Stability Oversight Council (FSOC) to monitor for emerging systemic risks that could significantly impact our financial markets and American consumers.[400]

Today's proposal seeks to further our commitment to achieving these values. Consequently, I support issuing for comment the proposal to amend Form PF, and look forward to the thoughtful, substantive contributions that the proposed amendments will engender.

Congress in drafting the Dodd-Frank Act recognized that risks with systemic import are best monitored through collaboration amongst the US financial regulators, each with distinct regulatory mandates, and leveraging their resources and expertise to support FSOC's overarching responsibilities. Form PF reflects these statutory qualities. As directed by the Dodd-Frank Act, the Commission and SEC in 2011 jointly issued rules to provide FSOC with important information about private fund operations and strategies through Form PF.[401]

The private fund industry has only grown in size and importance since 2011. In the third quarter of 2021, private funds reported a staggering $12 trillion of assets on Form PF.[402] The sheer aggregate size of private funds signifies the potential for events in this industry to produce reverberating effects on the integrity of our financial markets and, in turn, remarkably influence the welfare of American consumers. Form PF over the last decade has provided financial regulators with needed transparency into this potentially systemically significant sector of the financial system.[403]

I support the Commissions' endeavor to build on data collection points that need clarity and to propose revisions in response to changes in financial markets as well as market participants and regulators' experience with Form PF as a tool for gathering information. Over the last decade, private funds have adopted new practices, investment strategies and an appetite for investing in non-traditional assets.[404] The proposed revisions to Form PF aim to adapt to these developments as informed by experience in administering Form PF.

Notwithstanding these important gains, I note that it will be important to hear from and consider the concerns raised by all stakeholders, including for example, concerns regarding the costs and challenges of reporting, particularly for smaller entities. I anticipate the proposal to amend Form PF will engender important substantive contributions that will refine our understanding of the benefits of data collection, enhance transparency, and improve our ability to preserve the integrity of our markets.

CFTC Appendix 4—Statement of Commissioner Christy Goldsmith Romero

As a U.S. financial markets regulator and a member of the Financial Stability Oversight Council (''FSOC''), the Commission has a

[398] Section 3(b) of the Commodity Exchange Act, 7 U.S.C. 5(b).

[399] Public Law 111–203, 124 Stat. 1376 (2010).

[400] *See* Sections 111 and 120 of the Dodd-Frank Act.

[401] Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF, 76 FR 71128, 71129 (Nov. 16, 2011).

[402] Amendments to Form PF to Amend Reporting Requirements for All Filers and Large Hedge Fund Advisers (Voting Copy—As approved by the Commodity Futures Trading Commission on 8/10/2022) (Proposed Rules) at 8 n.7, *https://www.cftc.gov/media/7536/votingdraft081022Parts275and279/download*.

[403] *See* Proposed Rules at 150.

[404] Proposed Rules at 7–8.

critical responsibility to monitor, identify, and respond to systemic risks and emerging threats to U.S. financial stability. I support the proposed amendments to Form PF because they will enhance one of the Commission's tools to fulfill that critical responsibility and facilitate our regulatory oversight of private funds.[1]

One lesson from the financial crisis was the risk of contagion to U.S. financial markets from private-fund activities, strategies, and exposures, including those related to novel or complex derivatives. This was evident with the failure of Bear Stearns' structured credit funds in the lead-up to the financial crisis, and more recently, with the failure of Archegos Capital Management. These examples, and others, highlight the necessity for U.S. financial regulators to have visibility into funds' activities and exposures to fulfill their regulatory responsibilities and ultimately, to prevent or mitigate the buildup of systemic risk in the U.S. financial system.

This proposal marks important coordination with the Securities and Exchange Commission (''SEC'') to enhance joint reporting requirements and guard against hidden risks in the U.S. financial system.

The CFTC and SEC embark on this proposed rulemaking after nearly a decade of experience of private fund reporting.[2] It is particularly appropriate to revisit our reporting framework given that, as U.S. financial markets have evolved over the past decade, the private fund space has grown and evolved in tandem. This is why we seek public comment on new or revised areas of data—including those intended to provide further insight into complex structures, new types of instruments, identification data, redemption and withdrawal rights, ownership, and counterparty exposures, among other subjects. It is also important that we collect information on fund exposure to digital assets in order to understand evolving market risk.

Our objective is to increase the usefulness of the data collected; to ensure that it is actually used as Congress intended to bring transparency to risk previously hidden. I look forward to reviewing public comment on whether the proposal would meet our objective.

Thank you to Commission staff for working with my office to improve the proposal to facilitate effective oversight by the CFTC. I commend staff from both agencies on this proposal, and on future information sharing, that will promote the financial stability of U.S. financial markets.

[1] The data collected also supports the CFTC's supervision, examinations, enforcement investigations, and customer protections.

[2] The Dodd-Frank Wall Street Reform and Consumer Protection Act, section 112, Public Law 111–203, 124 Stat. 1376 (2010) (the ''Dodd-Frank Act''), required the SEC and CFTC to establish joint rules in furtherance of the FSOC's critical mission to monitor systemic risk through the creation of Form PF. *See* Section 406 of the Dodd-Frank Act. Since 2012, private fund advisers, including certain commodity pool operators and commodity trading advisors that are dually-registered with both the CFTC and SEC, have been required to file reports regarding their operations and holdings through Form PF. *See also* Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF, 76 FR 71128 (Nov. 16, 2011).

CFTC Appendix 5—Dissenting Statement of Commissioner Summer K. Mersinger

I am respectfully voting to dissent on the joint SEC/CFTC proposed rulemaking to amend Form PF, the confidential reporting form for certain SEC-registered investment advisers to private funds. The class of registered investment advisers required to submit Form PF includes those that also are registered with the CFTC as commodity pool operators or commodity trading advisors.

As I previously stated in my concurrence to the CFTC's recent Request for Information on Climate-Related Financial Risk (''Climate RFI''),[1] I support efforts to engage market participants, industry, and the general public in our policy-making process. And I agree that after a decade of experience with Form PF, it is appropriate to evaluate possible amendments. If improvements can be made that would enable us to collect more efficiently data that we truly need to fulfill our responsibilities, while reducing unnecessary burdens on those required to supply that data, we should consider them.

However, I do not support this particular proposal. Data and information that federal regulators request from market participants should be narrowly tailored to the purpose intended under our governing statutes, and unfortunately, that does not appear to be the overall approach in this proposal. I am even more concerned that constructive input the agencies already have received over the years from market participants that actually complete Form PF receives little attention in the proposal.

I look forward to receiving the public's comments, which I hope will inform the Commissions' consideration of final amendments to Form PF that provide for the collection of necessary data as efficiently as possible.

[1] See Concurring Statement of Commissioner Summer K. Mersinger Regarding Request for Information on Climate-Related Financial Risk (June 2, 2022), available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/mersingerstatement060222.*

CFTC Appendix 6—Dissenting Statement of Commissioner Caroline D. Pham

I respectfully dissent from the proposed amendments to the Reporting Form for Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors (Form PF). The proposed joint amendments, an action of the CFTC as well as the SEC, seem to impose overly broad obligations that would be unnecessarily burdensome and would present potentially significant operational challenges and costs without a persuasive cost-benefit analysis under the Commodity Exchange Act (CEA).[1] In a time of economic challenges, including rising inflation, we must be careful when considering proposals that could inhibit positive economic activity that supports American businesses and jobs. I look forward to hearing from commenters as to the proposed amendments, including practical implementation issues and the relative costs and benefits of the proposal.

[FR Doc. 2022–17724 Filed 8–31–22; 8:45 am]

BILLING CODE 8011–01–P 6351–01–P

[1] 7 U.S.C. 19.

FEDERAL REGISTER

Vol. 87 Thursday,

No. 169 September 1, 2022

Part III

Federal Reserve System

12 CFR Part 265

Rules Regarding Delegation of Authority; Final Rule

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R–1778]

RIN No. 7100–AG 37

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Final rule.

SUMMARY: The Board is adopting a final rule that revises its rules regarding delegation of authority. The final rule codifies and revises delegations of authority previously approved by the Board, makes technical changes, and rescinds moot or superseded delegations.

DATES: Effective September 1, 2022.

FOR FURTHER INFORMATION CONTACT: Alison Thro, Deputy Associate General Counsel, (202) 452–3236; Amory Goldberg, Senior Counsel, (202) 452–3124; Andrew Hartlage, Senior Counsel, (202) 452–6483; Derald Seid, Senior Counsel, (202) 452–2246; David Imhoff, Attorney, (202) 452–2249; or Jasmin Keskinen, Attorney, (202) 475–6650, Legal Division; Vaishali Sack, Deputy Associate Director, (202) 452–5221, or Dana Burnett, Assistant Director, (202) 973–7317, Division of Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th Street and C Street NW, Washington, DC 20551. For users of TTY–TRS, please call 711 from any telephone, anywhere in the United States.

SUPPLEMENTARY INFORMATION:

I. Background

Section 11(k) of the Federal Reserve Act authorizes the Board to delegate, by published order or rule and subject to the Administrative Procedure Act, any of its functions, other than those related to rulemaking or pertaining principally to monetary and credit policies, to one or more administrative law judges, members or staff of the Board, or the Reserve Banks.[1] The Board has delegated authority to Board members (in their individual capacity and as chairs of committees of the Board), Board staff, and the Federal Reserve Banks to take certain actions under the various statutes that the Board administers. The Board's Rules Regarding Delegation of Authority (delegation rules) implement section 11(k) of the Federal Reserve Act and enumerate the actions that the Board has determined to delegate. By delegating actions that do not raise significant legal, supervisory, or policy issues, the Board can respond more efficiently to applications, requests, and other matters.

The last comprehensive revision of the delegation rules was in 1991.[2] By revising the delegation rules as described below, the final rule enhances transparency, improves usability, and relieves burden on regulated institutions, practitioners before the Board, and Federal Reserve staff.

I. Codifications, Technical Changes, and Rescissions

Since 1991, the Board has approved several additional delegations in connection with statutory and regulatory changes and in the light of supervisory experience. Many delegations of authority are codified in the delegation rules (codified delegations), and many others have not yet been incorporated into the delegation rules (uncodified delegations). The final rule incorporates the uncodified delegations into the delegation rules. Table 1 below lists these delegations, identifies the delegatee, and notes where within the delegation rules the delegations will be incorporated:

TABLE 1—UNCODIFIED DELEGATIONS TO BE INCORPORATED INTO THE DELEGATION RULES

Citation section:	*Short description:*	*Delegated to:*
Functions delegated to Board members or staff within the Division of Board Members		
265.4(a)(1)	To appoint a first and second alternate director to the Board of Directors of the Bank for International Settlements.	Chair.
265.4(a)(2)	To make authorizations and determinations regarding Term Deposit Facility test operations.	Chair.
265.4(a)(3)(i)	Periodic reports to Congress under section 13(3)(C)(ii) of the Federal Reserve Act (12 U.S.C. 343(3)(C)(ii)).	Chair.
265.4(a)(3)(ii)	Seven-day reports to Congress under section 13(3)(C)(i) of the Federal Reserve Act (12 U.S.C. 343(3)(C)(ii)).	Chair.
265.4(b)(1)	To act on requests for extensions of State member banks' and bank holding companies' advanced approaches first floor period start dates.	Chair of the Committee on Supervision and Regulation (CSR).
265.4(c)	To grant or deny requests from the Federal Reserve Banks for exceptions to the Board's policies on Federal Reserve Bank directors.	Chair of the Committee on Federal Reserve Bank Affairs.
265.4(g)	To approve and submit the annual report to Congress concerning the Board's compliance with Small Business Regulatory Enforcement Fairness Act's requirements.	Assistant to the Board, Congressional Liaison Office, Division of Board Members.
Functions delegated to the Secretary of the Board		
265.5(a)(5)	To grant or deny procedural motions arising after an administrative case has been forwarded to the Board for final decision.	Secretary of the Board.
265.5(b)(3)	To file reports on rulemakings with Congress and the GAO under Small Business Regulatory Enforcement Fairness Act (often referred to as the "Congressional Review Act").	Secretary of the Board.

[1] 12 U.S.C. 248(k).

[2] Delegations of Authority, 56 FR 25614 (June 5, 1991).

TABLE 1—UNCODIFIED DELEGATIONS TO BE INCORPORATED INTO THE DELEGATION RULES—Continued

Citation section:	*Short description:*	*Delegated to:*
265.5(c)(2)	To take actions that a Reserve Bank could take but for a director interlock at a savings and loan holding company (SLHC).	Secretary of the Board.
265.5(c)(4)(i)	To approve certain requests related to an SLHC in mutual form.	Secretary of the Board.
265.5(c)(4)(ii)	To approve a request to deregister as an SLHC	Secretary of the Board.
Functions delegated to the General Counsel		
265.6(c)(2)	To review and act on requests for permission to administer the 49 percent revenue limit on nonfinancial data processing activities on a business-line or multiple-entity basis.	General Counsel in consultation with Division Director (Supervision and Regulation (S&R)).
265.6(d)(1)	To grant exceptions to management interlocks under the general exemption of Regulation L and subpart J of Regulation LL.	General Counsel in consultation with Division Director (S&R).
265.6(d)(2)	To approve requests to extend legacy management interlocks.	General Counsel in consultation with Division Director (S&R).
265.6(e)(1)	To enter into a cease-and-desist order, removal and prohibition order, or civil money penalty assessment order with a bank holding company or any nonbanking subsidiary thereof, with a State member bank, with an SLHC, or with any other person or entity subject to the Board's jurisdiction under section 8(b) or (e) of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1818(b) or (e)), when the order has been consented to by the institution or individual subject to the order; or to issue a notice suspending or prohibiting an institution-affiliated party under section 8(g) of the FDI Act (12 U.S.C. 1818(g)) when the notice has been consented to by the individual subject to the notice.	General Counsel with concurrence of Division Director (S&R).
265.6(e)(2)	To stay, modify, terminate or suspend an order or notice issued pursuant to paragraph (e)(1) of this section.	General Counsel with concurrence of Division Director (S&R).
265.6(e)(3)	To grant consent to a person subject to an order of removal and/or prohibition or suspension notice or order issued by the Board or other Federal financial institutions regulatory agency to become an institution-affiliated party of, to otherwise participate in the conduct of the affairs of, or to take an action with respect to any voting rights in, any Board-supervised institution or entity.	General Counsel with concurrence of Division Director (S&R).
265.6(h)	To determine that a company is not an SLHC (deregistration) pursuant to section 10(a)(1)(D)(ii) of the Home Owners' Loan Act ("HOLA") (12 U.S.C. 1467a(a)(1)(D)(ii)), to determine that a company is not an SLHC by virtue of its control of a savings association that functions solely in a trust or fiduciary capacity as described in section 2(c)(2)(D) of the Bank Holding Company Act (BHC Act) (12 U.S.C. 1841(c)(2)(D)), where no significant legal, policy, or supervisory issues are raised by the specific proposal.	General Counsel with concurrence of Division Director (S&R).
265.6(i)	To approve and publish small entity compliance guides in accordance with the Small Business Regulatory Enforcement Fairness Act of 1996.	General Counsel in consultation with any other division director responsible for drafting the associated rule.
265.6(j)	To approve internal debt conversion triggers that meet certain eligibility criteria and that do not raise significant legal, policy, or supervisory issues.	General Counsel in consultation with Division Director (S&R).
265.6(k)	To approve or disapprove requests under section 19 of the FDI Act where no significant legal, policy, or supervisory issues are raised by the specific proposal.	General Counsel with concurrence of Division Director (S&R).
Functions delegated to the Director of the Division of Supervision and Regulation		
265.7(a)(1)	To refuse, modify, terminate, or set aside a cease and desist order for SLHCs.	Division Director (S&R).
265.7(a)(2)	To grant, deny, modify, or extend time for performing a commitment or condition relied upon in taking action under HOLA.	Division Director (S&R).
265.7(a)(3)(i)	To extend the 60-day processing period for an acquisition of a bank or bank holding company filed under section 3 of the BHC Act (12 U.S.C. 1842), pursuant to § 225.15(d)(2) of Regulation Y (12 CFR 225.15(d)(2)).	Division Director (S&R) with concurrence of General Counsel.

TABLE 1—UNCODIFIED DELEGATIONS TO BE INCORPORATED INTO THE DELEGATION RULES—Continued

Citation section:	*Short description:*	*Delegated to:*
265.7(a)(3)(ii)(A)	To extend the 60-day processing period for a nonbanking proposal filed under section 4 of the BHC Act (12 U.S.C. 1843), pursuant to § 225.24(d)(2) of Regulation Y (12 CFR 225.24(d)(2)).	Division Director (S&R) with concurrence of General Counsel.
265.7(a)(3)(ii)(B)	To extend the 60-day processing period for a nonbanking proposal filed under section 4 of the BHC Act (12 U.S.C. 1843), pursuant to section 4(j)(1)(C) of the BHC Act (12 U.S.C. 1843(j)(1)(C)) and § 225.24(d)(3) of Regulation Y (12 CFR 225.24(d)(3)).	Division Director (S&R) with concurrence of General Counsel.
265.7(a)(3)(iii)	To extend the 60-day processing period for an acquisition of a savings association or SLHC filed under section 10(e) of the HOLA (12 U.S.C. 1467a(e)), pursuant to § 238.14(g)(2) of Regulation LL (12 CFR 238.14(g)(2)).	Division Director (S&R) with concurrence of General Counsel.
265.7(a)(3)(iv)(A)	To extend the 60-day processing period for a nonbanking proposal filed under section 10(c) of the HOLA (12 U.S.C. 1467a(c)), pursuant to § 238.53(f)(2) of Regulation LL (12 CFR 238.53(f)(2)).	Division Director (S&R) with concurrence of General Counsel.
265.7(a)(3)(iv)(B)	To extend the 60-day processing period for a nonbanking proposal filed under section 10(c) of the HOLA (12 U.S.C. 1467a(c)), pursuant to § 238.53(f)(3) of Regulation LL (12 CFR 238.53(f)(3)).	Division Director (S&R) with concurrence of General Counsel.
265.7(a)(3)(v)	To extend, for an additional 180 days, the 180-day period within which final Board action is required on an application pursuant to section 7(d) of the International Banking Act (12 U.S.C. 3105(d).	Division Director (S&R) with concurrence of General Counsel.
265.7(a)(4) (formerly 265.7(a)(3))	To issue a notice that an SLHC has insufficient capital and which directs the company to file with its regional Reserve Bank a capital improvement plan under subpart E of the Board's Rules of Practice for Hearings (12 CFR part 263, subpart E).	Division Director (S&R) with concurrence of General Counsel.
265.7(c)(1)	To promulgate registration forms, annual reports, and other forms for SLHCs under section 10 of the HOLA (12 U.S.C. 1467a), and in accordance with 5 U.S.C. 553.	Division Director (S&R).
265.7(c)(2)	To take actions the Reserve Banks could take under 12 CFR 265.20(c)(2)(ii) if immediate or expeditious action is required to avert failure of a savings association or because of an emergency, pursuant to section 10(c) of the HOLA (12 U.S.C. 1467a).	Division Director (S&R).
265.7(c)(3)	To waive, dispense with, modify, or excuse the failure to comply with Change in Bank Control Act (12 U.S.C. 1817(j)) publication requirements for SLHCs.	Division Director (S&R).
265.7(c)(4)(i)	To determine the informational sufficiency of section 914 notices under the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) for SLHCs.	Division Director (S&R).
265.7(c)(4)(ii)	To waive the prior notice requirements of section 914 notices under FIRREA for SLHCs.	Division Director (S&R).
265.7(c)(5)	To provide the Department of Labor written notification of possible significant violations of the Employee Retirement Income Security Act (ERISA) by SLHCs.	Division Director (S&R).
265.7(c)(6)	To determine pursuant to 12 CFR 225.63(a)(13) that the services of an appraiser are not necessary for SLHCs.	Division Director (S&R).
265.7(c)(7)(i)	To authorize a financial holding company, or a foreign bank that has elected to be treated as a financial holding company, that is subject to a corrective agreement under section 4(m) of the BHC Act (12 U.S.C. 1843(m)), to acquire shares of a company pursuant to authority in section 4(k) of the BHC Act (12 U.S.C. 1843(k)) in order to continue to engage in ordinary course merchant banking; underwriting, dealing in, or making a market in securities; sponsoring, organizing, and managing customer-driven investment funds; and hedging risks incurred in ongoing permissible activities.	Division Director (S&R), with concurrence of General Counsel.
265.7(c)(7)(ii)	To extend the time within which a financial holding company must execute a corrective agreement under section 4(m) of the BHC Act (12 U.S.C. 1843(m)).	Division Director (S&R), with concurrence of General Counsel.
265.7(c)(7)(iii)	To extend the time limits in, or otherwise modify, corrective agreements under section 4(m) of the BHC Act (12 U.S.C. 1843(m)).	Division Director (S&R), with concurrence of General Counsel.
265.7(c)(7)(iv)	To determine not to make public any corrective agreement under section 4(m) of the BHC Act (12 U.S.C. 1843(m)).	Division Director (S&R), with concurrence of General Counsel.

TABLE 1—UNCODIFIED DELEGATIONS TO BE INCORPORATED INTO THE DELEGATION RULES—Continued

Citation section:	*Short description:*	*Delegated to:*
265.7(c)(8)	To approve requests by financial holding companies (FHCs) to engage in physical commodity derivatives pursuant to section 4(k)(1)(B) of the BHC Act (12 U.S.C. 1843(k)(1)(B)).	Division Director (S&R), with concurrence of General Counsel.
265.7(c)(9)	To approve requests by FHCs to hold merchant banking investments beyond the standard time periods established in § 225.172(b)(4) of Regulation Y (12 CFR 225.172(b)(4)).	Division Director (S&R), with concurrence of General Counsel.
265.7(c)(10)	To act on exemption requests under the single counterparty credit limits rule.	Division Director (S&R), with concurrence of General Counsel.
265.7(c)(11)(i)(A)	To develop and issue scenarios for stress testing	Division Director (S&R), jointly with Division Director (Financial Stability (FS)), with concurrence of Chair of the CSR.
265.7(c)(11)(i)(B)	To develop and issue additional scenarios or additional components for stress testing.	Division Director (S&R), jointly with Division Director (FS), with concurrence of Chair of the CSR.
265.7(c)(11)(ii)(A)	To convey to a company the summary of stress testing results.	Division Director (S&R), with concurrence of Chair of the CSR, after consultation with the Board.
265.7(c)(11)(ii)(B)	To determine the content and timing of the public disclosure of stress testing results.	Division Director (S&R), with concurrence of Chair of the CSR, after consultation with the Board and Division Director (FS).
265.7(c)(11)(ii)(C)	To determine any appropriate updates to a company's resolution plan based on stress testing results.	Division Director (S&R), with concurrence of Chair of the CSR.
265.7(c)(11)(ii)(D)	To require a company to include one or more additional components in its severely adverse scenario in its stress test.	Division Director (S&R), with concurrence of Chair of the CSR.
265.7(c)(11)(iii)(A)	To evaluate whether a company has necessary capital to absorb losses and continue its operation under stress testing scenarios.	Division Director (S&R), after consultation with Chair of the CSR.
265.7(c)(11)(iii)(B)	To conduct annual stress tests	Division Director (S&R), after consultation with Chair of the CSR.
265.7(c)(11)(iii)(C)	To require a company with significant trading activity, or a subsidiary of such company, to include a trading and counterparty component in stress tests.	Division Director (S&R), after consultation with Chair of the CSR.
265.7(c)(11)(iv)	To respond to request for reconsideration that a company is required to include additional components, or to use one or more additional scenarios.	Division Director (S&R), in consultation with General Counsel.
265.7(c)(11)(v)(A)	To notify a company that it is required to include more components, or to use one or more additional scenarios.	Division Director (S&R).
265.7(c)(11)(v)(B)	To coordinate with the appropriate primary financial regulatory agencies in conducting stress tests.	Division Director (S&R).
265.7(c)(11)(v)(C)	To provide the as-of date of any scenarios, additional scenarios, additional components, and the relevant data.	Division Director (S&R).
265.7(c)(11)(v)(D)	To extend (and in the case of nonbank financial companies supervised by the Board or savings and loan holding companies, accelerate) the compliance date for companies.	Division Director (S&R).
265.7(c)(11)(v)(E)(1)–(3)	To extend certain time periods	Division Director (S&R).
265.7(c)(11)(v)(F)	To require a company to submit additional information on a consolidated basis.	Division Director (S&R).
265.7(c)(11)(v)(G)	To require a company to submit additional information	Division Director (S&R).
265.7(c)(11)(v)(H)	To determine that disclosures made by a bank holding company do not adequately capture the potential impact of scenarios on the capital of a State member bank.	Division Director (S&R).
265.7(c)(12)	To approve (but not deny) a request by a new banking entity for an extension of time to conform its activities and investments to the requirements of section 13 of the BHC Act and its implementing regulations.	Division Director (S&R), with concurrence of General Counsel.
265.7(d)(7)(i)	To grant or deny a request to permit a foreign banking organization to use an alternative organizational structure or not transfer its ownership interest in a U.S. subsidiary to its intermediate holding company under subpart O of Regulation YY (12 CFR part 252, subpart O).	Division Director (S&R), with concurrence of Chair of the CSR and General Counsel.
265.7(d)(7)(ii)(A)	To grant or deny requests for modifying, including extending the time for, performing a commitment or condition relied on by the Board or its delegatee in taking any action under subparts M through O of Regulation YY (12 CFR part 252, subparts M–O).	Division Director (S&R), in consultation with General Counsel.
265.7(d)(7)(ii)(B)(1)	To determine that an asset should not qualify as an eligible asset under §§ 252.146 and 252.158 of Regulation YY.	Division Director (S&R), in consultation with General Counsel.

TABLE 1—UNCODIFIED DELEGATIONS TO BE INCORPORATED INTO THE DELEGATION RULES—Continued

Citation section:	*Short description:*	*Delegated to:*
265.7(d)(7)(ii)(B)(2)	To determine that a foreign banking organization or foreign savings and loan holding company must meet the additional standards, respectively, under § 238.162(b) of Regulation LL (12 CFR 238.162(b)) and §§ 252.146 and 252.158 of Regulation YY (12 CFR 252.146 and 252.158).	Division Director (S&R), in consultation with General Counsel.
265.7(d)(7)(ii)(B)(3)	To approve an enterprise-wide stress test and determine that it meets the stress test requirements under § 238.162(b) of Regulation LL (12 CFR 238.162(b)) and §§ 252.146 and 252.158 of Regulation YY (252.146 and 252.158).	Division Director (S&R), in consultation with General Counsel.
265.7(d)(7)(ii)(B)(4)	To require the U.S. branches and agencies of a foreign banking organization and, if the foreign banking organization has not established a U.S. intermediate holding company, any subsidiary of the foreign banking organization, to maintain a liquidity buffer or be subject to intragroup funding restrictions under § 252.158(d)(3) of Regulation YY (12 CFR 252.158(d)(3)).	Division Director (S&R), in consultation with General Counsel.
265.7(d)(7)(ii)(C)	To determine that a foreign banking organization would meet or exceed capital adequacy standards on a consolidated basis that are consistent with the Basel Capital Framework were the foreign banking organization subject to such standards under §§ 252.143(a)(2) and 252.154(a)(2) of Regulation YY (12 CFR 252.143(a)(2) and 252.154(a)(2)).	Division Director (S&R), in consultation with General Counsel.
265.7(d)(7)(ii)(D)	To approve an alternative reporting structure for a U.S. chief risk officer based on circumstances specific to the foreign banking organization under §§ 252.144(c)(3)(iii) and 252.155(b)(3)(iii) of Regulation YY (12 CFR 252.144(c)(3)(iii) and 252.155(b)(3)(iii)).	Division Director (S&R), in consultation with General Counsel.
265.7(d)(7)(ii)(E)(1)	To require a foreign banking organization to calculate the collateral positions for its combined U.S. operations more frequently than required under § 252.156(g)(l)(i) of Regulation YY (12 CFR 252.156(g)(l)(i)).	Division Director (S&R), in consultation with General Counsel.
265.7(d)(7)(ii)(E)(2)	To require a foreign banking organization to perform stress testing more frequently than is required under § 252.157(a)(2) of Regulation YY (12 CFR 252.157(a)(2)).	Division Director (S&R), in consultation with General Counsel.
265.7(d)(7)(ii)(F)	To require a foreign banking organization to provide additional information under §§ 252.147(a)(3), 252.153(a)(3) and 252.158(c)(2) of Regulation YY (12 CFR 252.147(a)(3), 252.153(a)(3) and 252.158(c)(2)), as appropriate.	Division Director (S&R), in consultation with General Counsel.
265.7(e)(8)	To approve (but not deny) a request to make a distribution pursuant to § 217.303(g) of Regulation Q (12 CFR 217.303(g)).	Division Director (S&R), with concurrence of Vice Chair for Supervision.
265.7(g)	To approve an application to make a golden parachute payment or enter into an agreement to make a golden parachute payment under 12 CFR part 359.	Division Director (S&R), with concurrence of General Counsel.
265.7(h)	To take actions pursuant to prompt corrective action under the rules implementing section 38 of the FDI Act.	Division Director (S&R), with the approval of General Counsel.
265.7(i)	To take actions related to assessments under Regulation TT.	Division Director (S&R), in consultation with General Counsel.
265.7(j)(1)	To take certain actions relating to capital plans, or provide concurrence to the appropriate Reserve Bank when appropriate.	Division Director (S&R).
265.7(j)(2)	To take certain actions relating to capital plans	Division Director (S&R) with concurrence of Chair of the CSR, and after consultation with the Board and Division Director (FS).
265.7(j)(3)	To take certain actions relating to the Board's capital plan rules.	Division Director (S&R), jointly with Division Director (FS), with concurrence of Vice Chair for Supervision.
265.7(k)	Capital delegations under Regulation Q	Division Director (S&R), with concurrence of Chair of the CSR, and after consultation with General Counsel.
265.7(l)	To act on requests by financial companies to use accounting other than GAAP for Regulation XX, to calculate the 10 percent liabilities cap for purposes of section 622 of the Dodd-Frank Act, and to consent to FHC de minimis transactions for purposes of section 622 of the Dodd-Frank Act.	Division Director (S&R).

TABLE 1—UNCODIFIED DELEGATIONS TO BE INCORPORATED INTO THE DELEGATION RULES—Continued

Citation section:	*Short description:*	*Delegated to:*
265.7(m)(1)	To extend the time limits in, or otherwise modify, an agreement entered into by an SLHC pursuant to § 238.66 of Regulation LL, determine that publication of an agreement entered into by an SLHC pursuant to § 238.66 of Regulation LL would be contrary to the public interest under the publication requirements of the FDI Act, and act on requests for exemptions or otherwise make determinations under section 11 of HOLA, as implemented in Regulation W.	Division Director (S&R), with concurrence of General Counsel.
265.7(m)(2)	To designate the responsible Reserve Bank of an SLHC when the standard delegation would not result in an efficient allocation of supervisory resources or would not otherwise be appropriate.	Division Director (S&R) with Division Director (DCCA).
265.7(n)	To approve internal margin models for entities for which the Board is the prudential regulator.	Division Director (S&R).
265.7(o)	To make certain determinations under Regulations LL, YY, and QQ.	Division Director (S&R), in consultation with General Counsel.
265.7(p)	To make certain determinations under Regulation Q relating to the exposure amount of derivatives contracts.	Division Director (S&R).
265.7(q)	To organize and administer the Insurance Policy Advisory Committee.	Division Director (S&R).
Functions delegated to the Director of the Division of Consumer and Community Affairs		
265.8(a) (note: delegations to the Director of DCCA contained in 265.9 are being redesignated to 265.8).	To oversee policy development regarding compliance by State member banks and other supervised entities, including by establishing criteria for the execution of examination and enforcement activities delegated to the Reserve Banks and monitoring those activities.	Division Director (DCCA).
265.8(b) (note: delegations to the Director of DCCA contained in 265.9 are being redesignated to 265.8).	To call meetings of and consult with the Community Advisory Council, approve the agenda for such meetings, publish FEDERAL REGISTER notices soliciting Community Advisory Council nominations from the public to assist in the selection of prospective members, and accept any resignations from Community Advisory Council members.	Division Director (DCCA).
265.8(h) (note: delegations to the Director of DCCA contained in 265.9 are being redesignated to 265.8).	To designate the responsible Reserve Bank of an SLHC when the standard delegation would not result in an efficient allocation of supervisory resources or would not otherwise be appropriate.	Division Director (DCCA) with Division Director (S&R).
Functions delegated to the Director of the Division of Monetary Affairs		
265.10(a)	To adjust the terms and conditions of individual Term Deposit Facility test operations that raise significant technical or operations issues.	Division Director (MA) with concurrence of General Counsel, and in consultation with Chair if feasible.
265.10(b)	To approve the annual indexation of the reserve requirement exemption, low reserve tranche, non-exempt deposit cutoff, and reduced reporting limit amounts under Regulation D.	Division Director (MA) with concurrence of General Counsel.
Functions delegated to the Director of the Division of Reserve Bank Operations and Payment Systems		
265.11(a)(1)	To issue a notice of no objection to a designated financial market utility relating to an advance notice of proposed material change submitted under section 806(e) of the Dodd-Frank Act (12 U.S.C. 5465(e)) and § 234.4 of Regulation HH (12 CFR 234.4).	Division Director of the Division of Reserve Bank Operations and Payments Systems (RBOPS).
265.11(a)(2)	To extend the review period for proposed changes that raise novel or complex issues and to request additional information from the designated financial market utility for consideration of the notice.	Division Director (RBOPS).
265.11(b)(1)	To approve the publication of annual lists of institutions that fall above and below the small issuer exemption asset threshold under Regulation II.	Division Director (RBOPS) in consultation with Division Director (S&R) and General Counsel.
265.11(b)(2)	To approve the publication of annual lists of the average interchange fees each network provides to non-exempt and exempt issuers.	Division Director (RBOPS) in consultation with General Counsel.

TABLE 1—UNCODIFIED DELEGATIONS TO BE INCORPORATED INTO THE DELEGATION RULES—Continued

Citation section:	*Short description:*	*Delegated to:*
Functions delegated to the Director of the Division of Financial Stability		
265.13(a)(1)(i)(A)	To develop and issue scenarios for stress testing	Division Director (FS), jointly with Division Director (S&R), with concurrence of Chair of the CSR.
265.13(a)(1)(i)(B)	To develop and issue additional scenarios or additional components for stress testing.	Division Director (FS), jointly with Division Director (S&R), with concurrence of Chair of the CSR.
265.13(b)	To take certain actions relating to the Board's capital plan rules.	Division Director (FS), jointly with Division Director (S&R), with concurrence of Vice Chair for Supervision.
Functions delegated to Federal Reserve Banks		
265.20(a)(4) (formerly 265.11(a)(4))	To extend the time to file a registration statement for an SLHC under section 10(b) of HOLA.	Reserve Bank.
265.20(a)(9) (formerly 265.11(a)(9))	To grant a 90-day extension to SLHCs to file an annual report.	Reserve Bank.
265.20(a)(15) (formerly 265.11(a)(15)).	To enter into a written agreement with an SLHC or a nondepository or nonbanking subsidiary thereof.	Reserve Bank, with the prior approval of Division Director (S&R) and General Counsel.
265.20(a)(15) (formerly 265.11(a)(15)).	To enter into a written agreement with a foreign bank that has elected to be treated as a financial holding company.	Reserve Bank, with the prior approval of Division Director (S&R) and General Counsel.
265.20(c)(1) (formerly 265.11(c)(1))	To require reports under oath pursuant to section 10(b)(2) of HOLA.	Reserve Bank.
265.20(c)(2) (formerly 265.11(c)(2))	To notify an SLHC that an acquisition should not be consummated until authorized by the Reserve Bank or Board or to allow an SLHC to acquire a going concern before the 30-day period in Regulation LL.	Reserve Bank.
265.20(c)(3) (formerly 265.11(c)(3))	Petition for review of decision that adverse comments are not substantive; permit proposed de novo activities; authorization of consummation.	Reserve Bank.
265.20(c)(4)	To approve certain nonbanking proposals by bank holding companies and foreign banks subject to section 4 of the BHC Act.	Reserve Bank.
265.20(c)(5) (formerly 265.11(c)(4))	To permit or stay a de novo modification or relocation of activities by an SLHC.	Reserve Bank.
265.20(c)(6) (formerly 265.11(c)(5))	To take certain actions under the Change in Bank Control Act for SLHCs.	Reserve Bank.
265.20(c)(7)	To waive, shorten, or modify publication requirements for Change in Control notice for SLHCs.	Reserve Bank.
265.20(c)(10)	To extend time for a banking entity to reduce its interest in a covered fund pursuant to the Volcker Rule.	Reserve Bank.
265.20(c)(11)	To act on section 914 notices under FIRREA for SLHCs pursuant to Regulation LL.	Reserve Bank.
265.20(c)(12)	To approve applications for prior approval for SLHCs unless certain factors are present.	Reserve Bank.
265.20(c)(12)(vi)–(vii)	Included additional criteria for delegated authority for banking acquisitions.	Reserve Bank.
265.20(c)(14)	To make certain determinations under Regulation MM	Reserve Bank.
265.20(c)(14)(xiv) and (xv)	To approve requests from mutual holding companies (MHCs) to conduct stock issuances under Regulation MM.	Reserve Bank.
265.20(d)(16)	To approve a request by an Edge corporation to declare or pay a dividend of property other than cash.	Reserve Bank.
265.20(e)(13)	To approve a request by a State member bank to declare or pay a dividend of property other than cash.	Reserve Bank.
265.20(h)	To act on determination requests for qualified family partnerships.	Reserve Bank.
265.20(i)	To make FHC elections effective and to approve corrective action agreements for section 4(m) purposes.	Reserve Bank, in consultation with Board staff.
265.20(j)	To make certain determinations under the subparts F and G of Regulation LL.	Reserve Bank.
265.20(k)	To assent or dissent, as appropriate, to certain financial operations of the Bank for International Settlements.	Federal Reserve Bank of New York.
265.20(l)	To make certain determinations under the regulatory capital rule.	Reserve Bank, with concurrence of Division Director (S&R).

Several of the codified and uncodified delegations include cross-references that have become inaccurate or obsolete as a result of changes in the underlying statutes or regulations. In addition, some of the codified and uncodified delegations include spelling and usage errors, and the formulation of some of the delegations is inconsistent with current regulation drafting guidance. The final rule corrects these errors or deficiencies and makes other technical changes. Table 2 below lists the affected provisions and, with respect to each, briefly describes the change.

TABLE 2—TECHNICAL CHANGES

Citation: part or section	*Short description:*	*Reason for change*
Part 265 throughout	Reformat citations to statutes and cross-references to Board regulations. Reformat titles of delegatees, including by removing ''Chairman'' and replacing with ''Chair''. Remove ''delegee'' and replace with ''delegatee''. Remove ''Board's Director'' and replace with ''Director''. Remove ''Board's General Counsel'' and replace with ''General Counsel''.	Reflect current guidance from the Office of the Federal Register and consistency with other Board regulations.
Part 265 Subpart A and Subpart B	Divide Part 265 into ''Subpart A—General Provisions'' and ''Subpart B—Delegations of Authority''.	Make references and citations to groups of sections that contain delegations more concise and user-friendly.
265.1(b)	Discuss purpose and scope of Part 265 with language that recognizes the addition of ''Subpart A'' and ''Subpart B''.	Reflect revisions in the draft and accurately reflect location of delegations.
265.2(c)	Add paragraph (c) to expressly permit Board employees to subdelegate concurrences and consultations.	Clarifies authority of Board employee delegatees to subdelegate concurrences and consultations.
265.4	Revise section heading to read: Functions delegated to Board members or staff within the Division of Board Members.	Add words ''or staff within the Division of Board Members'' to reflect delegatees.
265.4(a)	Redesignate 265.4(a) to 265.4(d), and add new delegations in 265.4(a) through 265.4(c), which are described in Table 1, above.	Reflect move to 265.4(d).
265.4(b)	Redesignate 265.4(b) to 265.4(f), add new delegations in 265.4(a) through 265.4(c), which are described in Table 1, above, and redesignate 265.4(c) as 265.4(e).	Reflect move to 265.4(f).
265.4(c)	Redesignate 265.4(c) to 265.4(e), add new delegations in 265.4(a) through 265.4(c), which are described in Table 1, above, and redesignate 265.4(b) as 265.4(f).	Reflect move to 265.4(e).
265.4(d)(1) (formerly 265.4(a)(1))	Add ''section 8(b) and (c) of the Federal Deposit Insurance Act'' and add parentheses around ''12 U.S.C. 1818(b) and (c)''.	Specifically reference the FDI Act when citing to 12 U.S.C. 1818.
265.4(d)(2)(i) (formerly 265.4(a)(2)(i))	Replace ''(12 CFR part 263)'' with add ''(12 CFR 263.10(e))''.	Reflect more specific citation.
265.4(f) (formerly 265.4(b))	Remove ''(the 'Action Committee')''	Parenthetical abbreviation is not needed.
265.4(f)(2) (formerly 265.4(b)(2))	Remove ''Reserved'' text	Improve organization as reserved text is not needed.
265.5	Revise section heading to read: Functions delegated to the Secretary of the Board.	Add word ''the'' to improve language.
265.5(a)(3)	Replace ''rules and regulations'' with ''rules''	Improve usage.
265.5(a)(4)	Replace ''make technical corrections'' with ''make, with the concurrence of the General Counsel, technical corrections''. Replace ''including removal of obsolete provisions'' with ''including making regular updates that are required by law and/or calculated via a formula prescribed by law, removal of obsolete provisions''. Replace ''and orders and'' with ''orders, and'' Remove ''but only with the concurrence of the Board's General Counsel''.	Improve usage and clarity.
265.5(b)(1) heading	Replace ''FOIA'' with ''Freedom of Information Act''.	More precisely identify statute being referenced.
265.5(b)(2) heading	Replace ''FOIA'' with ''Freedom of Information Act and Privacy Act''.	More precisely identify statute being referenced.
265.5(c) heading	Replace ''Change in bank control; Mergers'' with ''savings and loan holding companies; change in bank control; mergers'' in heading.	Correct capitalization and clarify that delegations in this paragraph also pertain to SLHCs as described in Table 1, above.

TABLE 2—TECHNICAL CHANGES—Continued

Citation: part or section	*Short description:*	*Reason for change*
265.5(c)(1)	Replace ''the Bank Service Corporation Act'' with ''the Bank Service Company Act''.	Reflect amended name of statute.
265.5(c)(2)	Replace ''any holding company, bank, or company'' with ''any bank holding company, bank, savings and loan holding company, or company''.	Reflect addition of SLHCs as described in Table 1, above.
265.5(d)(1) and (2)	Remove ''Reserved'' text in 265.5(d)(1) and redesignate 265.5(d)(2) as 265.5(d)(1). Replace ''Edge or Agreement corporation'' with ''Edge corporation, an agreement corporation''. After ''12 U.S.C. 601 and 604'' add '', and 611 *et seq.*''. After ''section 25A of the Federal Reserve Act'' add ''(12 U.S.C. 611a, 615(c), and 619)''. Replace ''following conditions'' with ''conditions in paragraphs (d)(1)(i) through (iii) of this section''.	Improve organization, make consistent with other Board regulations, and add statutory citations.
265.5(d)(1)(iii)(B) (formerly 265.5(d)(2)(iii)(B))	Replace ''the parent bank or bank holding company, or subsidiary Edge or Agreement corporation, as the case may be, and the selling parent or subsidiary holds the stock with the consent of the Board pursuant to Regulations K and Y (12 CFR parts 211 and 225),'' with ''the parent bank, parent bank holding company, subsidiary Edge corporation, or subsidiary agreement corporation, as the case may be, and the selling entity holds the stock with the consent of the Board pursuant to Regulation K or Y (12 CFR parts 211 and 225), as applicable''.	Improve clarity.
265.5(d)(3)	Remove ''Reserved'' text	Improve organization as reserved text is not needed.
265.5(e)(1)	Replace ''(12 CFR part 204)'' with ''(12 CFR 204.2)''.	Correct citation.
265.5(e)(2)	Remove ''Reserved'' text	Improve organization as reserved text is not needed.
265.5(f)	Replace ''§ 204.3(b)(2)(ii) of Regulation D (12 CFR part 204) or § 209.15(b) of Regulation I (12 CFR part 209)'' with ''§ 204.3(g)(2) of Regulation D (12 CFR 204.3(g)(2)) or § 209.2(c) of Regulation I (12 CFR 209.2(c))''.	Correct cross-references and citations.
265.6	Revise section heading to read: Functions delegated to the General Counsel. Revise introductory language to remove ''The Board's general counsel (or the general counsel's'' and replace with ''The General Counsel (or the General Counsel's''.	Add word ''the'' to improve language, and correct capitalization.
265.6(a)(1)	Replace ''262.3(i) of this chapter (Rules of Procedure)'' with ''262.3(k) of the Board's Rules of Procedure (12 CFR 262.3(k))''.	Correct citation.
265.6(a)(2)	Replace ''(12 CFR part 262)'' with ''(12 CFR 262.25)''.	Correct citation.
265.6(a)(3)	Replace ''(12 CFR part 263)'' with ''(12 CFR 263.6)''.	Correct citation.
265.6(a)(4)	Move this delegation to 265.6(e)(4) and delete ''with the concurrence of the Director of the Division of Supervision and Regulation''.	Move so that all delegations involving enforcement actions delegated to the General Counsel, with concurrence of the Director of S&R, are under 265.6(e).
265.6(b)(1) heading	Replace ''FOIA'' with ''Board records''	More precisely identify records being referenced.
265.6(b)(3)	After ''under this paragraph'' add ''(b)(3)''	More precisely identify paragraph being referenced.
265.6(c) heading	Replace ''Change in bank control; Mergers'' with ''savings and loan holding companies; change in bank control; mergers'' in heading.	Correct capitalization and clarify that delegations in this paragraph also pertain to SLHCs as described in Table 1, above.

TABLE 2—TECHNICAL CHANGES—Continued

Citation: part or section	*Short description:*	*Reason for change*
265.6(c)(2) (formerly 265.6(c)(1))	Redesignate 265.6(c)(2) as 265.6(c)(1)	Reflect move to section 265.6(c)(1)
	Replace ''of BHC Act'' in heading with ''of the Bank Holding Company Act.''.	More precisely identify statute being referenced.
265.6(c)(3) heading	Replace ''of CBC Act'' with ''of the Change in Bank Control Act''.	More precisely identify statute being referenced.
265.6(e)	Replace ''the director of the Board's Division of Banking Supervision and Regulation (or the Director's delegee)'' with ''the Director of the Division of Supervision and Regulation''.	Correct capitalization and name of division. Parenthetical is no longer necessary as section 265.2(c) states that Board employees who are authorized to concur or consult on a delegated action may subdelegate their authority to delegatees in their division.
265.6(e)(1)	Add ''under section 8(b) or (e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b) or (e))''.	Add statutory authority.
265.6(e)(4)	Move this delegation from 265.6(a)(4) to 265.6(e)(4), and delete ''with the concurrence of the Director of the Division of Supervision and Regulation''.	Move so that all delegations involving enforcement actions delegated to the General Counsel, with concurrence of the Director of S&R, are under section 265.6(e).
265.6(f)(3)	Remove ''the Board's Director of the Director of the Division'' and replace with ''the Director of the Division''.	Correct reference to Director of S&R.
265.7	Revise section heading to read: Functions delegated to the Director of the Division of Supervision and Regulation.	Add the word ''the'' to improve language.
265.7(a)(2)	Replace ''Bank Merger Act, the Change in Bank Control Act of 1978, the Federal Reserve Act, or the International Banking Act,'' with ''section 18(c) of the Federal Deposit Insurance Act, the Change in Bank Control Act, the Federal Reserve Act, the International Banking Act,''.	Correct statutory authorities.
265.7(a)(2)	Add ''or the Dodd-Frank Wall Street Reform and Consumer Protection Act''.	Accommodate legislative change.
265.7(a)(3)	Redesignate 265.7(a)(3) to 265.7(a)(4), and add new delegation in 265.7(a)(3), which is described in Table 1, above.	Reflect move to section 265.7(a)(4).
265.7(a)(4) (formerly 265.7(a)(3))	Replace ''subpart D'' with ''subpart E''	Correct citation.
265.7(a)(5) (formerly 265.7(a)(4))	Replace ''§'' with ''section''	Correct language and more precisely identify Director who is referenced.
	Replace ''provided the Director is'' with ''provided that the Director of the Division of Supervision and Regulation is''.	
265.7(b)(1) heading	Replace ''FOIA'' with ''Confidential supervisory information''.	More precisely identify records being referenced.
265.7(b)(1)	Replace ''261.11'' with ''261.22''	Correct citation to reflect revision of underlying regulation.
265.7(b)(2) heading	Replace ''FOIA'' with ''Freedom of Information Act''.	More precisely identify statute being referenced.
265.7(b)(2)	Replace ''§§ 261.8(a)(2) and (3)'' with ''§ 261.15(a)(4) and (8)''.	Delete second ''§'' as unnecessary and correct citation to reflect revision of underlying regulation.
265.7(c) heading	Replace ''Change in bank control; Mergers'' with ''savings and loan holding companies; financial holding companies; change in bank control; mergers'' in heading.	Correct capitalization and clarify that delegations in this paragraph also pertain to SLHCs and financial holding companies as described in Table 1, above.
265.7(c)(2)	Replace ''§ 265.11(c)(2)(ii)'' with ''§ 265.20(c)(2)(ii)''.	Update citation and correct typo.
	Replace ''on'' with ''or''	
265.7(c)(4)	Replace ''Financial Institutions Reform, Recovery and Enforcement'' with ''Financial Institutions Reform, Recovery, and Enforcement of 1989''.	More precisely identify statute being referenced and correct citation.
	Replace ''(12 CFR part 225)'' with ''(12 CFR part 225, subpart H)''.	
265.7(c)(4)(i)	Replace ''(12 CFR part 225)'' with ''(12 CFR 225.72)''.	Fix citation.
265.7(c)(5)	Add ''(29 U.S.C. 1001 *et seq.*)'' and add ''(29 U.S.C. 1204(b))''.	Add statutory citations.
265.7(d)(3)	Add ''International banking matters'' paragraph heading.	Conform to paragraph-heading format in section.

