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Proclamation 10884 of January 17, 2025

The President

Martin Luther King, Jr., Federal Holiday, 2025

By the President of the United States of America

A Proclamation

Today, we honor the life and legacy of the Reverend Dr. Martin Luther King, Jr., an inspirational leader whose moral vision and courage helped bend the arc of history toward justice. And we recommit to building the future he envisioned.

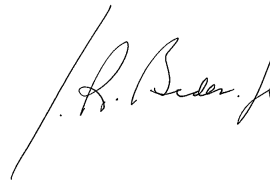
Dr. King's ministry, movement, and epic struggle for civil rights and voting rights sought to redeem the soul of our Nation. That soul is embodied in the sacred proposition that we are all created equal in the image of God. Dr. King invoked this proposition when, on that day in 1963, he told the Nation about a dream—a dream in which every person in this Nation is guaranteed the unalienable rights of life, liberty and the pursuit of happiness. And he helped our country realize this proposition with the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

But the battle for the soul of our Nation is perennial—a constant struggle between hope and fear, kindness and cruelty, and justice and injustice. It is a battle that has been waged on battlefields and bridges, and within courthouses and city councils. There is nothing guaranteed about our democracy. Every generation is required to keep it, defend it, and protect it. There is still so much to do to build the “Beloved Community” Dr. King envisioned—from securing economic justice and protecting our civil rights and liberties to ensuring everyone has the right to vote and have that vote counted. But I know it is possible because the power to redeem the soul of America has always been in the hands of “We the People.” Together, we can do our best to see each other not as enemies but as neighbors; to believe in and practice honesty, decency, and