TABLE 2—TECHNICAL CHANGES—Continued

Citation: part or section	*Short description:*	*Reason for change*
265.7(d)(4)	Remove "Reserved" text and redesignate 265.7(d)(6) as 265.7(d)(4). Replace "(12 CFR part 211)" with "(12 CFR part 211, subpart D)".	Reflect reorganization, and update citation.
265.7(d)(5)	Remove "Reserved" text and redesignate 265.8 as 265.7(d)(5). Replace "IBA" with "International Banking Act".	Reflect reorganization, and more precisely identify statute being referenced.
265.7(d)(6)	Redesignate 265.7(d)(14) as 265.7(d)(6)	Reflect reorganization.
265.7(d)(9)–(13)	Remove "Reserved" text	Improve organization as reserved text is not needed.
265.7(e)(1)	Replace "Act" with "Federal Deposit Insurance Act".	More precisely identify statute being referenced.
265.7(e)(3)	Add "(29 U.S.C. 1001 *et seq.*)" and "(29 U.S.C. 1204(b))".	Add statutory citations.
265.7(e)(4)	Replace "12 U.S.C. 3105(b)(1)" with "12 U.S.C. 3105(c)(1)".	Correct citation.
265.7(e)(5)	Replace "§ 265.11(e)(5), (11), and (12)" with "§ 265.20(e)(5), (11), and (12)". Replace "§ 265.11(e)(3), (4), and (7)" with "§ 265.20(e)(3), (4), and (7)".	Update citations.
265.7(e)(6)	Remove "Regulation P" from paragraph heading.	Regulation P was repealed in 2014 and removing it conforms the paragraph heading to the section 265.20(e)(8) paragraph heading.
265.7(e)(6)	Replace "§ 265.11(e)(8)" with "§ 265.20(e)(8)"	Update citation.
265.7(e)(7)(i)	Replace "paragraph 23 of section 9 of the Federal Reserve Act" with "section 9(23) of the Federal Reserve Act". Replace "12 CFR 208.22(b)(1)" with "§ 208.22(b)(1) of Regulation H (12 CFR 208.22(b)(1))".	Correct citations.
265.7(e)(7)(ii)	Replace "paragraph 23 of section 9 of the Federal Reserve Act" with "section 9(23) of the Federal Reserve Act".	Correct citation.
265.7(f)(1)	Replace "Securities Exchange Act" with "Securities Exchange Act of 1934".	More precisely identify statute being referenced.
265.7(f)(1)(iii)	Replace "extent" with "extend"	Correct typo.
265.7(f)(2)	Replace "statement" with "state" Replace "Securities Exchange Act" with "Securities Exchange Act of 1934".	Correct typo, and more precisely identify statute being referenced.
265.7(f)(3)	Replace "Securities Exchange Act" with "Securities Exchange Act of 1934".	More precisely identify statute being referenced.
265.7(f)(4)	Replace "Securities Exchange Act" with "Securities Exchange Act of 1934".	More precisely identify statute being referenced.
265.7(f)(5)(i)	Replace "Act" with "Securities Exchange Act of 1934". Replace "15 U.S.C. 78q–1" with "15 U.S.C. 78q–1(c)(2)".	More precisely identify statute being referenced, and correct citation.
265.7(f)(5)(ii)	Replace "Act" with "Securities Exchange Act of 1934". Replace "15 U.S.C. 78c" with "15 U.S.C. 78c(a)(34)(B)".	More precisely identify statute being referenced, and correct citation.
265.7(f)(6)(i) and (ii)	Replace "(12 CFR part 208)" with "(12 CFR 208.36)".	Correct citation.
265.7(f)(9)	Replace "15 U.S.C. 78q–1" with "15 U.S.C. 78q–1(c)".	Correct citation.
265.7(f)(10)	Replace "(12 CFR part 207)" with "(12 CFR 207.6(d))". Replace "(12 CFR part 220)" with "(12 CFR 220.17(f))" and. Replace "(12 CFR part 221)" with "(12 CFR 221.7(d))".	Correct citations.
265.8	Redesignate 265.8 to 265.9, and redesignate 265.9 to 265.8.	Reflect reorganization so that the functions delegated to the Director of DCCA come before the functions delegated to the Director of IF.
265.8 (formerly 265.9)	Revise section heading to read: Functions delegated to the Director of the Division of Consumer and Community Affairs.	Add word "the" to improve language.
265.8 introductory text (formerly 265.9)	Replace "Board's Division" with "Division"	Simplify language.
265.8(a) (formerly 265.9(a))	Redesignate as (a)(2) and streamline citations	Simplify language.

TABLE 2—TECHNICAL CHANGES—Continued

Citation: part or section	*Short description:*	*Reason for change*
265.8(c) (formerly 265.9(c))	Add "to the extent that the laws are applicable to motor vehicle dealers, as defined in section 1029 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5519)".	Reflect change in Board's authority.
265.8(c)(1) (formerly 265.9(c)(1))	Replace "(12 CFR part 226)" with "(12 CFR 226.28)". Replace "213.7" with "213.9". Replace "(12 CFR part 213)" with "(12 CFR 213.9)".	Correct citations.
265.8(c)(2) (formerly 265.9(c)(2))	Replace "(12 CFR part 205)" with "(12 CFR 205.12)".	Correct citation.
265.8(c)(3) (formerly 265.9(c)(3))	Replace "(12 CFR part 202)" with "(12 CFR 202.11)".	Correct citation.
265.8(f) (formerly 265.9(f))	Replace "Community Reinvestment Act" with "Community Reinvestment Act of 1977".	More precisely identify statute being referenced.
265.8(f)(1) (formerly 265.9(f)(1))	Replace "(12 CFR part 228)" with "(12 CFR 228.27(g) and (h))".	Correct citation.
265.8(f)(2) (formerly 265.9(f)(2))	Replace "(12 CFR part 228)" with "(12 CFR 228.25(b))".	Correct citation.
265.8(g) (formerly 265.8(g))	Add "or permitted"	Clarify scope of delegation.
265.9	Redesignate 265.9 to 265.8, and redesignate 265.8 to 265.9.	Reflect reorganization so that the functions delegated to the Director of DCCA come before the functions delegated to the Director of IF.
265.9 (formerly 265.8)	Revise section heading to read: Functions delegated to the Director of the Division of International Finance.	Remove the word "Staff" to improve language.
265.9 introductory text (formerly 265.8)	Replace "Board's Staff Director" with "Director".	Simplify language.
265.9(b) (formerly 265.8(b))	Remove "Reserved" text	Improve organization as reserved text is not needed.
265.10	Redesignate 265.10 to 265.12	Accommodate the additional Board delegatees in sections 265.10 and 265.11.
265.11	Redesignate 265.11 to 265.20	Accommodate additional Board delegatees.
265.20 introductory text (formerly 265.11)	Add "Except as otherwise provided in this section"; and Replace "reponsible" with "responsible".	Accommodate delegation to Federal Reserve Bank of New York, and correct spelling error.
265.20(a)(2) (formerly 265.11(a)(2))	Replace "(9)" with "(7)"	Correct citation.
265.20(a)(3) (formerly 265.11(a)(3))	Replace "(22)" with "(20)"	Correct citation.
265.20(a)(6) heading (formerly 265.11(a)(6))	Replace "dpc" with "DPC"	Make consistent with other Board regulations.
265.20(a)(6) (formerly 265.11(a)(6))	Replace "(12 CFR part 225)" with "(12 CFR 225.22(c)(1)).	Correct citation.
265.20(a)(10) (formerly 265.11(a)(10))	Replace "(12 CFR part 211)" with "(12 CFR 211.8(e) and (f))".	Correct citation.
265.20(a)(11) (formerly 265.11(a)(11))	Replace "consummante" with "consummate"	Correct spelling error.
265.20(a)(15) (formerly 265.11(a)(15))	Replace "prior approval of both" with "concurrence of".	Make consistent with other delegations.

TABLE 2—TECHNICAL CHANGES—Continued

Citation: part or section	*Short description:*	*Reason for change*
265.20(a)(15)(i) (formerly 265.11(a)(15)(i))	Replace "with a State member bank, or with any other person or entity subject to the Board's supervisory jurisdiction under 12 U.S.C. 1818(b) concerning the prevention or correction of an unsafe or unsound practice in conducting the business of the bank holding company, nonbanking subsidiary, or State member bank or other entity, or concerning the correction or prevention of any violation of law, rule, or regulation," with "with a savings and loan holding company or any subsidiary thereof (other than a savings association), with a State member bank, with a foreign bank that has elected to be treated as a financial holding company, or with any person or entity subject to the Board's supervisory jurisdiction under section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) concerning the prevention or correction of an unsafe or unsound practice in conducting the business of the bank holding company or its nonbanking subsidiary, savings and loan holding company or its subsidiary (other than a savings association), or State member bank, or foreign bank that has elected to be treated as a financial holding company, or other entity, or concerning the correction or prevention of any violation of law, rule, or regulation, including section 4(m) of the Bank Holding Company Act (12 U.S.C. 1843(m))".	Adding reference to SLHCs as explained in Table 1, above, adding reference to a "foreign bank that has elected to be treated as a financial holding company" as explained in Table 1, above, and adding references to specific statutes for clarity.
265.20(a)(15)(ii) (formerly 265.20(a)(15)(ii))	Replace "this paragraph" with "this paragraph (a)(15), other than to extend time limits in a corrective agreement with a financial institution under section 4(m) of the Bank Holding Company Act (12 U.S.C. 1843(m))".	Clarify that this delegation does not apply to extensions of corrective agreements under section 4(m) of the BHC Act.
265.20(a)(15)(iii) (formerly 265.11(a)(15)(iii))	Remove "and (k)" in the two places it appears	12 U.S.C. 1818(k) was repealed.
265.20(a)(17) heading (formerly 265.11(a)(17))	Replace "Modification of commitments" with "Relief from or modification of commitments".	Improve description of delegation.
265.20(a)(17) (formerly 265.11(a)(17))	Replace "the Bank Merger Act" with "section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c))". Remove "of 1978".	More precisely identify statutes being referenced.
265.20(b)(1) (formerly 265.11(b)(1))	Replace "described in the Board's Rules Regarding Availability of Information (12 CFR 261.11)" with "described in §§ 261.21(a) and 261.22(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.21(a) and 261.22(a))".	Reflect revision of underlying regulation and correct citation.
265.20(b)(2) (formerly 265.11(b)(2))	Remove "Reserved" text	Improve organization as reserved text is not needed.
265.20(c)(2)(ii) (formerly 265.11(c)(2)(ii))	Replace "in Regulation Y (12 CFR 225.23(a)(2))" with "in § 225.24(d)(1) of Regulation Y (12 CFR 225.24(d)(1))".	Reflect revision of underlying regulation.
265.20(c)(3) introductory text (formerly 265.11(c)(3)).	Replace "§ 225.4(b)(1) of Regulation Y (12 CFR part 225)" with "subpart C of Regulation Y (12 CFR part 225, subpart C)". Replace "§ 265.3 of this part" with "§ 265.3 (12 CFR 265.3)".	Reflect revision of underlying regulation and correct citation.
265.20(c)(3)(i) (formerly 265.11(c)(3)(i))	Replace "§ 225.25 of Regulation Y (12 CFR part 225)" with "§ 225.28(b) of Regulation Y (12 CFR 225.28(b))".	Reflect revision of underlying regulation and correct citation.
265.20(c)(3)(ii) (formerly 265.11(c)(3)(ii))	Replace "§ 225.23(a)(2) of Regulation Y (12 CFR part 225)" with "subpart C of Regulation Y (12 CFR part 225, subpart C)".	Reflect revision of underlying regulation and correct citation.
265.20(c)(5) (formerly 265.11(c)(4))	Replace "§ 265.11(d)(3) of this part" with "paragraph (c)(3) of this section".	Update citation to reflect reorganization of this section.
265.20(c)(6) heading (formerly 265.11(c)(5))	Capitalize "Change" and add "the"	Correct capitalization and improve language.

TABLE 2—TECHNICAL CHANGES—Continued

Citation: part or section	*Short description:*	*Reason for change*
265.20(c)(6)(iii) (formerly 265.11(c)(5)(iii))	Replace "§ 225.41(b) of Regulation Y (12 CFR part 225)" with "§ 225.41(c)(2) of Regulation Y (12 CFR 225.41(c)(2))".	Reflect revision of underlying regulation.
265.20(c)(6)(iv)(E) (formerly 265.11(c)(5)(iv)(E)).	Replace "(12 CFR part 225)" with "(12 CFR 225.41)".	Correct citation.
265.20(c)(8) (formerly 265.11(c)(8))	Replace "Grandfathered nonbanking activities" with "Legacy nonbanking activities" and other conforming amendments.	Improve usage.
265.20(c)(9) (formerly 265.11(c)(8))	Replace "under sections 4(c)(8) and 5(b) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8), 1844(b)) and 225.23(b) of Regulation Y (12 CFR part 225)" with "section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and subpart C of Regulation Y (12 CFR part 225, subpart C)". Replace "in § 265.11(f)(1), (2), (3), or (4) of this part" with "paragraphs (c)(12)(i) through (iv) of this section".	Remove reference to section 5(b) of the BHC Act, reflect revision of underlying regulation, and update citation to reflect reorganization of this section.
265.20(c)(11) introductory text (formerly 265.11(c)(9)).	Replace "Financial Institutions Reform, Recovery, and Enforcement Act" with "Financial Institutions Reform, Recovery, and Enforcement Act of 1989". Replace "(12 CFR part 225)" with "(12 CFR part 225, subpart H)".	More precisely identify statute being referenced, and correct citation.
265.20(c)(11)(i) (formerly 265.11(c)(9)(i))	Add "(12 CFR 225.72)"	Add citation.
265.20(c)(11)(ii) (formerly 265.11(c)(9)(ii))	Replace "that section" with "those sections"	Accommodate addition of SLHC-related delegation.
265.20(c)(12) (formerly 265.11(c)(12))	Replace "present." with "present:"	Correct punctuation.
265.20(c)(12)(v)(A) (formerly 265.11(c)(11)(v)(A)).	Replace "paragraph (c)(11)(v)(B)" with "paragraph 265.20(c)(12)(v)(B)". Replace "Board's Division" with "Division" in two places.	Reflect reorganization of this paragraph, and improve language.
265.20(c)(12)(v)(B)(2) (formerly 265.11(c)(11)(v)(B)(2)).	Replace "Board's Division" with "Division"	Improve language.
265.20(c)(12)(vi) (formerly 265.11(c)(11)(vi))	Replace "§ 225.25(b)" with "§ 225.28(b) of Regulation Y (12 CFR 225.28(b))".	Reflect revision of underlying regulation and update citation.
265.20(c)(13)(i) (formerly 265.11(c)(12)(i))	Replace "12 CFR 238.12(d)(1), that an application under 12 CFR 238.11" with "§ 225.12(d)(2) of Regulation Y (12 CFR 225.12(d)(2)), that an application under § 225.11 of Regulation Y (12 CFR 225.11)".	Make citations to regulations consistent.
265.20(c)(13)(ii) (formerly 265.11(c)(12)(ii))	Replace "12 CFR 238.12(d)(1), that an application under 12 CFR 238.11" with "§ 238.12(d)(1) of Regulation LL (12 CFR 238.12(d)(1)), that an application under § 238.11 of Regulation LL (12 CFR 238.11)".	Make citations to regulations consistent.
265.20(d)(1) heading (formerly 265.11(d)(1))	Replace "Edge or agreement corporation" with "Edge corporation, or agreement corporation".	Make consistent with other Board regulations.
265.20(d)(1) (formerly 265.11(d)(1))	Replace "(12 CFR part 211)" with "(12 CFR 211.3)".	Correct citation.
265.20(d)(2) (formerly 265.11(d)(2))	Replace "(12 CFR part 211)" with "(12 CFR 211.4(a)(8))".	Correct citation.
265.20(d)(3) (formerly 265.11(d)(3))	Replace "(12 CFR part 211)" with "(12 CFR 211.5)".	Correct citation.
265.20(d)(4) (formerly 265.11(d)(4))	Replace "(12 CFR part 211)" with "(12 CFR 211.5)".	Correct citation.
265.20(d)(5) (formerly 265.11(d)(5))	Add "§" before 211.5(a)(3) Replace "(12 CFR part 211)" with "(12 CFR 211.5(a)(3))".	Correct citation.
265.20(d)(6) (formerly 265.11(d)(6))	Replace "(12 CFR part 211)" with "(12 CFR 211.5(d))".	Correct citation.
265.20(d)(7) (formerly 265.11(d)(7))	Replace "to otherwise acquire" with "otherwise to acquire". Replace "(12 CFR part 211)" with "(12 CFR 211.5(e))".	Improve language, and correct citation.
265.20(d)(8)(i) (formerly 265.11(d)(8)(i))	Replace "(12 CFR part 211)" with "(12 CFR 211.9(a)(4)))".	Correct citation.
265.20(d)(8)(ii) (formerly 265.11(d)(8)(ii))	Replace first citation to "(12 CFR part 211)" with "(12 CFR 211.9(a)(5)))". Replace second citation to "(12 CFR part 211)" with "(12 CFR 211.9(b))".	Correct citations.

TABLE 2—TECHNICAL CHANGES—Continued

Citation: part or section	*Short description:*	*Reason for change*
265.20(d)(9)(ii) (formerly 265.11(d)(9)(ii))	Replace ''authorty'' with ''authority'' Replace period with semicolon.	Correct spelling and usage errors.
265.20(d)(9)(iii) (formerly 265.11(d)(9)(iii))	Add ''and'' after the semicolon	Correct usage error.
265.20(d)(9)(iv) (formerly 265.11(d)(9)(iv))	Replace ''and Regulation K (12 CFR 211.31–211.34'' with ''and subpart C of Regulation K (12 CFR part 211, subpart C)''.	Make consistent with other Board regulations.
265.20(d)(10)(i) (formerly 265.11(d)(10)(i))	Replace ''(12 CFR part 211)'' with ''(12 CFR 211.9(f))''.	Correct citation.
265.20(d)(10)(ii) (formerly 265.11(d)(10)(ii))	Replace ''(12 CFR part 211)'' with ''(12 CFR 211.24(a)(2)(i))''.	Correct citation.
265.20(d)(11)(i) (formerly 265.11(d)(11)(i))	Replace ''(12 CFR part 211)'' with ''(12 CFR 211.10(a)(14))''.	Correct citation.
265.20(d)(11)(ii) (formerly 265.11(d)(11)(ii))	Replace ''(12 CFR part 211)'' with ''(12 CFR 211.10(a)(15))''.	Correct citation.
265.20(d)(11)(iii) (formerly 265.11(d)(11)(iii))	Replace ''(12 CFR part 211)'' with ''(12 CFR 211.10(a)(15)(iv)(B))''.	Correct citation.
265.20(d)(11)(iv) (formerly 265.11(d)(11)(iv))	Replace ''(12 CFR part 211)'' with ''(12 CFR 211.10(a)(18))''.	Correct citation.
265.20(d)(12) (formerly 265.11(d)(12))	Replace ''(12 CFR part 211)'' with ''((12 CFR 211.22(b))''.	Correct citation.
265.20(d)(13) (formerly 265.11(d)(13))	Replace ''under § 211.22(c)(1) of Regulation K (12 CFR part 211)'' with ''under § 211.22(b)(1) of Regulation K ((12 CFR 211.22(b)(1))''.	Correct cross-reference and citation.
265.20(d)(14)(i) (formerly 265.11(d)(14)(i))	Replace ''(12 CFR part 211)'' with ''((12 CFR 211.24(a)(1)))''.	Correct citation.
265.20(d)(14)(ii) (formerly 265.11(d)(14)(ii))	Replace ''(12 CFR part 211)'' with ''((12 CFR 211.24(a)(51)))''.	Correct citation.
265.20(e)(4) (formerly 265.11(e)(4))	Remove ''and 60'' Replace ''12 CFR 208.5(c)'' with ''in § 208.5(c) of Regulation H (12 CFR 208.5(c))''.	Correct citations.
265.20(e)(4)(i) (formerly 265.11(e)(4)(i))	Replace ''banks'' with ''bank's''	Correct spelling error.
265.20(e)(5) introductory text (formerly 265.11(e)(5)).	Replace ''239'' with ''329''	Correct citation.
265.20(e)(5) (formerly 265.11(e)(5))	Add ''of Regulation H (12 CFR 208.5(d))''	Correct citation.
265.20(e)(6) (formerly 265.11(e)(6))	Replace ''inferior-quality'' with ''inferior quality'' Remove ''of 1978''.	Improve usage, and more precisely identify statute being referenced.
265.20(e)(7) (formerly 265.11(e)(7))	Replace ''371a'' with ''371d'' Replace ''12 CFR 208.21(a)'' with ''§ 208.21(a) of Regulation H (12 CFR 208.21(a))''.	Correct citation.
265.20(e)(11) (formerly 265.11(e)(11))	Replace ''(12 CFR part 204)'' with ''(12 CFR 204.2(a)(1)(vii)(C))''.	Correct citation.
265.20(e)(12)(i) (formerly 265.11(e)(12)(i))	Replace ''12 CFR 208.22(b)(1)'' with ''§ 208.22(b)(1) of Regulation H (12 CFR 208.22(b)(1))''.	Correct citation.
265.20(g)(2) (formerly 265.11(g)(1))	Redesignate paragraph (g)(2) as (g)(1) Remove heading. Remove ''of the Board''.	Reflect recission of paragraph (g)(1) and improve usage.

Finally, certain delegations in the delegation rules have become moot due to the repeal or revision of the underlying legislation or regulation. The final rule rescinds these delegations and removes them from the delegation rules. Table 3 below lists these delegations and the grounds for rescission.

TABLE 3—RESCISSIONS

Prior citation: section	*Short description:*	*Reason for rescission*
265.5(b)(3)	To approve annual reports required by the Privacy Act	Statutory reporting requirement repealed.
265.5(b)(4)	To determine the average predominant prime rate quoted by commercial banks to large businesses pursuant to section 6621 of the Internal Revenue Code of 1986.	Statutory provision repealed.
265.5(c)(3)	To approve certain transactions under section 5(d)(3)(A) of the FDI Act.	Statutory provision repealed.
265.6(c)(1)	To determine whether a company that transfers shares under section 2(g) of the BHC Act is incapable of controlling the transferee.	Statutory provision repealed.
265.6(c)(4)	Tax certifications pursuant to Internal Revenue Code section 1101 *et seq.*	Tax code provisions were repealed.

TABLE 3—RESCISSIONS—Continued

Prior citation: section	*Short description:*	*Reason for rescission*
265.6(d)(2)	Granting temporary exceptions from management interlock prohibitions in Regulation L for certain banks.	Statutory provisions permitting these exceptions were repealed.
265.7(c)(2)	Remove "and 265.11(c)(3)(iii)"	12 CFR 265.11(c)(3)(iii) is a proposed rescission, below.
265.9(b) (note: delegations to the Director of DCCA in 265.9 are being redesignated to 265.8).	Pursuant to section 703(b) of the Consumer Credit Protection Act (15 U.S.C. 1691b(b)), to call meetings of and consult with the Consumer Advisory Council established under that section, approve the agenda for such meetings, and accept any resignations from Consumer Advisory Council members.	The statutory requirement for the Board to maintain a Consumer Advisory Council was repealed; but see the replacement delegation for section 265.8(b) described in Table 1, above.
265.9(c)(4) (note: delegations to the Director of DCCA in 265.9 are being redesignated to 265.8).	To determine whether a State law is inconsistent with section 306(a) of the Home Mortgage Disclosure Act (12 U.S.C. 2805(a)) and § 203.3 of Regulation C (12 CFR 203).	Board no longer has rule writing authority.
265.9(c)(5) (note: delegations to the Director of DCCA in 265.9 are being redesignated to 265.8).	To determine whether a State law is inconsistent with section 273 of the Truth in Savings Act (12 U.S.C. 4312) and § 230.1 of Regulation DD (12 CFR 230).	Board no longer has rule writing authority.
265.9(e) (note: delegations to the Director of DCCA in 265.9 are being redesignated to 265.8).	Making annual adjustments under the Home Mortgage Disclosure Act and section 103(a)(1)(B)(ii) of the Truth in Lending Act.	Board no longer has rule writing authority.
265.11(c)(3)(iii) (note: delegations to the Reserve Banks in 265.11 are being redesignated to 265.20).	To permit early consummation for certain nonbanking proposals by bank holding companies.	Regulatory provision requiring delayed consummation removed.
265.11(c)(8) (note: delegations to the Reserve Banks in 265.11 are being redesignated to 265.20).	To approve applications for opening additional offices for previously approved nonbanking activities.	Regulatory provision requiring applications for additional offices removed.
265.11(c)(10) (note: delegations to the Reserve Banks in 265.11 are being redesignated to 265.20).	To engage in certain transactions under section 5(d)(3)(A) of the FDI Act.	Statutory provision repealed.
265.11(g)(1) (note: delegations to the Reserve Banks in 265.11 are being redesignated to 265.20).	To permit additional time to dissolve or conform a management interlock after a change of circumstances.	Regulatory provision revised to provide additional time without approval of the Board.

II. Regulatory Analyses

These amendments relate solely to the agency's organization, procedure, or practice. Accordingly, the provisions of the Administrative Procedure Act (APA) regarding notice of proposed rulemaking and opportunity for public participation are not applicable.[3]

Because no notice of proposed rulemaking is required to be issued, or has been issued, in connection with this rule, it is not a "rule" for purposes of the Regulatory Flexibility Act, and that act, therefore, does not apply.[4]

In accordance with the Paperwork Reduction Act of 1995 (PRA),[5] the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget control number. The Board has reviewed the proposed rule and has determined that it contains no collections of information as defined in the PRA.

Section 722 of the Gramm-Leach-Bliley Act[6] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present this rule in a simple and straightforward manner.

As a rule of internal agency organization, the final rule is not a "substantive rule" for the purposes of the APA; as such, the act does not require the Board to delay the effective date of the rule.[7] Accordingly, the amendments are effective September 1, 2022.

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies); Banks, banking.

Authority and Issuance

■ For the reasons stated in preamble the Board of Governors of the Federal Reserve System revises 12 CFR part 265 to read as follows:

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Subpart A—General Provisions

Sec.
265.1 Authority, purpose, and scope.
265.2 Delegation of functions generally.
265.3 Board review of delegated actions.

Subpart B—Delegations of Authority

265.4 Functions delegated to Board members or staff within the Division of Board Members.
265.5 Functions delegated to the Secretary of the Board.
265.6 Functions delegated to the General Counsel.
265.7 Functions delegated to the Director of the Division of Supervision and Regulation.
265.8 Functions delegated to the Director of the Division of Consumer and Community Affairs.
265.9 Functions delegated to the Director of the Division of International Finance.
265.10 Functions delegated to the Director of the Division of Monetary Affairs.
265.11 Functions delegated to the Director of the Division of Reserve Bank Operations Payment Systems.
265.12 Functions delegated to the Secretary of the Federal Open Market Committee.
265.13 Functions delegated to the Director of the Division of Financial Stability.
265.14–265.19 [Reserved]
265.20 Functions delegated to Federal Reserve Banks.

Authority: 12 U.S.C. 248(i) and (k).

Subpart A—General Provisions

§ 265.1 Authority, purpose, and scope.

(a) Pursuant to section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), the Board of Governors of the Federal

[3] 5 U.S.C. 553(b)(A).
[4] *See* 5 U.S.C. 601(2).
[5] 44 U.S.C. 3501 *et seq.*
[6] 12 U.S.C. 4809.
[7] *See* 5 U.S.C. 553(d).

Reserve System (the Board) may delegate, by published order or rule, any of its functions other than those relating to rulemaking or pertaining principally to monetary and credit policies to Board members and employees, Reserve Banks, or administrative law judges. Pursuant to section 11(i) of the Federal Reserve Act (12 U.S.C. 248(i)), the Board may make all rules and regulations necessary to enable it to effectively perform the duties, functions, or services specified in that Act. Other provisions of Federal law also may authorize specific delegations by the Board.

(b) This part details the functions that the Board has delegated. Subpart A contains general provisions pertaining to delegations of authority, including review of action taken pursuant to delegated authority. Subpart B contains the specific functions delegated to Board members, Board employees and the Federal Reserve Banks. Except as otherwise indicated in this part, the Board will review a delegated action only if a Board member, at his or her own initiative, requests a review.

§ 265.2 Delegation of functions generally.

(a) The Board has determined to delegate authority to exercise the functions described in this part.

(b) The Chair of the Board shall assign responsibility for performing such delegated functions.

(c) Where a delegatee must act with the concurrence of a Board employee, or in consultation with a Board employee, that Board employee may subdelegate his or her authority to concur or be consulted on the delegated action to an employee within the same division or office.

§ 265.3 Board review of delegated actions.

(a) *Request by Board member.* The Board shall review any action taken at a delegated level upon the vote of one member of the Board, either on the member's own initiative or on the basis of a petition for review by any person claiming to be adversely affected by the delegated action.

(b) *Petition for review.* A petition for review of a delegated action must be received by the Secretary of the Board not later than the fifth day following the date of the delegated action.

(c) *Notice of review.* The Secretary shall give notice of review by the Board of a delegated action to any person with respect to whom the action was taken not later than the tenth day following the date of the delegated action. Upon receiving notice, such person may not proceed further in reliance upon the delegated action until notified of the outcome of the review by the Board.

(d) *By action of a delegatee.* A delegatee may submit any matter to the Board for determination if the delegatee considers it appropriate because of the importance or complexity of the matter.

Subpart B—Delegations of Authority

§ 265.4 Functions delegated to Board members or staff within the Division of Board Members.

(a) *Chair.* The Chair is authorized:

(1) *Bank for International Settlements.* To appoint a first and second alternate director to the Board of Directors of the Bank for International Settlements.

(2) *Term Deposit Facility (TDF).* To authorize TDF test operations with maximum award amounts of up to $20 billion and with maximum offering rates of up to 5 basis points over the interest on excess reserves rate, to adjust the schedules and other terms and conditions for TDF test operations as necessary, to approve additional TDF test operations, to determine when TDF test operations should offer term deposits with an early withdrawal feature, and to establish, with respect to term deposits that are offered with an early withdrawal feature, an early withdrawal penalty that includes forfeiture of all interest on any term deposits withdrawn before the expiration of the term plus an additional penalty of 75 basis points at an annual rate applied to the principal over the entire term of the term deposit.

(3) *Disclosures related to emergency lending programs.* To approve:

(i) Periodic reports to Congress under section 13(3)(C)(ii) of the Federal Reserve Act (12 U.S.C. 343(3)(C)(ii)) for the Primary Dealer Credit Facility, Money Market Liquidity Facility, Commercial Paper Funding Facility, Paycheck Protection Program Liquidity Facility, Secondary Market Corporate Credit Facility, Municipal Liquidity Facility, Term Asset-Backed Securities Loan Facility, Main Street New Loan Facility, Main Street Expanded Loan Facility, Main Street Priority Loan Facility, Nonprofit Organization New Loan Facility, and Nonprofit Organization Expanded Loan Facility, and to approve technical or minor changes to the scope of information included in such reports; and

(ii) Seven-day reports to Congress under section 13(3)(C)(i) of the Federal Reserve Act (12 U.S.C. 343(3)(C)(ii)).

(b) *Chair of the Committee on Supervision and Regulation.* The Chair of the Committee on Supervision and Regulation is authorized:

(1) To act on requests for extensions of State member banks' and bank holding companies' advanced approaches first floor period start dates that are consistent with previous exemptions approved by the Board and that do not raise additional significant policy issues.

(2) [Reserved].

(c) *Chair of the Committee on Federal Reserve Bank Affairs.* The Chair of the Committee on Federal Reserve Bank Affairs is authorized to consider and grant or deny requests from the Federal Reserve Banks for exceptions to the Board's policies on Federal Reserve Bank directors.

(d) *Individual members.* Any Board member designated by the Chair is authorized:

(1) *Approval of amendments to notice of charges or cease and desist orders.* To approve (after receiving recommendations of the Director of the Division of Supervision and Regulation and the General Counsel) amendments to any notice, temporary order, or proposed order previously approved by the Board in a specific formal enforcement matter (including a notice of charges or removal notice) or any proposed or temporary cease and desist order previously approved by the Board under section 8(b) and (c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b) and (c)).

(2) *Requests for permission to appeal rulings.* (i) To act, when requested by the Secretary, upon any request under § 263.10(e) of the Board's Rules of Practice for Hearings (12 CFR 263.10(e)) for special permission to appeal from a ruling of the presiding officer on any motion made at a hearing conducted under the rules, and if special permission is granted, the merits of the appeal shall be presented to the Board for decision.

(ii) Notwithstanding § 265.3, the denial of special permission to appeal a ruling may be reviewed by the Board only if a Board member requests a review within two days of the denial. No person claiming to be adversely affected by the denial shall have any right to petition the Board or any Board member for review or reconsideration of the denial.

(3) *Extension of time period for final Board action.* To extend for an additional 180 days the 180-day period within which final Board action is required on an application pursuant to section 7(d) of the International Banking Act (12 U.S.C. 3105(d)).

(e) *Exigent circumstances.* The Chair is authorized to determine when an emergency situation exists for purposes of section 2(b)(2) of the Board's Rules of Organization. If the Chair is unavailable or unable to determine that an

emergency situation exists, then the Vice Chair is authorized to determine when an emergency situation exists.

(f) *Three-member Action Committee.* Any three Board members designated from time to time by the Chair are authorized:

(1) *Absence of quorum.* To act, upon certification by the Secretary of the Board of an absence of a quorum of the Board present in person, by unanimous vote on any matter that the Chair has certified must be acted upon promptly in order to avoid delay that would be inconsistent with the public interest except for matters:

(i) Relating to rulemaking;

(ii) Pertaining principally to monetary and credit policies; and

(iii) For which a statute expressly requires the affirmative vote of more than three Board members.

(2) [Reserved].

(g) *Reports to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.* The Assistant to the Board, Congressional Liaison Office, Division of Board Members, is authorized, in consultation with the General Counsel, to approve and submit the annual report to Congress describing the status of the Board's compliance with sections 212(a)(1) through (5) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note), pursuant to section 212(a)(6) of the Act.

§ 265.5 Functions delegated to the Secretary of the Board.

The Secretary of the Board (or the Secretary's delegatee) is authorized:

(a) *Procedure*—(1) *Extension of time period for public participation in proposed regulations.* To extend, when appropriate under the Board's Rules of Procedure (12 CFR 262.2(a) and (b)), the time period for public participation with respect to proposed regulations of the Board.

(2) *Extension of time period in notices, orders, rules, or regulations.* (i) To grant or deny requests to extend any time period in any notice, order, rule, or regulation of the Board relating to filing information, comments, opposition, briefs, exceptions, or other matters, in connection with any application, request, or petition for the Board's approval authority, determination, or permission, or any other action by the Board.

(ii) Notwithstanding § 265.3, no person claiming to be adversely affected by any such extension of time by the Secretary shall have the right to petition the Board or any Board member for review or reconsideration of the extension.

(3) *Conforming citations and references in Board rules.* (i) To conform references to administrative positions or units in Board rules with changes in the administrative structure of the Board and in the government and agencies of the United States.

(ii) To conform citations and references in Board rules with other regulatory or statutory changes adopted or promulgated by the Board or by the government or agencies of the United States.

(4) *Technical corrections in Board rules and regulations.* To make, with the concurrence of the General Counsel, technical corrections, such as spelling, grammar, construction, and organization (including making regular updates that are required by law and/or calculated via a formula prescribed by law, removal of obsolete provisions, and consolidation of related provisions), to the Board's rules, regulations, orders, and other records of Board action.

(5) *Procedural motions in administrative cases pending before the Board.* To grant or deny procedural motions arising after an administrative case has been forwarded to the Board for final decision.

(b) *Availability of information*—(1) *Freedom of Information Act requests.* To make available, upon request, information in Board records and consider requests for confidential treatment of information in Board records under the Freedom of Information Act (5 U.S.C. 552) and under the Board's Rules Regarding Availability of Information (12 CFR part 261).

(2) *Review of denial of access to Board records; Freedom of Information Act and Privacy Act.* To review and determine an appeal of denial of access to Board records under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and the Board's rules regarding such access (12 CFR parts 261 and 261a, respectively).

(3) *File reports of rulemakings with Congress and the Government Accountability Office.* To file reports of rulemakings with Congress and the Government Accountability Office pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*).

(c) *Bank holding companies; savings and loan holding companies; change in bank control; mergers*—(1) *Reports on competitive factors in bank mergers.* To furnish reports on competitive factors involved in a bank merger to the Comptroller of the Currency and the Federal Deposit Insurance Corporation under the provisions of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)); the Bank Holding Company Act (12 U.S.C. 1842(a), 1843(c)(8) and (j)); the Bank Service Company Act (12 U.S.C. 1865(a) and (b)); the Change in Bank Control Act (12 U.S.C. 1817(j)); and the Federal Reserve Act (12 U.S.C. 321 *et seq.,* 601–604a, 611 *et seq.*).

(2) *Reserve Bank director interlocks.* To take actions the Reserve Bank could take except for the fact that the Reserve Bank may not act because a director, senior officer, or principal shareholder of any bank holding company, bank, savings and loan holding company, or company involved in the transaction is a director of that Reserve Bank or branch of the Reserve Bank.

(3) [Reserved].

(4) *Savings and loan holding companies.* (i) To approve the establishment of a mutual holding company or a subsidiary holding company of a mutual holding company pursuant to section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) and §§ 239.3 and 239.11 of Regulation MM (12 CFR 239.3 and 239.11), including issuing a charter, if the following conditions are met:

(A) The appropriate Reserve Bank and relevant divisions of the Board recommend approval; and

(B) No significant policy issue is raised on which the Board has not expressed its view.

(ii) To grant a request to deregister as a savings and loan holding company pursuant to section 10(b)(6) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(6)) and § 238.4(d) of Regulation LL (12 CFR 238.4(d)).

(d) *International banking*—(1) *Acquisition of foreign company or U.S. company financing exports.* To grant, under sections 25 and 25A of the Federal Reserve Act (12 U.S.C. 601 and 604, and 611 *et seq.*) and section 4(c)(13) of the Bank Holding Company Act (12 U.S.C. 1843(c)(13)) and the Board's Regulations K and Y (12 CFR parts 211 and 225), specific consent to the acquisition, either directly or indirectly, by a member bank, an Edge corporation, an agreement corporation, or a bank holding company, of stock of a company chartered under the laws of a foreign country or a company chartered under the laws of a State of the United States that is organized and operated for the purpose of financing exports from the United States, and to approve any such acquisition that may exceed the limitations of section 25A of the Federal Reserve Act (12 U.S.C. 611a, 615(c), and 619) based on the company's capital and surplus, if all of the conditions in paragraphs (d)(1)(i) through (iii) of this section are met:

(i) The appropriate Reserve Bank and all relevant divisions of the Board's staff recommend approval;

(ii) No significant policy issue is raised on which the Board has not expressed its view;

(iii) The acquisition does not result, either directly or indirectly, in the bank, corporation, or bank holding company acquiring effective control of the company, except that this condition need not be met if:

(A) The company is to perform nominee, fiduciary, or other services incidental to the activities of a foreign branch or affiliate of the bank holding company, or corporation; or

(B) The stock is being acquired from the parent bank, parent bank holding company, subsidiary Edge corporation, or subsidiary agreement corporation, as the case may be, and the selling entity holds the stock with the consent of the Board pursuant to Regulation K or Y (12 CFR parts 211 or 225), as applicable.

(2) [Reserved].

(e) *Member banks*—(1) *Waiver of penalty for early withdrawals of time deposits.* To permit depository institutions to waive the penalty for early withdrawal of time deposits under section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) and § 204.2 of Regulation D (12 CFR 204.2) if the following conditions are met:

(i) The President declares an area of major disaster or emergency area pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141);

(ii) The waiver is limited to depositors suffering disaster or emergency related losses in the officially designated area; and

(iii) The appropriate Reserve Bank and all relevant divisions of the Board's staff recommend approval.

(2) [Reserved].

(f) *Location of institution.* To determine the Federal Reserve District in which an institution is located pursuant to § 204.3(g)(2) of Regulation D (12 CFR 204.3(g)(2)) or § 209.2(c) of Regulation I (12 CFR 209.2(c)) if:

(1) The relevant Federal Reserve Banks and the institution agree on the specific Reserve Bank in which the institution should hold stock or with which the institution should maintain reserve balances; and

(2) The agreed-upon location does not raise any significant policy issues.

§ 265.6 Functions delegated to the General Counsel.

The General Counsel (or the General Counsel's delegatee) is authorized:

(a) *Procedure*—(1) *Reconsideration of Board action.* Pursuant to § 262.3(k) of the Board's Rules of Procedure (12 CFR 262.3(k)) to determine whether or not to grant a request for reconsideration or whether to deny a request for stay of the effective date of any action taken by the Board with respect to an action as provided in that part.

(2) *Public meetings.* To order, after consulting with the directors of other interested divisions of the Board and the appropriate Reserve Bank, that a public meeting or other proceeding be held in accordance with § 262.25 of the Board's Rules of Procedure (12 CFR 262.25), in connection with any application or notice filed with the Board, and to designate the presiding officer in the proceeding under terms and conditions the General Counsel deems appropriate.

(3) *Designation of Board counsel for hearings.* To designate Board staff attorneys as Board counsel in any proceeding ordered by the Board in accordance with § 263.6 of the Board's Rules of Practice for Hearings (12 CFR 263.6).

(b) *Availability of Information*—(1) *Board records.* To make available information of the Board of the nature and in the circumstances described in the Board's Rules Regarding Availability of Information (12 CFR part 261).

(2) *Disclosure to foreign authorities.* To make the determinations required for disclosure of information to a foreign bank regulatory or supervisory authority, and to obtain, to the extent necessary, the agreement of such authority to maintain the confidentiality of such information to the extent possible under applicable law.

(3) *Assistance to foreign authorities.* To approve requests for assistance from any foreign bank regulatory or supervisory authority that is conducting an investigation regarding violations of any law or regulation relating to banking matters or currency transactions administered or enforced by such authority, and to make the determinations required for any investigation or collection of information and evidence pertinent to such request. In deciding whether to approve requests for assistance under this paragraph (b)(3), the General Counsel shall consider:

(i) Whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of any appropriate Federal banking agency;

(ii) Whether compliance with the request would prejudice the public interest of the United States; and

(iii) Whether the request is consistent with the requirement that the Board conduct any such investigation in compliance with the laws of the United States and the policies and procedures of the Board.

(c) *Bank holding companies; savings and loan holding companies; change in bank control; mergers*—(1) *Control determinations under section 4(c)(8) of the Bank Holding Company Act.* To determine, or issue an order for a hearing to determine, whether a company engaged in financial, fiduciary, or insurance activities falls within the exemption in section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)), permitting retention or acquisition of control thereof by a bank holding company.

(2) *Data processing.* In consultation with the Director of the Division of Supervision and Regulation, to review and act on requests for permission by bank holding companies to administer the 49 percent revenue limit on nonfinancial data processing activities on a business-line or multiple-entity basis in appropriate circumstances under § 225.28(b)(14)(ii) of Regulation Y (12 CFR 225.28(b)(14)(ii)).

(3) *Notices under the Change in Bank Control Act.* To revoke acceptance of and return as incomplete a notice filed under the Change in Bank Control Act (12 U.S.C. 1817(j)) or to extend the time during which action must be taken on a notice where the General Counsel determines, with the concurrence of the Director of the Division of Supervision and Regulation, that the notice is materially incomplete under that Act or Regulation Y (12 CFR part 225), or contains material information that is substantially inaccurate.

(d) *Management interlocks*—(1) *General exemptions.* After consultation with the Director of the Division of Supervision and Regulation, to grant exceptions from the prohibitions of Regulation L (12 CFR part 212) or subpart J of Regulation LL (12 CFR part 238 subpart J) under the general exemption of section 212.6 of Regulation L (12 CFR 212.6) or section 238.96 of Regulation LL (12 CFR 238.6).

(2) *Legacy management interlocks.* After consultation with the Director of the Division of Supervision and Regulation, to approve a request to extend a management interlock permissible under section 206 of the Depository Institution Management Interlocks Act (12 U.S.C. 3205).

(e) *Enforcement actions.* With the concurrence of the Director of the Division of Supervision and Regulation:

(1) To enter into a cease-and-desist order, removal and prohibition order, or civil money penalty assessment order with a bank holding company or any nonbanking subsidiary thereof, with a State member bank, with a savings and

loan holding company, or with any other person or entity subject to the Board's jurisdiction under section 8(b) or (e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b) or (e)), when the order has been consented to by the institution or individual subject to the order; or to issue a notice suspending or prohibiting an institution-affiliated party under section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) when the notice has been consented to by the individual subject to the notice;

(2) To stay, modify, terminate, or suspend an order or notice issued pursuant to paragraph (e)(1) of this section.

(3) To grant consent to a person subject to an order of removal and/or prohibition or suspension notice or order issued by the Board or other Federal financial institutions regulatory agency to become an institution-affiliated party of, to otherwise participate in the conduct of the affairs of, or to take an action with respect to any voting rights in, any Board-supervised institution or entity.

(4) To take, or authorize designated persons to take actions permitted under 12 U.S.C. 1818(n), 1820(c), and 12 U.S.C. 1844(f), including administering oaths and affirmations, taking depositions, and issuing, revoking, quashing, or modifying subpoenas duces tecum.

(f) *International banking*—(1) *After-the-fact applications.* With the concurrence of the Director of the Division of Supervision and Regulation, to grant a request by a foreign bank to establish a branch, agency, commercial lending company, or representative office through certain acquisitions, mergers, consolidations, or similar transactions, in conjunction with which:

(i) The foreign bank would be required to file an after-the-fact application for the Board's approval under § 211.24(a)(6) of Regulation K (12 CFR 211.24(a)(6)); or

(ii) The General Counsel may waive the requirement for an after-the-fact application if:

(A) The surviving foreign bank commits to wind down the U.S. operations of the acquired foreign bank; and

(B) The merger or consolidation raises no significant policy or supervisory issues.

(2) To modify the requirement that a foreign bank that has submitted an application or notice to establish a branch, agency, commercial lending company, or representative office pursuant to § 211.24(a) of Regulation K (12 CFR 211.24(a)) shall publish notice of the application or notice in a newspaper of general circulation in the community in which the applicant or notificant proposes to engage in business, as provided in § 211.24(b)(2) of Regulation K (12 CFR 211.24(b)(2)).

(3) With the concurrence of the Director of the Division of Supervision and Regulation, to grant a request for an exemption under section 4(c)(9) of the Bank Holding Company Act (12 U.S.C. 1843(c)(9)), provided that the request raises no significant policy or supervisory issues that the Board has not already considered.

(4) To return applications and notices filed under the International Banking Act for informational deficits.

(5) To determine that an entity qualifies as a ''special-purpose foreign government-owned bank'' for purposes of § 211.24(d)(3) of Regulation K (12 CFR 211.24(d)(3)).

(g) *Conflicts of interest waivers.* To issue individual conflicts of interest waivers under 18 U.S.C. 208(b)(1) to employees and officials other than Board members.

(h) *Deregistration requests.* With the concurrence of the Director of the Division of Supervision and Regulation, to determine, pursuant to section 10(a)(1)(D)(ii) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(D)(ii)), that a company is not a savings and loan holding company by virtue of its control of a savings association that functions solely in a trust or fiduciary capacity as described in section 2(c)(2)(D) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)(D)), where no significant legal, policy, or supervisory issues are raised by the specific proposal.

(i) *Small entity compliance guides.* In consultation with the director of any other division responsible for drafting the associated rule, as appropriate, to approve and publish small entity compliance guides in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note).

(j) *Internal debt conversion triggers.* In consultation with the Director of the Division of Supervision and Regulation, to approve contractual language (''conversion trigger'') required to be included in the eligible internal debt securities (''eligible long-term debt'') issued pursuant to the Board's total loss-absorbing capacity rule (''TLAC Rule'') by the U.S. intermediate holding companies of foreign global systemically important banking organizations required to be formed under 12 CFR 252.153(a) (''Covered IHCs''), to the extent that such language does not raise any significant legal, policy, or supervisory concerns. The authority delegated to the General Counsel in consultation with the Director of the Division of Supervision and Regulation to approve conversion triggers is limited to requests that meet the following criteria:

(1) The conversion trigger does not include any conditions for triggering the conversion other than the issuance of an internal debt conversion order by the Board;

(2) The instruments governing the long-term debt and related documents mitigate any impediments to conversion of the long-term debt into equity capital;

(3) The conversion trigger provides for the conversion of the long-term debt into common equity tier 1 capital;

(4) The conversion trigger requires the conversion of long-term debt in the amount specified by the Board's internal debt conversion order; and

(5) Upon conversion of long-term debt pursuant to the conversion trigger, the converted long-term debt would no longer remain outstanding as a liability of the Covered IHC.

(k) *Section 19 of the Federal Deposit Insurance Act.* With the concurrence of the Director of the Division of Supervision and Regulation, to approve or disapprove requests under section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) where no significant legal, policy or supervisory issues are raised by the specific proposal.

§ 265.7 Functions delegated to the Director of the Division of Supervision and Regulation.

The Director of the Division of Supervision and Regulation (or the Director's delegatee) is authorized:

(a) *Procedure*—(1) *Cease and desist orders.* To refuse, with the prior concurrence of the appropriate Reserve Bank and the General Counsel, an application to the Board to stay, modify, terminate, or set aside any effective cease and desist order previously issued by the Board under section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)), or any written agreement between the Board or the Reserve Bank and a bank holding company or any nonbanking subsidiary thereof, a savings and loan holding company or any nondepository subsidiary thereof, or a State member bank.

(2) *Modification of commitments or conditions.* To grant or deny requests for modifying, including extending the time for, performing a commitment or condition relied on by the Board or its delegatee in taking any action under the Bank Holding Company Act, the Home Owners' Loan Act, section 18(c) of the Federal Deposit Insurance Act, the

Change in Bank Control Act, the Federal Reserve Act, the International Banking Act, or the Dodd-Frank Wall Street Reform and Consumer Protection Act. In acting on such requests, the Director may take into account changed circumstances and good faith efforts to fulfill the commitments or conditions, and shall consult with the directors of other interested divisions where appropriate. The Director may not take any action that would be inconsistent with or result in an evasion of the provisions of the Board's original action.

(3) *Processing extensions.* With the concurrence of the General Counsel, to extend the processing periods for the following applications and notices:

(i) The 60-day processing period for an acquisition of a bank or bank holding company filed under section 3 of the Bank Holding Company Act (12 U.S.C. 1842), pursuant to § 225.15(d)(2) of Regulation Y (12 CFR 225.15(d)(2));

(ii) The 60-day processing period for a nonbanking proposal filed under section 4 of the Bank Holding Company Act (12 U.S.C. 1843), pursuant to:

(A) Section 225.24(d)(2) of Regulation Y (12 CFR 225.24(d)(2)); and

(B) Section 4(j)(1)(C) of the Bank Holding Company Act (12 U.S.C. 1843(j)(1)(C)) and § 225.24(d)(3) of Regulation Y (12 CFR 225.24(d)(3));

(iii) The 60-day processing period for an acquisition of a savings association or savings and loan holding company filed under section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)), pursuant to § 238.14(g)(2) of Regulation LL (12 CFR 238.14(g)(2));

(iv) The 60-day processing period for a nonbanking proposal filed under section 10(c) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)), pursuant to:

(A) Section 238.53(f)(2) of Regulation LL (12 CFR 238.53(f)(2)); and

(B) Section 238.53(f)(3) of Regulation LL (12 CFR 238.53(f)(3)); and

(v) For an additional 180 days, the 180-day period within which final Board action is required on an application pursuant to section 7(d) of the International Banking Act (12 U.S.C. 3105(d)).

(4) *Notice of insufficient capital.* To issue, with the concurrence of the General Counsel, a notice that a State member bank, bank holding company, or savings and loan holding company has insufficient capital and which directs the bank or company to file with its regional Reserve Bank a capital improvement plan under subpart E of the Board's Rules of Practice for Hearings (12 CFR part 263, subpart E).

(5) *Obtaining possession or control of securities; extending time period.* To approve, under section 403.5(g) of the Treasury Department regulations (17 CFR 403.5) implementing the Government Securities Act of 1986, as amended (Pub. L. 95–571), the application of a member bank, a State branch or agency of a foreign bank, a foreign bank, or a commercial lending company owned or controlled by a foreign bank, to extend for one or more limited periods commensurate with the circumstances the 30-day time period specified in 17 CFR 403.5(c)(1)(iii), provided that the Director of the Division of Supervision and Regulation is satisfied that the applicant is acting in good faith and that exceptional circumstances warrant such action.

(b) *Availability of information*—(1) *Confidential supervisory information.* To make available information of the Board of the nature and in the circumstances described in § 261.22 of the Board's Rules Regarding Availability of Information (12 CFR 261.22).

(2) *Freedom of Information Act; availability of information.* To make available, under the Board's Rules Regarding Availability of Information (12 CFR part 261), reports and other information of the Board acquired pursuant to the Board's Regulations G, T, U, and X (12 CFR parts 207, 220, 221, 224) of the nature and in circumstances described in § 261.15(a)(4) and (8) of these rules.

(c) *Bank holding companies; savings and loan holding companies; financial holding companies; change in bank control; mergers*—(1) *Bank holding company and savings and loan holding company registration forms and annual reports.* To promulgate registration forms and annual reports and other forms for use in connection with the Bank Holding Company Act and the Home Owners' Loan Act, after receiving clearance from the Office of Management and Budget (where necessary), under section 5 of the Bank Holding Company Act (12 U.S.C. 1844) or section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a), and in accordance with 5 U.S.C. 553.

(2) *Emergency action.* To take actions the Reserve Bank could take under this part at § 265.20(c)(2)(ii) if immediate or expeditious action is required to avert failure of a bank or savings association or because of an emergency pursuant to sections 3(a) and 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1842(a), 1843(c)(8)), section 10(c) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)), or the Change in Bank Control Act (12 U.S.C. 1817(j)).

(3) *Waiver of notice.* To waive, dispense with, modify or excuse the failure to comply with the requirement for publication and solicitation of public comment regarding a notice filed under the Change in Bank Control Act (12 U.S.C. 1817(j)), with the concurrence of the General Counsel, provided a written finding is made that such disclosure would seriously threaten the safety or soundness of a bank holding company, savings and loan holding company, or a bank.

(4) *Notices for addition or change of directors or officers.* Under section 914(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1831i) and subpart H of Regulation Y (12 CFR part 225, subpart H) or subpart H of Regulation LL (12 CFR part 238, subpart H), provided that no senior officer or director or proposed senior officer or director of the notificant is also a director of the Reserve Bank or a branch of the Reserve Bank:

(i) To determine the informational sufficiency of notices filed pursuant to § 225.72 of Regulation Y (12 CFR 225.72) or § 238.73 of Regulation LL (12 CFR 238.73); and

(ii) To waive the prior notice requirements of that section.

(5) *ERISA violations.* To provide the Department of Labor written notification of possible significant violations of the Employee Retirement Income Security Act (ERISA) (29 U.S.C. 1001 *et seq.*) by bank holding companies or savings and loan holding companies, in accordance with section 3004(b) of ERISA (29 U.S.C. 1204(b)) and the Interagency Agreement adopted to implement its provisions.

(6) *Appraisal not required.* To determine pursuant to 12 CFR 225.63(a)(13) that the services of an appraiser are not necessary in order to protect Federal financial and public policy interests in real estate-related financial transactions or to protect the safety and soundness of an institution.

(7) *Financial holding company corrective action agreements.* With the concurrence of the General Counsel, to authorize a financial holding company, or a foreign bank that has elected to be treated as a financial holding company, that is subject to section 4(m) of the Bank Holding Company Act (12 U.S.C. 1843(m)):

(i) To acquire shares of a company pursuant to authority in section 4(k) of the Bank Holding Company Act (12 U.S.C. 1843(k)) in order to continue to engage in the following categories of existing activities which require recurring transactions in the ordinary course:

(A) Merchant banking,

(B) Underwriting dealing in, or making a market in securities;

(C) Sponsoring, organizing, and managing customer-driven investment funds; and

(D) Hedging risks incurred in ongoing permissible activities;

(ii) To extend the time within which a financial holding company must execute a corrective agreement under section 4(m) of the Bank Holding Company Act (12 U.S.C. 1843(m));

(iii) To extend the time limits in, or otherwise modify, corrective agreements under section 4(m) of the Bank Holding Company Act (12 U.S.C. 1843(m)); and

(iv) To determine not to make public any corrective agreement under section 4(m) of the Bank Holding Company Act (12 U.S.C. 1843(m));

(8) *Complementary physical commodity trading activities.* With the concurrence of the General Counsel, to approve requests by financial holding companies to engage in complementary physical commodity trading activities, pursuant to section 4(k)(1)(B) of the Bank Holding Company Act (12 U.S.C. 1843(k)(1)(B)), as an activity that is complementary to permissible commodity derivatives activities, provided that the proposal meets the conditions imposed by the Board approving previous requests and the proposal does not raise any significant legal, policy, or supervisory issues.

(9) *Extension of merchant banking investment holding periods.* With the concurrence of the General Counsel, to approve requests by financial holding companies to hold merchant banking investments beyond the standard time periods established in § 225.172(b)(4) of Regulation Y (12 CFR 225.172(b)(4)), where no significant legal, policy, or supervisory issues are raised by the specific request.

(10) *Single-counterparty credit limits rule exemptions.* With the concurrence of the General Counsel, to act on exemption requests under section 165(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5365(e)) and subparts H and Q of Regulation YY (12 CFR part 252, subparts H and Q) where no significant legal, policy, or supervisory issues are raised.

(11) *Stress tests.* (i) Jointly with the Director of the Division of Financial Stability, with the concurrence of the Chair of the Board's Committee on Supervision and Regulation:

(A) To develop and issue scenarios, including, but not limited to, the baseline scenario and the severely adverse scenario, that the Board would use to conduct analyses under § 238.132 of Regulation LL (12 CFR 238.132) or § 252.44 of Regulation YY (12 CFR 252.44) and that a company would use to conduct its stress tests under § 238.143 of Regulation LL (12 CFR 238.143) or § 252.14 or § 252.54 of Regulation YY (12 CFR 252.14 or 252.54), as appropriate, provided that no significant policy issues are raised; and

(B) To develop and issue additional scenarios or additional components for use in the severely adverse scenario under §§ 238.132(b) and 238.143(b)(2) and (3) of Regulation LL (12 CFR 238.132(b) and 238.143(b)(2) and (b)(3)), and §§ 252.14(b)(2) and (3), 252.44(b), and 252.54(b)(2) and (b)(3) of Regulation YY (12 CFR 252.14(b)(2) and (3), 252.44(b), and 252.54(b)(2) and (3)), that the Board would use to conduct analyses under § 238.132 of Regulation LL (12 CFR 238.132) or § 252.44 of Regulation YY (12 CFR 225.44) and that a company would use to conduct its stress tests under § 238.143 of Regulation LL (12 CFR 238.143) or § 252.14 or § 252.54 of Regulation YY (12 CFR 252.14 or 252.54), as appropriate, provided that no significant policy issues are raised;

(ii) With the concurrence of the Chair of the Committee on Supervision and Regulation:

(A) After consultation with the Board, to convey to a company the summary of the results of the Board's analyses of the company under § 238.134 of Regulation LL (12 CFR 238.134) or § 252.46 of Regulation YY (12 CFR 252.46);

(B) After consultation with the Board and the Director of the Division of Financial Stability, to determine the content and timing of the public disclosure of the results of the Board's analyses of a company under § 238.134 of Regulation LL (12 CFR 238.134) or § 252.46 of Regulation YY (12 CFR 252.46);

(C) To determine any appropriate updates to a company's resolution plan based on the results of the Board's analyses of the company under § 252.47 of Regulation YY (12 CFR 252.47); and

(D) To require a company to include one or more additional components in its severely adverse scenario in its stress test based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy pursuant to § 238.143(b)(2) of Regulation LL (12 CFR 238.143(b)(2)) and §§ 252.14(b)(2) and 252.54(b)(2) of Regulation YY (12 CFR 252.14(b)(2) and 252.54(b)(2));

(iii) After consultation with the Chair of the Committee on Supervision and Regulation:

(A) To evaluate whether a company has the capital necessary to absorb losses and continue its operation under baseline and severely adverse scenarios, and any additional scenarios, under § 238.134 of Regulation LL (12 CFR 238.134) or § 252.46 of Regulation YY (12 CFR 252.46);

(B) To conduct annual analyses of a company under § 238.132 of Regulation LL (12 CFR 238.132) or § 252.44 of Regulation YY (12 CFR 252.44); and

(C) To require a company with significant trading activity, as specified in the Capital Assessments and Stress Testing report (FR Y–14), or a subsidiary of such company, to include a trading and counterparty component in its severely adverse scenario in its stress test pursuant to § 238.143(b)(2) of Regulation LL (12 CFR 238.143(b)(2)) and §§ 252.14(b)(2) and 252.54(b)(2) of Regulation YY (12 CFR 252.14(b)(2) and 252.54(b)(2));

(iv) In consultation with the General Counsel, to respond to a company's request for reconsideration that the company is required to include one or more additional components in its severely adverse scenario, including a trading or counterparty component, or to use one or more additional scenarios under § 238.143(b)(4) of Regulation LL (12 CFR 238.143(b)(4)) and §§ 252.14(b)(4) and 252.54(b)(4) of Regulation YY (12 CFR 252.14(b)(4) and 252.54(b)(4)); and

(v) The Director of the Division of Supervision and Regulation is also authorized to:

(A) Notify a company of the determination that the company is required to include one or more additional components in its severely adverse scenario, including a trading or counterparty component, or to use one or more additional scenarios under § 238.143(b)(4) of Regulation LL (12 CFR 238.143(b)(4)) and §§ 252.14(b)(4) and 252.54(b)(4) of Regulation YY (12 CFR 252.14(b)(4) and 252.54(b)(4));

(B) Coordinate with the appropriate primary financial regulatory agencies in conducting the analyses under § 238.132 of Regulation LL (12 CFR 238.132) or § 252.44 of Regulation YY (12 CFR 252.44);

(C) Provide the as-of date of any scenarios, additional scenarios, additional components, and the relevant data under § 238.143(b) of Regulation LL (12 CFR 238.143(b)), or § 252.14(b) or § 252.54(b) of Regulation YY (12 CFR 252.14(b) or 252.54(b)), as appropriate;

(D) Extend (and in the case of nonbank financial companies supervised by the Board or savings and loan holding companies, accelerate) the compliance date for companies under § 238.131 or § 238.142 of Regulation LL (12 CFR 238.131 or 238.142), or § 252.13, § 252.43, or § 252.53 of

Regulation YY (12 CFR 252.13, 252.43, or 252.53), as appropriate;

(E) Extend any or all of the following time periods:

(*1*) The time period by which a company must conduct its stress test or the as-of date of the data under § 238.143(a) of Regulation LL (12 CFR 238.143(a)), or § 252.14(a) or § 252.54(a) of Regulation YY (12 CFR 252.14(a) or 252.54(a)), as appropriate;

(*2*) The time period by which a company must file a report to the Board under § 238.145(a) of Regulation LL (12 CFR 238.145(a)), or § 252.16(a) or § 252.57(a) of Regulation YY (12 CFR 252.16(a) or 252.57(a)), as appropriate; and

(*3*) The time period by which a company must disclose a summary of results of its stress tests under § 238.146 of Regulation LL (12 CFR 238.146), or § 252.17 or § 252.58 of Regulation YY (12 CFR 252.17 or 252.58), as appropriate;

(F) Require a company to submit additional information on a consolidated basis pursuant to § 238.133 of Regulation LL (12 CFR 238.133) or § 252.45 of Regulation YY (12 CFR 252.45) that the Director determines necessary to ensure that the Board has sufficient information to conduct its analysis under § 238.132 of Regulation LL (12 CFR 238.132) or § 252.44 of Regulation YY (12 CFR 252.44) or as necessary to project a company's pro forma financial condition;

(G) Require a company to submit additional information under § 238.145 of Regulation LL (12 CFR 238.145), or § 252.16 or § 252.57 of Regulation YY (12 CFR 252.16 or 252.57), as appropriate; and

(H) Determine that disclosures made by a bank holding company do not adequately capture the potential impact of scenarios on the capital of a State member bank pursuant to § 252.17 of Regulation YY (12 CFR 252.17) and require that the State member bank make the same disclosure as required for State member banks that are not subsidiaries of bank holding companies.

(12) *Volcker Rule conformance period extensions.* With the concurrence of the General Counsel, to approve (but not deny) a request by a new banking entity for an extension of time to conform its activities and investments to the requirements of section 13 of the Bank Holding Company Act and its implementing regulations, pursuant to § 225.181(a)(3) of Regulation Y (12 CFR 225.181(a)(3)), provided that the approval criteria thereunder are met and the request raises no significant policy or supervisory issues.

(d) *International banking*—(1) *Foreign bank reports.* To require submission of a report of condition respecting any foreign bank in which a member bank holds stock acquired under § 211.8(b) of Regulation K (12 CFR 211.8(b)), pursuant to section 25 of the Federal Reserve Act (12 U.S.C. 602).

(2) *Edge corporation reports.* To require submission and publication of reports by an Edge corporation under section 25A of the Federal Reserve Act (12 U.S.C. 625).

(3) *International banking matters.* With the concurrence of the General Counsel, to approve applications, notices, exemption requests, waivers and suspensions, and other related matters under Regulation K (12 CFR part 211), where such matters do not raise any significant legal, supervisory, or policy issues.

(4) *Allocated transfer risk reserves.* To determine the need for establishing and the amount of any allocated transfer risk reserve against specific international assets, and notify the banking institutions of the determination and the amount of the reserve and whether the reserve may be reduced under subpart D of Regulation K (12 CFR part 211, subpart D).

(5) *Conduct and coordination of examinations.* To authorize the conduct of examinations of the U.S. offices and affiliates of foreign banks as provided in sections 7(c) and 10(c) of the International Banking Act (12 U.S.C. 3105(c) and 3107(c)), and, where appropriate, to coordinate those examinations with examinations of the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the State entity that is authorized to supervise or regulate a State branch, State agency, commercial lending company, or representative office.

(6) *Election by a foreign bank to be treated as financial holding company.* With the concurrence of the General Counsel, to determine that an election by a foreign bank to become or to be treated as a financial holding company is effective, provided that:

(i) The foreign bank meets the criteria for becoming or being treated as a financial holding company; and

(ii) The election raised no significant policy or supervisory issues.

(7) *Enhanced prudential standards rule for foreign banking organizations.* (i) With the concurrence of the Chair of the Committee on Supervision and Regulation and the General Counsel, to grant or deny a request to permit a foreign banking organization to use an alternative organizational structure or not transfer its ownership interest in a U.S. subsidiary to its intermediate holding company under subpart O of Regulation YY (12 CFR part 252, subpart O), subject, as appropriate, to any commitments or conditions, provided that the request raises no significant policy or supervisory issues.

(ii) In consultation with the General Counsel, to:

(A) *Commitments.* Grant or deny requests for modifying, including extending the time for, performing a commitment or condition relied on by the Board or its delegatee in taking any action under subparts M through O of Regulation YY (12 CFR part 252, subparts M–O). In acting on such requests, the Director may take into account changed circumstances and good faith efforts to fulfill the commitments or conditions, and shall consult with the directors of other interested divisions where appropriate. The Director may not take any action that would be inconsistent with or result in an evasion of the provisions of the Board's original action;

(B) *Stress testing.* (*1*) Determine that an asset should not qualify as an eligible asset under §§ 252.146 and 252.158 of Regulation YY (12 CFR 252.146 and 252.158);

(*2*) Determine that a foreign banking organization or foreign savings and loan holding company must meet the additional standards, respectively, under § 238.162(b) of Regulation LL (12 CFR 238.162(b)) and §§ 252.146 and 252.158 of Regulation YY (12 CFR 252.146 and 252.158);

(*3*) Approve an enterprise-wide stress test and determine that it meets the stress test requirements under § 238.162(b) of Regulation LL (12 CFR 238.162(b)) and §§ 252.146 and 252.158 of Regulation YY (252.146 and 252.158);

(*4*) Require the U.S. branches and agencies of a foreign banking organization and, if the foreign banking organization has not established a U.S. intermediate holding company, any subsidiary of the foreign banking organization, to maintain a liquidity buffer or be subject to intragroup funding restrictions under § 252.158(d)(3) of Regulation YY (12 CFR 252.158(d)(3));

(C) *Capital.* Determine that a foreign banking organization would meet or exceed capital adequacy standards on a consolidated basis that are consistent with the Basel Capital Framework were the foreign banking organization subject to such standards under §§ 252.143(a)(2) and 252.154(a)(2) of Regulation YY (12 CFR 252.143(a)(2) and 252.154(a)(2));

(D) *Risk management.* Approve an alternative reporting structure for a U.S. chief risk officer based on circumstances

specific to the foreign banking organization under §§ 252.144(c)(3)(iii) and 252.155(b)(3)(iii) of Regulation YY (12 CFR 252.144(c)(3)(iii) and 252.155(b)(3)(iii));

(E) *Liquidity.* (*1*) Require a foreign banking organization to calculate the collateral positions for its combined U.S. operations more frequently than required under § 252.156(g)(l)(i) of Regulation YY (12 CFR 252.156(g)(l)(i));

(*2*) Require a foreign banking organization to perform stress testing more frequently than is required under § 252.157(a)(2) of Regulation YY (12 CFR 252.157(a)(2)); and

(F) *Additional information.* Require a foreign banking organization to provide additional information under §§ 252.147(a)(3), 252.153(a)(3) and 252.158(c)(2) of Regulation YY (12 CFR 252.147(a)(3), 252.153(a)(3) and 252.158(c)(2)), as appropriate.

(e) *Member banks*—(1) *Membership certification to FDIC.* To certify, under section 4(b) of the Federal Deposit Insurance Act (12 U.S.C. 1814(b)), to the Federal Deposit Insurance Corporation that the factors specified in section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) were considered with respect to the admission of a State-chartered bank to Federal Reserve membership.

(2) *Dollar exchange.* To permit any member bank to accept drafts or bill of exchange drawn upon it for the purpose of furnishing dollar exchange under section 13(12) of the Federal Reserve Act (12 U.S.C. 373).

(3) *ERISA violations.* To provide to the Department of Labor written notification of possible significant violations of the Employee Retirement Income Security Act (ERISA) (29 U.S.C. 1001 *et seq.*) by member banks, in accordance with section 3004(b) of ERISA (29 U.S.C. 1204(b)) and the Interagency Agreement adopted to implement its provisions.

(4) *Examiners.* To select or approve the appointment of Federal Reserve examiners, assistant examiners, and special examiners for the purpose of making examinations for or by the direction of the Board under 12 U.S.C. 325, 338, 625, 1844(c), and 3105(c)(1).

(5) *Capital stock reduction; branch applications; declaration of dividends; investment in bank premises.* To exercise the functions described in § 265.20(e)(5), (11), and (12)(reductions in capital, issuance of subordinated debt, and early retirement of subordinated debt) when the conditions specified in those sections preclude a Reserve Bank from acting on a member bank's request for action or when the Reserve Bank concludes that it should not take action, and to exercise the functions in § 265.20(e)(3), (4), and (7) (approving branch applications, declaration of dividends, and investment in bank premises) in cases in which the Reserve Bank concludes that it should not take action.

(6) *Security devices.* To exercise the functions described in § 265.20(e)(8) in those cases in which the appropriate Reserve Bank concludes that it should not take action for good cause.

(7) *Public welfare investments.* (i) To permit a State member bank to make a public welfare investment in accordance with section 9(23) of the Federal Reserve Act (12 U.S.C. 338a) in any case in which the appropriate Reserve Bank does not have delegated authority to act, unless the proposal does not satisfy § 208.22(b)(1) of Regulation H (12 CFR 208.22(b)(1)). In acting on such requests, the Director shall consult with the directors of other interested divisions where appropriate; and

(ii) To determine, in connection with acting on a proposal pursuant to delegated authority as set forth in paragraph (e)(7)(i) of this section, that the aggregate amount of a State member bank's public welfare investments will not pose a significant risk to the deposit insurance fund in accordance with section 9(23) of the Federal Reserve Act (12 U.S.C. 338a).

(8) *Prior approval for capital distributions.* With the concurrence of the Vice Chair for Supervision, to approve (but not deny) a request to make a distribution pursuant to § 217.303(g) of the Board's Regulation Q (12 CFR 217.303(g)).

(f) *Securities*—(1) *Registration statements by member banks.* Under section 12(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(g)):

(i) To accelerate the effective date of a registration statement filed by a member bank with respect to its securities;

(ii) To accelerate termination of the registration of a security that is no longer held of record by 300 persons; and

(iii) To extend the time for filing a registration statement by a member bank.

(2) *Exemption from registration.* To issue notices with respect to application by a State member bank for exemption from registration under section 12(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(h)).

(3) *Accelerating registration of security on national securities exchange.* To accelerate the effective date of an application by a State member bank for registration of a security on a national securities exchange under section 12(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(d)).

(4) *Unlisted trading in security of a State member bank.* To issue notices with respect to an application by a national securities exchange for unlisted trading privileges in a security of a State member bank under section 12(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(f)).

(5) *Transfer agent registration; acceleration; withdrawal or cancellation.* (i) To accelerate, under section 17A(c)(2) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78q–1(c)(2)), the effective date of a registration statement for transfer agent activities filed by a member bank or a subsidiary thereof, a bank holding company or a subsidiary thereof that is a bank as defined in section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)) other than a bank specified in clause (i) or (iii) of section 3(a)(34)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)(B)).

(ii) To withdraw or cancel, under section 17A(c)(3)(C) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78q–1(c)(4)(B)), the transfer agent registration of a member bank or a subsidiary thereof, a bank holding company, or a subsidiary thereof that is a bank as defined in section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)) other than a bank specified in clause (i) or (iii) of section 3(a)(34)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)(B)), that has filed a written notice of withdrawal with the Board or upon a finding that such transfer agent is no longer in existence or has ceased to do business as a transfer agent.

(6) *Proxy solicitation; financial statements.* (i) To permit the mailing of proxy and other soliciting materials by a State member bank before the expiration of the time prescribed therein under § 208.36 of Regulation H (12 CFR 208.36).

(ii) To permit the omission of financial statements from reports by a State member bank, or to require other financial statements in addition to, or in substitution for, the statements required therein under § 208.36 of Regulation H (12 CFR 208.36).

(7) *Municipal securities dealers.* Under section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w).

(i) To grant or deny requests for waiver of examination and waiting period requirements for municipal securities principals and representatives under Municipal Securities Rulemaking Board Rule G–3;

(ii) To grant or deny requests for a determination that a natural person or municipal securities dealer subject to a statutory disqualification is qualified to act as a municipal securities representative or dealer under Municipal Securities Rulemaking Board Rule G–4;

(iii) To approve or disapprove clearing arrangements under Municipal Securities Rulemaking Board Rule G–8, in connection with the administration of these rules for municipal securities dealers for which the Board is the appropriate regulatory agency under section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)).

(8) *Making reports available to SEC.* To make available, upon request, to the Securities and Exchange Commission reports of examination of transfer agents, clearing agencies, and municipal securities dealers for which the Board is the appropriate regulatory agency for use by the Commission in exercising its supervisory responsibilities under the Act under section 17(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(c)(3)).

(9) *Issuing examination manuals, forms, and other materials.* To issue examination or inspection manuals, registration, report, agreement, and examination forms, guidelines, instructions, and other similar materials for use in administering sections 7, 8, 15B, and 17A(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78g, 78h, 78o–4, and 78q–1(c)).

(10) *Lists of OTC and foreign margin stocks.* To approve issuance of the lists of OTC margin stocks and foreign margin stocks and add, omit, or remove any stock in circumstances indicating that such change is necessary or appropriate in the public interest under § 207.6(d) of Regulation G (12 CFR 207.6(d)), § 220.17(f) of Regulation T (12 CFR 220.17(f)), or § 221.7(d) of Regulation U (12 CFR 221.7(d)).

(g) *Golden parachute payments.* With the concurrence of the General Counsel, to approve an application to make a golden parachute payment or enter into an agreement to make a golden parachute payment under 12 CFR part 359.

(h) *Prompt corrective action.* With the approval of the General Counsel, to take the following actions pursuant to prompt corrective action under the rules implementing section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o) in connection with any institution or person, except a critically undercapitalized institution:

(1) Capital categories, capital restoration plans, and discretionary supervisory actions pursuant to §§ 208.42 through 208.44 of Regulation H (12 CFR 208.42 through 208.44);

(2) Notices and directives pursuant to § 263.202 of the Board's Rules of Practice for Hearings (12 CFR 263.202);

(3) Reclassification of a capital category based on criteria other than capital pursuant to § 263.203 of the Board's Rules of Practice for Hearings (12 CFR 263.203); and

(4) Dismissal of directors or senior officers pursuant to § 263.204 of the Board's Rules of Practice for Hearings (12 CFR 263.204).

(i) *Assessments for bank holding companies, savings and loan holding companies, and nonbank financial companies supervised by the Board.* In consultation with the General Counsel, to take actions pursuant to Regulation TT (12 CFR part 246) to determine the elements of the assessment formula for each assessment period including the assessment rate, the amount of the assessment basis, and each company's total assessable assets; to determine the amount of assessment for each assessed company, including allowing for pro-rata adjustments, payment of a lesser amount than would otherwise be required pursuant to the reservation of authority, and responding to an appeal by revising the assessment amount; to notify the assessed companies of the assessment; and to publish information regarding calculation of the assessments for each assessment period (including a description of how the assessment basis was determined) on the Board's public website.

(j) *Capital plans.* (1) To take the following actions (or to provide concurrence to the appropriate Reserve Bank, where appropriate):

(i) To allow a bank holding company or savings and loan holding company to submit its capital plan after the 5th of January of a given year;

(ii) To object, in whole or in part, to the capital plan or provide the bank holding company or savings and loan holding company with a notice of non-objection to the capital plan;

(iii) To direct a bank holding company or savings and loan holding company to revise and resubmit its capital plan if:

(A) The capital plan is incomplete;

(B) There has been or will be a material change in the bank holding company's or savings and loan holding company's risk profile, financial condition, or corporate structure;

(C) The stressed scenarios developed by the bank holding company or savings and loan holding company are not sufficiently stressed; or

(D) The capital plan or bank holding company or savings and loan holding company raise any issues that would cause the Board or the Reserve Bank to object to the capital plan;

(iv) To waive the requirement that a bank holding company or savings and loan holding company resubmit its entire capital plan with respect to those portions of the plan that are unchanged;

(v) To extend or shorten the 30-day period for resubmission of a capital plan;

(vi) To determine that a bank holding company or savings and loan holding company is required to obtain prior approval for a capital distribution that would result in a material adverse change to the organization's capital or liquidity structure or because earnings were materially underperforming projections;

(vii) To notify a bank holding company or savings and loan holding company in writing that it may not take advantage of the prior approval exception for well-capitalized bank holding companies or savings and loan holding companies; or

(viii) To approve or disapprove, within 30 days of receipt of receipt of a complete request, a proposed capital distribution; and

(ix) To affirm or withdraw objection to a capital plan based on a bank holding company's or savings and loan holding company's written request to reconsider an objection to a capital plan.

(2) With the concurrence of the Chair of the Committee on Supervision and Regulation, and after consultation with the Board and the Director of the Division of Financial Stability, to determine the content and timing of the public disclosure of the Board's decision to object or not object to a bank holding company's or savings and loan holding company's capital plan and the summary of the Board's analyses of that company, under § 225.8 of Regulation Y (12 CFR 225.8).

(3) Jointly with the Director of the Division of Financial Stability, with the concurrence of the Vice Chair for Supervision:

(i) To provide a firm subject to the Board's capital plan rules with notice of its stress capital buffer requirement and an explanation of the results of the supervisory stress test pursuant to §§ 225.8(h)(1) of Regulation Y (12 CFR 115.8(h)(1)) and 238.170(h)(1) of Regulation LL (12 CFR 238.170(h)(1)); and

(ii) To provide a firm subject to the Board's capital plan rules with its final stress capital buffer requirement and confirmation of its final planned capital distributions pursuant to

§§ 225.8(h)(4)(i) of Regulation Y (12 CFR 225.8(h)(4)(i)) and 238.170(h)(4)(i) of Regulation LL (12 CFR 238.170(h)(4)(i)).

(k) *Capital adequacy*—(1) *Delegations regarding the general provisions of subpart A of Regulation Q (12 CFR part 217, subpart A).* (i) With the concurrence of the Chair of the Committee on Supervision and Regulation, and after consultation with the General Counsel:

(A) To determine under § 217.1(d)(2)(ii) of Regulation Q (12 CFR 217.1(d)(2)(ii)) whether a capital element may be included in a company's common equity tier 1 capital, additional tier 1 capital, or tier 2 capital consistent with the loss absorption capacity of the element and in accordance with § 217.20(e) of Regulation Q (12 CFR 217.20(e)); and

(B) To determine under the definition of ''financial institution'' in § 217.2 of Regulation Q (12 CFR 217.2) whether a company is a financial institution based on its activities.

(ii) After consultation with the General Counsel:

(A) To require under § 217.1(d)(1) of Regulation Q (12 CFR 217.1(d)(1)) a company to hold an amount of regulatory capital greater than otherwise required under Regulation Q because the company's capital requirements under Regulation Q are not commensurate with the company's credit, market, operational or other risks;

(B) To determine under § 217.1(d)(2)(i) of Regulation Q (12 CFR 217.1(d)(2)(i)) whether an element of capital must be excluded in whole or in part from capital because the capital element has characteristics or terms that diminish its ability to absorb losses, or otherwise presents safety and soundness concerns;

(C) To require under § 217.1(d)(3) of Regulation Q (12 CFR 217.1(d)(3)) that a company assign a different risk-weighted asset amount to an exposure or deduct the amount of the exposure from its regulatory capital because the risk-weighted asset amount calculated under Regulation Q for the exposure is not commensurate with the risks associated with the exposure;

(D) To determine under § 217.1(d)(4) of Regulation Q (12 CFR 217.1(d)(4)) whether the leverage exposure amount, or the amount reflected in a company's reported average total consolidated assets, for an on- or off-balance sheet exposure (under § 217.10 of Regulation Q (12 CFR 217.10)) is inappropriate for the exposure(s) or the circumstances of the company, and, based on this determination, require the company to adjust this amount in the numerator and the denominator for purposes of the company's leverage ratio calculations;

(E) To determine under § 217.1(d)(5) of Regulation Q (12 CFR 217.1(d)(5)) whether the risk-based capital treatment for an exposure, or the treatment provided to an entity that is not consolidated on a company's balance sheet, is commensurate with the risk of the exposure and the relationship of the company to the entity, and, based on this determination, require the company to treat the exposure or entity as if it were consolidated on the company's balance sheet; and

(F) With respect to any deduction or limitation required under Regulation Q, to require under § 217.1(d)(6) of Regulation Q (12 CFR 217.1(d)(6)) a different deduction or limitation provided that such alternative deduction or limitation is commensurate with the company's risk and consistent with safety and soundness.

(iii)(A) To determine under paragraph (5) of the definition of ''distribution'' in § 217.2 of Regulation Q (12 CFR 217.2) whether a transaction is in substance a distribution of capital;

(B) To act on a request from a company under the definition of ''eligible credit derivative'' in § 217.2 of Regulation Q (12 CFR 217.2) to find that a credit derivative (other than a credit default swap, nth-to-default swap, or total return swap) should be considered an eligible credit derivative;

(C) To determine under the definition of ''main index'' in § 217.2 of Regulation Q (12 CFR 217.2) whether an index is a main index because the equities represented by the index have comparable liquidity, depth of market, and size of bid-ask spreads as equities in the Standard & Poor's 500 Index and FTSE All-World Index;

(D) To determine under the definition of ''multilateral development bank'' in § 217.2 of Regulation Q (12 CFR 217.2) whether a multilateral lending institution or regional development bank poses a comparable credit risk to other multilateral development banks;

(E) To determine under the definition of ''qualifying central counterparty'' in § 217.2 of Regulation Q (12 CFR 217.2) whether a central counterparty meets the requirements for qualification as a qualifying central counterparty;

(F) To determine under paragraph (8) of the definition of ''traditional securitization'' in § 217.2 of Regulation Q (12 CFR 217.2) whether a transaction is not a traditional securitization based on the transaction's leverage, risk profile, or economic substance; and

(G) To determine under paragraph (9) of the definition of ''traditional securitization'' in § 217.2 of Regulation Q (12 CFR 217.2) whether a transaction is a traditional securitization based on the transaction's leverage, risk profile, or economic substance.

(2) *Delegation regarding the capital ratio requirements and buffers in subpart B of Regulation Q (12 CFR part 217, subpart B).* To act on a request under § 217.11(a)(4)(iv) of Regulation Q (12 CFR 217.11(a)(4)(iv)) to permit a company to make a capital distribution or discretionary bonus payment that would otherwise not be permissible.

(3) *Delegations regarding the definition of capital in subpart C of Regulation Q (12 CFR part 217, subpart C).* (i) With the concurrence of the Chair of the Committee on Supervision and Regulation, and after consultation with the General Counsel, to act on a request from a company under § 217.20(e)(1) of Regulation Q (12 CFR 217.20(e)(1)) to include a capital element in its common equity tier 1 capital, additional tier 1 capital, or tier 2 capital.

(ii)(A) To determine under § 217.20(c)(l)(v)(C) and (d)(l)(v)(C) of Regulation Q (12 CFR 217.20(c)(l)(v)(C) and (d)(l)(v)(C)) whether a company would continue to hold capital commensurate to its risk following the exercise of a call option;

(B) To consult with the other banking agencies under § 217.20(e)(2) of Regulation Q (12 CFR 217.20(e)(2)) when considering whether a company may include a regulatory capital element in its common equity tier 1 capital, additional tier 1 capital, or tier 2 capital;

(C) To make publicly available under § 217.20(e)(3) of Regulation Q (12 CFR 217.20(e)(3)) a decision that a regulatory capital element may be included in a company's common equity tier 1 capital, additional tier 1 capital, or tier 2 capital;

(D) To determine under § 217.22(a)(5)(i) of Regulation Q (12 CFR 217.22(a)(5)(i)) whether the deduction of a defined benefit pension fund net asset is not required to the extent that the company has unrestricted and unfettered access to the assets in the fund;

(E) To act on a request from a company under § 217.22(b)(2)(iv) of Regulation Q (12 CFR 217.22(b)(2)(iv)) to change to its AOCI opt-out election following a merger, acquisition, or purchase transaction;

(F) To act on a request from a company under § 217.22(c)(4), (5), or (6) or (d)(2)(i)(C) of Regulation Q (12 CFR 217.22(c)(4), (5), or (6) or (d)(2)(i)(C)) not to deduct investments in the capital of an unconsolidated financial institution either:

(*1*) To the extent the investment is related to a failed underwriting, or

(*2*) If the financial institution is in distress and the investment is made for the purpose of providing financial support to the financial institution;

(G) To act on a request from a company under § 217.22(d)(1)(iv) or (d)(2)(iii) of Regulation Q (12 CFR 217.22(d)(1)(iv) or (d)(2)(iii)) to change its election whether to exclude DTAs and DTLs relating to adjustments made to common equity tier 1 capital;

(H) To act on a request from a company under § 217.22(e)(5) of Regulation Q (12 CFR 217.22(e)(5)) to change its preference regarding the manner in which it nets DTLs against specific assets subject to deduction;

(I) To act on a request from a company under § 217.22(h)(2)(iii)(A) of Regulation Q (12 CFR 217.22(h)(2)(iii)(A)) to use a conservative estimate of the amount of its investment in its own capital instruments or the capital of an unconsolidated financial institution held through a position in an index; and

(J) To determine under § 217.22(h)(3)(iii)(C) of Regulation Q (12 CFR 217.22(h)(3)(iii)(C)) whether a company's internal control process is adequate.

(iii)(A) To act on a company's request under § 217.20(b)(l)(iii), (c)(l)(vi), or (d)(l)(x) of Regulation Q (12 CFR 217.20(b)(l)(iii), (c)(l)(vi), (d)(l)(x)) to redeem a security; and

(B) To act on a company's request under § 217.20(c)(l)(v)(A) or (d)(l)(v)(A) of Regulation Q (12 CFR 217.20(c)(l)(v)(A), (d)(l)(v)(A)) to exercise a call option.

(4) *Delegations regarding the standardized approach in subpart D of Regulation Q* (12 CFR part 217, subpart D). (i) After consultation with the General Counsel, to determine under § 217.35(d)(3)(i)(E) of Regulation Q (12 CFR 217.35(d)(3)(i)(E)) that a risk weight higher than 20 percent for variable RW in formula K_{CCP} is more appropriate based on the specific characteristics of the QCCP and its clearing members.

(ii)(A) To determine under § 217.35(d)(1) of Regulation Q (12 CFR 217.35(d)(1)) whether there has been a material change in the financial condition of a CCP;

(B) To act on a request under § 217.35(d)(2) of Regulation Q (12 CFR 217.35(d)(2)) for a company to use a risk-weighted asset amount for default fund contributions to a CCP that is not QCCP other than a 1,250 percent risk weight; and

(C) In the case of a system-wide failure of a settlement or clearing system, or a CCP, to waive under § 217.38(c) of Regulation Q (12 CFR 217.38(c)) risk-based capital requirements for unsettled and failed transactions.

(iii)(A) To act on a request from a company under § 217.37(c) of Regulation Q (12 CFR 217.37(c)) to use its own estimates of haircuts, including:

(*1*) Acting on a request by a company under § 217.37(c)(4)(i)(E) of Regulation Q (12 CFR 217.37(c)(4)(i)(E)) to make changes to the company's policies and procedures; and

(*2*) Requiring a company under § 217.37(c)(4)(i)(F) of Regulation Q (12 CFR 217.37(c)(4)(i)(F)) to use a different period of significant financial stress in the calculation of own estimates of haircuts; and

(B) To determine under § 217.41(c) of Regulation Q (12 CFR 217.41(c)) whether or not a company has demonstrated a comprehensive understanding of the features of a securitization exposure.

(5) *Delegations regarding the advanced approaches risk-based capital rules in subpart E of Regulation Q* (12 CFR part 217, subpart E). (i) With the concurrence of the Chair of the Committee on Supervision and Regulation, and after consultation with the General Counsel, to act on a request by a company under § 217.121(c) and (d) of Regulation Q (12 CFR 217.121(c) and (d)) to use the advanced approaches to calculate its risk-based capital requirements and notify the company of the date that it must begin to do so if the action would not raise significant policy issues.

(ii) After consultation with the General Counsel:

(A) To require a company (that no longer meets the qualification requirements in subpart E of Regulation Q (12 CFR part 217, subpart E)) under § 217.123(b)(3) of Regulation Q (12 CFR 217.123(b)(3)) to calculate its advanced approaches total risk-weighted assets with modifications determined by the Director if the Director determines that the advanced approaches total risk-weighted assets are not commensurate with the company's credit, market, operational, or other risk; and

(B) To determine under § 217.133(d)(3)(i) of Regulation Q (12 CFR 217.133(d)(3)(i)) that a risk weight higher than 20 percent for variable RW in formula K_{ccp} is more appropriate based on the specific characteristics of the QCCP and its clearing members.

(iii)(A) To determine under § 217.100(c)(1) of Regulation Q (12 CFR 217.100(c)(1)) that not applying a provision of Regulation Q would, in all circumstances, unambiguously generate a risk-based capital requirement for each such exposure greater than that which would otherwise be required;

(B) To determine that a non-U.S. subsidiary of a U.S. company may use the retail definition of default defined in a non-U.S. jurisdiction under the definition of ''default'' in § 217.101 of Regulation Q (12 CFR 217.101);

(C) To determine for purposes of the definition of eligible double default guarantor in § 217.101 of Regulation Q (12 CFR 217.101) whether the guarantor is subject to consolidated supervision and regulation comparable to that imposed on U.S. depository institutions or securities broker-dealers;

(D) To extend any of the following periods:

(*1*) A company's parallel run start date under § 217.121 of Regulation Q (12 CFR 217.121);

(*2*) For up to an additional 12 months, the time in which a company may use subpart D of Regulation Q (12 CFR part 217, subpart D) to determine the risk-weighted asset amounts for a merged or acquired company's exposures under § 217.124(a) of Regulation Q (12 CFR 217.124(a)); and

(*3*) For up to an additional 12 months, the time in which a company may use an acquired company's advanced systems to determine total risk-weighted assets for the merged or acquired company's exposures under § 217.124(b)(1) of Regulation Q (12 CFR 217.124(b)(1));

(E) To assess compliance with any supervisory guidance on qualification requirements for purposes of § 217.121(b)(1) of Regulation Q (12 CFR 217.121(b)(1));

(F) To waive the requirement under § 217.121(b)(2) of Regulation Q (12 CFR 217.121(b)(2)) that a company submit a parallel run implementation plan to the Board at least 60 days before it proposes to begin its parallel run;

(G) To act on a request by a company under § 217.122(g)(2)(ii)(A)(*1*) of Regulation Q (12 CFR 217.122(g)(2)(ii)(A)(*1*)) to use a historical observation period of less than five years for internal operational loss event data to address transitional situations, such as integrating a new business line;

(H) To act on a request by a company under § 217.122(g)(2)(ii)(A)(*3*) of Regulation Q (12 CFR 217.122(g)(2)(ii)(A)(*3*)) to refrain from collecting internal operational loss event data for individual operational losses below established dollar threshold amounts;

(I) To act on a request by a company under § 217.122(g)(3)(i)(D) of Regulation Q (12 CFR 217.122(g)(3)(i)(D)) to use internal estimates of dependence among

operational losses across and within units of measure;

(J) To act on a request by a State member bank under § 217.122(g)(3)(ii) of Regulation Q (12 CFR 217.122(g)(3)(ii)) to generate an estimate of the company's operational risk exposure using an alternative approach to that specified in § 217.122(g)(3)(i) of Regulation Q (12 CFR 217.122(g)(3)(i));

(K) To determine under § 217.123(b) of Regulation Q (12 CFR 217.123(b)) that a company that has conducted a satisfactory parallel run fails to comply with the qualification requirements in § 217.122 of Regulation Q (12 CFR 217.122) and notify the company in writing of the determination;

(L) To determine under § 217.123(b) of Regulation Q (12 CFR 217.123(b)) whether a company's plan to return to compliance with the qualification requirements in § 217.122 of Regulation Q (12 CFR 217.122) is satisfactory;

(M) To establish requirements under § 217.131(e)(l)(i) of Regulation Q (12 CFR 217.131(e)(l)(i)) for the estimation of a margin loan's probability of default (''PD'') and loss given default (''LGD'');

(N) In the case of a system-wide failure of a settlement or clearing system, or a central counterparty, to waive under § 217.136(c) of Regulation Q (12 CFR 217.136(c)) risk-based capital requirements for unsettled and failed transactions; and

(O) To act on a request by a company under § 217.161(b)(2) of Regulation Q (12 CFR 217.161(b)(2)) to use operational risk mitigants other than insurance.

(iv)(A) To act on a request for approval of any model or optional approach available under subpart E of Regulation Q (12 CFR part 217, subpart E), including without limitation:

(*1*) Any counterparty credit risk model or methodology (own estimates of haircuts, simple VaR methodology, internal models methodology, or advanced credit valuation adjustment (''CVA'') approach) under §§ 217.122(d) and 217.132 of Regulation Q (12 CFR 217.122(d) and 217.132), including:

(*i*) Acting on a request by a company under § 217.132(b)(2)(iii)(A)(*5*) of Regulation Q (12 CFR 217.132(b)(2)(iii)(A)(*5*)) to make changes to the company's policies and procedures;

(*ii*) Requiring a company under § 217.132(b)(2)(iii)(A)(*6*) of Regulation Q (12 CFR 217.132(b)(2)(iii)(A)(*6*)) to use a different period of significant financial stress in the calculation of own internal estimates for haircuts;

(*iii*) Acting on a request by a company under § 217.132(d)(1) introductory text and (d)(1)(iv) of Regulation Q (12 CFR 217.132(d)(1) introductory text and (d)(1)(iv)) to use the internal models methodology, cease using the internal models methodology for a transaction type, or make a material change to its internal model;

(*iv*) Acting on a request by a company under § 217.132(d)(2)(iv) and (d)(10) of Regulation Q (12 CFR 217.132(d)(2)(iv) and (d)(10)) to use a more conservative estimate of exposure at default (''EAD'');

(*v*) Determining that a company must set a higher ''alpha'' under § 217.132(d)(2)(iv)(C) of Regulation Q (12 CFR 217.132(d)(2)(iv)(C)) based on the company's specific characteristics of and counterparty credit risk or model performance;

(*vi*) Acting on a request by a company under § 217.132(d)(3) of Regulation Q (12 CFR 217.132(d)(3)) to calculate the distributions of exposures upon which the EAD calculation is based;

(*vii*) Requiring a company under § 217.132(d)(3)(viii) of Regulation Q (12 CFR 217.132(d)(3)(viii)) to modify its stress calibration to better reflect actual historic losses of the portfolio;

(*viii*) Acting on a request by a company under § 217.132(d)(5)(i) of Regulation Q (12 CFR 217.132(d)(5)(i)) to include the effect of a collateral agreement within an internal model used to calculate EAD;

(*ix*) Requiring a company under § 217.132(d)(5)(iii)(C) of Regulation Q (12 CFR 217.132(d)(5)(iii)(C)) to set a longer holding period (for margin period of risk for a netting set that is subject to a collateral agreement) if the Director determines that a longer period is appropriate due to the nature, structure, or characteristics of the transaction or is commensurate with the risks associated with the transaction;

(*x*) Acting on a request by a company under § 217.132(d)(6) of Regulation Q (12 CFR 217.132(d)(6)) to calculate alpha as the ratio of economic capital from a full simulation of counterparty exposure across counterparties that incorporates a joint simulation of market and credit risk factors (numerator) and economic capital based on expected positive exposure (''EPE'') (denominator), subject to a floor of 1.2;

(*xi*) Acting on a request by a company under § 217.132(e) of Regulation Q (12 CFR 217.132(e)) to calculate its CVA risk-weighted asset amounts for a class of counterparties using the advanced CVA approach;

(*xii*) Acting on a request by a company under § 217.132(e)(6)(ii)(D) of Regulation Q (12 CFR 217.132(e)(6)(ii)(D)) to use a conservative estimate when determining LGD_{MKT}; and

(*xiii*) Requiring a company under § 217.132(e)(6)(v)(B) of Regulation Q (12 CFR 217.132(e)(6)(v)(B)) to use a different period of significant financial stress in the calculation of the $CVA_{Stressed}$ measure;

(*2*) Any model or approach relating to cleared transactions under §§ 217.122(d) and 217.133 of Regulation Q (12 CFR 217.122(d) and 217.133), including:

(*i*) Requiring under § 217.133(d)(1) of Regulation Q (12 CFR 217.133(d)(1)) a company that is a clearing member to determine the risk-weighted asset amount for a default fund contribution to a CCP more frequently than quarterly if in the opinion of the Director of the Division of Supervision and Regulation, there is a material change in the financial condition of the CCP; and

(*ii*) Acting on a request under § 217.133(d)(2) of Regulation Q (12 CFR 217.133(d)(2)) for a company to use a risk-weighted asset amount for default fund contributions to a CCP that is not QCCP other than a 1,250 percent risk weight;

(*3*) Any model or approach relating to the double default treatment under §§ 217.122(e) and 217.135 of Regulation Q (12 CFR 217.122(e) and 217.135), including acting on a request by a company under § 217.135(a)(6) of Regulation Q (12 CFR 217.135(a)(6)) to implement a process to detect excessive correlation between the creditworthiness of the obligor of a hedged exposure and a protection provider;

(*4*) A company's own internal estimates of market price volatility and foreign exchange volatility under § 217.145(b)(4) of Regulation Q (12 CFR 217.145(b)(4)); and

(*5*) The internal models approach for equity exposures under §§ 217.122(f) and 217.153(b) of Regulation Q (12 CFR 217.122(f) and 217.153(b));

(B) To determine under § 217.131(e)(4) of Regulation Q (12 CFR 217.131(e)(4)) whether a portfolio of exposures is or is not material; and

(C) To assess for purposes of § 217.141(c)(1) of Regulation Q (12 CFR 217.141(c)(1)) whether a company has a comprehensive understanding of the features of a securitization exposure that would materially affect the performance of the exposure.

(6) *Delegations regarding the market risk rule in subpart F of Regulation Q* (12 CFR part 217, subpart F). (i) With the concurrence of the Chair of the Committee on Supervision and Regulation, and after consultation with the General Counsel, to act on a request by a company to be excluded from the market risk rule under § 217.201(b)(3) of Regulation Q (12 CFR 217.201(b)(3)) if

the action would not raise significant policy issues.

(ii) After consultation with the General Counsel, to require a company:

(A) Under § 217.201(c)(1) of Regulation Q (12 CFR 217.201(c)(1)) to hold an amount of capital greater than otherwise required under subpart F of Regulation Q (12 CFR part 217, subpart F) upon a determination that the company's capital requirement for market risk as calculated under Regulation Q is not commensurate with the market risk of the company's covered positions;

(B) Under § 217.201(c)(2) of Regulation Q (12 CFR 217.201(c)(2)) to assign a different risk-based capital requirement to one or more covered positions or portfolios that more accurately reflects the risk of the positions or portfolios; and

(C) Under § 217.201(c)(3) of Regulation Q (12 CFR 217.201(c)(3)) to calculate risk-based capital requirements for specific positions or portfolios under subpart F of Regulation Q (12 CFR part 217, subpart F), or under subparts D or E of Regulation Q (12 CFR part 217, subparts D or E), as appropriate, to more accurately reflect the risks of the positions.

(iii) To act regarding any model approval, disapproval, rescission, or supervision under subpart F of Regulation Q (12 CFR part 217, subpart F), including the authority to:

(A) Exclude from trading assets or liabilities structural foreign currency positions of a company or any hedge of a covered position that is outside the scope of the company's hedging strategy under § 217.202 of Regulation Q (12 CFR 217.202);

(B) Act on a request from a company under § 217.203(c)(1) of Regulation Q (12 CFR 217.203(c)(1)) to approve its internal model(s) to calculate its risk-based capital requirement;

(C) Rescind approval under § 217.203(c)(3) of Regulation Q (12 CFR 217.203(c)(3)) of a company's internal model(s) to calculate its risk-based capital requirement;

(D) Act on a request from a company under § 217.204(a)(2)(vi)(B) of Regulation Q (12 CFR 217.204(a)(2)(vi)(B)) to use alternative techniques to measure the risk of de minimis exposures;

(E) Act on a request from a company under § 217.204(b)(2) of Regulation Q (12 CFR 217.204(b)(2)) to use a different adjustment of its VaR-based measure;

(F) Review and determine the appropriateness of a company's omission of risk factors under § 217.205(a)(4) of Regulation Q (12 CFR 217.205(a)(4)) and the use of proxies under § 217.205(a)(5) of Regulation Q (12 CFR 217.205(a)(5));

(G) Review and determine under § 217.205(b)(1) of Regulation Q (12 CFR 217.205(b)(1)) the appropriateness of any conversions of VaR to other holding periods by a company;

(H) Review and determine under § 217.205(b)(2)(ii) of Regulation Q (12 CFR 217.205(b)(2)(ii)) the appropriateness of a company's alternative weighting schemes;

(I) Approve or disapprove under § 217.205(c) of Regulation Q (12 CFR 217.205(c)) any requirements relating to a company's division of subportfolios;

(J) Approve or disapprove under § 217.206(b)(3) of Regulation Q (12 CFR 217.206(b)(3)) any changes to a company's policies and procedures that describe how the company determines the period of significant financial stress used to calculate its stressed VaR-based measure;

(K) Require a company under § 217.206(b)(4) of Regulation Q (12 CFR 217.206(b)(4)) to use a different period of significant financial stress in the calculation of the stressed VaR-based measure;

(L) Act on a request by a company under § 217.208(a) of Regulation Q (12 CFR 217.208(a)) to include certain portfolios of equity positions in its incremental risk model;

(M) Act on a request by a company under § 217.209(a)(1) of Regulation Q (12 CFR 217.209(a)(1)) to use the comprehensive risk approach for one or more portfolios of correlation trading positions and the related approval under § 217.209(a)(2)(ii) of Regulation Q (12 CFR 217.209(a)(2)(ii)) regarding a company's comprehensive risk capital requirement;

(N) Determine under § 217.210(e)(3) of Regulation Q (12 CFR 217.210(e)(3)) whether an index is a main index because the equities represented by the index have comparable liquidity, depth of market, and size of bid-ask spreads as equities in the Standard & Poor's 500 Index and FTSE All-World Index; and

(O) Determine under § 217.210(f)(1) of Regulation Q (12 CFR 217.210(f)(1)) whether or not a company has demonstrated a comprehensive understanding of the features of a securitization exposure.

(7) *Delegations of Authority under Basel I-based Capital Guidelines* (Appendix A to Regulation Y, 12 CFR part 225). (i) To approve under section II.A.l.c.ii.(2) of Appendix A to Regulation Y, 12 CFR part 225, a bank or bank holding company's redemption of perpetual preferred stock; and

(ii) To approve under section II.A.2. of Appendix A to Regulation Y, 12 CFR part 225, a bank or bank holding company's redemption of subordinated debt or mandatorily convertible securities prior to the stated maturity.

(l) *Concentration Limit Actions* (Regulation XX (12 CFR part 251)). (1) To approve requests from financial companies seeking to use an accounting standard or method of estimation other than GAAP to calculate and report liabilities pursuant to section 14 of the Bank Holding Company Act (12 U.S.C. 1852) and Regulation XX (12 CFR part 251);

(2) To calculate and publish total financial sector liabilities for the preceding calendar year and the average of financial sector liabilities for the preceding two calendar years, for use in calculating whether a firm exceeds 10 percent of the liabilities of all financial firms in the United States pursuant to section 14 of the Bank Holding Company Act (12 U.S.C. 1852); and

(3) To provide prior written consent for purposes of section 14 of the Bank Holding Company Act (12 U.S.C. 1852) to a financial company to consummate an acquisition of a de minimis transaction, to the extent that the transaction otherwise meets all other criteria for delegated action related to financial, managerial, convenience and needs, and other review factors.

(m) *Savings and loan holding companies.* (1) With concurrence of the General Counsel:

(i) To extend the time limits in, or otherwise modify, an agreement entered into by a savings and loan holding company pursuant to § 238.66 of Regulation LL (12 CFR 238.66).

(ii) To determine that publication of an agreement entered into by a savings and loan holding company pursuant to § 238.66 of Regulation LL (12 CFR 238.66) would be contrary to the public interest under the publication requirements of the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*).

(iii) To act on requests for exemptions or otherwise make determinations under section 11 of the Home Owners' Loan Act (12 U.S.C. 1468), as implemented in Regulation W (12 CFR part 223), to the same extent authorized with respect to insured depository institutions and their affiliates and bank holding companies.

(2) With the Director of the Division of Consumer and Community Affairs, to designate the responsible Reserve Bank of a savings and loan holding company when the standard delegation would not result in an efficient allocation of supervisory resources or would not otherwise be appropriate.

(n) *Swaps margin and swaps push-out.* To approve internal margin models for entities for which the Board is the

prudential regulator, in accordance with § 237.8 of Regulation KK (12 CFR 237.8).

(o) *Certain determinations under Regulations LL, YY, and QQ.* In consultation with the General Counsel, to:

(1) Determine that an asset meets the criteria to be a highly liquid asset under the Board's prudential standards in Regulation LL (12 CFR 238.124(b)(3)(i)) and Regulation YY (12 CFR 252.35(b)) to the extent that such determination is consistent with the criteria specified in such regulations and does not raise any significant legal, policy, or supervisory concerns;

(2) Determine that a foreign banking organization may comply with the requirements in Regulation YY (12 CFR 252.3(c)) through a subsidiary to the extent that such determination is consistent with the criteria specified in Regulation YY and does not raise any significant legal, policy or supervisory concerns; and

(3) Identify which holding company in a multi-tiered holding company will be a covered company under Regulation QQ (12 CFR part 243) to the extent such identification is consistent with the criteria specified in Regulation QQ (12 CFR 243.2) and does not raise any significant legal, policy, or supervisory concerns.

(p) *Approving certain requests under the Capital Rule (Regulation Q, 12 CFR part 217) related to the exposure amount of derivative contracts.* To the extent that the determination or request does not raise any significant legal, policy, or supervisory issue:

(1) To act on a request under § 217.34(f) of Regulation Q (12 CFR 217.34(f)) as to whether a holding period greater than 5 days is appropriate for variable H due to the nature, structure, or characteristics of the transaction or that is commensurate with the risks associated with the transaction;

(2) To act on a request under § 217.132(c)(1) of Regulation Q (12 CFR 217.132(c)(1)) from a banking organization to change its election between the use of the standardized approach to counterparty credit risk under § 217.132(c)(5) of Regulation Q (12 CFR 217.132(c)(5)) and the internal models methodology under § 217.132(d) of Regulation Q (12 CFR 217.132(d)) for its derivative transactions;

(3) To require under § 217.132(c)(2)(iii)(H) of Regulation Q (12 CFR 217.132(c)(2)(iii)(H)) that a banking organization include a derivative contract in multiple hedging sets if the risk of the derivative contract materially depends on more than one of interest rate, exchange rate, credit, equity, or commodity risk factors;

(4) To act on a request under § 217.132(d)(10) of Regulation Q (12 CFR 217.132(d)(10)) from a banking organization to use a more conservative estimate of EAD for purposes of the internal models methodology;

(5) To require under § 217.133(d)(1) of Regulation Q (12 CFR 217.133(d)(1)) that a banking organization determine the risk-weighted asset amount for its default fund contribution to a central counterparty (CCP) on the basis that there has been a material change in the financial condition of the CCP;

(6) To act on a request under § 217.133(d)(2) of Regulation Q (12 CFR 217.133(d)(2)) from a banking organization to use a risk-weighted asset amount for a default fund contribution to a CCP that is not a qualifying central counterparty (QCCP) other than 1,250 percent risk weight; and

(7) To act on a request under § 217.133(d)(6)(vi) of Regulation Q (12 CFR 217.133(d)(6)(vi)) from a banking organization to determine the risk-weighted asset amount for a default fund contribution to a QCCP according to § 217.35(d)(3)(ii) (12 CFR 217.35(d)(3)(ii)) rather than § 217.133(d) (12 CFR 217.133(d)).

(q) *Insurance Policy Advisory Committee.* To organize and administer the Insurance Policy Advisory Committee (''IPAC''), including by publishing future requests for IPAC applications in the **Federal Register**.

§ 265.8 Functions delegated to the Director of the Division of Consumer and Community Affairs.

The Director of the Division of Consumer and Community Affairs (or the Director's delegatee) is authorized:

(a) *Examination and enforcement activities.* For the consumer protection and consumer affairs statutes and regulations for which the Board has supervisory and enforcement responsibility, including but not limited to the Truth in Lending Act, Home Mortgage Disclosure Act, Community Reinvestment Act, Equal Credit Opportunity Act, Fair Housing Act, and the Federal Trade Commission Act's prohibition on unfair and deceptive acts and practices:

(1) To oversee policy development regarding compliance by State member banks and other supervised entities, including by establishing criteria for the execution of examination and enforcement activities delegated to the Reserve Banks and monitoring those activities; and

(2) To issue examination or inspection manuals; report, agreement, and examination forms; examination procedures, guidelines, instructions, and other similar materials.

(b) *Community Advisory Council.* To call meetings of and consult with the Community Advisory Council, approve the agenda for such meetings, publish **Federal Register** notices soliciting Community Advisory Council nominations from the public to assist in the selection of prospective members, and accept any resignations from Community Advisory Council members.

(c) *Determining inconsistencies between State and Federal laws.* To determine whether a State law is inconsistent with the following Federal acts and regulations to the extent that the laws are applicable to motor vehicle dealers, as defined in section 1029 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5519):

(1) Sections 111, 171(a) and 186(a) of the Truth in Lending Act (15 U.S.C. 1610(a), 1666j(a), 1667e(a)) and §§ 226.28 of Regulation Z (12 CFR 226.28) and 213.9 of Regulation M (12 CFR 213.9);

(2) Section 919 of the Electronic Fund Transfer Act (15 U.S.C. 1693q), § 205.12 of Regulation E (12 CFR 205.12); and

(3) Section 705(f) of the Equal Credit Opportunity Act (15 U.S.C. 1691d(f) and § 202.11 of Regulation B (12 CFR 202.11).

(d) *Interpreting the Fair Credit Reporting Act.* To issue interpretations pursuant to section 621(e) of the Fair Credit Reporting Act (15 U.S.C. 1681s(e));

(e) [Reserved]

(f) *Community Reinvestment Act determinations.* To make determinations, pursuant to section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903), approving or disapproving:

(1) Strategic plans and any amendments thereto pursuant to § 228.27(g) and (h) of Regulation BB (12 CFR 228.27(g) and (h)); and

(2) Requests for designation as a wholesale or limited purpose bank or the revocation of such designation, pursuant to § 228.25(b) of Regulation BB (12 CFR 228.25(b)).

(g) *Public hearings.* To conduct hearings or other proceedings required or permitted by law, concerning consumer law or other matters within the responsibilities of the Division of Consumer and Community Affairs, in consultation with other interested divisions of the Board where appropriate.

(h) *Designation of responsible Reserve Bank for savings and loan holding companies.* With the Director of the

Division of Supervision and Regulation, to designate the responsible Reserve Bank of a savings and loan holding company when the standard designation would not result in an efficient allocation of supervisory resources or would not otherwise be appropriate.

§ 265.9 Functions delegated to the Director of the Division of International Finance.

The Director of the Division of International Finance (or the Director's delegatee) is authorized:

(a) *Establishment of foreign accounts.* To approve the establishment of foreign accounts and the terms of any account-related agreements with the Federal Reserve Bank of New York under section 14(e) of the Federal Reserve Act (12 U.S.C. 358).

(b) [Reserved]

§ 265.10 Functions delegated to the Director of the Division of Monetary Affairs.

The Director of the Division of Monetary Affairs (or the Director's delegatee) is authorized:

(a) *Term Deposit Facility (TDF) test operations.* With the concurrence of the General Counsel, and in consultation with the Chair if feasible, to adjust the terms and conditions of individual TDF test operations that raise significant technical or operational issues, including but not limited to the authority to:

(1) Delay the open of a TDF operation;

(2) Extend the close of a TDF operation;

(3) Reschedule a TDF operation; and

(4) Delay the announcement of TDF operation results.

(b) *Regulation D.* With the concurrence of the General Counsel, to approve the annual indexation of the reserve requirement exemption, low reserve tranche, nonexempt deposit cutoff, and reduced reporting limit amounts under Regulation D (12 CFR part 204), so long as no change is proposed to any of the formulas by which these amounts are calculated.

§ 265.11 Functions delegated to the Director of the Division of Reserve Bank Operations and Payment Systems.

The Director of the Division of Reserve Bank Operations and Payment Systems (or the Director's delegatee) is authorized:

(a) *Designated financial market utilities.* (1) To issue a notice of no objection to a designated financial market utility relating to an advance notice of proposed material change submitted under section 806(e) of the Dodd-Frank Act (12 U.S.C. 5465(e)) and section 234.4 of Regulation HH (12 CFR 234.4).

(2) To extend the review period for proposed changes that raise novel or complex issues and to request additional information from the designated financial market utility for consideration of the notice.

(b) *Regulation II.* (1) In consultation with the Director of the Division of Supervision and Regulation and the General Counsel, to approve the publication of annual lists of institutions that fall above and below the small issuer exemption asset threshold under Regulation II (12 CFR part 235).

(2) In consultation with the General Counsel, to approve the publication of annual lists of the average interchange fees each network provides to non-exempt and exempt issuers.

§ 265.12 Functions delegated to the Secretary of the Federal Open Market Committee.

The Secretary of the Federal Open Market Committee (or the Deputy Secretary in the Secretary's absence) is authorized:

(a) *Records of policy actions.* To approve for inclusion in the Board's Annual Report to Congress, records of policy actions of the Federal Open Market Committee.

(b) [Reserved]

§ 265.13 Functions delegated to the Director of the Division of Financial Stability.

The Director of the Division of Financial Stability (or the Director's delegatee) is authorized:

(a) *Bank holding companies; savings and loan holding companies; financial holding companies; change in bank control; mergers*—(1) *Stress tests.* (i) Jointly with the Director of the Division of Supervision and Regulation, with the concurrence of the Chair of the Committee on Supervision and Regulation:

(A) To develop and issue scenarios, including, but not limited to, the baseline scenario and the severely adverse scenario, that the Board would use to conduct analyses under § 238.132 of Regulation LL (12 CFR 238.132) or § 252.44 of Regulation YY (12 CFR 252.44) and that a company would use to conduct its stress tests under § 238.143 of Regulation LL (12 CFR 238.143) or § 252.14 or § 252.54 of Regulation YY (12 CFR 252.14 or 252.54), as appropriate, provided that no significant policy issues are raised; and

(B) To develop and issue additional scenarios or additional components for use in the severely adverse scenario under § 238.132(b) and 238.143(b)(2) and (3) of Regulation LL (12 CFR 238.132(b) and 238.143(b)(2) and (3)), and §§ 252.14(b)(2) and (3), 252.44(b), and 252.54(b)(2) and (3) of Regulation YY (12 CFR 252.14(b)(2) and (3), 252.44(b), and 252.54(b)(2) and (3)), that the Board would use to conduct analyses under § 238.132 of Regulation LL (12 CFR 238.132) or § 252.44 of Regulation YY (12 CFR 225.44) and that a company would use to conduct its stress tests under § 238.143 of Regulation LL (12 CFR 238.143) or § 252.14 or § 252.54 of Regulation YY (12 CFR 252.14 or 252.54), as appropriate, provided that no significant policy issues are raised;

(2) [Reserved]

(b) *Capital plans.* (1) Jointly with the Director of the Division of Supervision and Regulation, with the concurrence of the Vice Chair for Supervision:

(i) To provide a firm subject to the Board's capital plan rules with notice of its stress capital buffer requirement and an explanation of the results of the supervisory stress test pursuant to §§ 225.8(h)(1) of Regulation Y (12 CFR 115.8(h)(1)) and 238.170(h)(1) of Regulation LL (12 CFR 238.170(h)(1)); and

(ii) To provide a firm subject to the Board's capital plan rules with its final stress capital buffer requirement and confirmation of its final planned capital distributions pursuant to §§ 225.8(h)(4)(i) of Regulation Y (12 CFR 225.8(h)(4)(i)) and 238.170(h)(4)(i) of Regulation LL (12 CFR 238.170(h)(4)(i)).

(2) [Reserved]

§§ 265.14–265.19 [Reserved]

§ 265.20 Functions delegated to Federal Reserve Banks.

Except as otherwise provided in this section, each Federal Reserve Bank is authorized as to a member bank or other indicated organization for which the Reserve Bank is responsible for receiving applications or registration statements or to take other actions as indicated:

(a) *Procedure*—(1) *Member bank affiliate's reports.* To extend the time for good cause shown, within which an affiliate of a State member bank must file reports under section 9(17) of the Federal Reserve Act (12 U.S.C. 334).

(2) *Edge corporation's divestiture of stock.* To extend the time in which an Edge Act corporation must divest itself of stock acquired in satisfaction of a debt previously contracted under section 25A(7) of the Federal Reserve Act (12 U.S.C. 615).

(3) *Edge corporation's corporate existence.* To extend the period of corporate existence of an Edge

corporation under section 25A(20) of the Federal Reserve Act (12 U.S.C. 628).

(4) *Bank holding company and savings and loan holding company registration statement.* To extend the time within which a bank holding company or savings and loan holding company must file a registration statement under section 5(a) of the Bank Holding Company Act (12 U.S.C. 1844(a)) or section 10(b) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)).

(5) *Bank holding company divestiture of nonbanking interests.* To extend the time within which a bank holding company must divest itself of interests in nonbanking organizations under section 4(a) of the Bank Holding Company Act (12 U.S.C. 1843(a)).

(6) *Bank holding company divestiture of DPC interests.* To extend the time within which a bank holding company or any of its subsidiaries must divest itself of interests acquired in satisfaction of a debt previously contracted:

(i) Under section 4(c)(2) of the Bank Holding Company Act (12 U.S.C. 1843(c)(2)) or § 225.22(c)(1) of Regulation Y (12 CFR 225.22(c)(1)); or

(ii) Under sections 2(a)(5)(D) and 3(a) of the Bank Holding Company Act (12 U.S.C. 1841(a)(5)(D) and 1842(a)).

(7) *Member bank's surrender of Reserve Bank stock upon withdrawal from membership.* To extend the time within which a member bank that has given notice of intention to withdraw from membership must surrender its Federal Reserve Bank stock and its certificate of membership under § 209.3(e) of Regulation H (12 CFR 209.3(e)).

(8) *Members bank's reports of condition.* To extend the time for publication of reports of condition under Regulation H (12 CFR part 208) for good cause shown.

(9) *Bank holding company's and savings and loan holding company's annual reports.* To grant to a bank holding company or savings and loan holding company a 90-day extension of time in which to file an annual report, and for good cause shown grant an additional extension of time not to exceed 90 days under section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) or section 10(b)(2) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2)).

(10) *Regulation K; divestiture of impermissible interests.* To extend the time within which an investor, under § 211.8(e) and (f) of Regulation K (12 CFR 211.8(e) and (f)), must divest of investments in entities engaged in impermissible activities or interests acquired to prevent a loss upon a debt previously contracted in good faith.

(11) *Bank holding company's or savings and loan holding company's acquisition of shares, opening new bank, consummating merger.* To extend the time within which a bank holding company or savings and loan holding company may acquire shares, open a new bank to be acquired, or consummate a merger in connection with an application approved by the Board, if no material change relevant to the proposal has occurred since its approval.

(12) *Member bank's establishing domestic or foreign branch; Edge or agreement corporation's establishing branch or agency.* To extend the times within which:

(i) A member bank may establish a domestic branch;

(ii) A member bank may establish a foreign branch; or

(iii) An Edge or agreement corporation may establish a branch or agency, if no material change has occurred in the bank's (or corporation's) general condition since the application was approved.

(13) *Purchase of stock by Edge or agreement corporation, member bank, or bank holding company.* To extend the time within which an Edge or agreement corporation, member bank, or a bank holding company may accomplish a purchase of stock if no material change has occurred in the general condition of the corporation, the member bank, or bank holding company since such authorization under sections 25 or 25A of the Federal Reserve Act or section 4(c)(13) of the Bank Holding Company Act (12 U.S.C. 615, 628, 1843(c)(13)).

(14) *Federal Reserve membership.* To extend the time within which Federal Reserve membership must be accomplished, if no material change has occurred in the bank's general condition since the application was approved.

(15) *Enforcement actions; written agreements; cease and desist orders.* With the concurrence of the Director of the Division of Supervision and Regulation and the General Counsel:

(i) To enter into a written agreement with a bank holding company or any nonbanking subsidiary thereof, with a savings and loan holding company or any subsidiary thereof (other than a savings association), with a State member bank, with a foreign bank that has elected to be treated as a financial holding company, or with any person or entity subject to the Board's supervisory jurisdiction under section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) concerning the prevention or correction of an unsafe or unsound practice in conducting the business of the bank holding company or its nonbanking subsidiary, savings and loan holding company or its subsidiary (other than a savings association), or State member bank, or foreign bank that has elected to be treated as a financial holding company, or other entity, or concerning the correction or prevention of any violation of law, rule, or regulation, including section 4(m) of the Bank Holding Company Act (12 U.S.C. 1843(m)), or any condition imposed in writing by the Board in connection with the granting of any application or other request by the bank or company; and

(ii) To stay, modify, terminate, or suspend an agreement entered into pursuant to this paragraph (a)(15), other than to extend time limits in a corrective agreement with a financial institution under section 4(m) of the Bank Holding Company Act (12 U.S.C. 1843(m)).

(iii) To stay, modify, terminate, or suspend an outstanding cease and desist order that has become final pursuant to 12 U.S.C. 1818(b). Any agreement authorized under this paragraph may, by its terms, be enforceable to the same extent and in the same manner as an effective and outstanding cease and desist order that has become final pursuant to 12 U.S.C. 1818(b).

(16) *Appointment of assistant Federal Reserve agents.* To approve the appointment of assistant Federal Reserve agents (including representatives or alternate representatives of such agents) under section 4(21) of the Federal Reserve Act (12 U.S.C. 306).

(17) *Relief from or modification of commitments.* To grant or deny requests for relieving or modifying (including extending the time for performing) a commitment relied upon by the Reserve Bank in taking any action under the Bank Holding Company Act, section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), the Change in Bank Control Act, the Federal Reserve Act, the International Banking Act, the Federal Deposit Insurance Act, or the Home Owners' Loan Act, so long as the requests do not raise any significant legal, supervisory, or policy issues. In acting on such requests, the Reserve Bank may take into account changed circumstances and good faith efforts to fulfill the commitments, and shall consult with Board staff as appropriate. The Reserve Bank may not take any action that would be inconsistent with or result in an evasion of the provisions of the original action.

(b) *Availability of Information; Board records.* To make available information of the Board of the nature and in the

circumstances described in §§ 261.21(a) and 261.22(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.21(a) and 261.22(a)).

(c) *Holding companies; change in bank control; mergers*—(1) *Require reports under oath.* To require reports under oath to determine whether a company is complying with section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) or section 10(b)(2) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2)).

(2) *Acquisition of going concern—authorization of consummation; early consummation.* (i) To notify a bank holding company or savings and loan holding company that, because the circumstances surrounding the application to acquire a going concern indicate that additional information is required or that the acquisition should be considered by the Board, the acquisition should not be consummated until specifically authorized by the Reserve Bank or by the Board.

(ii) To permit a bank holding company or savings and loan holding company to make a proposed acquisition of a going concern before the expiration of the 30-day period referred to in § 225.24(d)(1) of Regulation Y (12 CFR 225.24(d)(1)) or § 238.53(f)(1)(i) of Regulation LL (12 CFR 238.53(f)(1)(i)) because exigent circumstances justify consummation of the acquisition at an earlier time.

(3) *Petition for review of decision that adverse comments are not substantive; permit proposed de novo activities; authorization of consummation.* Under subpart C of Regulation Y (12 CFR part 225, subpart C) or subpart F of Regulation LL (12 CFR part 238, subpart F) and subject to § 265.3 (12 CFR 265.3), if a person submitting adverse comments that the Reserve Bank has decided are not substantive files a petition for review by the Board of that decision:

(i) To permit a bank holding company to engage de novo in activities specified in § 225.28(b) of Regulation Y (12 CFR 225.28(b)), or a savings and loan holding company to engage de novo in activities specified in §§ 238.53 and 238.54 of Regulation LL (12 CFR 238.53 and 238.54), or retain shares in a company established de novo and engaging in such activities, if the Reserve Bank's evaluation of the considerations specified in section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) or section 10(c) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)) leads it to conclude that the proposal can reasonably be expected to produce benefits to the public.

(ii) To notify a bank holding company or savings and loan holding company that the proposal should not be consummated until specifically authorized by the Reserve Bank or by the Board or that the proposal should be processed in accordance with the procedures in subpart C of Regulation Y (12 CFR part 225, subpart C) or subpart F of Regulation LL (12 CFR part 238, subpart F).

(4) *Nonbanking activities.* (i) To approve requests by bank holding companies to engage in check cashing for checks drawn on unaffiliated banks, real estate title abstracting, or acting as a certification authority for digital signatures and authenticating the identity of persons conducting financial and nonfinancial transactions, as an activity that is closely related to banking for purposes of section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)), when the proposal meets the conditions imposed by the Board in approving previous requests, and no significant legal, policy, or supervisory issues are raised by the specific proposal.

(ii) To approve requests by foreign banks subject to the Bank Holding Company Act by operation of section 8(a) of the International Banking Act (12 U.S.C. 3106(a)) to engage in acting as a certification authority for digital signatures and authenticating the identity of persons conducting financial and nonfinancial transactions, as an activity that is closely related to banking for purposes of section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)), when the proposal meets the conditions imposed by the Board in approving previous requests, and no significant legal, policy, or supervisory issues are raised by the specific proposal.

(5) *Permit or stay of modification or location of activities.* To permit or stay a proposed de novo modification or relocation of activities engaged in by a bank holding company or a savings and loan holding company on the same basis as de novo proposals under paragraph (c)(3) of this section.

(6) *Notices under the Change in Bank Control Act.* With respect to a bank holding company, a savings and loan holding company, or a State member bank:

(i) To determine the informational sufficiency of notices and reports filed under the Change in Bank Control Act (12 U.S.C. 1817(j));

(ii) To extend periods for consideration of notices;

(iii) To determine whether a person who is or will be subject to a presumption described in § 225.41(c)(2) of Regulation Y (12 CFR 225.41(c)(2)) or § 238.31(c)(2) of Regulation LL (12 CFR 238.31(c)(2)) should file a notice regarding a proposed transaction; and

(iv) To issue a notice of intention not to disapprove a proposed change in control if all the following conditions are met:

(A) No member of the Board has indicated an objection prior to the Reserve Bank's action;

(B) No senior officer or director of an involved party is also a director of a Federal Reserve Bank or branch;

(C) All relevant departments of the Reserve Bank concur;

(D) If the proposal involves shares of a State member bank or a bank holding company controlling a State member bank, the appropriate bank supervisory authorities have indicated that they have no objection to the proposal, or no objection has been received from them within the time allowed by the act; and

(E) No significant policy issue under the Change in Bank Control Act (12 U.S.C. 1817(j)), § 225.41 of Regulation Y (12 CFR 225.41), or § 238.31 of Regulation LL (12 CFR 238.41) is raised by the proposal as to which the Board has not expressed its view.

(7) *Failure to comply with publication requirement under the Change in Bank Control Act.* To waive, dispense with, modify, or excuse the failure to comply with the requirement for publication and solicitation of public comment regarding a notice filed under the Change in Bank Control Act (12 U.S.C. 1817(j)), with the concurrence of the Director of the Division of Supervision and Regulation and the General Counsel, provided that a written finding is made that such disclosure or solicitation would seriously threaten the safety or soundness of a bank holding company, savings and loan holding company, savings association, or bank under paragraph (2) of the Change in Bank Control Act (12 U.S.C. 1817(j)(2)).

(8) *Legacy nonbanking activities.* To determine that termination of nonbanking activities conducted pursuant to the proviso in section 4(a)(2) of the Bank Holding Company Act (12 U.S.C. 1843(a)(2)) by a particular bank holding company is not warranted, provided the Reserve Bank is satisfied all of the following conditions are met:

(i) The company or its successor is ''a company covered in 1970'';

(ii) The nonbanking activities that the bank holding company seeks to continue do not present any significant unsettled policy issues; and

(iii) The bank holding company was lawfully engaged in such activities as of June 30, 1968, and has been engaged in such activities continuously thereafter.

(9) *Opening of additional nonbanking offices.* To approve applications by a bank holding company under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and subpart C of Regulation Y (12 CFR part 225, subpart C) to open additional offices to engage in nonbanking activities for which the bank holding company previously received approval pursuant to Board order, unless one of the conditions specified in paragraphs (c)(12)(i) through (iv) of this section is present.

(10) *Volcker Rule.* In consultation with Board staff, to approve (but not deny) an application by a banking entity for an extension of the period of time during which it must reduce its ownership interest in a covered fund to no more than 3 percent, if all of the following criteria are met:

(i) No significant issues have been identified regarding the firm's compliance program;

(ii) The banking entity has represented that all of the requirements under section 13 of the Bank Holding Company Act (12 U.S.C. 1851) and its implementing regulations (12 CFR part 248) for organizing and offering a covered fund have been met;

(iii) The banking entity provides a plan for reducing the permitted investment in a covered fund through redemption, sale, dilution, or other methods by the end of the extension period; and

(iv) The primary Federal agency responsible for enforcing compliance with section 13 of the Bank Holding Company Act (12 U.S.C. 1851) by the banking entity that invests in or sponsors the covered fund (if other than the Federal Reserve) does not object to the extension.

(11) *Notices for addition or change of directors or officers.* Under section 914(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1831i) and subpart H of Regulation Y (12 CFR part 225, subpart H)) and subpart H of Regulation LL (12 CFR part 238, subpart H), provided that no senior officer or director or proposed senior officer or director of the notificant is also a director of the Reserve Bank or a branch of the Reserve Bank:

(i) To determine the informational sufficiency of notices filed pursuant to § 225.72 of Regulation Y (12 CFR 225.72) or § 238.73 of Regulation LL (12 CFR 238.73); and

(ii) To waive the prior notice requirements of those sections.

(12) *Applications requiring Board approval; competitive factors reports for bank mergers and savings association mergers.* To approve applications requiring prior approval of the Board and furnish to the Comptroller of the Currency and the Federal Deposit Insurance Corporation reports on competitive factors involved in a bank merger or savings association merger required to be approved by one of those agencies, unless one or more of the following conditions is present:

(i) A member of the Board has indicated an objection prior to the Reserve Bank's action; or

(ii) The Board has indicated that such delegated authority shall not be exercised by the Reserve Bank in whole or in part; or

(iii) A written substantive objection to the application has been properly made; or

(iv) The application raises a significant policy issue or legal question on which the Board has not established its position; or

(v)(A)With respect to holding company formations, acquisitions or mergers of holding companies, or acquisitions or mergers of insured depository institutions, except as set forth in paragraph (c)(12)(v)(B) of this section, upon consummation, the proposal would result in the control by a banking organization of over 35 percent of total deposits in banking offices in the relevant geographic market or an increase of at least 200 points in the Herfindahl-Hirschman Index (HHI) for deposits in a highly concentrated market (a market with a post-merger HHI of at least 1800) when including:

(*1*) All thrift deposits at 50 percent weight, except for deposits of thrifts determined by the Reserve Bank, with the concurrence of the Director of the Division of Research and Statistics, to be commercially active, which are included at 100 percent weight; and

(*2*) The deposits of credit unions determined by the Reserve Bank, with the concurrence of the Director of the Division of Research and Statistics, to offer consumer banking products, operate street-level branches, and have broad membership criteria in the relevant geographic market, which are included at 50 percent weight; or

(B) With respect to the formation of a savings and loan holding company, the merger of savings and loan holding companies, or the acquisition by a savings and loan holding company of a savings association, upon consummation, the proposal would result in the control by a banking organization of over 35 percent of total deposits in banking offices in the relevant geographic market or an increase of at least 200 points in the HHI for deposits in a highly concentrated market (a market with a post-merger HHI of at least 1800) when including:

(*1*) All thrift deposits at 100 percent weight; and

(*2*) The deposits of credit unions determined by the Reserve Bank, with the concurrence of the Director of the Division of Research and Statistics, to offer consumer banking products, operate street-level branches, and have broad membership criteria in the relevant geographic market, which are included at 50 percent weight; or

(vi) With respect to nonbank acquisitions, the nonbanking activities involved do not clearly fall within activities that the Board has designated as permissible for bank holding companies under § 225.28(b) of Regulation Y (12 CFR 225.28(b)); or

(vii) With respect to formations, acquisitions, or mergers involving depository institution holding companies, banks, or nonbank companies (except for internal corporate reorganizations), the proposed transaction represents an acquisition of assets equaling or exceeding $10 billion and would result in an organization with total assets equaling or exceeding $100 billion; or there is evidence that the transaction would result in a significant increase in interconnectedness, complexity, cross-border activities, or other risk factors related to the stability of the United States banking or financial system.

(13) *Waivers.* (i) To inform an acquiring bank holding company, in connection with a notice submitted by the bank holding company pursuant to § 225.12(d)(2) of Regulation Y (12 CFR 225.12(d)(2)), that an application under § 225.11 of Regulation Y (12 CFR 225.11) is required.

(ii) To inform an acquiring savings and loan holding company, in connection with a notice submitted by the savings and loan holding company pursuant to § 238.12(d)(1) of Regulation LL (12 CFR 238.12(d)(1)), that an application under § 238.11 of Regulation LL (12 CFR 238.11) is required.

(14) *Savings and loan holding companies in mutual form.* (i) To act on reorganization notices filed pursuant to section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) and § 239.3 of Regulation MM (12 CFR 239.3), including with respect to the establishment of a mutual holding company, if no significant legal, policy, or supervisory issues are raised by the proposal.

(ii) To act on applications to establish a subsidiary holding company of a mutual holding company filed pursuant to section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) and

§ 239.11 of Regulation MM (12 CFR 239.11), if no significant legal, policy, or supervisory issues are raised by the proposal.

(iii) To take any action related to an application by a mutual holding company to convert from mutual to stock form filed pursuant to section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) and subpart E of Regulation MM (12 CFR part 239, subpart E) if no significant legal, policy, or supervisory issues are raised by the proposal.

(iv) To act on notices to repurchase stock filed pursuant to section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) and § 239.63(d) of Regulation MM (12 CFR 239.63(d)), if no significant legal, policy, or supervisory issues are raised by the proposal.

(v) To extend for an additional 60 days the 30-day period within which the Board may object to a notice to repurchase stock filed pursuant to section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) and § 239.63(d) of Regulation MM (12 CFR 239.63(d)).

(vi) To act on applications to acquire savings associations, savings and loan holding companies, and other corporations filed pursuant to section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) and § 239.7 of Regulation MM (12 CFR 239.7), if no significant legal, policy, or supervisory issues are raised by the proposal.

(vii) To act on notices and applications to engage in activities filed pursuant to section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) and § 239.8 of Regulation MM (12 CFR 239.8), if no significant legal, policy, or supervisory issues are raised by the proposal.

(viii) To act on notices of indemnification filed pursuant to section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) and § 239.40 of Regulation MM (12 CFR 239.40), if no significant legal, policy, or supervisory issues are raised by the proposal.

(ix) To act on notices of waiver by mutual holding companies of the right to receive dividends declared by subsidiaries of the mutual holding company filed pursuant to section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) and § 239.8(d) of Regulation MM (12 CFR 239.8(d)), if no significant legal, policy, or supervisory issues are raised by the proposal.

(x) To act on applications relating to charter and bylaw amendments of mutual holding companies and subsidiary holding companies filed pursuant to section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) and §§ 239.14, 239.15, 239.22, and 239.23 of Regulation MM (12 CFR 239.14, 239.15, 239.22, and 239.23), if no significant legal, policy, or supervisory issues are raised by the proposal.

(xi) To act on notices of transfer of stock and issuance of stock to insiders, associates of insiders, or tax-qualified or non-tax-qualified employee stock benefit plans filed pursuant to section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) and §§ 239.7(b) and 239.8(e) of Regulation MM (12 CFR 239.7(b) and 239.8(e)), if no significant legal, policy, or supervisory issues are raised by the proposal.

(xii) To act on notices of disposition of stock of certain subsidiaries filed pursuant to section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) and § 239.7(b) of Regulation MM (12 CFR 239.7(b)), if no significant legal, policy, or supervisory issues are raised by the proposal.

(xiii) To act on applications to engage in voluntary supervisory conversions filed pursuant to section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) and § 239.65 of Regulation MM (12 CFR 239.65), if no significant legal, policy, or supervisory issues are raised by the proposal.

(xiv) To approve requests from subsidiary holding companies of mutual holding companies to conduct stock issuances pursuant to § 239.24 of Regulation MM (12 CFR 239.24), persons other than its mutual holding company parent pursuant to § 239.24 of Regulation MM (12 CFR 239.24), including approval of nonconforming stock issuances pursuant to § 239.24(c)(6)(ii) of Regulation MM (12 CFR 239.24(c)(6)(ii)) and determinations that certain procedural and substantive requirements are inapplicable pursuant to § 239.24(d) of Regulation MM (12 CFR 239.24(d)), where such requests do not raise any significant legal, policy, or supervisory issues.

(xv) To approve plans of dissolution filed by mutual holding companies and subsidiary holding companies of mutual holding companies pursuant to § 239.16 of Regulation MM (12 CFR 239.16), if no significant legal, policy, or supervisory issues are raised by the proposal.

(d) *International banking*—(1) *Member bank, Edge corporation, or agreement corporation establishing foreign branch.* With regard to a prior notice to establish a branch in a foreign country under § 211.3 of Regulation K (12 CFR 211.3)—

(i) To waive the notice period if immediate action is required and there is no significant legal, supervisory, or policy issue;

(ii) To suspend the notice period;

(iii) To determine not to object to the notice, provided that no significant legal, supervisory, or policy issue is raised by the proposal; or

(iv) To require the notificant to file an application for the Board's specific consent.

(2) *Acquisitions by a foreign branch.* To approve, under § 211.4(a)(8) of Regulation K (12 CFR 211.4(a)(8)), a proposal by a foreign branch of a member bank to acquire all of the shares of a company that engages solely in activities in which the member bank is permitted to engage or that are incidental to the activities of the foreign branch, provided that no significant legal, supervisory, or policy issue is raised.

(3) *Application to establish Edge corporation.* To approve the application by a U.S. banking organization to establish an Edge corporation under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*) and § 211.5 of Regulation K (12 CFR 211.5) if all of the following criteria are met:

(i) The U.S. banking organization meets the capital adequacy guidelines and is otherwise in satisfactory condition;

(ii) The proposed Edge corporation will be a wholly owned subsidiary of a single banking organization; and

(iii) No significant legal, supervisory, or policy issues are raised by the proposal.

(4) *Issuance of permit to Edge corporation and amendments to articles of association and charter.* To issue to an Edge corporation under section 25A of the Federal Reserve Act (12 U.S.C. 614) and § 211.5 of Regulation K (12 CFR 211.5) a permit to commence business and to approve amendments to the articles of association and charter of an Edge corporation.

(5) *Investments in Edge and agreement corporations.* To approve, pursuant to § 211.5(a)(3) of Regulation K (12 CFR 211.5(a)(3)) an application by a member bank to invest more than 10 percent of its capital and surplus in the aggregate amount of stock held in all Edge or agreement corporations; provided that:

(i) The member bank's total investment, including retained earnings of the Edge and agreement corporation, does not exceed 20 percent of the bank's capital and surplus and would not exceed that level as a result of the proposal; and

(ii) The proposal raises no significant legal, supervisory, or policy issues.

(6) *Foreign ownership of an Edge corporation.* To approve, under § 211.5(d) of Regulation K (12 CFR 211.5(d)), a foreign institution's

acquisition, directly or indirectly, of a majority of the shares of the capital stock of an Edge corporation, provided that no significant legal, supervisory, or policy issue is raised.

(7) *Change in control of an Edge corporation.* With regard to a notice to acquire, directly or indirectly, 25 percent or more of the voting securities, or otherwise to acquire control, of an Edge corporation, under § 211.5(e) of Regulation K (12 CFR 211.5(e)):

(i) To waive the notice period if immediate action is required and no significant legal, supervisory, or policy issue is raised;

(ii) To extend the notice period;

(iii) To determine not to object to the notice if no significant legal, supervisory, or policy issue is raised; or

(iv) To require the notificant to file an application for the Board's specific consent.

(8) *Granting specific consent.* To grant prior specific consent to an investor for—

(i) A long range investment plan, under § 211.9(a)(4) of Regulation K (12 CFR 211.9(a)(4)); or

(ii) An investment in its first subsidiary or its first joint venture, under § 211.9(a)(5) of Regulation K (12 CFR 211.9(a)(5)), where such investment does not exceed the general consent limitations under § 211.9(b) of Regulation K (12 CFR 211.9(b)).

(9) *Investment in export trading company.* To issue a notice of intention not to disapprove a proposed investment in an export trading company if all the following criteria are met:

(i) The proposed export trading company will be a wholly owned subsidiary of a single investor, or ownership will be shared with an individual or individuals involved in the operation of the export trading company;

(ii) A bank holding company investor and its lead bank meet the minimum capital adequacy guidelines of the Board, the Comptroller of the Currency, or the Federal Deposit Insurance Corporation or have enacted capital enhancement plans that have been determined by the appropriate supervisory authority to be acceptable;

(iii) The proposed activities of the export trading company do not include product research or design, product modification, or activities not specifically covered by the list of services contained in 4(c)(14)(F)(ii) of the Bank Holding Company Act (12 U.S.C. 1843(c)(14)(F)(ii)); and

(iv) No other significant policy issue is raised on which the Board has not previously expressed its view under section 4(c)(14) of the Bank Holding Company Act (12 U.S.C. 1843(c)(14)) and subpart C of Regulation K (12 CFR part 211, subpart C).

(10) *Authority under prior-notice procedures.* (i) With regard to a prior notice to make an investment under § 211.9(f) of Regulation K (12 CFR 211.9(f)):

(A) To waive the notice period if immediate action is required and there is no significant legal, supervisory, or policy issue raised;

(B) To suspend the notice period;

(C) To determine not to object to the notice if there is no significant legal, supervisory, or policy issue raised; or

(D) To require the notificant to file an application for the Board's specific consent.

(v) With regard to a prior notice of a foreign bank to establish certain U.S. offices under § 211.24(a)(2)(i) of Regulation K (12 CFR 211.24(a)(2)(i)):

(A) To waive the notice period if immediate action is required and there is no significant legal, supervisory, or policy issue raised;

(B) To suspend the notice period;

(C) To determine not to object to the notice if there is no significant legal, supervisory, or policy issue raised; or

(D) To require the notificant to file an application for the Board's specific consent.

(11) *Activities usual in connection with banking or other financial operations abroad.* (i) To approve a prior notice, under § 211.10(a)(14) of Regulation K (12 CFR 211.10(a)(14)), to engage in underwriting and distribution of equity securities outside the United States, provided that the proposal raises no significant legal, supervisory, or policy issue.

(ii) To approve a prior notice, under § 211.10(a)(15) of Regulation K (12 CFR 211.10(a)(15)), to engage in dealing in equity securities outside the United States, provided that the proposal raises no significant legal, supervisory, or policy issue.

(iii) To approve a prior notice, under § 211.10(a)(15)(iv)(B) of Regulation K (12 CFR 211.10(a)(15)(iv)(B)), to use internal hedging models, provided that the proposal raises no significant legal, supervisory, or policy issue.

(iv) To approve a prior notice, under § 211.10(a)(18) of Regulation K (12 CFR 211.10(a)(18), to engage in futures commission merchant activities on an mutual exchange or clearinghouse that requires members to guarantee or otherwise contract to cover losses suffered by the other members, provided that the Board has previously approved the exchange, the application is on the same terms and conditions on which the Board based its approval of the exchange, and no significant legal, supervisory, or policy issue is raised.

(12) *Change in foreign bank home state.* With respect to a foreign bank's change of home state under § 211.22(b) of Regulation K (12 CFR 211.22(b)) and provided no significant legal, supervisory, or policy issue is raised:

(i) To waive the notice period; or

(ii) To determine not to object to the notice.

(13) *Waiver of 30-day prior notification period.* To waive the 30-day prior notification period with respect to a foreign bank's change of home state under § 211.22(b)(1) of Regulation K (12 CFR 211.22(b)(1)).

(14) *Offices of foreign banks.* (i) To approve the establishment of a branch, agency, commercial lending company, or representative office by a foreign bank in the United States, pursuant to § 211.24(a)(1) of Regulation K (12 CFR 211.24(a)(1)), if the Board has already determined that the foreign bank is subject to consolidated comprehensive supervision and provided that the application raises no significant legal, supervisory, or policy issue.

(ii) To allow a foreign bank to establish a temporary office of a branch or agency, pursuant to § 211.24(a)(5) of Regulation K (12 CFR 211.24(a)(5)), provided there is no direct public access to such office and no significant legal, supervisory, or policy issue is raised.

(15) *Agreement with foreign bank concerning deposits of out-of-home-state branch.* To enter into an agreement or undertaking with a foreign bank that it shall receive only such deposits at its out-of-home-state branch as would be permissible for an Edge corporation under section 5 of the International Banking Act (12 U.S.C. 3103).

(16) *Dividends of property other than cash by an Edge corporation.* To approve (but not deny) a request by an Edge corporation to declare or pay a dividend of property other than cash if the request does not raise a significant legal, supervisory, or policy issue.

(e) *Member banks*—(1) *Approval of membership applications.* To approve applications for membership in the Federal Reserve System under section 9 of the Federal Reserve Act (12 U.S.C. 321 *et seq.*) and Regulation H (12 CFR part 208) if the Reserve Bank is satisfied that approval is warranted after considering the factors set forth in 12 CFR 208.3(b).

(2) *Waiver of notice of intention to withdraw from membership.* To approve or deny applications by State banks for waiver of the required six months' notice of intention to withdraw from Federal Reserve membership under

section 9(10) of the Federal Reserve Act (12 U.S.C. 328).

(3) *Approval of branch applications.* To approve a State member bank's establishment of a domestic branch under section 9 of the Federal Reserve Act (12 U.S.C. 321 *et seq.*) and Regulation H (12 CFR part 208) if the Reserve Bank is satisfied that approval is warranted after considering the factors set forth in 12 CFR 208.6(b).

(4) *Declaration of dividends in excess of net profits.* To permit a State member bank under section 9(6) of the Federal Reserve Act (12 U.S.C. 324) to declare dividends in excess of the amounts allowed in § 208.5(c) of Regulation H (12 CFR 208.5(c)) if the Reserve Bank is satisfied that approval is warranted after giving consideration to:

(i) The bank's capitalization in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management; and

(ii) The bank's capitalization after payment of the proposed dividends.

(5) *Reduction of capital stock.* To permit a State member bank under section 9(11) of the Federal Reserve Act (12 U.S.C. 329) to reduce its capital stock below the amounts set forth in § 208.5(d) of Regulation H (12 CFR 208.5(d)) if the State member bank's capitalization thereafter will be:

(i) In conformity with the requirements of Federal law; and

(ii) Adequate in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management.

(6) *Acceptance of drafts and bills of exchange.* To permit a member bank or a Federal or State branch or agency of a foreign bank that is subject to reserve requirements under section 7 of the International Banking Act (12 U.S.C. 3105) to accept drafts or bills of exchange under section 13(7) of the Federal Reserve Act (12 U.S.C. 372) in an aggregate amount at any one time up to 200 percent of its paid-up and unimpaired capital stock and surplus, if the Reserve Bank is satisfied that such permission is warranted after giving consideration to the institution's capitalization in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management.

(7) *Investment in bank premises in excess of capital stock.* To permit a State member bank to invest in bank premises under section 24A of the Federal Reserve Act (12 U.S.C. 371d) in an amount in excess of that set forth in § 208.21(a) of Regulation H (12 CFR 208.21(a)), if the Reserve Bank is satisfied that approval is warranted after giving consideration to the bank's capitalization in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management.

(8) *Security devices.* To determine whether security devices and procedures of State member banks are deficient in meeting the requirements of Regulation H (12 CFR part 208) and whether such requirements should be varied in the circumstances of a particular banking office, and whether to require corrective action.

(9) *Classifying member banks for election of directors.* To classify member banks for the purposes of electing Federal Reserve Bank class A and class B directors under section 4(16) of the Federal Reserve Act (12 U.S.C. 304), giving consideration to:

(i) The statutory requirement that each of the three groups shall consist as nearly as may be of banks of similar capitalization; and

(ii) The desirability that every member bank have the opportunity to vote for a class A or a class B director at least once every three years.

(10) *Waiver of penalty for deficient reserves.* To waive the penalty for deficient reserves by a member bank if, after a review of all the circumstances relating to the deficiency, the Reserve Bank concludes that waiver is warranted, except that in no case may a penalty be waived if the deficiency in reserves arises out of the bank's gross negligence or conduct inconsistent with the principles and purposes of reserve requirements.

(11) *Retirement of subordinated debt.* To approve the retirement prior to maturity of capital notes described in § 204.2(a)(1)(vii)(C) of Regulation D (12 CFR 204.2(a)(1)(vii)(C)) and issued by a State member bank, provided the Reserve Bank is satisfied that the capital position of the bank will be adequate after the proposed redemption.

(12) *Public welfare investments.* (i) To permit a State member bank to make a public welfare investment in accordance with section 9(23) of the Federal Reserve Act (12 U.S.C. 338a), provided that the proposal satisfies § 208.22(b)(1) of Regulation H (12 CFR 208.22(b)(1)) and no significant legal, supervisory, or policy issue is raised; and

(ii) To determine, in connection with acting on a proposal pursuant to delegated authority as set forth in paragraph (e)(12)(i) of this section, that the aggregate amount of a State member bank's public welfare investments will not pose a significant risk to the deposit insurance fund in accordance with section 9(23) of the Federal Reserve Act (12 U.S.C. 338a).

(13) *Dividends of property other than cash by a State member bank.* To approve (but not deny) a request by a State member bank to declare or pay a dividend of property other than cash if the request does not raise a significant legal, supervisory, or policy issue.

(f) *Securities.* To approve applications by a registered lender for termination of the registration under § 221.3(b)(2) of Regulation U (12 CFR 221.3(b)(2)).

(g) *Management interlocks.* After consultation with the General Counsel, to decide not to disapprove notices to establish director interlocks with diversified savings and loan holding companies under section 205(8) of the Depository Institution Management Interlocks Act (12 U.S.C. 3204(8)).

(h) *Qualified family partnerships.* To act on requests for determinations of qualified family partnership status under section 2(o)(10) of the Bank Holding Company Act (12 U.S.C. 1841(o)(10)).

(i) *Financial holding companies.* In consultation with Board staff, to make effective elections filed by U.S. bank holding companies to become financial holding companies.

(j) *Savings and loan holding companies.* (1) With the approval of the Director of the Division of Supervision and Regulation and the General Counsel, to enter into corrective action agreements with savings and loan holding companies pursuant to § 238.66 of Regulation LL (12 CFR 238.66).

(2) To act on notices of capital distributions filed pursuant to section 10(f) of the Home Owners' Loan Act (12 U.S.C. 1467a(f)) and § 238.103 of Regulation LL (12 CFR 238.103).

(3) To act on elections to engage in financial holding company activities filed pursuant to section 10(c) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)) and subpart G of Regulation LL (12 CFR part 238, subpart G), if no significant legal, policy, or supervisory issues are raised by the proposal.

(4) To act on notices and applications to engage in activities filed pursuant to section 10(c) of the Home Owners' Loan

Act (12 U.S.C. 1467a(c)) and subparts F and G of Regulation LL (12 CFR part 238, subparts F and G), if no significant legal, policy, or supervisory issues are raised by the proposal.

(5) To grant requests by companies to deregister as savings and loan holding companies, if no significant legal, policy, or supervisory issues are raised by the proposal.

(k) *Financial operations of the Bank for International Settlements.* The Federal Reserve Bank of New York is authorized to assent or dissent, as appropriate, to financial operations of the Bank for International Settlements conducted in the U.S. market or in U.S. dollars.

(l) *Regulatory capital rule*—(1) *Delegations regarding the definition of capital.* (i) With the concurrence of the Director of the Division of Supervision and Regulation, to:

(A) Act on a company's request under § 217.20(b)(l)(iii), § 217.20(c)(l)(vi), or § 217.20(d)(l)(x) of Regulation Q (12 CFR 217.20(b)(l)(iii), 217.20(c)(l)(vi), or 217.20(d)(l)(x)) to redeem a security; and

(B) Act on a company's request under § 217.20(c)(l)(v)(A) or § 217.20(d)(l)(v)(A) of Regulation Q (12 CFR 217.20(c)(l)(v)(A) and 217.20(d)(l)(v)(A)) to exercise a call option.

(2) *Delegations regarding standardized approach risk-weighted assets.* (i) With the concurrence of the Director of the Division of Supervision and Regulation, to:

(A) Act on a request from a company under § 217.37(c) of Regulation Q (12 CFR 217.37(c)) to use its own estimates of haircuts, including:

(*1*) Acting on a request by a company under § 217.37(c)(4)(i)(E) of Regulation Q (12 CFR 217.37(c)(4)(i)(E)) to make changes to the company's policies and procedures; and

(*2*) Requiring a company under § 217.37(c)(4)(i)(F) of Regulation Q (12 CFR 217.37(c)(4)(i)(F)) to use a different period of significant financial stress in the calculation of own estimates of haircuts; and

(B) Determine under § 217.41(c) of Regulation Q (12 CFR 217.41(c)) whether or not a company has demonstrated a comprehensive understanding of the features of a securitization exposure.

(3) *Delegations regarding advanced approaches risk-weighted assets.* (i) With the concurrence of the Director of the Division of Supervision and Regulation, to:

(A) Act on a request for approval of any model or optional approach available under subpart E of Regulation Q (12 CFR part 217, subpart E), including, without limitation:

(*1*) Any counterparty credit risk model or methodology (own estimates of haircuts, simple VaR methodology, internal models methodology, or advanced CVA approach) under §§ 217.122(d) and 217.132 of Regulation Q (12 CFR 217.122(d) and 217.132), including:

(*i*) Acting on a request by a company under § 217.132(b)(2)(iii)(A)(*5*) of Regulation Q (12 CFR 217.132(b)(2)(iii)(A)(*5*)) to make changes to the company's policies and procedures;

(*ii*) Requiring a company under § 217.132(b)(2)(iii)(A)(*6*) of Regulation Q (12 CFR 217.132(b)(2)(iii)(A)(*6*)) to use a different period of significant financial stress in the calculation of own internal estimates for haircuts;

(*iii*) Acting on a request by a company under § 217.132(d)(1) introductory text and (d)(1)(iv) of Regulation Q (12 CFR 217.132(d)(1) introductory text and (d)(1)(iv)) to use the internal models methodology, cease using the internal models methodology for a transaction type, or to make a material change to its internal model;

(*iv*) Acting on a request by a company under § 217.132(d)(2)(iv) and (d)(10) of Regulation Q (12 CFR 217.132(d)(2)(iv) and (d)(10)) to use a more conservative estimate of Exposure at Default;

(*v*) Determining that a company must set a higher ''alpha'' under § 217.132(d)(2)(iv)(C) of Regulation Q (12 CFR 217.132(d)(2)(iv)(C)) based on the company's specific characteristics of and counterparty credit risk or model performance;

(*vi*) Acting on a request by a company under § 217.132(d)(3) of Regulation Q (12 CFR 217.132(d)(3)) to calculate the distributions of exposures upon which the EAD calculation is based;

(*vii*) Requiring a company under § 217.132(d)(3)(viii) of Regulation Q (12 CFR 217.132(d)(3)(viii)) to modify its stress calibration to better reflect actual historic losses of the portfolio;

(*viii*) Acting on a request by a company under § 217.132(d)(5)(i) of Regulation Q (12 CFR 217.132(d)(5)(i)) to include the effect of a collateral agreement within an internal model used to calculate EAD;

(*ix*) Requiring a company under § 217.132(d)(5)(iii)(C) of Regulation Q (12 CFR 217.132(d)(5)(iii)(C)) to set a longer holding period (for margin period of risk for a netting set that is subject to a collateral agreement) if the Director determines that a longer period is appropriate due to the nature, structure, or characteristics of the transaction or is commensurate with the risks associated with the transaction;

(*x*) Acting on a request by a company under § 217.132(d)(6) of Regulation Q (12 CFR 217.132(d)(6)) to calculate alpha as the ratio of economic capital from a full simulation of counterparty exposure across counterparties that incorporates a joint simulation of market and credit risk factors (numerator) and economic capital based on EPE (denominator), subject to a floor of 1.2;

(*xi*) Acting on a request by a company under § 217.132(e) of Regulation Q (12 CFR 217.132(e)) to calculate its CVA risk-weighted asset amounts for a class of counterparties using the advanced CVA approach;

(*xii*) Acting on a request by a company under § 217.132(e)(6)(ii)(D) of Regulation Q (12 CFR 217.132(e)(6)(ii)(D)) to use a conservative estimate when determining LGD_{MKT}; and

(*xiii*) Requiring a company under § 217.132(e)(6)(v)(B) of Regulation Q (12 CFR 217.132(e)(6)(v)(B)) to use a different period of significant financial stress in the calculation of the $CVA_{stressed}$ measure;

(*2*) Any model or approach relating to cleared transactions under §§ 217.122(d) and 217.133 of Regulation Q (12 CFR 217.122(d) and 217.133), including:

(*i*) Under § 217.133(d)(1) of Regulation Q (12 CFR 217.133(d)(1)) a company that is a clearing member to determine the risk-weighted asset amount for a default fund contribution to a CCP more frequently than quarterly if in the opinion of the Director of the Division of Supervision and Regulation, there is a material change in the financial condition of the CCP; and

(*ii*) Acting on a request under § 217.133(d)(2) of Regulation Q (12 CFR 217.133(d)(2)) for a company to use a risk-weighted asset amount for default fund contributions to a CCP that is not a QCCP other than a 1,250 percent risk weight;

(*3*) Any model or approach relating to the double default treatment under §§ 217.122(e) and 217.135 of Regulation Q (12 CFR 217.122(e) and 217.135), including acting on a request by a company under § 217.135(a)(6) of Regulation Q (12 CFR 217.135(a)(6)) to implement a process to detect excessive correlation between the creditworthiness of the obligor of a hedged exposure and a protection provider;

(*4*) A company's own internal estimates of market price volatility and foreign exchange volatility under § 217.145(b)(4) of Regulation Q (12 CFR 217.145(b)(4)); and

(*5*) The internal models approach for equity exposures under §§ 217.122(f) and 217.153(b) of Regulation Q (12 CFR 217.122(f) and 217.153(b));

(B) Determine under § 217.131(e)(4) of Regulation Q (12 CFR 217.131(e)(4)) whether a portfolio of exposures is or is not material; and

(C) Assess for purposes of § 217.141(c)(1) of Regulation Q (12 CFR 217.141(c)(1)) whether a company has a comprehensive understanding of the features of a securitization exposure that would materially affect the performance of the exposure.

(4) *Delegations regarding market risk risk-weighted assets.* (i) With the concurrence of the Director of the Division of Supervision and Regulation, to act regarding any model approval, disapproval, rescission, or supervision under subpart F of Regulation Q (12 CFR part 217, subpart F), including the authority to:

(A) Exclude from the definition of ''covered position'' structural foreign currency positions of a company, or any hedge of a trading position that is outside the scope of the company's hedging strategy, under § 217.202(b) of Regulation Q (12 CFR 217.202(b));

(B) Act on a request from a company under § 217.203(c)(1) of Regulation Q (12 CFR 217.203(c)(1)) to approve its internal model(s) to calculate its risk-based capital requirement;

(C) Rescind approval under § 217.203(c)(3) of Regulation Q (12 CFR 217.203(c)(3)) of a company's internal model(s) to calculate its risk-based capital requirement;

(D) Act on a request from a company under § 217.204(a)(2)(vi)(B) of Regulation Q (12 CFR 217.204(a)(2)(vi)(B)) to use alternative techniques to measure the risk of de minimis exposures;

(E) Act on a request from a company under § 217.204(b)(2) of Regulation Q (12 CFR 217.204(b)(2)) to use a different adjustment of its VaR-based measure;

(F) Review and determine the appropriateness of a company's omission of risk factors under § 217.205(a)(4) of Regulation Q (12 CFR 217.205(a)(4)) and the use of proxies under § 217.205(a)(5) of Regulation Q (12 CFR 217.205(a)(5));

(G) Review and determine under § 217.205(b)(1) of Regulation Q (12 CFR 217.205(b)(1)) the appropriateness of any conversions of VaR to other holding periods by a company;

(H) Review and determine under § 217.205(b)(2)(ii) of Regulation Q (12 CFR 217.205(b)(2)(ii)) the appropriateness of a company's alternative weighting schemes;

(I) Approve or disapprove under § 217.205(c) of Regulation Q (12 CFR 217.205(c)) any requirements relating to a company's division of subportfolios;

(J) Approve or disapprove under § 217.206(b)(3) of Regulation Q (12 CFR 217.206(b)(3)) any changes to a company's policies and procedures that describe how the company determines the period of significant financial stress used to calculate its stressed VaR-based measure;

(K) Require a company under § 217.206(b)(4) of Regulation Q (12 CFR 217.206(b)(4)) to use a different period of significant financial stress in the calculation of the stressed VaR-based measure;

(L) Act on a request by a company under § 217.208(a) of Regulation Q (12 CFR 217.208(a)) to include certain portfolios of equity positions in its incremental risk model;

(M) Act on a request by a company under § 217.209(a)(1) of Regulation Q (12 CFR 217.209(a)(1)) to use the comprehensive risk approach for one or more portfolios of correlation trading positions and the related approval under § 217.209(a)(2)(ii) of Regulation Q (12 CFR 217.209(a)(2)(ii)) regarding a company's comprehensive risk capital requirement;

(N) Determine under § 217.210(e)(3) of Regulation Q (12 CFR 217.210(e)(3)) whether an index is a main index because the equities represented by the index have comparable liquidity, depth of market, and size of bid-ask spreads as equities in the Standard & Poor's 500 Index and FTSE All-World Index; and

(O) Determine under § 217.210(f)(1) of Regulation Q (12 CFR 217.210(f)(1)) whether or not a company has demonstrated a comprehensive understanding of the features of a securitization exposure.

By order of the Board of Governors of the Federal Reserve System.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2022–18203 Filed 8–29–22; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL REGISTER

Vol. 87 Thursday,

No. 169 September 1, 2022

Part IV

Department of Health and Human Services

Secretarial Review and Publication of the 2021 Annual Report to Congress and the Secretary Submitted by the Consensus-Based Entity Regarding Performance Measurement; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[CMS–3417–N]

Secretarial Review and Publication of the 2021 Annual Report to Congress and the Secretary Submitted by the Consensus-Based Entity Regarding Performance Measurement

AGENCY: Office of the Secretary of Health and Human Services, HHS.

ACTION: Notice.

SUMMARY: This notice acknowledges the Secretary of the Department of Health and Human Services' (the Secretary's) receipt and review of the National Quality Forum 2021 Annual Activities Report to Congress, submitted by the consensus-based entity (CBE) under a contract with the Secretary as mandated by the Social Security Act (the Act). The Secretary has reviewed the National Quality Forum's 2021 Annual Report and is publishing the report in the **Federal Register** together with the Secretary's comments on the report not later than 6 months after receiving the report in accordance with section 1890(b)(5)(B) of the Act. This notice fulfills the statutory requirements.

FOR FURTHER INFORMATION CONTACT: LaWanda Burwell, (410) 294–2056.

I. Background

The United States Department of Health and Human Services (HHS) has long recognized that a high functioning health care system that provides higher quality care requires accurate, valid, and reliable measurement of quality and efficiency. The Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) (Pub. L. 110–275) added section 1890 of the Social Security Act (the Act), which requires the Secretary of HHS (the Secretary) to contract with a consensus based entity (CBE) to perform multiple duties to help improve performance measurement. Section 3014 of the Patient Protection and Affordable Care Act (the Affordable Care Act) (Pub. L. 111–148) expanded the duties of the CBE to help in the identification of gaps in available measures and to improve the selection of measures used in health care programs. The Secretary extends his appreciation to the CBE in their partnership for the fulfillment of these statutory requirements.

In January 2009, a competitive contract was awarded by HHS to the National Quality Forum (NQF) to fulfill requirements of section 1890 of the Act. A second, multi-year contract was awarded again to NQF after an open competition in 2012. A third, multi-contract was awarded again to NQF after an open competition in 2017. Section 1890(b) of the Act requires the following:

Priority Setting Process: Formulation of a National Strategy and Priorities for Health Care Performance Measurement. The CBE must synthesize evidence and convene key stakeholders to make recommendations on an integrated national strategy and priorities for health care performance measurement in all applicable settings. In doing so, the CBE must give priority to measures that: (1) address the health care provided to patients with prevalent, high-cost chronic diseases; (2) have the greatest potential for improving quality, efficiency, and patient-centered health care; and (3) may be implemented rapidly due to existing evidence, standards of care, or other reasons. Additionally, the CBE must take into account measures that: (1) may assist consumers and patients in making informed health care decisions; (2) address health disparities across groups and areas; and (3) address the continuum of care furnished by multiple providers or practitioners across multiple settings.

Endorsement of Measures. The CBE must provide for the endorsement of standardized health care performance measures. This process must consider whether measures are evidence-based, reliable, valid, verifiable, relevant to enhanced health outcomes, actionable at the caregiver level, feasible to collect and report, responsive to variations in patient characteristics such as health status, language capabilities, race or ethnicity, and income level and are consistent across types of health care providers, including hospitals and physicians.

Maintenance of CBE Endorsed Measures. The CBE is required to establish and implement a process to ensure that endorsed measures are updated (or retired if obsolete) as new evidence is developed.

Removal of Measures. Section 102(c) of Division CC of the Consolidated Appropriations Act, 2021 amended section 1890(b) of the Act to permit the CBE to provide input to the Secretary on measures that may be considered for removal.

Convening Multi-Stakeholder Groups. The CBE must convene multi-stakeholder groups to provide input on: (1) the selection of certain categories of quality and efficiency measures, from among such measures that have been endorsed by the entity and from among such measures that have not been considered for endorsement by such entity but are used or proposed to be used by the Secretary for the collection or reporting of quality and efficiency measures; and (2) national priorities for improvement in population health and in the delivery of health care services for consideration under the national strategy. The CBE provides input on measures for use in certain specific Medicare programs, for use in programs that report performance information to the public, and for use in health care programs that are not included under the Act. The multi-stakeholder groups provide input on quality and efficiency measures for various federal health care quality reporting and quality improvement programs including those that address certain Medicare services provided through hospices, ambulatory surgical centers, hospital inpatient and outpatient facilities, physician offices, cancer hospitals, end stage renal disease (ESRD) facilities, inpatient rehabilitation facilities, long-term care hospitals, psychiatric hospitals, and home health care programs.

Transmission of Multi-Stakeholder Input. Not later than February 1 of each year, the CBE must transmit to the Secretary the input of multi-stakeholder groups.

Annual Report to Congress and the Secretary. Not later than March 1 of each year, the CBE is required to submit to the Congress and the Secretary an annual report. The report is to describe:

- The implementation of quality and efficiency measurement initiatives and the coordination of such initiatives with quality and efficiency initiatives implemented by other payers;
- Recommendations on an integrated national strategy and priorities for health care performance measurement;
- Performance of the CBE's duties required under its contract with the Secretary;
- Gaps in endorsed quality and efficiency measures, including measures that are within priority areas identified by the Secretary under the national strategy established under section 399HH of the Public Health Service Act (National Quality Strategy), and where quality and efficiency measures are unavailable or inadequate to identify or address such gaps;
- Areas in which evidence is insufficient to support endorsement of quality and efficiency measures in priority areas identified by the Secretary under the National Quality Strategy, and where targeted research may address such gaps; and
- The convening of multi-stakeholder groups to provide input on: (1) the selection of quality and efficiency measures from among such measures that have been endorsed by the CBE and

such measures that have not been considered for endorsement by the CBE but are used or proposed to be used by the Secretary for the collection or reporting of quality and efficiency measures; and (2) national priorities for improvement in population health and the delivery of health care services for consideration under the National Quality Strategy.

Section 50206(c)(1) of the Bipartisan Budget Act of 2018 (Pub. L. 115–123) amended section 1890(b)(5)(A) of the Act to require the CBE's annual report to Congress to include the following: (1) an itemization of financial information for the previous fiscal year ending September 30th, including annual revenues of the entity, annual expenses of the entity, and a breakdown of the amount awarded per contracted task order and the specific projects funded in each task order assigned to the entity; and (2) any updates or modifications to internal policies and procedures of the entity as they relate to the duties of the CBE including specifically identifying any modifications to the disclosure of interests and conflicts of interests for committees, work groups, task forces, and advisory panels of the entity, and information on external stakeholder participation in the duties of the entity.

The statutory requirements for the CBE to annually report to the Congress and the Secretary also specify that the Secretary must review and publish the CBE's annual report in the **Federal Register**, together with any comments of the Secretary on the report, not later than 6 months after receiving it.

This **Federal Register** notice complies with the statutory requirement for Secretarial review and publication of the CBE's annual report. NQF submitted a report on its 2021 activities to the Congress and the Secretary on March 1, 2022. The Secretary's Comments on this report are presented in section II of this notice, and the National Quality Forum 2021 Activities Report to the Congress and the Secretary is provided, as submitted to HHS, in the addendum to this **Federal Register** notice in section IV.

II. Secretarial Comments on the National Quality Forum 2021 Activities: Report to Congress and the Secretary of the Department of Health and Human Services

The Centers for Disease Control and Prevention reported that Black women are 3 times more likely to die from a pregnancy-related cause than White women. Understanding that a third of all maternal deaths occur between 1 week to a year after childbirth,[1] HHS implemented new policies and funding to ensure safer pregnancies and postpartum services for new parents and their babies as a strategy for improving maternal health for all women. We have granted first-time approval of proposals in five states to expand postpartum Medicaid coverage for mothers following delivery and created a new measure in Medicare that will encourage hospitals to standardize protocols addressing obstetric emergencies and complications arising during pregnancy.[2]

In 2021, HHS continued our partnership with the NQF to both explore improvements in maternal health and continue to advance health care quality measurement through a number of projects and forums. NQF worked with a variety of multi-stakeholder groups to identify and address national priorities with gaps in quality measurement, including areas with underlying health disparities made more prominent by COVID–19 Public Health Emergency (PHE), and NQF encouraged development of new measures in these areas.

Maternal Morbidity & Mortality Measurement

The dual aim of the NQF Maternal Morbidity and Mortality Measurement project was to develop tangible recommendations to enhance maternal morbidity and mortality measurement in the United States and drive toward improved health outcomes in maternity care. To achieve this dual aim, NQF convened a technical expert panel comprised of practitioners and policy makers to assess the current state of maternal morbidity and mortality measurement; recommended specific short- and long-term, innovative, and actionable ways to improve maternal morbidity and mortality measurement; and used that measurement to improve maternal health outcomes.

As in other areas of health and health care, COVID–19 magnified already disparate maternal health outcomes in 2021. NQF's Maternal Morbidity and Mortality Panel suggested approaches to enhance maternal morbidity and mortality measurement that focus on patient-reported outcomes (PROs) and measures that reflect the impacts of social determinants of health. They also emphasized access to care and a patient's lived experience to drive toward improved outcomes in maternal care.

[1] CDC Working Together to Reduce Black Maternal Mortality.

[2] HHS Marks Maternal Health Week.

Measure Applications Partnership

NQF's Measure Applications Partnership (MAP) advised HHS on which measures to use in federal reporting and value-based programs to ensure these measures address national health care priorities, fill critical measurement gaps, and increase public-private payer alignment. Using the existing MAP Coordinating Committee, NQF also piloted an initiative to provide recommendations to Centers for Medicare & Medicaid Services (CMS) on which measures could potentially be removed from federal quality programs. NQF added a new Health Equity Advisory Group to the MAP focused specifically on measurement issues related to health disparities and critical access hospitals.

The MAP also identified topics with too few or no measures at the individual federal program level: PROs, health equity, telehealth, and care coordination. Many of these areas align with critical health care priorities and CMS' Meaningful Measures Areas.[3] NQF publicly posted guidance documents with strategic approaches and recommendations for measuring performance in these priority gap areas.

Core Quality Measures Collaborative

NQF partnered with CMS and America's Health Insurance Plans to bring together public and private payers in the Core Quality Measures Collaborative (CQMC). The CQMC is designed to forge alignment in the quality measures used to incentivize high quality, cost-efficient care and reduce measurement burden in public- and private-sector value-based payment programs. The CQMC continued updating existing core measures to reflect the changing measurement landscape and developed a new set of cross-cutting measures applicable across multipleclinical conditions, settings, and procedures/services.

HHS values NQF's expertise in bringing many diverse stakeholders to the table to drive innovation in quality measurement as a key to addressing public health challenges, including improvements in maternal health.

III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the

[3] CMS Meaningful Measures Initiative.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

IV. Addendum

In this Addendum, we are publishing the *NQF Report on 2021 Activities to Congress and the Secretary of the Department of Health and Human Services,* as submitted to HHS.

Xavier Becerra,

Secretary, Department of Health and Human Services.

BILLING CODE 4120–01–P

NATIONAL QUALITY FORUM

Driving measurable health improvements together

NQF 2021 Activities: Report to Congress and the Secretary of the Department of Health and Human Services

Final Report

March 1, 2022

This report was funded by the Centers for Medicare & Medicaid Services under contract number HHSM-500-2017-00060I Task Order HHSM-500-T0002.

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I. Executive Summary

The National Quality Forum (NQF) is a not-for-profit, nonpartisan, membership-based organization that brings together public- and private-sector stakeholders from across the healthcare landscape to build consensus on quality measures and improvement strategies that can advance the nation's health outcomes, equity, and affordability.

This Annual Report to Congress and the Secretary of the Department of Health and Human Services (HHS) summarizes NQF's work under contract with HHS between January 1 – December 31, 2021. This report, mandated by section 1890(b)(5)(A) of the Social Security Act (SSA), provides a summary of the following items:

- Recommendations on national strategies and priorities
- Quality and efficiency measurement initiatives (i.e., performance measures)
- Stakeholder recommendations on quality and efficiency measures and national priorities
- Gaps in endorsed quality and efficiency measures
- Gaps in evidence and targeted research needs (i.e., framework projects)
- Other activities under contract with HHS

During this past year, the coronavirus disease 2019 (COVID-19) and its dire effects strained the country's healthcare resources, highlighting challenges in America's healthcare delivery system and bringing increased attention to the inequities that lead to disparate health outcomes for vulnerable populations. Delays and disruptions in care, reduced access to care, increased behavioral health challenges, and increased health and patient safety risks are key among the many reasons that the COVID-19 pandemic has exacerbated existing health and healthcare issues and brought about new ones. These impacts have increased the urgency to address systemic issues using measurement as a vital tool to drive better health outcomes.

Through the Centers for Medicare & Medicaid Services' (CMS) funding in 2021, NQF and CMS collaborated on endorsing and maintaining high quality measures, identifying measurement gaps, and making recommendations on measurement. These activities purposefully align with the Meaningful Measures (MM) 2.0 Framework and address some of the most critical gaps and challenges that the COVID-19 pandemic has highlighted: maternal health outcomes and disparities, overdose and mortality related to opioid use with behavioral health conditions, and telehealth and healthcare system readiness in rural areas. Through these efforts, NQF supports CMS' priority to lead in facing current measurement challenges while continuing to improve healthcare quality and address health disparities.

Recommendations on National Strategies and Priorities

NQF is committed to working with stakeholders to address national priorities, which often have gaps in quality measurement. In 2021, NQF made recommendations on areas with underlying health disparities that have become more prominent as the COVID-19 pandemic has continued. More specifically, NQF convened multistakeholder Committees focused on maternal morbidity and mortality measurement, opioid use and behavioral health conditions, and telehealth and healthcare system readiness in rural communities. NQF Committees are defined as volunteer, multistakeholder groups that build consensus and are responsible for tasks such as evaluating measures and providing technical expertise.

Since its inception in 1999, NQF has played a key role in addressing national priorities to drive better health outcomes, health equity, and affordability in priority areas through measurement. In 2017, CMS launched the MM initiative, which identified the highest priorities for quality measurement while addressing growing concerns about the volume of measures by reducing the number of Medicare quality measures by 18 percent (Centers for Medicare & Medicaid Services, 2021b). In response to the rapidly changing healthcare environment, CMS released the updated MM 2.0 Framework to continue bolstering its two-pronged focus: to decrease measure burden while promoting quality measurement innovation and modernization in high-priority areas essential to driving value-based care. Since its release, NQF's efforts have aligned with the priorities of the MM 2.0 Framework.

The United States (U.S.) has struggled to improve maternal health outcomes, and maternal mortality rates continue to rise. As in other areas of health and healthcare, COVID-19 magnified already disparate maternal health outcomes. NQF's Maternal Morbidity and Mortality Committee suggested approaches to enhance maternal morbidity and mortality measurement that focuses on patient-reported outcomes (PROs) and measures that reflect the impacts of social determinants of health (SDOH). The Committee also emphasized access to care and a patient's lived experience to drive toward improved outcomes in maternal care.

Opioid-related overdoses and deaths continue to challenge the U.S healthcare system. Furthermore, the number of individuals with substance use disorder (SUD) and mental illness has increased. The convergence of the COVID-19 pandemic and the opioid crisis has accelerated drug overdose and opioid-related deaths. The result of this effort was a recommended approach to improve the prevention and monitoring of SUDs, opioid-related overdoses, and opioid-related mortality among individuals with behavioral health conditions.

The COVID-19 pandemic highlighted and exacerbated the factors that influence poor health outcomes in rural communities. These include greater health risks due to the impacts of SDOH as well as reduced access to care and health education. Telehealth presents an opportunity to improve access to care and reduce the health disparities between rural and urban communities. The NQF-convened multistakeholder Committee that worked on this effort recommended a framework to guide quality and performance improvement for telehealth in rural areas in response to disasters.

A key component of the guidance across these projects was addressing the negative health impacts of SDOH. This focus on SDOH and their convergence with the COVID-19 pandemic aligns closely with national priorities and MM 2.0 Framework areas, such as equity, person-centered care, seamless care coordination, chronic conditions, wellness and prevention, and behavioral health.

Quality and efficiency measurement initiatives (performance measures)

NQF engages stakeholders from across the healthcare spectrum to review and endorse measures that can drive meaningful improvements in care, fill known measure gaps, and align with healthcare improvement priorities. NQF also plays a key role in advancing the science of performance measurement and complex methodological issues.

In 2021, NQF reviewed 78 measures across a variety of topics, such as hospitalizations, behavioral health and substance use, cost and efficiency, patient experience and safety, and women's health. Many of the measures address areas that have been exacerbated by the COVID-19 pandemic through delays and disruptions in care, reduced access to care, increased health risks, increased behavioral health

challenges, and the increased impacts of SDOH. In addition, NQF's work this year provided technical guidance on how to adjust measurement to reflect social and other factors, assign accountability to specific organizations or providers, use electronic health records (EHRs) to facilitate care communication and coordination, develop digital measures that incorporate the patient voice, and better incorporate patient and caregiver perspectives into NQF's work. These areas of measurement science support MM initiative priorities to address the SDOH that lead to health disparities, transition to digital quality measurement, and promote consumer and caregiver perspectives.

Stakeholder recommendations on quality and efficiency measures and national priorities

NQF plays a unique role in supporting federal healthcare programs. The Measure Applications Partnership (MAP) provides input to HHS on which measures to use in federal reporting and value-based programs. The MAP provides input to CMS that ensures the measures used in federal programs address national healthcare priorities, fill critical measurement gaps, and increase public-private payer alignment.

This year, NQF piloted an initiative to remove measures from federal healthcare quality programs and created a new advisory group focused on health equity. Similar to the Rural Health Advisory Group that focuses on measurement issues in rural settings, the Health Equity Advisory Group considers measurement issues related to health disparities and critical access hospitals. In the most recently completed cycle, the MAP recommended measures for CMS programs covering ambulatory, acute, and post-acute/long-term care settings. During its deliberations, the MAP considered measurement issues related to rural settings and reviewed COVID-19-specific measures. The measures also addressed priorities related to incorporating person-centered care into performance measures and seamless care coordination.

Gaps in endorsed quality and efficiency measures

Driving better health outcomes through measurement depends on knowing where gaps exist in performance measures. By highlighting these areas, NQF encourages the development of measures on these topics. During 2021, NQF convened groups that identified gaps in NQF's existing measure portfolios in areas such as opioid use, behavioral health, PROs, and digital measures. The MAP also identified topics with too few or no measures at the individual federal program level. This year, the MAP identified gaps in measures related to PROs, health equity, telehealth, and care coordination. Many of these areas align with critical healthcare priorities and CMS' MM areas. Identification of these gaps often informs the emphasis of future quality measures and improvement strategies.

Gaps in evidence and targeted research needs (i.e., framework projects)

Another critical step toward performance improvement and better health outcomes is to provide guidance on how to address identified measurement gap areas. In 2021, NQF undertook projects that presented strategic approaches and recommendations for measuring performance in priority gap areas. In addition to the work described in earlier sections (on maternal health outcomes, opioids and behavioral health conditions, rural telehealth and healthcare system readiness, attribution, use of EHRs for care coordination, risk adjustment, and PROs), NQF also developed recommendations for social risk factors and public-private payer alignment.

One of the major impacts of COVID-19 was bringing increased attention and urgency to long-standing health disparities that were exacerbated by the pandemic. This, along with increasing evidence showing that social factors—or SDOH—affect health outcomes, suggests that measurement and value-based programs should consider these factors when attributing care to accountable entities. In 2021, NQF built off previous work and explored whether to consider risk factors in the development of performance measures so that they are fair, accurate, and unbiased. The NQF-convened Disparities Standing Committee recommended creating a conceptual model to understand how social risk factors (e.g., race and ethnicity, education, and language) might affect outcomes and for this model to be used in determining the appropriateness of adjusting measure scores for social risk factors. The Committee also directed a recommendation to the Risk Adjustment Technical Expert Panel (TEP) to provide comprehensive technical guidance on how measure developers should develop and test risk adjustment models that account for the social and functional risk factors influencing quality measures.

NQF addressed identified measurement gap areas by releasing advice to the field on the topics described above. The guidance organized ideas that are important to measure for each topic area and described how measurement should take place. This level of direction facilitates the development of new measures to fill those gaps. These measures may then undergo the endorsement process or be used for quality improvement purposes. As a result, these projects completed the cycle of measurement facilitated by NQF: measure endorsement, recommendations on the areas in which measures should be used, technical guidance on the science of measurement, identification of measure gap areas, and lastly, recommendations on what measurement should look like in a gap area. NQF's role in this cycle is critical to supporting CMS and addressing national priorities using measurement.

Coordination with measurement initiatives by other payers

Using performance measurement to drive better health outcomes requires alignment across payers to achieve the highest impact. In 2021, NQF continued using its unique convening power to bring together public and private payers to coordinate their quality measures and improvement strategies.

Both public and private payers use value-based programs to incentivize high quality, cost-efficient care. However, they often use different measures and large numbers of measures, resulting in higher burden and complexity for providers. In response, NQF partnered with CMS and America's Health Insurance Plans (AHIP) to bring together public and private payers in the Core Quality Measures Collaborative (CQMC). The CQMC is designed to address these challenges by forging alignment in the measures used and reducing measurement burden in these public- and private-sector value-based payment programs. In 2021, the CQMC convened to keep their existing sets of core measures up to date so that they continue to reflect the changing measurement landscape. It also developed a new set of cross-cutting measures applicable across multiple clinical conditions, settings, or procedures/services. The CQMC released guidance on new promising practices in implementing measures in value-based programs and approaches to increase the use of digital measures. The CQMC also took initial steps toward creating a new health equity group, updating criteria for adding and removing measures, and making new recommendations for filling measurement gaps and promoting greater harmonization. This work aligns closely with the goals of and enhancements to the MAP this year through recommending the removal of measures from value-based programs and convening stakeholders to bring a focus on health equity to the work.

Other activities under contract with HHS

NQF is committed to supporting patient safety in partnership with the Agency for Healthcare Research and Quality (AHRQ). In 2021, NQF gathered public comments and provided feedback on a set of definitions and formats that allows providers and clinicians to collect and exchange information for any patient safety event. The ongoing COVID-19 pandemic has compounded existing risks and introduced new patient safety risks, thus making improvement in patient safety more necessary and complex than ever. This work aligns with the MM 2.0 Framework area of safety.

Conclusion

NQF has the unique and distinguished responsibility of bringing stakeholders together to build consensus on quality measures and improvement strategies that can enhance the nation's health outcomes, health equity, and affordability. Over the past year, NQF's work has focused on advancing measurement to meet the challenges presented by the COVID-19 pandemic and the inequities that lead to disparate health outcomes for vulnerable populations. NQF's measurement activities continue to be key to driving a cost-efficient, safe, and high quality value-based healthcare system that strives for the best care and best use of the nation's healthcare dollars.

The deliverables produced under contract with HHS in 2021 are referenced throughout this report, and a full list is included in Appendix A. For more information on the contents of this report as required in statutory language, please reference Appendix I.

II. NQF Funding and Operations

Section 1890(b)(5)(A)(VI)(ii and iii) of the Social Security Act contains a requirement for the Consensus-Based Entity (CBE) to include in its annual report to Congress and the Secretary contractual, financial, and operational information related to the Consensus-Based Entity (CBE), specifically it requires the following financial and operations information—

- *An itemization of financial information for the fiscal year ending September 30 of the preceding year, including—*
  - Annual revenues of the entity (including any government funding, private sector contributions, grants, membership revenues, and investment revenue);
  - Annual expenses of the entity (including grants paid, benefits paid, salaries or other compensation, fundraising expenses, and overhead costs); and
  - A breakdown of the amount awarded per contracted task order and the specific projects funded in each task order assigned to the entity.
- *Any updates or modifications of internal policies and procedures of the entity as they relate to the duties of the entity under this section, including: (I) specifically identifying any modifications to the disclosure of interests and conflicts of interests for committees, work groups, task forces, and advisory panels of the entity and (II) information on external stakeholder participation in the duties of the entity under this section (including complete rosters for all committees, work groups, task forces, and advisory panels funded through government contracts, descriptions of relevant interests and any conflicts of interest for members of all committees, work groups, task forces, and advisory panels, and the total percentage by health care sector of all convened committees, work groups, task forces, and advisory panels.*

NQF's revenues for fiscal year (FY) 2021 were $22,655,517, including federal funds authorized under section 1890(d) of the SSA, private-sector contributions, membership revenue, and investment revenue. NQF's expenses for FY 2021 were $21,153,337. These expenses include grants and benefits paid, salaries and other compensations, fundraising expenses, and overhead costs.

A complete breakdown of the amount awarded per contract is available in Appendix A. NQF has made no updates or modifications to the disclosure of interest and conflict of interest policies. Rosters of Committees and Workgroups funded under the CBE contract are available in Appendix B.

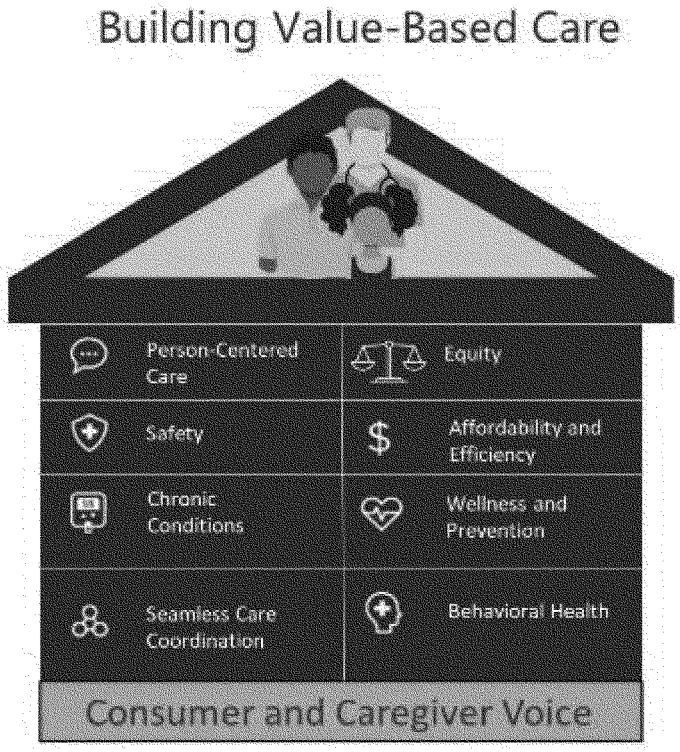
III. Recommendations on National Strategies and Priorities

Section 1890(b)(1) of the Social Security Act (the Act) mandates that the consensus-based entity (entity) shall "synthesize evidence and convene key stakeholders to make recommendations . . . on an integrated national strategy and priorities for health care performance measurement in all applicable settings. In making such recommendations, the entity shall ensure that priority is given to measures: (i) that address the health care provided to patients with prevalent, high-cost chronic diseases; (ii) with the greatest potential for improving the quality, efficiency, and patient-centeredness of health care; and (iii) that may be implemented rapidly due to existing evidence, standards of care, or other reasons." In addition, the entity is to "take into account measures that: (i) may assist consumers and patients in making informed health care decisions; (ii) address health disparities across groups and areas; and (iii) address the continuum of care a patient receives, including services furnished by multiple health care providers or practitioners and across multiple settings." The CBE is required to describe this activity in this report pursuant to section 1890(b)(5)(A)(i)(II) of the Act.

NQF is committed to working with stakeholders to address national priorities, which often lack quality measures and need additional research to identify the path forward to measurement and improvement. In 2021, NQF continued fulfilling its commitment to addressing top priorities, which it has done since its inception. NQF has closely aligned with HHS' and CMS' priorities throughout that time, using those goals to guide much of its work. An example of an HHS initiative to which NQF has aligned itself with follows: HHS released the National Quality Strategy (NQS) in 2011, which incorporated input from the NQF-convened National Priorities Partnership (NPP). The NQS is a nationwide plan for healthcare quality improvement geared toward providing better and more affordable care for individuals and communities. In 2017, CMS launched the MM initiative to identify the highest priorities for quality measurement, focusing on topics that are most critical to providing high quality care and improving health outcomes. In response to the evolving healthcare landscape, CMS created the MM 2.0 Framework to promote patient perspectives, transition toward digital measurement, decrease measure burden, and promote innovation and modernization in quality measurement. Since then, NQF's and CMS' efforts have aligned with the MM 2.0.

In 2021, NQF made recommendations on areas with underlying health disparities that have become more prominent as the COVID-19 pandemic has continued. In response, NQF convened Committees of stakeholders from across the healthcare industry to address maternal morbidity and mortality, opioids and behavioral health conditions, and rural telehealth and healthcare system readiness. These projects offered approaches to guide measurement in these significant areas. This work closely aligns with the priorities of the MM 2.0 Framework, such as person-centered care, safety, chronic conditions, seamless care coordination, equity, affordability and efficiency, wellness and prevention, and behavioral health. More details about each priority initiative follow below.

Figure 1. Crosswalk Between NQF's Projects and CMS' Meaningful Measures 2.0 Goals



Source: CMS, 2021. https://www.cms.gov/meaningful-measures-20-moving-measure-reduction-modernization

Priority Initiative I: Maternal Morbidity and Mortality

Maternal morbidity and mortality measures are significant indicators of women's health and the quality of healthcare. The U.S. has struggled to improve maternal health measurement outcomes, and since 2000 (MacDorman et al, 2016; Rossen et al, 2020), maternal mortality rates have risen each year. While maternal mortality rates in the U.S. vary by location, the most significant disparities exist among racial and ethnic groups (Howell et al, 2018). For example, the mortality rates among non-Hispanic Black women (37.1 deaths per 100,000 live births) are significantly higher than the mortality rates for non-Hispanic White women (14.7 deaths per 100,000 live births) and Hispanic women (11.8 deaths per 100,000 live births) (Centers for Disease Control and Prevention [CDC], 2021a). The rates of severe maternal morbidity are also 1.7 times higher for Native Americans/Native Alaskans compared with White women in data from seven states. Sixty percent of pregnancy-related deaths in the U.S. are thought to be preventable (Petersen et al, 2019).

Completed in 2021, the dual aim of the Maternal Morbidity and Mortality Measurement project was to develop tangible recommendations to enhance maternal morbidity and mortality measurement in the

U.S. and to drive toward improved health outcomes in maternity care. To achieve this dual aim, NQF convened a Committee to assess the current state of maternal morbidity and mortality measurement; recommend specific short- and long-term, innovative, and actionable ways to improve maternal morbidity and mortality measurement; and use that measurement to improve maternal health outcomes.

The Committee finalized an environmental scan in 2020 that assessed the current state of measurement in this area. It focused on prevalence; incidence; risk factors (medical and nonmedical); measure concepts; fully developed measures; measures in use; processes for maternal care delivery; maternal health outcomes; and other factors/areas influencing outcomes, including health disparities. The environmental scan included further definition of the risk factors that influence outcomes. The definitions focus on individual factors (e.g., age, education, knowledge, beliefs, and behaviors); societal/community factors (e.g., social network, built environment, and housing); hospital factors (e.g., implicit bias, cultural competence, and communication); and system-level factors (e.g., access, structural racism, and policy). Importantly, the environmental scan highlighted several nonmedical factors that influence outcomes. These included healthcare disparities, race and racism, discrimination, residential segregation, implicit bias, language barriers in healthcare, health literacy, rural communities, and other SDOH. These factors are interrelated; They contribute to each other and emphasize the importance of comprehensively assessing medical and nonmedical risk factors. This assessment facilitates a better understanding of the larger context of influencers and contributors for adverse outcomes beyond traditional hospital risk factors. The scan also highlighted innovations in measurement methodology, limitations or gaps in measurement, and considerations regarding measurement data sources.

A key topic that the Committee prioritized, based on the risk factors above, is health equity. It also highlighted access to care and a patient's lived experience, among other areas. Accordingly, the Recommendations Report from this project highlights health equity and maternal health disparities as contributing factors to differences in maternal health outcomes in the U.S. This focus aligns with the underlying health disparities highlighted and compounded by the COVID-19 pandemic. This work also aligns with CMS' MM 2.0 Framework by recommending measurement that largely focuses on person-centered care, safety, seamless care coordination, equity, wellness, and prevention. The Committee emphasized the need for a patient's lived experience to be accounted for at every stage, as well as the importance of ensuring the patient has access to the appropriate care settings for any eventuality and at each step of their care. The Committee recommended a focus on outcome measures, including PROs, and emphasized the importance of measures that reflect social and economic determinants.

Priority Initiative II: Measurement Framework for Addressing Opioid-Related Outcomes Among Individuals With Co-occurring Behavioral Health Conditions

Opioid-related overdose morbidity and mortality have emerged as complex and evolving challenges for the U.S healthcare system. In 2020, the CDC released preliminary data showing that over 75 percent of all drug overdose-related deaths involved opioids, which is an all-time high since the beginning of the opioid crisis in the late 1990s (Ahmad et al, 2021; Baumgartner & Radley, 2021b). Over time, the number of individuals with SUD, mental illness, and co-occurring SUDs and mental illness has increased. As of 2019, approximately 9.5 million adults have co-occurring mental disorders and SUDs, with nearly 50 percent of individuals with SUDs having a co-occurring mental health condition (Substance Abuse and Mental Health Services Administration [SAMHSA], 2020). Individuals with both SUD and mental illness

are an especially high-risk population for opioid-related overdose death and morbidity, and these two are the focus of the Opioid and Behavioral Health project.

The convergence of the COVID-19 pandemic and the opioid crisis has led to an acceleration in drug overdose deaths, including deaths related to opioids (National Center for Health Statistics, 2021). Drug overdose deaths increased by nearly 30 percent from 2019 to 2020, and opioid-related deaths drove these increases, with opioids accounting for approximately 75 percent of all overdose deaths during the start of the COVID-19 pandemic (Baumgartner & Radley, 2021a; National Center for Health Statistics, 2021). During the pandemic, approximately 4 in 10 U.S. adults reported symptoms of anxiety or depression, representing a stark increase from the 1 in 10 individuals self-reporting anxiety or depression in 2019 (Panchal et al, 2021). This has had an even greater impact on communities of color and vulnerable populations, with non-Hispanic Black adults and Hispanic and Latino adults being more likely to report symptoms of anxiety or depressive disorder during the pandemic than their non-Hispanic White counterparts (Panchal et al, 2021). Additionally, individuals with SUD are considered to be at a greater risk for contracting COVID-19, and individuals with COVID-19 and SUD were more likely to experience severe outcomes (e.g., hospitalization or death) compared with those without SUD (National Institute on Drug Abuse, 2021). Increased social distancing and restrictions led to social isolation and loneliness, and the impacts on employment left many individuals unemployed or fearing for their job security. These circumstances can serve as a trigger to initiate or continue drug use and can leave individuals who were seeking support unable to find it (Sweeney, 2021). This unfortunate combination leaves individuals at an increased risk for setbacks in pursuing and maintaining recovery.

In response to the ongoing evolution of the opioid crisis, NQF convened the Opioids and Behavioral Health Committee to develop a quality measurement framework, a strategic approach to measuring overdose and mortality resulting from polysubstance use involving synthetic and semisynthetic opioids (SSSOs) among individuals with co-occurring behavioral health conditions. The goal of the framework is to guide measurement to improve the prevention and monitoring of SUDs/opioid use disorder (OUD), opioid-related overdoses, and opioid-related mortality among individuals with co-occurring behavioral health conditions who use opioids with other legal and/or illegal drugs; to apprise stakeholders of opportunities for coordination and partnerships across care settings; and to enable stakeholders to quickly adapt and improve their readiness in a rapidly changing landscape. The final report and framework identified measures and measure concepts that could be utilized by all payers and include concepts related to collaboration between medical- and community-based entities that care for the population of interest, such as medical providers and the criminal justice system or social workers.

Recognizing the intersection between SUD, mental illness, and health equity, the Committee made health equity foundational to its charge. The Committee agreed that equity and access to care are foundational components of addressing overdose and mortality resulting from polysubstance use among individuals with co-occurring behavioral health conditions. Equity is a critical area of focus, given that mortality associated with opioid intake in individuals with behavioral health conditions increases when SDOH-related factors are present (Compton & Shim, 2015; National Quality Forum, 2021b). As a result, the final Opioids and Behavioral Health Measurement Framework features Equitable Access as one of the three domains and the first step in addressing overdose and morbidity. This domain focuses on ensuring the existence of services and the financial coverage of services with an emphasis on access for vulnerable populations, such as individuals with poor SDOH or with criminal justice involvement.

As showcased above, the Committee addressed many of the MM 2.0 Framework goals and areas, given the impact of OUD, SUD, and behavioral health on public health. The measurement framework aims to help with chronic conditions, equity, wellness and prevention, and behavioral health. The emphasis and focus on measures and measure concepts that payers can use help to address the needs of measures for population-based payment through alternative payment models (APMs). The framework aims to increase the recovery services and existing supports that can lead to better health outcomes and a reduction in overdoses by ensuring that this population has access to community-based services that can help them begin and maintain recovery (Bailey et al, 2021).

Priority Initiative III: Leveraging Quality Measurement to Improve Rural Health, Telehealth, and Healthcare System Readiness

Over the past year, the U.S. has continued to grapple with the healthcare challenges related to and exacerbated by the COVID-19 global pandemic. The effects of the pandemic are severely felt within rural communities, which compose the nation's most vulnerable population (Mueller et al, 2021). Rural residents account for 20 percent of the U.S. population, or approximately 63 million Americans (U.S. Census Bureau, 2020), and tend to be older and sicker than their urban counterparts. For example, rural populations have greater health risks, including higher rates of chronic disease (e.g., obesity and diabetes), riskier behaviors (e.g., smoking and substance use), poorer diets, and lower health literacy, and are at greater risk of poor health outcomes (Health Resources & Services Administration [HRSA], 2017). These differences are driven by rural disparities in access to care (e.g., fewer healthcare providers, long travel distances to specialty and emergency care coupled with longer travel times for in-person care) as well as health education (CDC, 2020).

The COVID-19 pandemic has evidenced racial and ethnic health inequalities, which continue to exacerbate poor health outcomes in rural communities. Telehealth, when clinically appropriate, presents an opportunity to improve access to care and reduce the health disparities between rural and urban communities. In response, NQF convened a multistakeholder Committee to create a conceptual measurement framework that guides quality and performance improvement for care delivered via telehealth in rural areas in response to disasters. The Final Recommendations Report describes five domains for measurement: Access to Care and Technology; Costs, Business Models, and Logistics; Experience; Effectiveness; and Equity. The report emphasizes consideration of rural-specific measurement issues and outlines potential solutions to the challenges that are specific to rural communities.

To help ensure health equity among rural residents, the Equity domain recommends considering the following points: (1) how quality of care and outcomes differ by factors such as, but not limited to, age, race, gender identity, and disability; (2) SDOH such as transportation and living conditions; and (3) the impact of telehealth on existing inequalities (e.g., patients without access to broadband still being unable to receive care). The Final Recommendations Report also includes a list of measures that are available for use, as well as a list of measure gaps and measure concepts, in encouraging the development of measures that will address the gaps in a way that is patient centered and meaningful to the patient (e.g., promoting effective communication and care coordination, transfer of health information, and interoperability). Additionally, the report highlighted the promotion of the identified measures to assess the impact of telehealth on healthcare system readiness and health outcomes in rural areas affected by disasters such as pandemics, natural disasters, mass violence, and other public health events.

The Rural Telehealth and Healthcare System Readiness work aligns with multiple CMS MM 2.0 Framework areas. Notably, the framework emphasizes person-centered care and seamless care coordination in providing effective telehealth services. Telehealth services also have the potential to provide more affordable care.

IV. Quality and Efficiency Measurement Initiatives (Performance Measurement)

Section 1890(b)(2) and (3) of the Social Security Act requires the consensus-based entity (CBE) to endorse standardized healthcare performance measures. The endorsement process must consider whether measures are evidence-based, reliable, valid, verifiable, relevant to enhanced health outcomes, actionable at the caregiver level, feasible for collecting and reporting, responsive to variations in patient characteristics, such as health status, language capabilities, race or ethnicity, and income level; and consistent across types of healthcare providers. In addition, the CBE must establish and implement a process to ensure that measures endorsed are updated (or retired if obsolete) as new evidence is developed. The CBE is required to describe these duties in this report pursuant to section 1890(b)(5)(A)(i)(III) of the Act.

NQF convenes multistakeholder Committees to review and endorse measures that can support the move to value-based, high quality, and cost-efficient care. NQF also supports the field by providing guidance on the science of measurement and methodological issues. This guidance supports the development of high quality, innovative measures as well as the use and implementation of performance measures. An overview of NQF's work to endorse measures and support measurement science follows.

Cross-Cutting Projects to Improve the Measurement Process

With funding from CMS, NQF conducted several projects that enhanced the science of quality measurement. Most of the measurement activities described in these cross-cutting projects span care settings and providers. This broad approach yields useful information to a wide variety of patients, providers, and payers. This year's cross-cutting topic areas include risk adjustment, attribution, care coordination, and PROs.

Best Practices for Developing and Testing Risk Adjustment Models

As part of NQF's COVID-19 response, assessing risk factors continues to be of high importance when considering social risk adjustment. Risk adjustment (also known as case-mix adjustment) refers to the inclusion of risk factors associated with a measure score in a statistical model of measured entity performance captured at the person, facility, or community levels and others (CMS, 2021a). With respect to the patient-related factors, these can be clinical (e.g., comorbidities), functional (e.g., activities of daily living [ADLs]), or social (e.g., income, education, and place of residence) in nature. Currently, risk adjustment is used to ensure that a number of stakeholders (e.g., patients, providers, facilities, provider groups, etc.) all have access to accurate and reliable information about the quality of care provided. Unadjusted measures may lead to inappropriate financial penalties among providers (e.g., safety-net providers) who care for patients with a high proportion of social risk and who are unable to mitigate the subsequent increased risk of the measured outcome. These financial penalties may leave some providers who care for disadvantaged populations with fewer resources for quality improvement activities.

Through statistical methods, risk adjustment increases a measure's ability to report unbiased and accurate results by reporting measure results that account for factors outside of a provider's "locus of

control" but are known to have a significant impact on achieving health outcomes. Risk-adjusting measures to account for differences in patient health status and clinical factors (e.g., comorbidities, severity of illness) that are present at the start of care has been widely accepted and implemented (Blum et al, 2014; Franks & Fiscella, 2002). However, the increased use of outcome and resource use measures in payment models and public reporting programs has raised concerns regarding the adequacy and fairness of the risk adjustment methodologies used in these measures, especially as it relates to functional status and social risk factors, such as income, education, social support, neighborhood deprivation, and rurality.

Measure developers have long expressed a need for technical guidance on developing and testing social and/or clinical risk adjustment models for endorsement and maintenance and the appropriateness of a standardized risk adjustment framework. Furthermore, NQF recognizes that addressing SDOH is fundamental to all quality improvement efforts. Quality measurement should contribute to closing the health equity gap and not inadvertently institutionalize it. NQF applies an SDOH lens to every aspect of its work, with the goal of empowering healthcare stakeholders to take meaningful and measurable action to achieve health equity. This includes addressing quality and measurement gaps in key national health priorities, including the endorsement of performance measures that can identify and potentially reduce health disparities.

Addressing the wide spectrum of disparities must be considered a key component for successful health outcomes across the nation. As social risks become increasingly recognized for having a tremendous impact on health and healthcare outcomes, NQF recognizes that fully addressing inequities associated with race/ethnicity and social risks requires a holistic policy approach and a private-public sector partnership that goes well beyond the purview of quality measurement. There is a clear distinction between directly adjusting payment rates with social risk factors and adjusting quality measures that may be tied to financial bonuses and incentives. Quality measure adjustment alone cannot and should not be used to achieve resource (re)allocations.

NQF seeks to advance measurement science in this important area through the development of technical guidance for measure developers that includes emerging best practices for functional and social risk factor adjustment in measure development. NQF convened a multistakeholder TEP in the fall of 2020 to develop the Technical Guidance based on the emerging best practices, as minimum standards, for risk adjustment models. These minimum standards apply to both outcome and cost/resource use performance measures and some process performance measures as well at any level of analysis (e.g., health plans, facilities, individual clinicians, and accountable care organizations [ACOs]).

NQF will continue to broaden stakeholder engagement efforts to garner input on the utility of the Technical Guidance and to make updates to it based on stakeholder feedback and TEP input. Systematically consulting all stakeholders (e.g., patients, providers, health plans, policymakers, etc.) to finalize this guidance will ensure that a proper conclusion can be drawn and will increase the value of the recommendations and standards within the guidance.

Attribution for Critical Illness and Injury

Attribution is the methodology used to assign patients, and the quality or costs of their healthcare, to specific organizations or providers. Quality measurement is more straightforward when a measure is used to assess a single entity (e.g., a hospital). It can be more complicated during public health emergencies (PHEs), such as the COVID-19 pandemic. These situations involve many providers and

organizations, and care for these scenarios is frequently driven by proximity (Carr et al, 2017; Tung et al, 2019) or system factors, such as Emergency Medical Services (EMS) destination protocols or post-acute care referral patterns (Hsia et al, 2017). These events often involve multiple providers and entities that span different healthcare systems and organizations. If only one organization is being held accountable, then assessment and any associated implications could be viewed as unfair. This may reduce stakeholder buy-in and limit the incentive for providers to change their behaviors to improve quality of care across settings. The COVID-19 pandemic underscores the importance of using a population-/geographical-based attribution approach in quality measurement.

PHEs are also by nature unpredictable and require a timely, coordinated response among entities that often do not have advanced knowledge of patient care needs. Healthcare organizations across a region also have different capabilities for patient care, may not share standardized protocols, and are commonly in direct business competition with one another. Therefore, organizations must work together before disasters occur and organize systems (e.g., trauma or stroke systems) to deliver care effectively. In such cases, a population-/geographical-based attribution approach that is fair and accurate and assigns patients to a provider/entity based on patient location may be preferred. This approach may incentivize "co-opetition," which is the concept of care coordination at the system or regional level as opposed to the individual-provider level, which therefore encourages disparate healthcare systems to coordinate as a single entity to save lives, especially in a PHE, such as the COVID-19 pandemic. Additionally, the current financial arrangement of healthcare providers (i.e., based on affiliation with specific systems or insurance types) is not conducive to care delivery during mass casualty incidents (MCIs).

In 2021, NQF convened a multistakeholder Committee to make recommendations for developing geographical-/population-based quality measurement attribution models applicable to MCIs, PHEs, and high-acuity emergency care-sensitive conditions (ECSCs). NQF, along with the input of the Attribution for Critical Illness and Injury Committee, advanced measurement science in this important area by producing an Environmental Scan Report and Final Recommendations Report.

Leveraging Electronic Health Record (EHR)-Sourced Measures to Improve Care Communication and Coordination

The goal of care communication and care coordination efforts is to ensure that patient care, delivered across multidisciplinary settings, is both synchronized and efficient. Effective care communication and care coordination involve seamless communication between the clinician and patient, as well as their families and caregivers, and between clinicians caring for the same patient to harmonize the care received throughout the healthcare system. To deliver coordinated care across clinicians and settings, it is vital that clinicians and patients have interoperable access to patient healthcare data. The concept of being interoperable means that data from multiple EHR systems (either from the same EHR vendor or another EHR vendor) can be shared across settings such as between hospitals or clinicians. Without interoperable access, there is a lack of effective health information transfer, which can result in suboptimal care, such as providing care that is discordant with a patient's overall goals of care, unnecessarily duplicative (e.g., repeat imaging or laboratory testing) (Abbaszade et al, 2021), or directly conflicting with current treatments (e.g., unrecognized potentially harmful medication interactions). It may also lead to missed opportunities to diagnose or treat a patient if the information is not communicated across longitudinal clinicians caring for a patient across settings (e.g., a need for follow-up imaging or follow-up treatment as a patient transitions from the hospital to outpatient care).

Leveraging EHR-sourced measures will drive quality improvement efforts to enhance care communication and care coordination, two processes that are essential to achieving the aim of enhancing the patient experience, improving population health, improving the work life of healthcare providers, and reducing costs. EHRs provide a richer data set that can directly measure components of care communication and care coordination that are not captured in claims data. These data are also available for real-time, or near-real time quality measurement. In addition, SDOH data have the potential to reduce disparities as they become increasingly available in EHRs. In addition to collecting patient race, ethnicity, and language data, collecting other variables, such as housing or food insecurity, in structured and unstructured fields may be useful in coordinating care with community services as well as in measure development.

During the base year, NQF performed an environmental scan to define care communication and care coordination, discuss the impact of care communication and care coordination on health outcomes, define SDOH and discuss how they can affect care coordination, and highlight the opportunities and challenges associated with leveraging EHR-sourced data to improve care communication and coordination. Utilizing the information from the scan, the EHR Care Coordination and Care Communication Committee will advance the science of quality measurement by developing two reports of final recommendations that will outline how EHRs could better facilitate care communication and coordination and how EHR-sourced measures can be used to improve care communication and coordination, as well as possible EHR-sourced care communication and coordination measure concepts or specific areas of measurement within care communication and coordination.

Building a Roadmap From Patient-Reported Outcome Measures to Patient-Reported Outcome Performance Measures

Patient-reported outcome performance measures (PRO-PMs) are recognized by CMS, NQF, and numerous healthcare stakeholders as an important opportunity to amplify the patient's voice through quality measurement. The development and endorsement of PRO-PMs have not been as widespread as other quality measures, as evidenced by the presence of approximately 200 process measures and 320 outcome measures that are currently endorsed by NQF, compared with 29 NQF-endorsed PRO-PMs as of April 1, 2021. Part of this difference may be due to the classification of PRO-PMs as "complex measures," meaning the PRO-PM as well as any underlying patient-reported outcome measures (PROMs) that are used as data collection instruments must be evaluated by NQF's Scientific Methods Panel (SMP) for scientific acceptability. Additionally, the development of digital PRO-PMs is limited, not only due to the interoperability challenges that all quality measures face but also due to the data collection challenges that must be overcome to electronically collect data through PROMs.

The Building a Roadmap From Patient-Reported Outcome Measures to Patient-Reported Outcome Performance Measures project (henceforth referred to as *Building a Roadmap*) recognizes the measure development community's need for straightforward guidance to help a diverse range of developers (e.g., those with different levels of experience or at different stages in their careers) navigate the unique challenges of developing digital PRO-PMs. The Interim Report offers guidance to measure developers on selecting PROMs that are high quality data collection instruments for digital PRO-PMs that can be used in CMS' value-based purchasing (VBP) programs or APMs; this guidance builds on a body of collaborative work between CMS and NQF that has existed for more than a decade and adds novel guidance that specifically focuses on digital measurement. In addition, the Technical Guidance Report from this project offers high-level guidance to measure developers on a set of four stages and 16 tasks that must be

considered and documented during the PRO-PM development process. The Technical Guidance Report is not intended to replace fundamental measure development guidance from CMS or NQF; rather, it is a tool to help measure developers better understand the nuances that are unique to digital PRO-PMs. This project advances the science of quality measurement by supporting the development of digital measures and incorporating patient perspectives into quality measurement.

Patient and Caregiver Engagement (PACE) Advisory Group

Incorporating patient and caregiver perspectives is critical for quality measurement—not only during development, but also during the endorsement process. In 2021, NQF convened the Patient and Caregiver Engagement (PACE) Advisory Group to provide guidance on enhancing patient and caregiver engagement on NQF's Standing Committees. Over the course of eight web meetings, the PACE Advisory Group, which is composed of 14 patient and caregiver representatives, provided feedback on the following items:

- The Standing Committee nomination process (i.e., the content for an outreach email template to help recruit patient and caregiver vacancies on the Standing Committees and methods to engage patients and caregivers not selected to serve on the Standing Committees)
- Tips for how co-chairs can engage patients and caregivers throughout the evaluation cycle, as mentioned in the *Current State of the NQF Measure Portfolio* section below
- Definitions of patients, caregivers, and advocates and establishing a comprehensive term to encompass the role of Patient Advisor
- Input on potential content for a future Patient Advisor resource webpage
- Approaches for patients and caregivers to be engaged throughout the measure development process

Additionally, NQF built on the PACE Advisory Group's insights to establish an orientation session specifically for patients and caregivers on Standing Committees and a pilot mentorship program. The pilot program paired five experienced Patient Advisors (i.e., patients, caregivers, and patient advocates) with five new Patient Advisors to make connections, encourage participation, and provide support to those unfamiliar with the endorsement process. The pilot mentorship program received positive feedback from participants and may continue in the future. NQF also continued to offer an honorarium to mitigate the financial barriers that could hinder the participation of patients and caregivers in Standing Committees.

Current State of the NQF Measure Portfolio

Standardized performance measures help different stakeholders to more easily assess and address healthcare performance. For example, measures help clinicians and providers understand whether the care they are providing is both optimal and appropriate and help to focus efforts to improve care. Payers use measures for a variety of accountability purposes. Measures also allow for comparison across clinicians, hospitals, health plans, and other providers.

NQF uses a standard Consensus Development Process (CDP) consisting of six major steps to assess performance measures for NQF endorsement. The steps include a call for candidate measures; a call for nominations to NQF's Standing Committees; a Standing Committee review of newly submitted measures; a public commenting period; an endorsement decision made by the Consensus Standards Approval Committee (CSAC), the governing body; and an Appeals period. The CDP offers two opportunities each year for measure submission and evaluation—one cycle in the fall and one in the

spring. To keep the endorsed measure portfolio relevant, Standing Committees also conduct "maintenance" activities, reviewing previously endorsed measures to determine whether the measure has been appropriately used and maintained or whether it will lose endorsement. Maintenance review takes place approximately every three years.

The CDP is designed to consider and engage stakeholders from across the healthcare industry. NQF's multistakeholder Committees review both previously endorsed and newly submitted measures using NQF's measure evaluation criteria:

- Importance to Measure and Report
- Reliability and Validity—Scientific Acceptability of Measure Properties
- Feasibility
- Usability and Use
- Comparison to Related or Competing Measures

As the quality measurement landscape has evolved, NQF has supported and encouraged the submission and review of measures that can drive meaningful improvements in care (e.g., PROMs and digital measures), fill known measure gaps, and align with healthcare improvement priorities. NQF's current measure portfolio includes measures from 14 clinical and cross-cutting topic areas. In 2021, NQF reviewed 78 measures across a variety of topics, such as hospitalizations, behavioral health and substance use, cost and efficiency, patient experience and safety, and women's health. Many of the measures address areas that have been exacerbated by the COVID-19 pandemic through delays and disruptions in care, increased health risks, and the impacts of SDOH.

Figure 3. CDP Fall 2020/Spring 2021 New and Maintenance Measure Review

Measure Cycle	Number of New Measures	Number of Maintenance Measures	Total Number of Measures Reviewed
Fall 2020	13	35	78
Spring 2021	10	20	-

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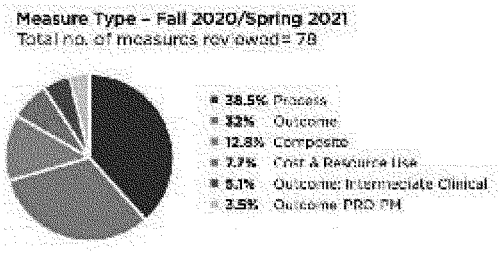
Figure 4. CDP Measure Types Reviewed During Fall 2020 and Spring 2021



Measure Endorsement and Maintenance Accomplishments

The results of the endorsement process during the spring and fall cycles follow below.

All-Cause Admissions and Readmissions

Avoidable admissions or readmissions are hospitalizations that could have been prevented with appropriate care. Inadequate discharge planning, patient follow-up, and coordination of care between the inpatient and outpatient settings (Patterson & Lindsey, 2009) often result in avoidable admissions or readmissions. Unnecessary hospitalizations can prolong the illness of patients, increase their time away from home and family, expose them to potential harms, and add to their costs. Avoidable admissions and readmissions also significantly contribute to the high rate of healthcare spending in the U.S. The AHRQ Healthcare Cost and Utilization Project (HCUP) estimated that approximately 3.5 million potentially preventable adult inpatient stays with Medicare patients occurred in 2017, accounting for approximately two-thirds of potentially preventable stays and related costs (McDermott & Jiang, 2020). Furthermore, an estimated 1 in 5 Medicare beneficiaries are readmitted within 30 days of discharge (Jencks et al, 2009). HCUP also estimated that the hospital costs associated with potentially preventable adult stays totaled $33.7 billion (McDermott & Jiang, 2020). Many of the potentially preventable stays and associated costs were for chronic conditions, representing 81 percent ($27.3 billion) of hospital costs associated with potentially preventable adult admissions (McDermott & Jiang, 2020). Additionally, the cost of hospital readmissions is estimated to be in the vicinity of $26 billion annually (Center for Health Information Analysis, 2015). Measurement in this area will help the field to better understand the relationship between readmissions and COVID-19. Improving measurement and health outcomes related to hospitalizations is also an important component of achieving health equity. The measures reviewed by the Standing Committee for this portfolio align with the MM 2.0 Framework's focus on seamless care coordination and equity.

Current Portfolio

There are 37 NQF-endorsed measures in the portfolio, including hospital-wide and condition-specific measures, such as renal, cardiovascular, and surgery, as well as measures for various care settings, including hospital, home health, skilled nursing facility, long-term care facility, inpatient rehabilitation facility, inpatient psychiatric facility, and hospital outpatient/ambulatory surgery center.

Fall 2020 Cycle

The Standing Committee evaluated one new measure and six measures undergoing maintenance review that focused on admissions and readmissions for patients with chronic disease. The one new measure was endorsed, and the six maintenance measures retained NQF endorsement.

Spring 2021 Cycle

The Standing Committee evaluated one newly submitted measure and three measures for maintenance review. Two measures focused on unplanned readmissions following psychiatric hospitalization and admission rates for patients with heart failure (HF), and two measures focused on excess days in acute care (EDAC) for patients with HF and pneumonia (PN). The Standing Committee recommended all four measures for endorsement.

Fall 2021 Cycle

No measures were submitted for review.

Behavioral Health and Substance Use

Behavioral health looks at how human behaviors and choices affect mental and physical health. Behavioral health comprises not only mental health but also SUDs. Behavioral health illnesses are typically cycling, chronic, and serious. The complexity and uncertainty of the underlying pathology of behavioral health illnesses along with the stigma surrounding these illnesses make treatment challenging and often negatively affect social functioning (*Mental Health Myths and Facts | MentalHealth.Gov*, 2017; National Alliance on Mental Illness, n.d.; Schaefer et al, 2005; Tanenbaum, 2005). While the data do show an increase in the prevalence of behavioral health disorders in the U.S., they also demonstrate that many Americans are not pursuing treatment for these disorders. A comprehensive annual report of behavioral health prevalence data is found in SAMHSA's National Survey on Drug Use and Health (NSDUH). Results from the 2019 NSDUH indicated that 19.2 million persons in the U.S. 18 years of age or older suffered from an apparent SUD (not including tobacco dependence), and 51.5 million persons 18 years of age or older suffered from a mental illness. Furthermore, 9.5 million persons 18 years of age or older suffered from both an SUD and a mental illness. These numbers jointly suggest that substantive behavioral health disease was evident in at least 61.2 million adult Americans in 2019, or roughly 24 percent of the adult population (SAMHSA, 2020). This rate is consistent with other epidemiologic studies that have previously revealed the prevalence of behavioral health conditions in the U.S. (Kamal, 2017). Improving measurement and health outcomes is particularly urgent, given the convergence of the ongoing COVID-19 pandemic and behavioral health challenges, such as the opioid epidemic. The pandemic has also led to exacerbations of health disparities related to behavioral health. The measures reviewed by the Standing Committee for this portfolio align with the MM 2.0 Framework's focus on wellness and prevention, behavioral health, chronic conditions, and equity.

Current Portfolio

There are 43 NQF-endorsed behavioral health measures, including measures for alcohol and drug use, care coordination, depression, medication use, experience of care, tobacco, and physical health.

Fall 2020 Cycle

The Standing Committee evaluated two new measures and two measures undergoing maintenance review that focused on psychiatric discharge and treatment for SUDs. Three measures were either endorsed or retained endorsement, and one measure lost endorsement due to concerns about the validity and feasibility of the measure.

Spring 2021 Cycle

The Standing Committee evaluated one measure undergoing maintenance review regarding the treatment of SUDs. The Standing Committee recommended this measure for endorsement.

Fall 2021 Cycle

No measures were submitted for review.

Cancer

Cancer is a category of various diseases that are associated with the uncontrolled growth and spread of abnormal cells in the body. If not treated, cancer can result in death (*Cancer Facts & Figures 2021 | American Cancer Society*, n.d.). Currently, cancer is the second most common cause of death in the U.S.,

exceeded only by heart disease (National Cancer Institute, 2020). According to the National Cancer Institute (NCI), an estimated 16.3 million people live with cancer in the U.S. (Howlader et al, 2020). In 2021 alone, more than 1.9 million new cancer cases are expected to be diagnosed in the U.S., and more than 600,000 people will die from the disease. Furthermore, the NCI estimated that cancer-related direct medical costs in the U.S. were $183 billion in 2015, and costs are projected to increase to $246 billion by 2025. Cancer care is complex and provided in multiple settings (e.g., hospitals, outpatient clinics, ambulatory infusion centers, radiation oncology treatment centers, radiology departments, and palliative and hospice care facilities) and by multiple providers; cancer care teams include surgeons, oncologists, nurses, pain management specialists, and social workers. Improving measurement and health outcomes in cancer is important, given the disruptions and delays in care due to the COVID-19 pandemic, which may also disproportionately affect historically disadvantaged communities. The measures in this portfolio align with the MM 2.0 Framework's focus on areas such as person-centered care, seamless care coordination, and equity.

Current Portfolio

There are 18 NQF-endorsed measures that address cancer screening and appropriate cancer treatment (including surgery, chemotherapy, and radiation therapy). They include measures for rheumatology, breast cancer, colon cancer, prostate cancer, and other cancers.

Fall 2020 Cycle

The Standing Committee did not review any measures. In place of evaluation meetings, the Standing Committee discussed the role of the CQMC, received an overview of the current NQF Cancer measure portfolio, and provided input on potential gaps in cancer quality performance measurement.

Spring 2021 Cycle

The Standing Committee did not review any measures. In place of evaluation meetings, the Standing Committee attended a topical webinar and discussed NQF's past and current health equity work, CMS' use of quality measurement to address health equity, and HealthCare Dynamics International's (HCDI) health equity work in cancer screening measurement.

Fall 2021 Cycle

No measures were submitted for review.

Cardiovascular

Cardiovascular disease, also known as heart disease, is a group of disorders of the heart and blood vessels (World Health Organization [WHO], 2021c). Heart disease is the leading cause of death in the U.S., with approximately 1 in 4 deaths per year. Heart disease affects all Americans because it affects both men and women across all racial and ethnic groups . Key risk factors for heart disease are obesity, high blood pressure, high blood cholesterol, and smoking. In addition to being the leading cause of death in the U.S., heart disease is the country's highest direct health expenditure (Virani et al, 2021). For example, from 2016 to 2017, heart disease costed the U.S. about $363 billion. The ongoing pandemic has heightened already existing health inequities related to cardiovascular disease. The COVID-19 health environment adds importance and urgency to the measures in this portfolio. This work aligns with the MM 2.0 Framework's focus on the management of chronic conditions and equity.

Current Portfolio

There are 39 NQF-endorsed measures grouped into various topic areas related to cardiovascular health. These topic areas include primary prevention and screening, coronary artery disease (CAD), ischemic vascular disease (IVD), acute myocardial infarction (AMI), cardiac catheterization, percutaneous catheterization intervention (PCI), HF, rhythm disorders, implantable cardioverter-defibrillators (ICDs), cardiac imaging, cardiac rehabilitation, and high blood pressure.

Fall 2020 Cycle

The Standing Committee evaluated two measures undergoing maintenance review that focused on risk standardized mortality rate (RSMR) for HF and AMI. Both measures retained NQF endorsement.

Spring 2021 Cycle

The Standing Committee evaluated two new measures undergoing review regarding readmissions related to transcatheter aortic valve replacement (TAVR) and treatment for ST-segment elevation myocardial infarction (STEMI). The Standing Committee recommended both measures for endorsement.

Fall 2021 Cycle

No measures were submitted for review.

Cost and Efficiency

The high cost of receiving and providing care continues to be one of the major issues in U.S. healthcare. Healthcare spending in the country reached $3.8 trillion, or approximately $11,582 per person, in 2019. This total accounted for 17.7 percent of the Gross Domestic Product (GDP) and represented a 4.7 percent increase above 2018 spending levels (*NHE Fact Sheet / CMS*, 2020). Despite this high level of spending, the U.S. continues to rank below other developed countries for health outcomes, including lower life expectancy and greater prevalence of chronic diseases. Healthcare quality is also an issue in which the U.S. falls behind other developed countries, specifically in the quality domains of effective, safe, coordinated, and patient-centered care (Medicare Payment Advisory Commission [MedPAC], 2021). The factors contributing to these concerning trends are as complex as the healthcare system itself (e.g., physician practice patterns, regional market influences, and access to care). Improving U.S. health system efficiency has the potential to simultaneously reduce cost growth and improve the quality of care provided (*NHE Fact Sheet / CMS*, 2020). As reducing costs continues to be a focus of healthcare reform, it is important to understand the current use of resources in the healthcare system as it relates to quality, especially how resource use relates to health outcomes. Improving the measurement of cost and efficiency is critical, given the impact of the ongoing pandemic on the economy and the exacerbation of health disparities. The work on measures in this portfolio aligns with the MM 2.0 Framework's focus on affordability, efficiency, and equity.

Current Portfolio

There are 13 NQF-endorsed measures, which include both condition-specific and non-condition-specific measures, cost and resource measures, and efficiency more broadly.

Fall 2020 Cycle

The Standing Committee evaluated one measure undergoing maintenance review that focused on Medicare spending per beneficiary. This measure retained NQF endorsement.

Spring 2021 Cycle

The Standing Committee evaluated five measures undergoing maintenance review regarding the per member per month (PMPM) index and payment for episode-based care for AMI, HF, and PN. The Standing Committee recommended the measures retain endorsement.

Fall 2021 Cycle

No measures were submitted for review.

Geriatrics and Palliative Care

Palliative care is patient- and family-centered care that optimizes quality of life by anticipating, preventing, and alleviating suffering throughout the continuum of a person's illness by addressing physical, intellectual, emotional, social, and spiritual needs and facilitating patient autonomy, access to information, and choice (NQF, 2006). For those persons with a terminal illness, high quality end-of-life care is comprehensive care that addresses medical, emotional, spiritual, and social needs during the last stages of illness. In 2018, the 65-and-older population numbered 50.9 million individuals (i.e., 15.6 percent of the U.S. population), and this figure is expected to increase to 94.7 million by 2060. As many as 35 percent of older Americans have some type of disability (e.g., vision, hearing, ambulation, or cognition), while 46 percent of the 75-and-older population report limitations in physical functioning (Administration for Community Living, 2021). Additionally, data indicate that 46 percent of the 65-and-older noninstitutionalized U.S. population have two or three chronic conditions, and 15 percent have four or more (Ward & Schiller, 2013). Improving the quality of both palliative and end-of-life care, and geriatric care more generally, is becoming increasingly important due to factors that have intensified the need for individualized, person-centered care. Some of these factors include the aging U.S. population; projected increases in the number of Americans with chronic illnesses, disabilities, and functional limitations; and increases in ethnic and cultural diversity (*Dying in America*, 2015). COVID-19 has also intensified the need for measurement in this area due to the increased challenges in providing palliative care and widened health disparities. The measures reviewed by the Standing Committee for this portfolio align with the MM 2.0 Framework's focus on person-centered care, chronic conditions, and equity.

Current Portfolio

There are 35 NQF-endorsed measures that address geriatric care, palliative care, and end-of-life care. These measures address physical, spiritual, and legal aspects of care, as well as the care of patients nearing the end of life.

Fall 2020 Cycle

The Standing Committee evaluated four measures undergoing maintenance review. The CSAC upheld the Standing Committee's recommendation to endorse two measures and not endorse one measure due to a lack of data tracking and analysis. The CSAC did not uphold the Standing Committee's recommendation to endorse one measure and has sent this measure back to the Standing Committee for reconsideration in a future cycle. This measure will retain endorsement until its review is complete.

Spring 2021 Cycle

The Standing Committee did not review any measures. In place of evaluation meetings, the Standing Committee attended a topical webinar and discussed the existing palliative care measurement framework, received an overview of the current NQF Geriatric and Palliative Care measure portfolio, and provided input on potential gaps in Geriatric and Palliative Care quality measurement.

Fall 2021 Cycle

Three measures were submitted for review.

Neurology

Neurological conditions are disorders that affect the brain and the nerves found throughout the body and spinal cord. In 2017, the Global Burden of Disease study found the three most burdensome neurological conditions in the U.S. related to absolute numbers of disability-adjusted life years (DALYs): (1) stroke (3.58 million DALYs), (2) Alzheimer's and other dementias (2.55 million DALYs), and (3) migraine headache (2.40 million DALYs) (GBD 2017 US Neurological Disorders Collaborators et al, 2021). Additionally, stroke is the fifth leading cause of death in the U.S., leading to 146,383 deaths in 2017 (American Academy of Neurology, n.d.). It is a condition that has historically had few treatments; yet today, treatments including intravenous and intra-arterial thrombolysis, clot retrieval, and other technologies have revolutionized care (Albers et al, 2018; Messas et al, 2020). Improving neurology-related measurement remains important during an ongoing pandemic that has heightened health disparities in this group of conditions and disorders. The work on this portfolio aligns with the MM 2.0 Framework's focus on chronic conditions and equity.

Current Portfolio

There are 14 NQF-endorsed measures, including measures for stroke, subarachnoid and intracerebral hemorrhage, dementia, and carotid stenosis.

Fall 2020 Cycle

The Standing Committee evaluated one new measure undergoing review that focused on stroke. This measure was not endorsed due to concerns with the provided evidence.

Spring 2021 Cycle

The Standing Committee evaluated one new measure and one measure undergoing maintenance review that focused on stroke and carotid stenosis, respectively. One measure was recommended for endorsement, and the other measure was withdrawn from consideration following the post-comment meeting.

Fall 2021 Cycle

No measures were submitted for review.

Patient Experience and Function

Patient Experience and Function (PEF) is a critical topic area that includes quality metrics associated with patient satisfaction and experience of care, PROMs, and care coordination. The U.S. is increasingly ensuring that each person and family is engaged within a care partnership because it is critical to

achieving better patient outcomes (Majid, 2020). In addition, the U.S. healthcare system has increasingly embraced the idea that patient experience of care delivery is not simply important because it is associated with positive clinical outcomes, but also because it is a desirable endpoint unto itself (Doyle et al, 2013; Manary et al, 2013). Care coordination measures are also an important element for the success of this integrated approach. Care coordination spans the continuum of care and promotes quality care delivery, better patient experiences, and more meaningful outcomes (Council on Children with Disabilities and Medical Home Implementation Project Advisory Committee, 2014; Pronovost et al, 2003; Tricco et al, 2014). The measures in this portfolio align with the MM 2.0 Framework's focus on person-centered care and seamless care coordination.

Current Portfolio

There are 50 NQF-endorsed measures addressing patient assessments of care, mobility and self-care, shared decision making, patient activation, and care coordination. Most of the measures within this portfolio are PRO-PMs, including measures of patient experience, patient satisfaction, and functional status.

Fall 2020 Cycle

The Standing Committee evaluated two newly submitted Functional Assessment Standardized Items (FASI) measures undergoing review. One measure was endorsed, and the other measure was withdrawn from consideration by the developer after the Standing Committee expressed concerns with the evidence.

Spring 2021 Cycle

The Standing Committee evaluated one new home and community-based services measure and recommended it for endorsement.

Fall 2021 Cycle

No measures were submitted for review.

Patient Safety

Patient safety is the elimination of preventable errors or harm to a patient during the process of receiving medical care (AHRQ, n.d.). The 1999 Institute of Medicine (IOM) report titled *To Err Is Human* described the morbidity and mortality associated with preventable harms from medical errors. The report estimated that nearly 100,000 U.S. deaths per year were attributable to medical errors (Institute of Medicine & Committee on Quality of Health Care in America, 2000). More recent evidence has estimated that errors may account for as many as 251,000 deaths annually in the U.S., making medical errors the third leading cause of death (Anderson & Abrahamson, 2017; Makary & Daniel, 2016). These sobering figures have sparked a national focus on identifying, studying, and improving patient safety across settings. The ongoing COVID-19 pandemic has compounded existing risks and introduced new patient safety risks. The measures reviewed by this Standing Committee will support improvement in patient safety, which is more necessary and complex than ever. This work aligns with the MM 2.0 Framework's focus on safety.

Current Portfolio

There are 58 NQF-endorsed measures, including measures on medication safety, healthcare-associated infections, perioperative safety, falls, mortality, venous thromboembolism, pressure ulcers, workforce, and radiation safety.

Fall 2020 Cycle

The Patient Safety Standing Committee evaluated six patient safety process and outcome measures undergoing maintenance review against NQF's measure evaluation criteria. All six measures retained NQF endorsement.

Spring 2021 Cycle

The Standing Committee evaluated one new measure and four measures undergoing maintenance review that focused on sepsis, pressure ulcers, falls, radiology, and medication use. The Standing Committee recommended the five measures for endorsement.

Fall 2021 Cycle

Five measures were submitted for review.

Perinatal and Women's Health

Perinatal and women's health is an assessment of an array of topics that are vital to the health and well-being of mothers and babies. WHO categorizes both maternal and infant mortality as key global health statistics, critical measures of healthy life expectancy, and indicators of a nation's health and healthcare quality (WHO, 2021a). Yet the U.S. continues to have high rates of maternal morbidity and mortality (Tikkanen et al, 2020). According to the CDC's National Vital Statistics System (NVSS), the 2018 maternal mortality rate was 17.4 maternal deaths per 100,000 live births, and it increases with age. Women ages 40 and older die at a rate of 81.9 per 100,000 live births (National Vital Statistics Reports, 2020), and women of this age group are 7.7 times more likely to die compared with women under the age of 25 (CDC, 2021). Additionally, the maternal death rate for African American women was more than double that of White women and three times the rate for Hispanic women (Hoyert L, 2021). Birth-related events are among the best measures for assessing healthcare quality (Pileggi et al, 2019). For women of reproductive age in the U.S., access to high quality care, before and between pregnancies, can reduce the risk of pregnancy-related complications, including maternal and infant morbidity and mortality (Johnson et al, 2006). The health disparities in maternal health outcomes have only increased during the COVID-19 pandemic. Focusing on measurement in this area is critical to driving better maternal health. The measures in this portfolio align with the MM 2.0 Framework's focus on wellness and prevention, person-centered care, seamless care coordination, behavioral health, and equity.

Current Portfolio

There are 15 NQF-endorsed measures for reproductive health; pregnancy and labor and delivery; high-risk pregnancy; newborn, premature, or low-birth-weight newborns; and postpartum patients.

Fall 2020 Cycle

The Standing Committee evaluated one episiotomy measure undergoing maintenance review. This measure retained NQF endorsement.

Spring 2021 Cycle

The Standing Committee evaluated four measures undergoing maintenance review that focused on contraceptive care and chlamydia screening. The Standing Committee recommended the measures retain NQF endorsement.

Fall 2021 Cycle

No measures were submitted for review.

Prevention and Population Health

Population health describes the "health outcomes of a group of individuals, including the distribution of such outcomes within the group" (D. Kindig & Stoddart, 2003). The designation of population health indicates the ongoing priority of identifying and assessing population- and community-level strategies that target disease prevention, cross-sector collaboration, health promotion, SDOH, and outcomes improvement (D. A. Kindig et al, 2008). Disease prevention remains a focal component of healthcare delivery, policy development, and the assessment of care quality, access, and outcomes. Advances in population and public health measure implementation have resulted in substantial reductions in the effects of infectious disease, occupational safety, and chronic illness; yet significant gaps remain among and between populations (Tikkanen & Abrams, 2020). Traditionally, medical care has been the primary focus of efforts to improve the health and well-being of individuals and populations. As a result, nearly all national health expenditures have been attributed to healthcare services for the treatment of injury, illness, and disease. However, medical care has a relatively small influence on health outcomes when compared to interventions that address SDOH, such as smoking, lower educational attainment, poverty, poor diet, and physical environmental hazards (e.g., unsafe housing, polluted air, and contaminated water). There is growing recognition of the role of SDOH or social risks in influencing health outcomes. The COVID-19 pandemic has compounded the impact of social risk on health, thus heightening the urgency to advance measurement in this area. This work aligns with the MM 2.0 Framework's focus on wellness and prevention and care.

Current Portfolio

There are 34 NQF-endorsed measures, including measures for health-related behaviors to promote healthy living; community-level indicators of health and disease; social, economic, and environmental determinants of health; primary prevention and/or screening; and oral health.

Fall 2020 Cycle

The Standing Committee evaluated one composite electronic clinical quality measure (eCQM) undergoing maintenance review that focused on global malnutrition. This measure retained NQF endorsement.

Spring 2021 Cycle

The Standing Committee evaluated one newly submitted adult immunization measure. The Standing Committee recommended this measure for endorsement.

Fall 2021 Cycle

No measures were submitted for review.

Primary Care and Chronic Illness

Primary care comprises a variety of services provided to patients that cover a wide span of practice domains. This includes not only primary care clinicians but also other clinicians who provide primary care services. The central idea of primary care is based on comprehensive first contact and continuing care for biological and behavioral conditions affecting any organ system (American Academy of Family Physicians, n.d.). Beyond the diagnosis and treatment of acute and chronic illnesses in a variety of healthcare settings, primary care also addresses issues associated with health promotion, disease prevention, health maintenance, counseling, and patient education. The CDC's National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP) found that 6 in 10 adults in the U.S. have a chronic disease, and 4 in 10 have multiple diseases. These illnesses have a profound impact not only on health, but also the economy (e.g., chronic and mental health conditions represent 90 percent of the U.S. annual healthcare expenditure). Primary care is considered the most inclusive, equitable, cost-effective, and efficient method for improving and maintaining physical, mental, and social well-being (WHO, 2021b). COVID-19 has forced changes in the delivery of primary care, such as exacerbating underlying disrupting visits and moving to the use of telemedicine and virtual healthcare. Measurement will be critical as the primary care system continues to evolve following the appearance of and response to COVID-19. The measures reviewed by the Standing Committee align with the MM 2.0 Framework's focus on equity, wellness and prevention, chronic conditions, person-centered care, seamless care coordination, and behavioral health.

Current Portfolio

There are 48 NQF-endorsed measures that focus on nonsurgical eyes or ears, nose, and throat conditions; diabetes care; osteoporosis; human immunodeficiency virus (HIV); rheumatoid arthritis; gout; back pain; asthma; chronic obstructive pulmonary disease (COPD); and acute bronchitis. Chronic illnesses are long-lasting or persistent health conditions or diseases that patients and providers must manage on an ongoing basis.

Fall 2020 Cycle

The Standing Committee evaluated four newly submitted measures and three measures undergoing maintenance review that focused on sickle cell anemia, respiratory issues, overuse, and person-centered primary care. All measures were either endorsed or retained endorsement.

Spring 2021 Cycle

The Standing Committee evaluated one newly submitted measure on continuity of care and recommended it for endorsement.

Fall 2021 Cycle

Three measures were submitted for review.

Renal

Kidney disease has long been a leading cause of morbidity and mortality in the U.S. More than 37 million adults—representing 15 percent of the adult population—have chronic kidney disease (CKD) (Gupta et al, 2021). Left untreated, CKD can progress to end-stage renal disease (ESRD) and a host of other health complications, such as cardiovascular disease, hyperlipidemia, anemia, and metabolic bone disease.

There are over 700,000 people in the U.S. diagnosed with ESRD (Schoenberg et al, 2020). Medicare coverage is extended to all individuals regardless of their age if their kidneys are no longer functioning, if they need regular dialysis, or if they have had a kidney transplant (Powers et al, 2020). The U.S. continues to spend significant resources on care and treatment of CKD and ESRD. According to the most recent United States Renal Data System (USRDS) Annual Data Report from 2020, the total Medicare spending associated with CKD and ESRD in 2018 exceeded $130 billion (United States Renal Data System, 2019). Kidney disease reflects underlying health disparities that increased during the pandemic due to decreased access to care and a decline in necessary care. Measurement presents an opportunity to improve health outcomes in response to the intertwined challenges of health disparities and COVID 19. The measures in this portfolio align with the MM 2.0 Framework's focus on areas such as equity, chronic conditions, and seamless care coordination.

Current Portfolio

There are 16 NQF-endorsed measures associated with CKD and ESRD.

Fall 2020 Cycle

The Standing Committee evaluated one newly submitted measure and one measure undergoing maintenance review that focused on vascular access and dialysis ultrafiltration rate, respectively. One measure retained NQF endorsement, and one measure was not endorsed due to a low performance gap in care.

Spring 2021 Cycle

The Standing Committee evaluated two newly submitted measures on unsafe opioid prescriptions but did not recommend the two measures for endorsement.

Fall 2021 Cycle

No measures were submitted for review.

Surgery

Given the increasing rates and costs associated with inpatient and outpatient surgeries in the U.S., both performance measurement and reporting provide an opportunity to improve the safety and quality of care received by patients undergoing surgery and surgical procedures. In 2010, 28.6 million ambulatory surgery visits to hospitals and ambulatory surgical centers (ASCs) occurred, representing 48.3 million surgical and nonsurgical procedures (Hall et al, 2017). In 2014, 17.2 million hospital visits included at least one surgery. Of these surgeries, over half of them occurred in a hospital-owned ASC (Steiner et al, 2006). Over time, less invasive surgical techniques, patient conveniences (e.g., less time spent undergoing a procedure), and lower costs have led to an increased volume of ambulatory surgeries (Farrell et al, 2008; Munnich & Parente, 2014). However, there are risks associated with ambulatory surgeries, including increased pain, longer time than anticipated to return to daily activities, and unplanned subsequent hospital visits following surgery (Fox et al, 2014; Manohar et al, 2014). The disruptions to surgeries during the COVID-19 pandemic have led to additional risks to manage and heighten the need for measurement to drive improvements in the safety and quality of surgical care. This work aligns with the MM 2.0 Framework's focus on seamless care coordination, person-centered care, behavioral health, and equity.

Current Portfolio

There are 57 NQF-endorsed measures that address surgical care, including perioperative safety; general surgery; and a range of specialties, including cardiac, cardiothoracic, colorectal, ocular, orthopedic, urogynecology, and vascular surgery.

Fall 2020 Cycle

The Standing Committee evaluated eight measures undergoing maintenance review that focused on beta blockers, coronary artery bypass grafts (CABGs), elective primary total hip arthroplasty and/or total knee arthroplasty (THA/TKA), and mitral valve repair/replacement. Seven measures retained NQF endorsement. The CSAC deferred the endorsement decision for the remaining measure until further review of NQF's reserve status policy. This measure will retain endorsement until a decision is made.

Spring 2021 Cycle

The Standing Committee did not review any measures. In place of an evaluation meeting, the Standing Committee attended a topical webinar and discussed gaps in surgery performance measurement and the current state of social risk adjustment in performance measurement.

Fall 2021 Cycle

One measure was submitted for review.

V. Stakeholder Recommendations on Quality and Efficiency Measures and National Priorities

Section 1890(b)(7)(A)(i) of the Social Security Act (the Act) requires the CBE convene "multistakeholder groups to provide input on the selection of certain quality and efficiency measures from among: (i) such measures that have been endorsed by the entity; and (ii) such measures that have not been considered for endorsement by the CBE but are used or proposed to be used by the Secretary for the collection or reporting of quality and efficiency measures". Additionally, the CBE must convene multistakeholder groups to provide input on national priorities for improvement in population health and in delivery of health care services for consideration under the National Quality Strategy. The CBE is required to describe these duties in this report pursuant to section 1890(b)(5)(A)(i)(VI) of the Act.

Measure Applications Partnership

Under section 1890A(a) of the Act, HHS is required to establish a pre-rulemaking process under which a consensus-based entity (currently NQF) would convene multistakeholder groups to provide input to the Secretary on the selection of quality and efficiency measures for use in certain federal programs. The list of quality and efficiency measures HHS is considering for selection is to be publicly published no later than December 1 of each year. No later than February 1 of each year, the consensus-based entity is to report the input of the multistakeholder groups, which will be considered by HHS in the selection of quality and efficiency measures.

NQF plays a unique role in the identification of measures for use in federal healthcare programs. NQF does so by convening multistakeholder groups that review and provide recommendations on which measures to use. The MAP is a public-private partnership that provides consensus-based input to HHS on the selection of performance measures for federal healthcare quality programs. The MAP brings

together a variety of stakeholders from both public and private sectors, such as consumers, clinicians, purchasers, providers, researchers, health plans, and suppliers. The MAP's aim is to provide input to CMS that ensures the measures used in federal programs address national healthcare priorities, fill critical measurement gaps, and increase public-private payer alignment. The MAP strives to achieve performance improvement, transparency, and value for all.

The work of the MAP brings value to the field in several ways: It brings together the input of many stakeholders in the healthcare industry; supports transparency by convening meetings that are open to the public; ensures that measures are meaningful to patients, clinicians, and providers; and supports CMS' MM 2.0 Framework. The MAP's work has also been part of the ongoing efforts to ensure the safety and health of Americans during the ongoing pandemic through the review of COVID-19 vaccination measures. These efforts are critical to remaining current with the evolving measurement environment and the changing needs brought about by the pandemic. The MAP's recommendations also support CMS' efforts to use the highest value and highest-impact measures, incorporate patient voices in performance measures, coordinate care, and align measures across public and private entities.

The MAP is composed of a Coordinating Committee, three setting-specific Workgroups (i.e., Clinician, Hospital, and Post-Acute Care/Long-Term Care [PAC/LTC]), and two Advisory Groups (i.e., Rural Health and—new this year—Health Equity). The Coordinating Committee provides strategic direction and is responsible for the final approval of the recommendations and guidance developed by the Workgroups and Advisory Groups. The three Workgroups advise the Coordinating Committee on measures for specific care settings, care providers, and patient populations. The two Advisory Groups provide feedback on specific cross-cutting priorities, such as rural health and health equity.

The MAP conducts its work as part of CMS' pre-rulemaking process. This includes a public call for measures, CMS' development and public release of the annual Measures Under Consideration (MUC) list, MAP meetings to review and discuss the measures on the MUC list, and the publication of the MAP's recommendations. The Workgroups use MAP-developed Measure Selection Criteria (MSC) to assess how well each measure fits the need of a specified program. The MSC are designed to demonstrate the characteristics of an ideal set of performance measures. The MAP makes a determination for each candidate measure: support, do not support, conditionally support, or refine and resubmit. The MAP's recommendations inform HHS' decisions about measures to use in their public healthcare quality programs, which they put forth in a notice of proposed rulemaking in the *Federal Register*.

Within this section of the report, NQF will reference the MAP activities that have taken place in two cycles—the 2020-2021 and the 2021-2022 cycles. NQF will describe the resulting recommendations from the completed 2020-2021 cycle. The summaries below also include details about the 2021-2022 cycle to reflect two changes to the process that NQF implemented in 2021. The modifications include the following: (1) a trial of how the MAP might make recommendations about the removal of measures (in addition to making its typical recommendations about what measures should be included in CMS' quality programs) and (2) the creation of a new Advisory Group focused on measurement issues that affect health disparities.

2021-2022 Enhancements to the MAP Process

Measure Set Review Pilot

Omnibus appropriations legislation in December 2020 (Section 102 of Division CC of the Consolidated Appropriations Act, 2021) included language granting the CBE the ability to provide input on the removal of quality and efficiency measures. Initiated by CMS, NQF and CMS collaborated with the MAP Coordinating Committee to develop a process for a measure set review (MSR) as part of the 2021-2022 MAP cycle. The MSR group is charged with conducting a holistic review of measures with multistakeholder input, easing the burden of an increased number of performance measures, and continuing to educate and inform those who are interested in advancing measurement science.

During the 2021-2022 cycle, NQF piloted this process, incorporating a sample set of measures that only the MAP Coordinating Committee reviewed. NQF focused on developing a review process and criteria for evaluating measures within federal programs. During the 2022-2023 MAP cycle, NQF will expand the process to include the Workgroups and Advisory Groups. At the end of that cycle, NQF's final report will incorporate feedback from the Workgroups and Advisory Groups in the recommendations for measures' removal.

The MAP Coordinating Committee reviewed 22 measures from five federal programs: the Inpatient Psychiatric Facility Quality Reporting (IPFQR) Program, the Ambulatory Surgical Center Quality Reporting (ASCQR) Program, the Hospital Readmissions Reduction Program (HRRP), the Hospital VBP Program, and the Hospital Inpatient Quality Reporting (IQR) Program. The Coordinating Committee also provided feedback on the MSR pilot and suggested modifications to the criteria and processes for future iterations. It selected three miscellaneous measures for removal from the IPFQR Program: (1) CMS Measures Inventory Tool (CMIT) 2584 – Transition Record With Specified Elements Received by Discharged Patients (Discharges From an Inpatient Facility to Home/Self-Care or Any Other Site of Care), (2) CMIT 1645 – Patients Discharged on Multiple Antipsychotic Medications With Appropriate Justification, and (3) CMIT 2725 – Screening for Metabolic Disorders. The Committee also selected four Tobacco and Alcohol measures for removal from the IPFQR Program: (1) CMIT 1677 – Tobacco Use Treatment Provided or Offered, (2) CMIT 2588 – Tobacco Use Treatment, (3) CMIT 2591 – Alcohol Use Brief Intervention, and (4) CMIT 2592 – Alcohol Use Brief Intervention Provided or Offered. Additional details on all of the measures selected for removal can be found in the MSR 2021-2022 Final Report.

MAP Health Equity Advisory Group

NQF convened a new Advisory Group during the 2021-2022 MAP cycle: the MAP Health Equity Advisory Group. This new group will provide input on the MUCs, with measurement issues related to health disparities and critical access hospitals in mind. The aim of the Health Equity Advisory Group is to reduce health disparities closely linked with SDOH, such as social, economic, or environmental disadvantages.

NQF received over 150 nominations for a seat on this Advisory Group. Of those nominations received, NQF selected 27 organizations and individuals, as well as five federal liaisons. This group is composed of stakeholders with expertise in heath disparities and quality measurement. This includes experience with topics such as quality of care related to age, sex, income, race, ethnicity, disability, literacy, sexual orientation, gender identity, geographic location, and the intersection of these factors.

MAP 2020-2021 Pre-Rulemaking Recommendations

The MAP published the results of its 2020-2021 pre-rulemaking deliberations in a series of reports released in February and March of 2021. The MAP made recommendations on 20 MUCs for eight CMS quality reporting and VBP programs covering ambulatory, acute, and PAC/LTC settings. The measures

reviewed included five process measures (including three COVID-19 vaccination measures), five cost/resource use measures, five outcome measures, three composite measures, and two PRO-PMs. The measures reviewed by the MAP also addressed critical national priorities, including the response to COVID-19, rural health-related measurement issues, incorporation of the patient voice into performance measures, safeguarding of public health, and care coordination. A summary of this work is found below. In addition, the MAP began its 2021-2022 pre-rulemaking efforts in December 2021 to provide input on 44 MUCs for 13 CMS programs. NQF will post the MAP's final recommendations along with a detailed report in February 2022.

MAP Rural Health Advisory Group Recommendations

NQF works with the Rural Health Advisory Group to provide input on CMS' annual pre-rulemaking process. This Advisory Group provides input on issues that are particularly relevant in the rural population (e.g., access, costs, or quality issues encountered by rural residents; data collection and/or reporting challenges; and potential unintended consequences for rural providers). This Advisory Group consists of experts in rural health; frontline healthcare providers who serve in rural and frontier areas, including tribal areas; and patients from these areas. The aim of the Rural Health Advisory Group is to bring the rural health perspective to the annual pre-rulemaking process; identify rural-relevant gaps in measurement; and make recommendations on priority issues in rural health, such as low case-volume and access.

The Rural Health Advisory Group reviewed and discussed the 2020-2021 MUCs for various CMS quality programs. NQF provided a written summary of the Advisory Group's feedback to the Hospital, Clinician, and PAC/LTC Workgroups to aid in their review of the measures.

Key themes from the Advisory Group's discussion include the following:

- Elevated cost of care exists in rural areas due to limited availability of certain tools and treatments (e.g., specialized teams, home health services, and early intervention programs). There is also a tendency to identify disease at later stages (e.g., initial cancer diagnoses at more advanced stages). Cost measures should be paired with quality measures in the same topic area to prevent underutilization.
- Rural facilities with limited resources may need to transfer patients to an appropriate facility instead of performing all procedures on-site. Measures should account for transfers and different treatment modalities (e.g., measures that are scored on time-to-treatment OR time-to-transfer).
- Shifts in care settings present measurement challenges in rural areas. Some procedures (e.g., THA/TKA) are increasingly likely to be handled via outpatient/ambulatory services; therefore, measures limited to inpatient care may be subject to low case-volume challenges. Nonetheless, rural areas are still unlikely to have standalone ASCs.
- To better capture attribution of care in rural settings, measures should include nonphysician practitioners (e.g., physician assistants, nurse specialists), who play a more prominent role in rural areas.

The Rural Health Advisory Group also discussed rural-specific considerations for COVID-19 measures (e.g., high degree of vaccine hesitancy in rural areas), as well as the continued challenge of low case-volumes for many performance measures used in rural areas.

MAP Clinician Workgroup Recommendations

The MAP Clinician Workgroup reviews measures within three programs: the Merit-Based Incentive Payment System (MIPS), the Medicare Shared Savings Program, and the Medicare Part C and Part D Star Ratings. During this cycle, the MAP Clinician Workgroup reviewed 11 MUCs from the 2020 list in two of the three programs: the MIPS and the Medicare Shared Savings Program. A summary of the Workgroup's recommendations follows below.

Recommendations for the Merit-Based Incentive Payment System (MIPS)

Established by section 101(c) of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA), MIPS is a pay-for-performance program that affects payment to Eligible Clinicians (ECs). MIPS makes positive, neutral, and negative Part B payment adjustments to ECs based on four performance categories: quality, cost, promoting interoperability, and improvement activities. Each MIPS performance category is scored independently and has a specified weight. MIPS is one of two ways clinicians can participate in the Quality Payment Program incentive program.

The Clinician Workgroup reviewed 10 measures in the cost and quality categories for MIPS:

Conditional Support for Rulemaking (four measures):

- Cost category (two measures):
  - Colon and Rectal Resection (Episode-Based Cost Measure) – contingent on NQF endorsement
  - Melanoma Resection (Episode-Based Cost Measure) – contingent on NQF endorsement
- Quality category (two measures):
  - Person-Centered Primary Care (PRO-PM) – contingent on NQF endorsement
  - CoV-2 Vaccination by Clinicians – contingent on CMS bringing the measure back to the MAP once specifications were further refined

Do Not Support for Rulemaking With Potential for Mitigation (six measures):

- Cost category (three measures):
  - Asthma-Chronic Obstructive Pulmonary Disease (COPD) (Episode-Based Cost Measure) – contingent on NQF endorsement and further evaluation of actionability demonstrating the connection between upstream medical interventions and downstream costs
  - Diabetes (Episode-Based Cost Measure) – contingent on NQF endorsement and further evaluation of actionability demonstrating the connection between upstream medical interventions and downstream costs
  - Sepsis (Episode-Based Cost Measure) – contingent on NQF endorsement, an analysis of the potential for overdiagnosis of sepsis, and further evaluation of the correlation with clinical quality measures (CQMs)
- Quality category (three measures):
  - Risk-Standardized Acute Unplanned Cardiovascular-Related Admission Rates for Patients With Heart Failure – contingent on NQF endorsement and an analysis of the appropriateness of the risk adjustment for clinicians with higher caseloads of patients with more complicated or severe HF

- Intervention for Prediabetes – contingent on respecifying the measure to include an adequate range of interventions for prediabetes available to the clinician beyond the prescription of metformin or referring the patient to an external service, along with NQF endorsement
- Preventive Care and Wellness (Composite) – contingent on NQF endorsement and CMS ensuring the components of the measure are appropriately weighted

Recommendations for the Medicare Shared Savings Program (Shared Savings Program)

Established by section 3022 of the Affordable Care Act (ACA), the Shared Savings Program allows voluntary participation of eligible providers, hospitals, and suppliers to create or participate in an ACO. An ACO is responsible for the cost, quality, and experience of care for a designated population of Medicare fee-for-service (FFS) beneficiaries. Performance is assessed annually based on quality standards and financial performance to determine shared savings and losses. The Shared Savings Program offers multiple options (or tracks) for participation, allowing for varied risk levels for participating ACOs.

The MAP Clinician Workgroup reviewed a single measure for the Shared Savings Program:

Conditional Support for Rulemaking (one measure):

- **ACO-Level Days at Home for Patients With Complex, Chronic Conditions** – contingent on NQF endorsement

Key Themes From the Clinician Workgroup Review

Themes that emerged within the MAP Clinician Workgroup related to COVID-19, cost measures, and the burden of measures include the following:

- The proposed Coronavirus 2 (CoV-2) Vaccination measure represents a promising effort to advance measurement for an evolving national pandemic. Collecting information on severe acute respiratory syndrome (SARS)-CoV-2 vaccination coverage and providing feedback to clinicians would facilitate benchmarking and quality improvement.
- While CMS is required by the MACRA of 2015 to implement cost measures within the MIPS program, there is concern related to explicit connections between cost and quality for measures that CMS is considering for MIPS. While the need to use appropriately correlated cost and quality measures together to assess health system efficiency is well established, there is currently no clear consensus among stakeholders on precisely how to do so.
- The move toward public-private payer alignment to decrease burden needs to be balanced with allowing for pockets of measurement innovation moving the quality enterprise forward. There is some resistance to PRO-PMs because they are more burdensome to collect. The MAP encouraged CMS to provide support and infrastructure to ease the burden of data collection for PRO-PMs.

The measures reviewed by the Clinician Workgroup and their discussions support CMS' efforts to use outcome measures and PROs and align measures across private and public entities. In addition, deliberations about the COVID-19 measures are critical to remaining current with the evolving

environment and changing needs brought about by the pandemic. This continues to remain relevant as the pandemic has continued and as vaccines have become more available to clinicians and the public.

MAP Hospital Workgroup Recommendations

The Hospital Workgroup provides input to the Coordinating Committee on matters related to the selection and coordination of measures for hospitals, including inpatient acute, outpatient, cancer, and psychiatric hospitals. The Hospital Workgroup provides annual pre-rulemaking input on the following programs: Hospital IQR Program, Hospital VBP, Hospital Outpatient Quality Reporting (OQR) Program, Prospective Payment System (PPS)-Exempt Cancer Hospital Quality Reporting (PCHQR), IPFQR, HRRP, Hospital-Acquired Conditions Reduction Program (HACRP), ASCQR Program, and ESRD Quality Incentive Program (QIP).

The Hospital Workgroup reviewed two specific COVID-19 measures submitted for consideration under several Hospital programs.

Vaccination against vaccine-preventable diseases can protect Healthcare Personnel (HCP) from acquiring and directly or indirectly transmitting potentially fatal illnesses to patients. Since 2005, the National Healthcare Safety Network (NHSN) has served as a web-based system for monitoring healthcare-associated adverse events, healthcare worker vaccinations, and other prevention practices. Priority areas for the measurement of vaccine uptake among HCP include ASCs, hospital inpatient areas, hospital outpatient areas, IPFs, and PPS-exempt cancer hospitals.

Conditional Support for Rulemaking (two measures):

- **SARS-CoV-2 Vaccination Coverage Among Healthcare Personnel** – conditional support for each program it was considered for, including Hospital OQR, Hospital IQR, ASCQR Program, Hospital IPFQR, Hospital PCHQR, and Hospital ESRD QIP, and contingent on CMS bringing the measures back to the MAP once the specifications are further refined
- **SARS-CoV-2 Vaccination Coverage for Patients in End-Stage Renal Disease** – conditional support for the ESRD QIP contingent on CMS bringing the measures back to the MAP once the specifications are further refined

Recommendations for the End-Stage Renal Disease Quality Incentive Program (ESRD QIP)

This pay-for-performance and public reporting program aims to improve the quality of dialysis care and produce better outcomes for Medicare beneficiaries. Dialysis facilities that do not meet or exceed the required total performance score are subject to reduced payments.

The MAP Hospital Workgroup reviewed a single measure for the ESRD QIP:

Support for Rulemaking:

- **Standardized Hospitalization Ratio for Dialysis Facilities** – support for rulemaking

Recommendations for the Medicare and Medicaid Promoting Interoperability Program for Eligible Hospitals and Critical Access Hospitals

This pay-for-reporting and public reporting program aims to promote interoperability and the meaningful use of certified EHR technology. Eligible hospitals that fail to meet CQM and other requirements are subject to a reduction in the annual payment update.

The MAP Hospital Workgroup reviewed a single measure for the Medicare and Medicaid Promoting Interoperability Program for Eligible Hospitals and Critical Access Hospitals Program:

Conditional Support for Rulemaking:

- **Global Malnutrition (Composite Score)** – conditional support for rulemaking pending NQF endorsement of this measure

Recommendations for the Hospital Inpatient Quality Reporting (Hospital IQR) Program

This pay-for-reporting and public reporting program aims to move towards paying providers based on the quality of care rather than the quantity and to provide consumers information about hospital quality to make informed choices about their care. Hospitals that do not participate, or that participate but fail to meet program requirements, are subject to a reduction in the annual payment update.

The MAP Hospital Workgroup reviewed two measures for the Hospital IQR Program:

Conditional Support for Rulemaking:

- **Global Malnutrition (Composite Score)** – conditional support pending NQF endorsement

Support for Rulemaking:

- **Hospital-Level, Risk-Standardized Patient-Reported Outcomes Following Elective Primary Total Hip and/or Total Knee Arthroplasty (THA/TKA)** – supported for rulemaking

Recommendations for the Hospital Outpatient Quality Reporting (Hospital OQR) Program

This pay-for-reporting and public reporting program aims to provide consumers with quality-of-care information to make more informed decisions about healthcare options and establish a system for collecting and providing quality data to hospitals providing outpatient services, such as emergency department (ED) visits, outpatient surgery, and radiology services. Hospitals that do not report data on required measures are subject to a reduction in the annual payment update.

The MAP Hospital Workgroup reviewed two measures for the Hospital OQR Program:

Conditional Support for Rulemaking (two measures):

- **Appropriate Treatment for ST-Segment Elevation Myocardial Infarction (STEMI) Patients in the Emergency Department (ED)** – conditional support pending NQF endorsement and evaluation of the EHR feasibility, reliability, and validity testing by the developer
- **Breast Screening Recall Rates** – conditional support pending NQF endorsement

Key Themes From the Hospital Workgroup Review

Key themes from the Hospital Workgroup pre-rulemaking review process related to COVID-19 vaccination monitoring for healthcare personnel, the use of composite measures, and care coordination include the following:

- COVID-19 measures can help patients understand the extent to which healthcare systems at the facility level are vaccinating their personnel and extending a measure of protection for their safety as well.
- Composite measures provide a comprehensive view of how a given provider is performing on a series of measures. Individual components of certain measures should not always be equally weighted.
- Care coordination across and among all providers helps enable the most effective team-based care for patients. The ability to manage care and services has a direct impact on patient and caregiver burden and on patient readmissions.

The Hospital Workgroup's activities align with objectives to achieve seamless care coordination, wellness, and prevention and to use the highest value and highest-impact measures. The inclusion of COVID-19 measures is also critical to maintaining a timely response to a still-evolving pandemic.

MAP PAC/LTC Workgroup Recommendations

The PAC/LTC Workgroup is charged with reviewing measures within six programs: the Skilled Nursing Facility Quality Reporting Program (SNF QRP), Inpatient Rehabilitation Facility QRP, LTC Hospital QRP, Home Health QRP (HH QRP), Hospice Quality Reporting Program (HQRP), and SNF VBP Program. The PAC/LTC Workgroup reviewed three MUCs from the 2020 list, which is composed of four programs with the following summary and recommendations.

Recommendations for the Hospice Quality Reporting Program (HQRP)

Established under section 1814(i)(5) of the SSA, the HQRP is a pay-for-reporting and public reporting program that applies to all hospice organizations regardless of the care setting. Data in this program comprise the Hospice Item Set (HIS), Medicare hospice claims, and the Hospice Consumer Assessment of Healthcare Providers and Systems (CAHPS®) survey. Hospice providers are required to submit quality data or be subject to a reduction in the annual payment update.

The MAP PAC/LTC Workgroup reviewed one measure for the HQRP:

Conditional Support for Rulemaking:

- **Hospice Care Index** – conditional support contingent on NQF endorsement

Recommendations for the Skilled Nursing Facility Quality Reporting Program (SNF QRP)

As mandated by the Improving Medicare Post-Acute Care Transformation Act of 2014 (IMPACT Act), the SNF QRP is a pay-for-reporting and public reporting program that requires annual public reporting. Data requirements include quality measures, resource use, and other domains. The SNFs that do not submit the required data are subject to a reduction in their annual payment update.

The MAP PAC/LTC Workgroup reviewed two measures for the SNF QRP:

Conditional Support for Rulemaking:

- **Skilled Nursing Facility Healthcare-Associated Infections Requiring Hospitalization** – contingent on NQF endorsement
- **SARS-CoV-2 Vaccination Coverage Among Healthcare Personnel** – contingent on CMS bringing the measure back to the MAP once the specifications are further refined

Recommendations for the Inpatient Rehabilitation Facility Quality Reporting Program (IRF QRP)

As mandated by section 3004(b) of the ACA of 2010 and the IMPACT Act, the IRF QRP is a pay-for-reporting and public reporting program that requires annual public reporting. Data requirements include quality measures, resource use, and other domains. IRFs that do not submit the required data are subject to a reduction in their annual payment update.

The MAP PAC/LTC Workgroup reviewed one measure for the IRF QRP:

Conditional Support for Rulemaking:

- **SARS-CoV-2 Vaccination Coverage Among Healthcare Personnel** – contingent on CMS bringing the measure back to the MAP once the specifications are further refined

Recommendations for the Long-Term Care Hospital Quality Reporting Program (LTCH QRP)

As mandated by section 3004(a) of the ACA of 2010 and the IMPACT Act, the LTCH QRP is a pay-for-reporting and public reporting program that requires annual public reporting. Data requirements include quality measures, resource use, and other domains. LTCHs that do not submit the required data are subject to a reduction in their annual payment update.

The MAP PAC/LTC Workgroup reviewed one measure for the LTCH QRP:

Conditional Support for Rulemaking:

- **SARS-CoV-2 Vaccination Coverage Among Healthcare Personnel** – contingent on CMS bringing the measure back to the MAP once the specifications are further refined

Key Themes From the PAC/LTC Workgroup Review

During the pre-rulemaking process, themes that emerged within the PAC/LTC Workgroup related to COVID-19 and care coordination include the following:

- Collecting recognized information on SARS-CoV-2 vaccination coverage among healthcare personnel and providing feedback to SNFs will allow facilities to benchmark coverage rates and improve coverage in their respective facilities. Reducing rates of COVID-19 in healthcare personnel will reduce transmission among patients and reduce instances of staff shortages due to illness.
- Sharing information across care settings and throughout the entire care team promotes shared accountability for the quality of patient care. This sharing ensures that all clinicians on the care team have up-to-date and accurate information. Moreover, this information is necessary to provide safe, high quality care.
- Care coordination is vital to safe and effective care transitions for all patients. Coordination across and among all providers helps to enable the most effective team-based care for patients.

Measuring care coordination beyond facility stays, including referral to effective services after the stay, is important. Managing care and all the services after discharge has a direct impact on patient and caregiver burden and on patient readmissions.

The high-impact measures reviewed during the MAP pre-rulemaking cycle and the emerging themes both align with the objective to create alignment across several programs. Specifically, these measures address the following CMS' MM 2.0 Framework areas: safety and seamless care coordination.

VI. Gaps in Endorsed Quality and Efficiency Measures

Under section 1890(b)(5)(A)(i)(IV) of the Act, the entity is required to describe in the annual report gaps in endorsed quality and efficiency measures, including measures within priority areas identified by HHS under the agency's National Quality Strategy, and where quality and efficiency measures are unavailable or inadequate to identify or address such gaps.

Part of driving better health outcomes through measurement depends on knowing where gaps exist in performance measures. By highlighting these areas, NQF encourages the development of measures on these topics.

Gaps Identified in Endorsement Projects

During their deliberations, NQF's endorsement Committees discussed and identified gaps in current measure portfolios. These gaps represent areas in which too few or no measures exist to drive quality improvement. Many of these areas align with CMS' MM 2.0 Framework areas and national priorities. By highlighting these areas, NQF encourages the development of measures on these topics. The Committees highlighted the need for performance measures in areas including opioid use, behavioral health, PROs, and digital measures. A list of the gaps identified by these Committees in 2021 can be found in Appendix G.

Gaps Identified in the Measure Applications Partnership

Not only did the MAP recommend measures for potential inclusion (and removal in the future) into federal healthcare quality programs, but it also identified topics with too few or no measures at the individual federal program level. This year, the MAP identified measure gaps related to PROs, health equity, telehealth, and care coordination. The list of measure gaps discussed by the MAP and arranged by each individual Workgroup can be found in Appendix H.

VII. Gaps in Evidence and Targeted Research Needs (i.e., Framework Projects)

Under section 1890(b)(5)(A)(i)(V) of the Act, the entity is required to describe areas in which evidence is insufficient to support endorsement of quality and efficiency measures in priority areas identified by the Secretary under the National Quality Strategy and where targeted research may address such gaps.

NQF undertook several projects in 2021 to provide national guidance on key healthcare issues that are also measurement gap areas. Providing guidance on how to address gap areas is the next step toward performance improvement and better outcomes through measurement. These NQF projects led to strategic blueprints, or frameworks, that map a path forward that reflects current science and evidence to improve care. A measurement framework organizes ideas that are important to measure for a topic area and describes how measurement should take place (i.e., whose performance should be measured, care settings where measurement is needed, when measurement should occur, or which individuals should be included in measurement).

In 2021, NQF continued its efforts on several projects to identify and address measurement gaps in important healthcare areas that are focused on maternal morbidity and mortality, attribution, rural telehealth and healthcare system readiness, opioids and behavioral health conditions, EHR-sourced measures for care coordination, social risk, risk adjustment, and PRO-PMs.

Maternal Morbidity and Mortality

Since 2000, maternal morbidity and mortality indicators have both steadily increased in the U.S., with the maternal mortality ratio reaching 17.4 maternal deaths per 100,000 live births in 2018. This is more than twice the ratio of other developed nations, such as France, the United Kingdom, and the Netherlands (Tikkanen et al, 2020). Maternal mortality encompasses the death of a woman during pregnancy, childbirth, or up to one year after the pregnancy ends, whereas maternal morbidity refers to unexpected short- or long-term negative outcomes that result from pregnancy or childbirth (Howell, 2018). Additionally, severe maternal morbidity (SMM) affects more than 60,000 women annually in the U.S. (Howell, 2018), with similarly rising trends over the last two decades. SMM is defined by the CDC using 21 health indicators and International Classification of Diseases (ICD) codes.

The risk of maternal morbidity and mortality is not shared equally among U.S. women. Maternal health outcomes in the U.S. are subject to persistent racial, ethnic, socioeconomic, and geographic disparities. Non-Hispanic Black women experience maternal mortality more frequently than the population as a whole (37.3 deaths per 100,000 live births) (National Center for Health Statistics, 2020). Women living in rural areas are also at greater risk for maternal mortality or SMM (Heck et al, 2021; Kozhimannil, 2020; Lisonkova et al, 2016). Although modest improvements in maternal mortality measurement have been attempted over the last two decades, researchers have pointed to the need for enhancements in quality measurement to address these inequities and identify opportunities for care improvement.

In 2021, NQF and the Maternal Morbidity and Mortality Committee finalized two measurement frameworks (one for maternal morbidity and one for maternal mortality), developed a set of measurement recommendations, and identified a measure concept for maternal mortality. NQF staff, with guidance from the Committee, incorporated this information into the Final Recommendations Report. The frameworks can be used by stakeholders to prioritize the development of measures and to prompt research in specific areas of maternal morbidity and mortality measurement. The frameworks capture the impacts of social, interpersonal, and systemic realities on an individual's maternal health experience. The maternal morbidity framework encompasses four domains for maternity care during an individual's life course: (1) Preconception/Well-Woman Care, (2) Prenatal Care, (3) Intrapartum Care, and (4) Postpartum Care. The final three also compose the following maternal mortality framework domains: (1) Prenatal Care, (2) Intrapartum Care, and (3) Postpartum Care. The domains of each framework are further categorized into 16 subdomains (i.e., comorbidities, discrimination, gaps in provider education, health behaviors, health equity, healthcare access, implicit bias, lived environment, mental health, patient experience, person-centered care, quality care, racism, risk-appropriate care, support, and unequal treatment), which capture areas of opportunity for improving maternal care within a population and community through enhanced measurement.

The subsequent set of measurement recommendations detailed in the report includes clear approaches and tangible steps to guide future maternal morbidity and mortality measurement. The recommendations were divided into short- and long-term time frames based on the Committee's expertise on perceived feasibility and intended impact. The Committee also recommended a measure

concept to improve maternal mortality measurement that focused on incorporating maternal mortality ratios from both pregnancy-related deaths and pregnancy-associated deaths in order to create a broader picture of maternal mortality within one measure.

This work aligns with CMS' MM 2.0 Framework by promoting measurement recommendations that largely focus on person-centered care, safety, equity, and wellness and prevention, as well as recommendations that promote seamless care coordination. The Committee emphasized the need for a patient's lived experience to be accounted for at every stage, as well as the importance of ensuring the patient has access to the appropriate care settings for any eventuality and each step of their care. The recommendations focus on outcome measures, including PROs, and emphasize the importance of measures that reflect social and economic determinants, particularly those identified within the 16 subdomains.

Measurement Framework for Addressing Opioids-Related Outcomes Among Individuals With Co-occurring Behavioral Health Conditions

With estimates of over 255 individuals dying each day from a drug overdose, the U.S. continues to grapple with a devastating opioid and substance use disorder crisis (Baumgartner & Radley, 2021b; National Vital Statistics System, 2021). These overdose deaths have been attributed to several distinct opioid waves, beginning with expanded opioid-prescribing in the late 1990s; increased overdose deaths involving heroin in 2010; and the rise of synthetic opioids, specifically involving illegally produced fentanyl and related high-potency analogues in 2013 (CDC, 2011; Rudd et al, n.d.). Today, the U.S. faces its fourth wave of the opioid crisis due to a rise in polysubstance use, such as the co-use of opioids and psychostimulants (e.g., methamphetamine, cocaine) (Gladden, et al, 2019).

In 2020, drug overdose-related deaths in the U.S. reached an all-time high with an estimated 93,331 deaths and over 69,700 deaths involving opioids (Ahmad, et al, 2021; Baumgartner, et al, 2021). Given the nature of the fourth wave of the opioid and substance use disorder crisis, individuals with SUDs/OUD and co-occurring behavioral health conditions are particularly vulnerable to overdose and mortality resulting from polysubstance use. Quality measures can help identify opportunities to improve the prevention and monitoring of SUDs/OUD, opioid-related overdoses, and opioid-related mortality among individuals with co-occurring behavioral health conditions who use SSSOs with other legal and/or illegal drugs. Measurement can also apprise providers, payers, and policymakers of opportunities for coordination and partnership across care settings and enable stakeholders to quickly adapt and improve their readiness in a rapidly changing landscape.

From 2020-2021, NQF convened the Opioids and Behavioral Health Committee through a series of seven web meetings to help inform an environmental scan of existing measures and measure concepts and to help develop a final report and quality measurement framework to address overdose and mortality resulting from polysubstance use involving SSSOs among individuals with co-occurring behavioral health conditions. The environmental scan identified over 180 measures and measure concepts, as well as critical measurement gaps and priorities. The scan also identified emerging best practices to inform quality measurement in this field. The findings of the environmental scan served as a foundation to further inform the Committee's discussions and the development of the final report and measurement framework to achieve the ultimate goal of reducing mortality and morbidity in this critical population.

The final report and measurement framework identify essential categories (i.e., domains) and subcategories (i.e., subdomains) to ensure comprehensive measurement of opioid-related outcomes

among individuals with co-occurring behavioral health conditions. The framework highlights three domains that the Committee identified as being important to providing quality care for this population: (1) Equitable Access, (2) Clinical Interventions, and (3) Integrates and Comprehensive Care for Concurrent Behavioral Health Conditions. The Equitable Access domain focuses on ensuring the existence of services and the financial coverage of services with an emphasis on access for vulnerable populations, such as individuals with poor SDOH or with criminal justice involvement; the subdomain focuses on the existence of services, financial coverage of services, and vulnerable populations. The Clinical Interventions domain builds on the foundation of equitable and accessible services. It comprises three subdomains: measurement-based care (MBC) for mental health and SUDs/OUD treatment, availability of medications for opioid use disorder (MOUD), and adequate pain management care. The Integrated and Comprehensive Care for Concurrent Behavioral Health Conditions subdomains focus on the coordination of the care pathways across clinical and community-based services, harm reduction services, and person-centered care.

In 2021, the Opioids and Behavioral Health Committee reconvened for an Option Year to develop guiding principles and use cases to help users implement the measurement framework. This initiative addresses multiple MM areas due to its cross-cutting focus on individuals with OUD/SUD and mental health conditions. This work aligns closely with the overall priority of chronic conditions, wellness and prevention, and behavioral health. In addition, the Opioids and Behavioral Health Committee's work aligns with the MM 2.0 Framework priorities related to promoting seamless care coordination across the care continuum and making care safer.

Social Risk Trial

In 2014, NQF initiated a Social Risk Trial journey that culminated in July 2021 with the publishing of the Social Risk Trial Final Report. The purpose of the two consecutive projects was to determine whether all applicable risk factors should be considered to advance measurement science and to ensure that performance measurement is fair, accurate, and unbiased. During the second trial period, which included all NQF endorsement cycles between the fall of 2017 and the spring of 2020, measure developers were asked to consider a rationale for the social risk adjustment of measures submitted for endorsement. This process resulted in data on conceptual models and a rationale for social risk adjustment for 120 performance measures submitted for endorsement. Of the 120 measures, 38 included at least one social risk factor in the final risk adjustment approach. The most common social risk factors used for risk adjustment were insurance status and type, race and ethnicity, education, and language (NQF: *Social Risk Trial Final Report*, 2020).

While the trial was indeed underway before the COVID-19 pandemic began, the pandemic has unmasked and exacerbated striking and long-standing societal, health, and healthcare inequities. Black, Hispanic, and Native Americans have experienced much higher rates of COVID-19 infections, hospitalizations, and deaths than White Americans (CDC, 2021c), thus bringing greater awareness and urgency to improve health equity in the U.S. This urgency for improved equity, along with a growing body of evidence that non-healthcare-related individual and community factors of care also affect outcomes and should be considered within measure evaluation, payment models, and reimbursement methods (Alberti et al, n.d.).

In 2021, the Disparities Standing Committee concluded that clear performance measures should be used for high-stakes incentives, value-based care delivery, and accountability purposes. The Committee

emphasized that performance stratification and adjustment for social risks should be considered, tested, and evaluated for each measure. The Committee made recommendations in the report for the U.S. government and healthcare community to establish and consistently collect a standardized set of demographic and stable social risk factors (e.g., race and ethnicity, education, and language) in order to facilitate the stratification and risk adjustment of performance measures; developers and users assess all performance measures individually to determine the appropriateness of adjustment for social risk factors. Additionally, the Committee requested that the NQF Risk Adjustment TEP update the measure evaluation guidance and set clear expectations for the inclusion of social risk factors in risk adjustment, the use of stratification, and the reporting of disparities in care across population groups (*NQF: Social Risk Trial Final Report*, 2020).

The Social Risk Trial and its resulting recommendations further CMS' MM 2.0 Framework goals of equity, affordability, and efficiency by identifying ways to improve performance measurement processes. The use of social risk adjustment in performance measurement may help to address systemic inequities related to access to care by equalizing reimbursement rates in alternative and VBP models instead of penalizing providers for factors outside of their control.

Best Practices for Developing and Testing Risk Adjustment Models

The quality measurement enterprise seeks to link payment to quality of care, generally known as VBP. For VBP to be successful, patients need accurate and reliable information on provider performance to make informed decisions. In addition, providers need comprehensive, reliable, and timely information to make quality care decisions that result in improved outcomes for patients while being held accountable for those outcomes in a fair and comparable manner. To level the playing field, risk adjustment methods have been applied to many measures, but not all, and not in a standardized method across measures.

Risk-adjusting measures to account for differences in patient health status and clinical factors (e.g., comorbidities, severity of illness) that are present at the start of care has been widely accepted and implemented. However, the increased use of outcome and resource use measures in payment models and public reporting programs has raised concerns regarding the adequacy and fairness of the risk adjustment methodologies used in these measures, especially as it relates to functional status and social risk factors (e.g., income, education, social support, neighborhood deprivation, and rurality). Functional risk factors are important to examine since they may mediate the relationship between social risk, quality outcomes, and resource use. Measure developers have long expressed a need for technical guidance on developing and testing social and/or clinical risk adjustment models for endorsement and maintenance and the appropriateness of a standardized risk adjustment framework. Moreover, risk adjustment of functional status-related factors within quality measurement is underexplored and underutilized for comparing provider performance on health outcomes and resource use.

Prior to 2015, NQF's guidance prohibited the inclusion of social risk factors in the risk adjustment models of measures submitted for NQF review and endorsement due to concerns of masking disparities in care. NQF convened a Risk Adjustment Expert Panel and implemented a 24-month trial period between April 2015 and April 2017, during which the adjustment of measures for social risk factors was no longer prohibited. By the end of the trial, NQF Committees and measure developers noted the importance of addressing all factors (both clinical and social) that can influence the result and validity of a performance measure in truly reflecting care quality. However, these efforts have demonstrated that while social risk adjustment may be feasible and appropriate, it remains challenging for many measure

developers. Limited availability of adequate social risk factor data and significant heterogeneity of social risk data and modeling approaches suggest that the exploration of electronic data sources to support functional and social risk adjustment is a critical next step.

During the base year, NQF conducted an environmental scan to identify current uses of functional and social risk factors in measurement. The TEP provided input on the environmental scan using relevant elements of the CDP to receive and review comments. NQF and the TEP also worked to develop the Technical Guidance on emerging good and best practices, as minimum standards, for risk adjustment models. These minimum standards apply to both outcome and cost/resource use performance measures and some process performance measures at any level of analysis (e.g., health plans, facilities, individual clinicians, and ACOs). During the next phase of this work, NQF will broaden stakeholder engagement efforts to garner input on the utility of the Technical Guidance and to make refinements based on stakeholder feedback and TEP input. This work aligns with CMS' MM 2.0 Framework areas of affordability, efficiency, and equity so that providers can be accurately assessed and not inappropriately penalized financially simply because their patient populations are sicker or have special healthcare needs.

Leveraging Quality Measurement to Improve Rural Health, Telehealth, and Healthcare Systems Readiness

Nearly 1 in 5, or 63 million Americans, are estimated to live in rural areas (U.S. Census Bureau, 2020). Rural Americans are at greater risk for poor health outcomes compared with those living in urban areas, including higher mortality related to heart disease, cancer, unintentional injury, chronic lower respiratory disease, and stroke (CDC, 2020). This gap in health outcomes is exacerbated by challenges such as lower access to healthcare (e.g., long distances to providers, limited local availability of specialists) (NQF, 2018). Telehealth, or the provision of healthcare services via information and telecommunication technologies, may offer a potential solution to these challenges. While telehealth may be an important part of the solution, there has been a lack of empirical evidence in the literature related to the experience of using telehealth to support surge capacity or to strengthen system readiness in times of pandemics, natural disasters, mass violence, or other public emergencies. This moment provides an excellent opportunity to use telehealth to improve healthcare system readiness and to reduce disruption in access during emergencies such as the COVID-19 pandemic. In these emergencies during which local healthcare providers are overwhelmed or unavailable, telehealth may allow for the provision of care that otherwise may not have been available at all.

In 2021, NQF convened a multistakeholder Rural Telehealth and Healthcare System Readiness Committee and performed an environmental scan summarizing literature related to barriers and facilitators of rural telehealth for healthcare system readiness, policies and practices related to telehealth, and relevant quality measures. Building on this environmental scan, as well as NQF's prior work on rural health, telehealth, and healthcare system readiness, the Committee created a conceptual measurement framework to guide quality and performance improvement for care delivered via telehealth in rural areas in response to disasters. The framework identifies five major domains for measurement: (1) Access to Care and Technology; (2) Costs, Business Models, and Logistics; (3) Experience; (4) Effectiveness; and (5) Equity, as well as 26 quality measures and 14 high-priority measure concepts relevant to measurement in this area.

Over the course of this project, the Committee also discussed major themes, including improved infrastructure and technology, comfort with telehealth, sustainability of telehealth needs, considerations for equity, comparison of in-person and telehealth services, measurement in emergencies, and existing quality measures. Telehealth use is limited in rural communities due to barriers such as broadband access and hardware; therefore, local institutions (e.g., libraries) may help provide access to internet and technology in a central location. Patients and providers may be uncomfortable with new technology platforms and devices; therefore, it is important to provide guidance and technical assistance for telehealth services and collect feedback from patients to help improve the patient experience. The use of telehealth expanded rapidly during the COVID-19 pandemic and increased access to care; however, providers and systems could be hesitant to make permanent investments in telehealth if expanded reimbursement and licensure policies that were enacted during the PHE are ended. While telehealth may increase access to culturally appropriate care and for patients in remote areas, it also has the potential to increase disparities if implemented poorly (e.g., low-income patients without internet-enabled devices remain without access to care). For conditions in which telehealth is an appropriate delivery method, the quality of care should be comparable across all modalities of care.

Quality measurement is important to inform opportunities for improvement during emergencies; however, stakeholders should acknowledge that clinicians have reduced control over outcomes during emergencies. The Committee highlighted relevant measures that exist in the areas of access to care, acute care, admissions/readmissions, behavioral health, care coordination, and patient experience. Relevant quality measures also differ by length of emergency (e.g., during the extended COVID-19 emergency, measures related to chronic care are relevant in addition to acute care measures). The Committee noted that existing quality measures may be helpful to track during emergencies but also encouraged the development of new measures specific to telehealth and readiness in rural areas for future use.

The Rural Telehealth and Healthcare System Readiness work aligns with multiple CMS MM areas. Notably, the final framework emphasizes person-centered care and seamless care coordination in providing effective telehealth services. Telehealth services also have the potential to provide more affordable care.

Building a Roadmap From Patient-Reported Outcome Measures to Patient-Reported Outcome Performance Measures

Diverse healthcare stakeholders increasingly view PRO-PMs as an important opportunity to ensure that the patient's voice is used to inform clinical decision making, improve quality of care, modify provider payment, and evaluate the value of medical technologies (Discern Health, 2017). The use of patient-reported measures is essential to improve transparency and to foster care that meets the needs of all patients. NQF and CMS have a long-standing partnership to advance PROs. Despite this shared commitment, progress towards the widespread development and use of PROMs and PRO-PMs has been slow: As of April 1, 2021, only 29 PRO-PMs have been endorsed by NQF, compared with more than 200 NQF-endorsed process measures and 320 NQF-endorsed outcome measures (NQF, 2021a). Despite CMS' commitment to digital measurement by 2025, little guidance exists to assist measure developers with the development of digital PRO-PMs (CMS, 2021b).

The Building a Roadmap project provides guidance to measure developers on developing digital PRO-PMs for use in CMS' VBP programs and APMs. It supports measure developers by identifying key

attributes of high quality PROMs that are well suited as data collection tools for PRO-PMs and by creating guidance for measure developers that offers an overview of the key stages and tasks related to developing and testing digital PRO-PMs. In 2021, NQF convened a TEP through a series of eight web meetings from January to September 2021. During these meetings, the TEP informed the development of three major reports: (1) Environmental Scan Report, (2) Interim Report, and (3) Technical Guidance Report.

The Environmental Scan Report assesses the current state of PRO-PM development and includes a systematic literature review, an overview of NQF's endorsement process for PRO-PMs, and a discussion of challenges and barriers that measure developers face. The report reviews CMS' MM 2.0 Framework goals, including the goal to amplify patients' voices through the use of PROMs and CMS' aim to have 100 percent of digital measures fully interoperable by 2025. The Environmental Scan Report will assist in the creation of guidance for measurement experts who are developing new PRO-PMs. The Interim Report builds on the current-state findings of the Environmental Scan Report by analyzing the attributes of PROMs that are used for CMS' APMs, VBP programs, and/or Medicare coverage determinations and assessing how those attributes have an impact on the effectiveness of related PRO-PMs. The purpose of this report is to help measure developers understand what defines a high quality PROM, and which attributes of a high quality PROM are most conducive to the development of a digital PRO-PM that is appropriate for regulatory purposes. The Technical Guidance Report will be published by the end of November 2021 and will include a "roadmap" for measure developers to use when developing digital PRO-PMs. The report will provide expert input on how best to address the challenges of collecting PRO data and developing high-impact PRO-PMs and is intended for novice and advanced measure developers alike. While the guidance in this report is generally applicable to all PRO-PMs, it specifically focuses on digital PRO-PMs that are intended for use in CMS' VBP programs and APMs.

This project aligns with CMS' multiple MM 2.0 Framework goals, including the prioritization of patient-reported measures. Measuring high quality clinical care will increasingly depend upon information that comes directly from patients, including reports about symptoms, ADLs, and quality of life. The use of PRO-PMs will help make advancements towards measures that are patient centered and meaningful to patients while also creating significant opportunities for improvement. Additionally, the use of digital PRO-PMs can help to alleviate and minimize measurement burden for providers. The Building a Roadmap initiative aligns with CMS' commitment to align measures across value-based programs and to transform to digital measurement by 2025.

Leveraging Electronic Health Record (EHR)-Sourced Measures to Improve Care Communication and Coordination

It is increasingly common for patients to have multiple healthcare providers and to receive care across multiple healthcare settings. Therefore, effective care communication and care coordination are vital to ensure treatment recommendations are aligned with and centered on the patient's goals. Care communication and care coordination are particularly relevant as clinicians collaborate over time and across settings to care for the same patient as well as during transitions in care between clinicians and settings. In addition, care communication and care coordination are also essential when healthcare providers interact with social service professionals and/or entities to address SDOH for vulnerable populations. Ineffective care communication and care coordination can result in fragmented care that compromises the quality of care patients receive and increases opportunities for negative outcomes (Rigby et al, 2015).

Measuring care communication and care coordination is essential to ensure that outcomes of the highest healthcare quality are equitably achieved since these activities are complex, involving multiple steps and a wide range of providers. Care communication and care coordination measure development is a challenge due to the difficulty of linking specific care communication and care coordination processes to outcomes. These outcomes can often be attributed to numerous factors, some of which are outside of the control of an individual clinician or hospital and some of which are intrinsic to the patient and their condition and comorbidities. Such complexity makes it difficult to meaningfully measure and compare outcomes across entities without robust risk adjustment, which can be challenging to accomplish (Al-Hashar et al, 2018).

EHRs have emerged as an important data source for quality measure development. While EHRs were initially designed for clinical documentation, test ordering and displaying results, and billing insurance companies, they can also be used as tools to facilitate care communication and care coordination between patients and caregivers and serve as a central location to document care communication and care coordination activities. This allows EHRs to serve as a way to improve care communication and care coordination and how both are measured. EHRs can capture both structured and unstructured data through the regular delivery of care. EHR data are also much richer with many more data fields and have little to no lag time between collecting data and calculating measures. NQF is convening a multistakeholder Committee to identify best practices to leverage EHR-sourced measures to improve care communication and care coordination quality measurement in an all-payer, cross-setting, and fully electronic manner.

During the base year, NQF convened a multistakeholder Committee and developed an Environmental Scan Report that identifies the current state of using EHRs to measure and improve care communication and coordination. The Committee developed consensus definitions for care communication and care coordination and explored the relationships between care communication and care coordination, EHRs, and improved outcomes. It also discussed the impact of SDOH on care communication, care coordination, and measurement as well as the advantages and challenges of measuring care communication and care coordination in EHRs. Additionally, nine expert interviews were conducted to further characterize the current state of this topic. In this project's Option Year, NQF began to collaborate with the Committee to develop consensus-based recommendations for how EHRs can better facilitate care communication and care coordination, how existing EHR-sourced measures and their future development can be leveraged to improve care communication and care coordination, addressing SDOH data collection via EHRs as it relates to care communication and care coordination, and possible EHR-sourced measure concepts related to care communication and care coordination.

This project aligns with CMS' multiple MM 2.0 Framework goals. The use of EHR-sourced measures to measure and improve care communication and care coordination minimizes the burden for providers because the data for these measures are less time consuming to collect. Additionally, improving care communication and care coordination creates a significant opportunity to improve health outcomes by making care safer (e.g., diagnostic errors, repeat testing) and affordable by increasing the communication and coordination of patient care; it also creates an opportunity for a multidisciplinary team by ensuring that treatment decisions are made with the patient's goals in mind.

Attribution for Critical Illness and Injury

As the U.S. healthcare system moves toward more advanced value-based models, quality measurement and reimbursement approaches that attribute patients are becoming increasingly important. Attribution is the methodology used to assign patients and their quality and cost outcomes to providers or entities (*NQF: Attribution - Principles and Approaches*, 2016). Most attribution approaches in use today assign patients to a single, central unit (e.g., primary care provider) for outcomes related to chronic conditions. Care for large-scale emergencies, however, is often based on regional response models, and patients may receive care or services from multiple entities (e.g., EMS, hospitals, public health agencies, and local clinics). Effective care delivery during and after MCIs (e.g., mass shootings), PHEs (e.g., COVID-19), and for high-acuity ECSCs (e.g., trauma and burns) involves multiple teams that must collaborate over time and across specialties, institutions, and geography. These events are unpredictable and require a timely, coordinated response from various entities within a community or region.

The method used for patient attribution is important because evidence indicates that the model used influences measure performance results and reimbursement (e.g., shared savings, rewards, or penalties) (Mehrotra et al, 2017). In the context of VBP, attribution approaches determine which provider or group of providers is assigned the responsibility for observed care processes, outcomes, and costs. Sound quality measurement attribution methodologies that can accurately reflect entity performance are essential to building value-based care models. Attribution models can also be used to incentivize desirable behavior and promote team-based models of care delivery.

In 2021, NQF convened a multistakeholder Committee to make recommendations for developing geographical-/population-based quality measurement attribution models applicable to MCIs, PHEs, and high-acuity ECSCs. NQF, along with the input of the Attribution for Critical Illness and Injury Committee, produced an Environmental Scan Report and a Final Recommendations Report. Although there is limited evidence to support the best quality measurement attribution method for MCIs and emergencies, the environmental scan highlights findings to advance dialogue on appropriate approaches. The scan identified 128 existing quality measures that could be used to assess the provision of emergency care and outlines key themes for building attribution models for emergencies. These themes center on the prevailing finding that novel attribution approaches should recognize the unpredictability of large-scale emergencies and encourage all entities in a region to proactively plan together for these events. In addition, NQF gathered additional feedback from key informant interviews (KIIs) to supplement both the literature and the Committee's discussion and expanded on key themes. The findings from the environmental scan and KIIs were used to develop the Final Recommendations Report.

The Final Recommendations Report outlines the elements of attribution approaches for large-scale emergencies and discusses approaches and recommendations for developing quality measurement attribution models for high-acuity ECSCs and MCIs. Key considerations that include attribution approaches for MCIs should encourage coordination between all entities and appropriate resource allocation to promote the collaborative provision of care, employ a shared accountability model in which patients are assigned to all entities providing care, define regions prospectively based on geography and/or patterns of healthcare use, use process and structure readiness measures to align incentives, and support greater data sharing and development of a coordinated data infrastructure for MCI data. The Recommendations Report includes six use cases representing the application of these attribution considerations to various high-acuity emergency scenarios. Furthermore, the report identifies the current state of quality measurement for MCIs and high-acuity ECSCs, prioritizes quality measures for

potential use, and identifies concepts for new measures relevant to building a cohesive measurement system for MCIs and PHEs.

This project aligns with CMS' multiple MM 2.0 Framework goals because it promotes seamless care coordination, as well as the transfer of health information and interoperability between various entities that are responsible for the care of patients. Additionally, this project focuses on reducing disparities through its focus on health system readiness and the stance that regional coordination should support building community resilience with special attention on equity.

VIII. Coordination With Measurement Initiatives By Other Payers

Section 1890(b)(5)(A)(i)(I) of the Social Security Act (the Act) mandates that the Annual Report to Congress and the Secretary include a description of the implementation of quality and efficiency measurement initiatives under the Act and the coordination of such initiatives with quality and efficiency initiatives implemented by other payers.

Using performance measurement to drive better health outcomes requires alignment across payers to achieve the highest impact. In 2021, NQF continued using its unique convening power to bring together public and private payers to coordinate their quality measures and improvement strategies.

Core Quality Measures Collaborative (CQMC)

Both public and private payers use value-based programs to incentivize high quality, cost-efficient care. However, they often use different measures and large numbers of measures, resulting in higher burden and complexity for providers. The CQMC was created to address these challenges by forging alignment in the measures used and reducing measurement burden in these public- and private-sector value-based payment programs. The CQMC is a public-private partnership between AHIP and CMS and is housed at NQF. It includes over 300 Workgroup members spanning across over 70 member organizations, including health insurance providers, primary care and specialty societies, and consumer and employer groups. This broad-based coalition of healthcare leaders is working to reduce measurement burden and align measures among public and private payers. Measure alignment is frequently identified as a key success factor for VBP programs (Chien et al, 2019). Through the development of core measure sets, each Workgroup identifies high value, evidence-based measure sets that promote better patient outcomes and can inform the decisions of consumers, providers, and policymakers.

In 2021, NQF convened the CQMC to maintain its 10 existing core sets so that they continue to reflect the changing measurement landscape, including but not limited to changes in clinical practice guidelines, performance, data sources, or risk adjustment. The core sets that underwent ad hoc maintenance in 2021 include the following: (1) ACOs, Patient-Centered Medical Homes (PCMHs), and Primary Care; (2) Cardiology; (3) Gastroenterology; (4) HIV and Hepatitis C; (5) Medical Oncology; (6) Obstetrics and Gynecology; (7) Orthopedics; (8) Pediatrics; (9) Behavioral Health; and (10) Neurology. The CQMC also created a cross-cutting core set, which is applicable across multiple clinical conditions, settings, or procedures/services. The CQMC also develops materials to support the implementation and expanded use of the core sets by updating the Implementation Guide to include key insights and promising practices shared by regional collaboratives, purchasers, and health plans, as well as approaches for using data to identify and address disparities. In addition, the CQMC developed a Digital Measurement Guide, which outlines a shared understanding of digital measures and the data flow process, identifies the stakeholders involved in digital measurement, and highlights implementation barriers and opportunities to increase the use of digital measures in the CQMC's core sets.

The CQMC developed a communications plan to increase CQMC awareness, promote core set adoption, and create a new Health Equity Workgroup to help inform the Health Equity Measure Report. The report will present and prioritize health equity measures and identify disparities-sensitive measures in the core sets. In addition, NQF updated the core set measure selection principles (MSP) that inform measure addition and removal. The MSP are essential to ensuring consistent decision making and stakeholder acceptance of the measures in the core sets. NQF has also begun updating the previously published Gaps and Variation Analysis Report to include new recommendations for filling measurement gaps and promoting greater harmonization.

This work aligns closely with the goals of and enhancements to the MAP this year through recommending the removal of measures from value-based programs and convening stakeholders to bring a focus on health equity to the work. The CQMC also aligns with CMS' multiple MM 2.0 Framework goals due to the scope of its multistakeholder activities, which are aimed at advancing the quality measurement and value-based care landscape. Specifically, this project addresses the goals of affordability and efficiency, equity, chronic conditions, and behavioral health. In addition, the CQMC aims to make care affordable and efficient by ensuring healthcare services are being appropriately used.

IX. Other Activities Under Contract With HHS

Common Formats for Patient Safety

NQF is committed to supporting patient safety in partnership with AHRQ. The Common Formats for the Patient Safety project began in 2013, supported by AHRQ through CMS. Common Formats is a set of standardized definitions and formats for providers to collect and exchange information for any patient safety event. They apply to all patient safety concerns, including incidents, near misses or close calls, and unsafe conditions. AHRQ develops and maintains the Common Formats to facilitate and support standardized data collection. To allow for greater participation in this process from the private sector, AHRQ and CMS engaged NQF to solicit comments and advice to guide refinement of the Common Formats.

NQF coordinates the process to obtain comments from stakeholders about the Common Formats and facilitates feedback on those comments with an Expert Panel. The public has an opportunity to comment on all elements of the Common Formats modules using commenting tools developed and maintained by NQF. In 2021, NQF gathered public comments and feedback for the Common Formats for Event Reporting – Diagnostic Safety Version 0.1 (CFER-DS). During the commenting period, NQF received 142 distinct comments for the Diagnostic Safety documents. To address these comments, NQF held four Common Formats Expert Panel meetings. NQF and the Expert Panel recommended responses to the public comments and shared those with AHRQ for review. The focus on patient safety has been critical during the ongoing pandemic. COVID-19 increased the possibility of patient safety concerns and events, thus requiring an increased focus on this important area. This work aligns with CMS' MM 2.0 Framework area of safety.

X. Conclusion

The ongoing convergence of COVID-19 with social risk factors that can cause health disparities is a critical national priority and has increased the urgency to drive better health outcomes through measurement. NQF's unique ability to bring stakeholders together on quality measurement and

improvement strategies reinforces efforts to tackle the nation's most pressing health challenges, strengthen patient and caregiver engagement, eliminate disparities, reduce burden, and improve quality for all.

NQF's work in 2021 addressed the nation's health and healthcare challenges in many ways. First and foremost, NQF developed measurement recommendations for some of the most critical gaps that the pandemic highlighted: health outcomes and disparities in maternity care, overdose and mortality from opioid use and behavioral health conditions, and telehealth in rural areas. NQF's work also led to recommendations on accounting for social risk factors in measurement and capturing patient voices in digital measures.

In addition, NQF helped to shape the use of performance measures in the field by convening stakeholders from across the healthcare industry to review 78 measures across a variety of topics, such as hospitalizations, behavioral health and substance use, cost and efficiency, patient experience and safety, and women's health. The MAP reviewed measures for CMS' VBP and quality reporting programs, including COVID-19-specific measures. The MAP also reviewed measures centered on incorporating the patient voice into performance measures, safeguarding public health, and facilitating care coordination. Furthermore, the MAP began piloting the recommendation to remove measures from federal healthcare quality programs and created a new Advisory Group focused on health equity. The MAP aligns with another one of NQF's efforts to harmonize public- and private-payer value-based programs and reduce burden: the CQMC. The CQMC updated 10 core sets of measures for reliable use by public and private payers. It also began early efforts toward creating a new health equity group and updating criteria for adding and removing measures.

NQF's work this year made significant contributions to advance measurement science and support the MM 2.0 Framework by providing technical guidance on how to adjust measurement to reflect social and other factors, assign accountability to specific organizations or providers, use EHRs to facilitate care communication and coordination, develop digital measures that incorporate the patient voice, and better incorporate patient and caregiver perspectives into NQF's work. The CQMC also supported the field by releasing promising practices for implementing measures in value-based programs and approaches to increase the use of digital measures. Furthermore, NQF gathered public comments and provided feedback on a set of definitions and formats that allows providers and clinicians to collect and exchange information for any patient safety event. Through these efforts, NQF has provided the quality measurement community tangible guidance to strengthen healthcare quality measures.

In 2021, NQF identified measurement gaps to spur the development of performance measures and research. Gaps in NQF's measure portfolio relate to opioid use, behavioral health, PROs, and digital measures. The MAP also identified gaps at the individual federal program level regarding PROs, health equity, telehealth, and care coordination.

The projects summarized above and described in detail in this report demonstrate how NQF has continued to target the most pressing healthcare quality and safety issues, such as the effects of COVID-19 and health disparities, in close strategic alignment with HHS and CMS. The ongoing pandemic has led to delays and disruptions in care, reduced access to care, increased health and patient safety risks, increased behavioral health challenges, and more severe health disparities for vulnerable populations. These effects exacerbated and increased the need to address existing and new healthcare challenges. NQF's work is a necessary part of the nation's response to these challenges and progress toward a high

quality, value-based, and cost-efficient healthcare system. NQF and CMS will continue to lead by gathering stakeholders from across the healthcare arena to collectively use measurement to drive better health outcomes and ensure the best use of the nation's healthcare dollars.

XI. References

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Appendix A: 2021 Activities Performed Under Contract With HHS

1. Federally Funded Contracts Awarded in FY 2021 Under IDIQ Contract HHSM-500-2017-00601

Contract Number	Task Order Name	Description	Period of Performance	Negotiated Contract Amount for FY 2021
75FCMC18F0010	Common Formats	Standardize definitions and formats for providers to collect and exchange information for any patient safety event.	9/14/2021-9/13/2022 (Option Year 3)	$138,052.00
75FCMC20F0001	Best Practices for Developing and Testing Risk Adjustment Models	Support Medicare's VBP accountability programs and address knowledge gaps by developing technical guidance for social and functional status-related risk adjustment and the appropriateness of a standard risk adjustment framework.	9/15/2021-9/14/2022 (Option Year 1)	$874,893.00
75FCMC20F0002	Measurement Framework for Addressing Opioid-Related Outcomes Among Individuals With Co-occurring Behavioral Health Conditions	The project will use a standardized, multistakeholder approach to update the measurement framework to address overdose and mortality resulting from polysubstance use involving SSSOs among individuals with co-occurring behavioral health conditions developed during the Base Year.	9/30/2021-9/29/2022 (Option Year 1)	$578,974.00
75FCMC20F0004	Leveraging Electronic Health Record (EHR)-Sourced Measures	Identify the causes, nature, and extent of the EHR data quality issues, and recommend best practices for addressing these issues to increase the scientific acceptability (i.e., reliability, validity), use and usability, and feasibility of eCQMs.	9/25/2021-9/24/2022 (Option Year 1)	$781,502.00
75FCMC21F0002	Measure Additional, Removal, and Prioritization for Expansion of the CQMC	Identify and align high value, high-impact, and evidence-based measures across public and private payers that promote better patient outcomes and provide useful information for improvement, decision making, and payment.	9/17/2021-9/16/2022	$499,571.00
HHSM500T0001	Endorsement & Maintenance	Endorsement and maintenance of endorsement of standardized healthcare performance measures	9/27/2021-9/26/2022 (Option Year 4)	$8,046,209.00
HHSM500T0002	Annual Report to Congress and HHS	Report to Congress and the Secretary that highlights the implementation of quality and efficiency measurement initiatives under the SSA	9/27/2021-9/26/2022 (Option Year 4)	$133,836.00
HHSM500T0003	Measure Applications Partnership	Provide recommendations related to multistakeholder group input on the selection of quality and efficiency measures for payment and public-reported programs.	9/27/2021-9/26/2022 (Option Year 3)	$2,994,211.00

TOTAL AWARD	-	**$14,037,228.00**

Cells marked by a dash (-) are intentionally left blank.

2. NQF Financial Information for FY 2021 *(unaudited)*

Contributions and Grants	**$21,319,969.00**
Program Service Revenue	$331,352.00
Investment Income	$526,491.00
Other Revenue	$477,705.00
TOTAL REVENUE	$22,655,517.00
Grants and Similar Amounts Paid	0.00
Benefits Paid to or for Members	0.00
Salaries, Other Compensation, Employee Benefits	$13,813,167.00
Other Expenses[1]	$7,340,170.00
TOTAL EXPENSES	$21,153,337.00

[1] "Other Expenses" may include operating and overhead costs.

Appendix B: Multistakeholder Group Rosters: Committee, Workgroups, Task Forces, and Advisory Panels

As a consensus-based entity, National Quality Forum (NQF) ensures that there is comprehensive representation from the healthcare sector across all its convened Committees, Workgroups, Task Forces, and Advisory Panels. As a consensus-based entity, NQF requires all multistakeholder representatives to undergo a disclosure of interest (DOI) process prior to being appointed. This allows for a fair, open, and transparent process. During this time, NQF did not identify any known conflicts of interest that would undermine the objectivity of the deliberations mentioned above.

Per the NQF Conflict of Interest Policy for Committees, all nominees are asked to complete a general DOI form for each Committee to which they have applied prior to being seated on the Committee. The DOI form for each nominee is reviewed holistically and in the context of the topic area in which the Committee will be reviewing measures, if applicable. This general DOI form must be completed annually through NQF's website in order to participate in a Committee. Specific to CDP Standing Committees, once nominees have been selected to serve on a Committee, a measure-specific DOI form is distributed near the beginning of each evaluation cycle. This measure-specific DOI form is used to determine whether any members will be required to recuse themselves from the discussion of one or more measures under review based on prior involvement or relationships to entities relevant to the topic area. Because Standing Committee members are asked to review various types of measures throughout their term of service, NQF asks members to complete the measure-specific DOI form for all measures being evaluated in each cycle, as well as any measures that are related to, or competing with, measures being evaluated to ensure any potential conflicts or biases have been identified. Committee members who fail to return a completed measure-specific DOI form prior to the measure evaluation meetings will not be allowed to participate in the discussion or submit votes on the measures being evaluated.

In 2021, NQF collected DOI forms from 42 Committees. No conflicts that impacted their participation on Committees were disclosed. A copy of NQF's DOI forms can be found here.

In 2021, NQF convened 609 volunteers across 48 multistakeholder groups. Of these groups, it included the following:

Healthcare Sector	Percentage
Provider	30%
Consumer	7%
Health Professional	15%
Supplier	4%
Health Plan	10%
Quality Measurement Research & Improvement	11%
Purchaser	9%
Public Community Health Agency Council	6%
Patient/Caregiver	8%

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The MITRE Corporation
Marybeth Farquhar, PhD, MSN, RN
Quality and Scientific Affairs, American Urological Association
Jeffrey Geppert, EdM, JD
Ronald Copeland, MD, FACS
Kaiser Permanente
José Escarce, MD, PhD
David Geffen School of Medicine, University of California at Los Angeles
(UCLA) Fielding School of Public Health
Traci Ferguson, MD, MBA, CPE
WellCare Health Plans, Inc.

Battelle Memorial Institute

Sean O'Brien
Duke University Medical Center
Jennifer Perloff, PhD
Brandeis University
Patrick Romano
University of California Davis
Davis, CA
Sam Simon, PhD
Mathematica Policy Research
Alex Sox-Harris
Department of Surgery, Stanford University
Ronald Walters, MD, MBA, MHA, MS
University of Texas MD Anderson Cancer Center
Terri Warholak
University of Arizona, College of Pharmacy
Eric Weinhandl
Epidemiology and Biostatistics, Fresenius Medical Care North America
Susan White, PhD, RHIA, CHDA
The James Cancer Hospital at The Ohio State University Wexner Medical Center

Laurent Glance, MD
University of Rochester School of Medicine and Dentistry
Joseph Hyder
Mayo Clinic
Sherrie Kaplan, PhD, MPH
Vice Chancellor for Healthcare Measurement and Evaluation, UC Irvine School of Medicine
Joseph Kunisch, PhD, RN-BC, CPHQ
Memorial Hermann Health System
Paul Kurlansky, MD
Center for Innovation and Outcomes Research / Director of Research, Recruitment and CQI, Columbia University, College of Physicians and Surgeons / Columbia HeartSource
Zhenqiu Lin, PhD
Yale-New Haven Hospital
Jack Needleman, PhD
University of California Los Angeles
Eugene Nuccio, PhD
University of Colorado, Anschutz Medical Campus

Appendix C: MAP Measure Selection Criteria

The MAP uses its MSC to guide its review of MUCs. The MSC are intended to assist the MAP with identifying characteristics that are associated with ideal measure sets used for public reporting and payment programs. The MSC are not absolute rules; rather, they are meant to provide general guidance on measure selection decisions and to complement program-specific statutory and regulatory requirements. The central focus should be on the selection of high quality measures that address key national healthcare priorities. Preferences for measure selection include evaluating the relative strengths and weaknesses of a program measure set and how the addition of an individual measure would contribute to the set.

To determine whether a measure should be considered for a specified program, the MAP evaluates the MUCs against the MSC. Additionally, the MSC serve as the basis for the preliminary analysis algorithm. MAP members are expected to familiarize themselves with the criteria and use them to indicate their support for an MUC.

1. NQF-endorsed measures are required for program measure sets, unless no relevant endorsed measures are available to achieve a critical program objective. Measures are based on scientific evidence and meet the requirements for validity, feasibility, reliability, and use.

Demonstrated by a program measure set that contains measures that meet the NQF endorsement criteria, including importance to measure and report, scientific acceptability of measure properties, feasibility, usability and use, and harmonization of competing and related measures.

Subcriterion 1.1 Measures that are not NQF-endorsed should be submitted for endorsement if selected to meet a specific program need.

Subcriterion 1.2 Measures that have had endorsement removed or have been submitted for endorsement and were not endorsed should be removed from programs.

Subcriterion 1.3 Measures that are in reserve status (i.e., topped out) should be considered for removal from programs.

2. Program measure set uses impactful measures, which significantly advance healthcare outcomes for high-priority areas in which there is a demonstrated performance gap or variation.

Demonstrated by a program measure set that promotes improvement in key national healthcare priorities, such as CMS' MM 2.0 Framework, emerging public health concerns, and ensuring that the set addresses key improvement priorities for all providers.

3. Program measure set is responsive to specific program goals and requirements, including all statutory requirements.

Demonstrated by a program measure set that is "fit for purpose" for the particular program.

Subcriterion 3.1 Program measure set includes measures that are applicable to and appropriately tested for the program's intended care setting(s), level(s) of analysis, and population(s).

Subcriterion 3.2 Measure sets for public reporting programs should be meaningful for consumers and purchasers.

Subcriterion 3.3 Measure sets for payment incentive programs should contain measures for which there is broad experience demonstrating usability and usefulness (Note: For some Medicare payment programs, statute requires that measures must first be implemented in a public reporting program for a designated period).

Subcriterion 3.4 Avoid selection of measures that are likely to create significant adverse consequences when used in a specific program.

Subcriterion 3.5 Emphasize inclusion of endorsed measures that have eMeasure specifications available.

4. Program measure set may include a mix of measure types; however, the highest priority is given to measures that are digital, or patient centered/PROs, and/or support equity. Process measures must have a direct and proven relationship to improved outcomes in a high-impact area in which there are no outcome, or intermediate outcome, measures.

Demonstrated by a program measure set that includes an appropriate mix of process, outcome, experience of care, cost/resource use/appropriateness, composite, and structural measures necessary for the specific program.

Subcriterion 4.1 In general, preference should be given to measure types that address specific program needs.

Subcriterion 4.2 Public reporting program measure sets should emphasize outcomes that matter to patients, including patient- and caregiver-reported outcomes.

Subcriterion 4.3 Payment program measure sets should include outcome and cost measures to capture value.

5. Program measure set enables measurement of person- and family-centered care and services AND are meaningful to patients and useful in making best-care choices.

Demonstrated by a program measure set that addresses access, choice, self-determination, and community integration.

Subcriterion 5.1 Measure set addresses patient/family/caregiver experience, including aspects of communication and care coordination.

Subcriterion 5.2 Measure set addresses shared decision making, such as for care and service planning and establishing advance directives.

Subcriterion 5.3 Measure set enables assessment of the person's care and services across providers, settings, and time.

6. Program measure set supports healthcare equity; helps identify gaps and disparities in care; and promotes accessible, culturally sensitive, and unbiased care for all.

Demonstrated by a program measure set that promotes equitable access and treatment by considering healthcare disparities. Factors include addressing race, ethnicity, socioeconomic status, language, gender, sexual orientation, age, or geographical considerations (e.g., urban versus rural). Program measure set can also address populations at risk for healthcare disparities (e.g., people with behavioral/mental illness).

Subcriterion 6.1 Program measure set includes measures that directly assess healthcare disparities (e.g., interpreter services).

Subcriterion 6.2 Program measure set includes measures that are sensitive to disparities measurement (e.g., beta blocker treatment after a heart attack) and that facilitate stratification of results to better understand differences among vulnerable populations.

7. Program measure sets are aligned across programs and settings as appropriate and possible.

Demonstrated by a program measure set that supports efficient use of resources for data collection and reporting and supports alignment across programs. The program measure set should balance the degree of effort associated with measurement and its opportunity to improve quality.

Subcriterion 7.1 Program measure set demonstrates parsimony and efficiency (i.e., minimum number of measures and the least burdensome measures that achieve program goals).

Subcriterion 7.2 Program measure set places strong emphasis on measures that promote alignment and can be used across multiple programs or applications.

8. (NEW) Program measure sets reflect a balance of accountability yet efficiency, which minimizes burden to providers/facilities while maintaining accountability for the achievement of excellence.

Appendix D: MAP Structure, Members, Criteria for Service, and Rosters

The MAP operates through a two-tiered structure. Guided by the priorities and goals of the Department of Health and Human Services' (HHS) NQS, the MAP Coordinating Committee provides direction and direct input to HHS. The MAP Workgroups and Advisory Groups counsel the Coordinating Committee on measures needed for specific care settings, care providers, and patient populations. Each multistakeholder group includes individuals with content expertise and organizations particularly affected by the work.

MAP members are selected based on National Quality Forum (NQF) Board-adopted selection criteria through an annual nominations process and an open public commenting period. Balance among stakeholder groups is paramount. Due to the complexity of the MAP's tasks, individual subject-matter experts are included in the groups. Federal government ex officio members are nonvoting because federal officials cannot advise themselves. MAP members serve staggered three-year terms.

MAP Coordinating Committee

COMMITTEE CO-CHAIRS (VOTING)

Charles Kahn, III, MPH
Federation of American Hospitals

Misty Roberts, MSN
Humana

ORGANIZATIONAL MEMBERS (VOTING)

America's Health Insurance Plans

American Academy of Hospice and Palliative Medicine

American College of Physicians

American Health Care Association

American Medical Association

American Nurses Association

AmeriHealth Caritas

BlueCross BlueShield Association

Covered California

HCA Healthcare

National Committee for Quality Assurance

National Patient Advocate Foundation

Network for Regional Healthcare Improvement

Patient & Family Centered Care Partners

Purchaser Business Group on Health

The Joint Commission

The Leapfrog Group

INDIVIDUAL SUBJECT-MATTER EXPERTS (VOTING)

Dan Culica, MD, PhD

Janice Tufte

Ron Walters, MD, MBA, MHA

FEDERAL LIAISONS (NON-VOTING)

Agency for Healthcare Research and Quality (AHRQ)

Centers for Disease Control and Prevention (CDC)

Centers for Medicare & Medicaid Services (CMS)

Office of the National Coordinator for Health Information Technology (ONC)

MAP Clinician Workgroup Members

COMMITTEE CO-CHAIRS (VOTING)

Rob Fields, MD

National Association of ACOs

Diane Padden, PhD, CRNP, FAANP

American Association of Nurse Practitioners

ORGANIZATIONAL MEMBERS (VOTING)

American Academy of Family Physicians

American College of Cardiology

American College of Radiology

Blue Cross Blue Shield of Massachusetts

Consumers' Checkbook/Center for the Study of Services

Council of Medical Specialty Societies

Genentech, Inc.

HealthPartners, Inc.

Kaiser Permanente

Louise Batz Patient Safety Foundation

Magellan Health, Inc.

OCHIN, Inc.

Patient Safety Action Network

Pharmacy Quality Alliance

St. Louis Area Business Health Coalition

INDIVIDUAL SUBJECT-MATTER EXPERTS (VOTING)

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William Fleischman, MD, MHS

Stephanie Fry, MHS

Amy Nguyen Howell, MD, MBA, FAAFP

FEDERAL LIAISONS (NON-VOTING)

Centers for Disease Control and Prevention (CDC)

Centers for Medicare & Medicaid Services (CMS)

Health Resources and Services Administration (HRSA)

MAP Hospital Workgroup Members

COMMITTEE CO-CHAIRS (VOTING)

R. Sean Morrison, MD
National Coalition for Hospice and Palliative Care

Akin Demehin, MPH
American Hospital Association

ORGANIZATIONAL MEMBERS (VOTING)

American Case Management Association

American Society of Anesthesiologists

American Society of Health System Pharmacists

America's Essential Hospitals

Association of American Medical Colleges

American Association of Kidney

City of Hope

Dialysis Patient Citizens

Greater New York Hospital Association

Henry Ford Health Systems

Henry Ford Health System

Medtronic

Memphis Business Group on Health

National Association for Behavioral Healthcare

Premier Healthcare Alliance

Press Ganey

Project Patient Care

Service Employees International Union

Society for Maternal-Fetal Medicine

Stratis Health

UPMC Health Plan

INDIVIDUAL SUBJECT-MATTER EXPERTS (VOTING)

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FEDERAL LIAISONS (NON-VOTING)

Agency for Healthcare Research and Quality

Centers for Disease Control and Prevention

Centers for Medicare & Medicaid Services

MAP Post-Acute Care/Long-Term Care Workgroup Members

COMMITTEE CO-CHAIRS (VOTING)

Gerri Lamb, PhD, RN, FAAN
Arizona State University

Kurt Merkelz, MD
Compassus

ORGANIZATIONAL MEMBERS (VOTING)

American Academy of Physical Medicine and Rehabilitation

American Geriatrics Society

AMDA-The Society for Post-Acute and Long-Term Care Medicine

American Occupational Therapy Association

American Physical Therapy Association

ATW Health Solutions

Encompass Health Corporation

Kindred Healthcare

LeadingAge

National Pressure Injury Advisory Panel

National Partnership for Healthcare and Hospice Innovation

National Transitions of Care Coalition

National Hospice and Palliative Care Organization

SNP Alliance

INDIVIDUAL SUBJECT-MATTER EXPERTS (VOTING)

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David Andrews, PhD

Terrie Black, DNP

Sarah Livesay, DNP, RN, ACNP-BC, CNS-BC

Paul Mulhausen, MD, MHS

FEDERAL LIAISONS (NON-VOTING)

Centers for Disease Control and Prevention

Centers for Medicare & Medicaid Services

Office of the National Coordinator for Health Information Technology (ONC)

MAP Rural Health Advisory Group Members

COMMITTEE CO-CHAIRS (VOTING)

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RUPRI Center for Rural Health Policy Analysis

Kimberlyy Rask, MD, PhD, FACP
Alliant Health Solutions

ORGANIZATIONAL MEMBERS (VOTING)

American Academy of Family Physicians (AAFP)

American Academy of Physician Assistants

American College of Emergency Physicians

American Hospital Association

American Society of Health System Pharmacists

Michigan Center for Rural Health

Minnesota Community Measurement

National Association of Rural Health Clinics

National Rural Health Association

National Rural Letter Carriers' Association (NRLCA)

UnitedHealth Groupe

INDIVIDUAL SUBJECT-MATTER EXPERTS (VOTING)

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Rev. Bruce Hanson

Cody Mullen, PhD

Jessica Schumacher, PhD

Karen James, PhD,MS

Ana Verzone, MS, APRN, FNP, CNM

Holly Wolff, MHA

FEDERAL LIAISONS (NON-VOTING)

Federal Office of Rural Health Policy, DHHS/HRSA

Center for Medicare and Medicaid Innovation, Centers for Medicare & Medicaid Services

Indian Health Services, DHHS

MAP Health Equity Advisory Group Members

COMMITTEE CO-CHAIRS (VOTING)

Rebekah Angove, PhD

Patient Advocate Foundation

Laurie Zephyrin, MD, MPH, MBA

Commonwealth Fund

ORGANIZATIONAL MEMBERS (VOTING)

Aetna

American Medical Association

American Nurses Association

American Society of Health-System Pharmacists

America's Essential Hospitals

Beth Israel Lahey Health

Fenway Health

IBM Watson

Kentuckiana

National Committee for Quality Assurance

National Health Law Program

Patient Safety Action Network

Planned Parenthood Federation of America

The SCAN Foundation

Vizient

INDIVIDUAL SUBJECT-MATTER EXPERTS (VOTING)

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Susannah Bernheim, MD, MHS

Damien Cabezas, MPH, MSW

Mark Friedberg MD, MPP

Jeff Huebner, MD

Gerald Nebeker, PhD, FAAIDD

I. Nwando Olayiwola, MD, MPH, FAAFP

Nneka Sederstrom, PhD, MPH, MA, FCCP, FCCM

Cardinale Smith, MD, PhD

Melony Sorbero, PhD, MPH

Jason Suh, Doctor

FEDERAL LIAISONS (NON-VOTING)

Centers for Medicare & Medicaid Services (CMS)

Health Resources & Services Administration (HRSA)

Office of Minority Health (OMH)

Office of National Coordinator for Health Information Technology (ONC)

Veterans Health Administration

Appendix E: CQMC Measure Selection Principles

The selection principles guide the development and revision of the CQMC core sets and serve as a reference when determining whether a measure should be included in a core set. The principles for core measure sets are intended to balance concepts valued across the membership and outline the CQMC's vision for a comprehensive core set.

Principles for the CQMC core measure sets

1. Provide a holistic view of quality that assesses whether care is safe, effective, person centered, timely, efficient, and equitable.
2. Provide meaningful and usable information to all CQMC constituencies (i.e., consumers, providers, payers, purchasers, and regional collaboratives).
3. Include measures relevant to the medical condition of focus (i.e., "specialty-specific"), but also promote care that is coordinated across care settings and/or integrated across specialties.
4. Seek parsimony, alignment, and efficiency of measurement (i.e., minimum number of measures and the least burdensome measures).
5. Include an appropriate mix of measure types:
    a. Allow for structural and process measures as needed, particularly for emerging areas of measurement
    b. Emphasize outcome measures
    c. Exclude cost and resource use measures because such aspects are encompassed in value-based care payment programs.
6. Highlight the value of consumer engagement in healthcare, including through the incorporation of PRO-PMs.
7. Encourage the use of solely standardized digital measurement to harness new data sources and reduce reporting burden.
8. Encourage continuous improvement by seeking out novel measures that address identified clinical quality gaps.
9. Pursue measures that go beyond clinical care and are intended to address health equity and social determinants of health (SDOH).

Principles for measures included in the CQMC core measure sets

1. Align with the CQMC's values, goals, and measure set selection principles
2. Support the advancement of health and healthcare improvement goals
    a. Prioritize measures addressing clinical areas with significant impacts on health.
    b. Emphasize measure concepts that have a strong tie to outcomes.
    c. Address areas in which change would be consequential (i.e., where there is variation in clinical care or an opportunity for overall improvement).
3. Are unlikely to promote unintended adverse consequences
4. Promote health equity by adopting measures that measure access to care, stratify clinical care measures to identify disparities, or measure progress toward addressing social needs.
5. Are scientifically sound (e.g., NQF-endorsed or otherwise proven to be evidence based, reliable, and valid in diverse populations)
    a. Articulate the source of the evidence used to form the basis of the measure clearly.
    b. Demonstrate high quality and sufficient quantity and consistency of evidence that acting on the measure result will reduce variation and improve health outcomes.
    c. Define the measure specifications clearly and transparently.
    d. Are tested at the applicable level of care
6. Represent a meaningful balance between measurement burden and innovation.

a. Minimize data collection and reporting burden while maintaining clinical credibility (i.e., measures that fit into existing workflows, are feasible, and do not duplicate efforts)
b. Are ambitious, yet providers being measured can meaningfully influence the results and are implemented at the intended level of attribution
c. Are appropriately risk-adjusted and account for factors beyond control of providers, as necessary

7. Encourage the use of digital quality measures, including eCQMs, to take advantage of the opportunities provided by digital data sources.

Appendix F: CQMC Workgroup Rosters

The CQMC Full Collaborative comprises multistakeholder representatives (e.g., public and private payers, national medical associations, consumers/patient representatives, purchasers, and regional collaboratives). Organizations join the CQMC as voting and nonvoting participants; however, only voting participants may vote on Workgroup business.

ACO/PCMH/PC Workgroup

COMMITTEE CO-CHAIRS (VOTING)

American Academy of Family Physicians (AAFP), Co-Chair

Horizon Blue Cross Blue Shield of New Jersey, Co-Chair

ORGANIZATIONAL MEMBERS (VOTING)

Aetna

American Academy of Family Physicians (AAFP)

American Academy of Hospice and Palliative Medicine (AAHPM)

American Association on Health and Disability (AAHD)

American Benefits Council

American Board of Family Medicine Foundation (ABFM Foundation)

American College of Emergency Physicians (ACEP)

American College of Obstetricians and Gynecologists (ACOG)

American College of Physicians (ACP)

American Geriatrics Society (AGS)

American Heart Association

American Medical Association (AMA)

American Occupational Therapy Association

America's Health Insurance Plans (AHIP)

AmeriHealth Caritas

Anthem

Arkansas Blue Cross Blue Shield

Blue Cross and Blue Shield of Kansas City

Blue Cross and Blue Shield of North Carolina (BCBSNC)

Blue Cross Blue Shield Association

Business Group on Health

CareFirst Blue Cross Blue Shield

Centers for Medicare & Medicaid Services (CMS)

Consumers' Checkbook/Center for the Study of Services

Health Care Service Corporation (HCSC)

Horizon Blue Cross Blue Shield of New Jersey

Humana

Integrated Healthcare Association (IHA)

Kentuckiana Health Collaborative

Memphis Business Group on Health (MBGH)

National Association of ACOs (NAACOS)

National Kidney Foundation

Purchaser Business Group on Health (PBGH)

U.S. Department of Veterans Affairs (VA)

UnitedHealth Group

Wisconsin Collaborative for Healthcare Quality (WCHQ)

(NON-VOTING)

Apervita

Children's Hospital Association (CHA)

Health Care Transformation Task Force (HCTTF)

IMPAQ International

Mercer

National Committee for Quality Assurance (NCQA)

Nuna

Pharmacy Quality Alliance (PQA)

Rise, Inc.

Texas Medical Association (TMA)

Behavioral Health Workgroup

COMMITTEE CO-CHAIRS (VOTING)

American Psychiatric Association, Co-Chair

ORGANIZATIONAL MEMBERS (VOTING)

American Academy of Family Physicians (AAFP)

American Academy of Neurology (AAN)

American Association on Health and Disability (AAHD)

American College of Emergency Physicians (ACEP)

American College of Physicians (ACP)

American Heart Association

American Medical Association (AMA)

American Occupational Therapy Association

American Psychiatric Association

America's Health Insurance Plans (AHIP)

Arkansas Blue Cross Blue Shield

Blue Cross and Blue Shield of North Carolina (BCBSNC)

Blue Cross Blue Shield Association

Cambia Health Solutions

CareFirst Blue Cross Blue Shield

Centers for Medicare & Medicaid Services (CMS)

Cigna Healthcare

Health Resources and Services Administration (HRSA)

Humana

Kentuckiana Health Collaborative

Magellan Health

Memphis Business Group on Health (MBGH)

Mental Health America

Purchaser Business Group on Health (PBGH)

Shatterproof

U.S. Department of Veterans Affairs (VA)

UPMC Health Plan

Wisconsin Collaborative for Healthcare Quality (WCHQ)

(NON-VOTING)

American Hospital Association (AHA)

Apervita

Children's Hospital Association (CHA)

National Committee for Quality Assurance (NCQA)

Pharmacy Quality Alliance (PQA)

Rise, Inc

Texas Medical Association (TMA)

Cardiology Workgroup

COMMITTEE CO-CHAIRS

(VOTING)

American College of Cardiology (ACC)

Cigna Healthcare

ORGANIZATIONAL MEMBERS

(VOTING)

Blue Cross and Blue Shield of North Carolina (BCBSNC)

American College of Cardiology (ACC)

American College of Emergency Physicians (ACEP)

American College of Physicians (ACP)

American Heart Association

American Medical Association (AMA)

Anthem

America's Health Insurance Plans (AHIP)

Blue Cross Blue Shield Association

CareFirst Blue Cross Blue Shield

Centers for Medicare & Medicaid Services (CMS)

Cigna Healthcare

Humana

Magellan Health

National Kidney Foundation

National Patient Advocate Foundation (NPAF)

U.S. Department of Veterans Affairs (VA)

Wisconsin Collaborative for Healthcare Quality (WCHQ)

(NON-VOTING)

Ambulatory Surgery Center (ASC) Quality Collaboration

Apervita

Children's Hospital Association (CHA)

Memorial Hermann Health System

Pharmacy Quality Alliance (PQA)

Texas Medical Association (TMA)

Cross-Cutting Workgroup

COMMITTEE CO-CHAIRS

(VOTING)

CareFirst Blue Cross Blue Shield

American College of Physicians (ACP)

ORGANIZATIONAL MEMBERS

(VOTING)

Aetna

American Academy of Family Physicians (AAFP)

American Academy of Hospice and Palliative Medicine (AAHPM)

American Association on Health and Disability (AAHD)

American College of Emergency Physicians (ACEP)

American College of Obstetricians and Gynecologists (ACOG)

American College of Physicians (ACP)

American Gastroenterological Association (AGA)

American Occupational Therapy Association

America's Health Insurance Plans (AHIP)

Blue Cross Blue Shield Association

CareFirst Blue Cross Blue Shield

CareFirst Blue Cross Blue Shield

Centers for Medicare & Medicaid Services (CMS)

College of American Pathologists (CAP)

Health Resources and Services Administration (HRSA)

Magellan Health

Minnesota Community Measurement

National Patient Advocate Foundation (NPAF)

Purchaser Business Group on Health (PBGH)

(NON-VOTING)

Apervita

Cerner

IMPAQ International

National Committee for Quality Assurance (NCQA)

Pharmacy Quality Alliance (PQA)

Rise, Inc

Texas Medical Association (TMA)

Digital Measurement Workgroup

COMMITTEE CO-CHAIRS

(VOTING)

Anthem

Council of Medical Specialty Societies (CMSS)

ORGANIZATIONAL MEMBERS

(VOTING)

American Academy of Family Physicians (AAFP)

American Board of Family Medicine Foundation (ABFM Foundation)

American College of Physicians (ACP)

American Heart Association

American Society of Clinical Oncology (ASCO)

America's Health Insurance Plans (AHIP)

Arkansas Blue Cross Blue Shield

Blue Cross Blue Shield Association

Cambia Health Solutions

Centers for Medicare & Medicaid Services (CMS)

College of American Pathologists (CAP)

Health Resources and Services Administration (HRSA)

Minnesota Community Measurement

National Association of ACOs (NAACOS)

U.S. Department of Veterans Affairs (VA)

(NON-VOTING)

Apervita

Cerner

IMPAQ International

National Committee for Quality Assurance (NCQA)

Nuna

Pharmacy Quality Alliance (PQA)

Rise, Inc

Strategic Health Information Exchange Collaborative (SHIEC)

Texas Medical Association (TMA)

Gastroenterology Workgroup

COMMITTEE CO-CHAIRS (VOTING)

Aetna

American Gastroenterological Association (AGA)

ORGANIZATIONAL MEMBERS (VOTING)

American College of Emergency Physicians (ACEP)

American College of Physicians (ACP)

American Gastroenterological Association (AGA)

Blue Cross and Blue Shield of North Carolina (BCBSNC)

Centers for Medicare & Medicaid Services (CMS)

U.S. Department of Veterans Affairs (VA)

(NON-VOTING)

Ambulatory Surgery Center (ASC) Quality Collaboration

Memorial Hermann Health System

Texas Medical Association (TMA)

HIV and Hepatitis C Workgroup

COMMITTEE CO-CHAIRS (VOTING)

HIV Medicine Association of the Infectious Diseases Society of America

Kaiser Permanente

ORGANIZATIONAL MEMBERS (VOTING)

American College of Emergency Physicians (ACEP)

American College of Physicians (ACP)

Anthem

Blue Cross and Blue Shield of North Carolina (BCBSNC)

Blue Cross Blue Shield Association

CareFirst Blue Cross Blue Shield

Centers for Medicare & Medicaid Services (CMS)

Health Resources and Services Administration (HRSA)

National Patient Advocate Foundation (NPAF)

U.S. Department of Veterans Affairs (VA)

(non-voting)

Pharmacy Quality Alliance (PQA)

Texas Medical Association (TMA)

American Gastroenterological Association (AGA)

America's Health Insurance Plans (AHIP)

AmeriHealth Caritas

Implementation Workgroup

ORGANIZATIONAL MEMBERS

American Academy of Family Physicians (AAFP)

America's Health Insurance Plans (AHIP)

Centers for Medicare & Medicaid Services (CMS)

Cigna Healthcare

Kaiser Permanente

Kentuckiana Health Collaborative

Minnesota Community Measurement

UPMC Health Plan

Medical Oncology Workgroup

ORGANIZATIONAL MEMBERS (VOTING)

Aetna

American Academy of Hospice and Palliative Medicine (AAHPM)

American College of Emergency Physicians (ACEP)

American College of Obstetricians and Gynecologists (ACOG)

American College of Physicians (ACP)

American Medical Association (AMA)

American Occupational Therapy Association

American Society of Clinical Oncology (ASCO)

America's Health Insurance Plans (AHIP)

Anthem

Blue Cross and Blue Shield of North Carolina (BCBSNC)

Blue Cross Blue Shield Association

CareFirst Blue Cross Blue Shield

Centers for Medicare & Medicaid Services (CMS)

College of American Pathologists (CAP)

Humana

Minnesota Community Measurement

National Patient Advocate Foundation (NPAF)

U.S. Department of Veterans Affairs (VA)

UnitedHealth Group

(NON-VOTING)

Apervita

Pharmacy Quality Alliance (PQA)

Texas Medical Association (TMA)

Obstetrics and Gynecology Workgroup

COMMITTEE CO-CHAIRS (VOTING)

Cigna Healthcare

Society for Maternal-Fetal Medicine (SMFM)

ORGANIZATIONAL MEMBERS

(VOTING)

American College of Emergency Physicians (ACEP)

American College of Obstetricians and Gynecologists (ACOG)

American College of Physicians (ACP)

America's Health Insurance Plans (AHIP)

AmeriHealth Caritas

Anthem

Blue Cross and Blue Shield of North Carolina (BCBSNC)

Blue Cross Blue Shield Association

CareFirst Blue Cross Blue Shield

Centers for Medicare & Medicaid Services (CMS)

Magellan Health

National Osteoporosis Foundation

Society for Maternal-Fetal Medicine (SMFM)

Wisconsin Collaborative for Healthcare Quality (WCHQ)

(NON-VOTING)

Ambulatory Surgery Center (ASC) Quality Collaboration

American Hospital Association (AHA)

Memorial Hermann Health System

Texas Medical Association (TMA)

Orthopedics Workgroup

COMMITTEE CO-CHAIRS

(VOTING)

American Academy of Orthopaedic Surgeons (AAOS)

Organizational Members

(VOTING)

American College of Emergency Physicians (ACEP)

American College of Physicians (ACP)

American Medical Association (AMA)

American Occupational Therapy Association

American Specialty Health (ASH)

America's Health Insurance Plans (AHIP)

Anthem

Blue Cross and Blue Shield of North Carolina (BCBSNC)

Blue Cross Blue Shield Association

CareFirst Blue Cross Blue Shield

Centers for Medicare & Medicaid Services (CMS)

Minnesota Community Measurement

National Osteoporosis Foundation

U.S. Department of Veterans Affairs (VA)

(NON-VOTING)

AAOS Registry Program

Ambulatory Surgery Center (ASC) Quality Collaboration

Memorial Hermann Health System

Texas Medical Association (TMA)

Pediatrics Workgroup

COMMITTEE CO-CHAIRS

(VOTING)

Aetna

American Academy of Pediatrics (AAP)

ORGANIZATIONAL MEMBERS

(VOTING)

American Academy of Family Physicians (AAFP)

Blue Cross and Blue Shield of North Carolina (BCBSNC)

American College of Emergency Physicians (ACEP)

American College of Physicians (ACP)

AmeriHealth Caritas

Anthem

America's Health Insurance Plans (AHIP)

Blue Cross and Blue Shield of North Carolina (BCBSNC)

Blue Cross Blue Shield Association

CareFirst Blue Cross Blue Shield

Centers for Medicare & Medicaid Services (CMS)

Health Resources and Services Administration (HRSA)

Horizon Blue Cross Blue Shield of New Jersey

Kentuckiana Health Collaborative

Magellan Health

Minnesota Community Measurement

UnitedHealth Group

(NON-VOTING)

Children's Hospital Association (CHA)

Health Care Transformation Task Force (HCTTF)

Memorial Hermann Health System

Texas Medical Association (TMA)

Appendix G: Identified Gaps by NQF Measure Portfolio

In 2020, National Quality Forum (NQF) Standing Committees identified the following measure gaps—in which high value measures are too few or nonexistent to drive improvement—across topic areas for which measures were reviewed for endorsement.

All-Cause Admissions and Readmissions

No measure gaps were identified.

Behavioral Health and Substance Use

No measure gaps were identified.

Cancer

- Access the benefits of rehabilitation services (e.g., orthopedic rehabilitation services and postsurgical services), such as quality of life, the prevention of resource use (e.g., readmission to the hospital), and associated costs.
- Evaluate psychological and physical long-term effects after surviving cancer (e.g., appropriate screening for long-term cardiac toxicities, chest wall radiation, cancer prevention, and cancer genetic screening).
- Develop digital measures to improve data accessibility and accuracy.

Cardiovascular

No measure gaps were identified.

Cost and Efficiency

No measure gaps were identified.

Geriatrics and Palliative Care

- Take a holistic view of palliative care, and focus on all the domains of an individual, including psychological and psychiatric, cultural, spiritual, religious, existential, and social aspects of care.
- Use functional status measurement to predict where resources should be allocated and the areas in which individuals need additional support.
- Evaluate communication as part of experience of care.

Neurology

No measure gaps were identified.

Patient Experience and Function

No measure gaps were identified.

Patient Safety

No measure gaps were identified.

Perinatal and Women's Health

No measure gaps were identified.

Prevention and Population Health
No measure gaps were identified.

Primary Care and Chronic Illness
No measure gaps were identified.

Renal
No measure gaps were identified.

Surgery

- Focus on areas/procedures that are high volume and high risk.
- Assess opioid use and multimodal pain management systems.
- Calculate the value of care by dividing quality by cost in order to identify and set de-implementation targets for suboptimal interventions.
- Capture "never events," such as putting the wrong implant in a patient or operating on the wrong side of the body.
- Expand existing surgery measures, such as mortality, complications, and infections, to general surgery and other specialties that have yet to develop measures in these areas.
- Evaluate patient experience through a review of the full episode of care, including change in function over time, communication, decision making, pain management, patient education, and patient-focused pre- and postoperative care.

Appendix H: Medicare Measure Gaps Identified by NQF's Measure Applications Partnership

MAP Clinician Workgroup

Within the MIPS measure set, the MAP emphasized the need for measures associated with racism and equity rather than simply stratifying existing measures.

The MAP identified measure gaps within the Shared Savings Program, namely the shift in quality measures disagreed with the choice to move to eCQMs, and suggested that an over-reduction has occurred in the number of measures within the program. The MAP's suggestions also included the need for Shared Savings Program measures to consider racism and equity rather than simply stratifying existing measures.

MAP Hospital Workgroup

During the ESRD QIP Program gaps discussion, the MAP suggested that the Centers for Medicare & Medicaid Services (CMS) identify opportunities to measure cultural obstacles to quality improvement that can further promote a commitment to doing quality improvement and a culture of knowledge sharing. The MAP also suggested that CMS identify ways to make larger leaps to improving quality of care and patient safety rather than using an incremental approach.

During the Hospital IQR Program gaps discussion, MAP members encouraged CMS to be mindful of the transition of services being offered within the inpatient setting to the ambulatory setting and the relevance of these measures due to this shift.

Within the Hospital OQR Program gaps discussion, the MAP encouraged CMS to explore measures of effective use and shared decision making. The MAP also recommended the implementation of a composite measure for breast cancer screening. The MAP further emphasized that CMS should be sensitive to the changes in healthcare and the migration of services to the ambulatory setting. Lastly, the MAP suggested that CMS explore the major groupings of the types of services and procedures offered in the outpatient setting to identify gaps for measure development.

MAP PAC/LTC Workgroup

The MAP identified several measure gaps within the HQRP, including safety (particularly polypharmacy and medication reconciliation); PROs regarding symptom management; care aligned with and meeting patient goals; communication of patient goals to the next site of care if patient leaves hospice; coordination of care, especially with primary care and hospital staff; patient and family education; perceived caregiver burden and how caregiver burden is managed/affected through hospice care; and capturing the quality of care provided for those who contribute to hospice care but may not be represented in claims data. The MAP also encouraged ongoing work to maintain a portfolio of measures that show variation in performance across providers and to incorporate telehealth into the program

measures. The MAP also noted that hospice is an area in which the patient voice is not currently captured.

Within the SNF QRP measure set, the MAP identified several gaps, including care aligned with and meeting patient goals, care coordination and patient and caregiver involvement in care design, bidirectional transfer of information, quality and safety of care transitions, and patient and family engagement.

Within the LTCH QRP measure set, the MAP identified several gaps, including care aligned with and meeting patient goals, care coordination and patient and caregiver involvement in care design, and availability of palliative care.

Within the IRF QRP measure set, the MAP identified several gaps, including care aligned with and meeting patient goals, care coordination and patient and caregiver involvement in care design, and pain management and impact on patient function. The MAP also called on CMS to review how the measures in the program currently align with the CMS Quality Measurement Action Plan and MM 2.0 Framework.

During the SNF VBP Program gaps discussion, the MAP strongly encouraged CMS to engage patients and caregivers in a discussion of what concepts or measures they would find most valuable. With a 10-measure limit, the MAP discussed priorities and methodology. Some Workgroup members encouraged CMS to pursue a composite measure, similar to the Hospice Care Index, that would encompass the quality of care across the continuum of the patient stay. Other Workgroup members expressed concern that a composite could dilute the impact of any one measure. The MAP expressed support for continued work in infection control, which they identified as one of the highest stake areas for patients. The MAP also felt there was a need to assess value that may not be represented in claims data, including direct costs to patients and families, such as co-pays, out-of-pocket costs, and parking. Lastly, the MAP reaffirmed the importance of measuring beyond the SNF stay, including referral to effective services after the stay; caregiver burden; and care coordination after the stay, noting that the ability to manage care and all the services after discharge have a direct impact on patient readmissions.

The MAP identified several measure gaps within the HH QRP, including care aligned with and meeting patient goals, care coordination and patient and caregiver involvement in care design, long-term tracking of functional status, healthcare-acquired infections, telehealth, vaccination status (i.e., patient and HCP), and capturing wound care holistically. Holistic wound care specifically relates to measures addressing whether all appropriate services and supplies were provided for patients with wounds. The gap related to long-term tracking of functional status recognized that current measures in the HH QRP address short-term improvements in ADLs, such as bathing and dressing. The MAP noted that for longer home health episodes, patients may have different functional goals, such as the ability to shop independently or to walk to the mailbox.

Appendix I: Statutory Requirement of Annual Report Components

The Social Security Act (the Act)—specifically section 1890(b)(5)(A)— mandates that the entity report to Congress and the Secretary of the Department of Health and Human Services (HHS) no later than March 1st of each year.

The report must include descriptions of:

- *how the entity has implemented quality and efficiency measurement initiatives under the Act and coordinated these initiatives with those implemented by other payers;*
- *the entity's recommendations with respect to an integrated national strategy and priorities for healthcare performance measurement in all applicable settings;*
- *the entity's performance of the duties required under its contract with HHS (Appendix A);*
- *gaps in endorsed quality and efficiency measures, including measures that are within priority areas identified by the Secretary under HHS' national strategy, and where quality and efficiency measures are unavailable or inadequate to identify or address such gaps;*
- *areas in which evidence is insufficient to support endorsement of measures in priority areas identified by the Secretary under the* [National Quality Strategy], *and where targeted research may address such gaps;*
- *matters related to convening multistakeholder groups to provide input on: a) the selection of certain quality and efficiency measures, and b) national priorities for improvement in population health and in the delivery of healthcare services for consideration under the National Quality Strategy;.(Throughout This Report, the Relevant Statutory Language Appears in Italicized Text., n.d.)*
- *an itemization of financial information for the fiscal year ending September 30 of the preceding year, including: (I) annual revenues of the entity (including any government funding, private sector contributions, grants, membership revenues, and investment revenue); (II) annual expenses of the entity (including grants paid, benefits paid, salaries or other compensation, fundraising expenses, and overhead costs); and (III) a breakdown of the amount awarded per contracted task order and the specific projects funded in each task order assigned to the entity; and*
- *any updates or modifications of internal policies and procedures of the entity as they relate to the duties of the entity under this section, including: (I) specifically identifying any modifications to the disclosure of interests and conflicts of interests for committees, work groups, task forces, and advisory panels of the entity; and (II) information on external stakeholder participation in the duties of the entity under this section (including complete rosters for all committees, work groups, task forces, and advisory panels funded through government contracts, descriptions of relevant interests and any conflicts of interest for members of all committees, work groups, task forces, and advisory panels, and the total percentage by health care sector of all convened committees, work groups, task forces, and advisory panels.*

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[FR Doc. 2022–18906 Filed 8–31–22; 8:45 am]
BILLING CODE 4120–01–C

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CFR PARTS AFFECTED DURING SEPTEMBER

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—SEPTEMBER 2022

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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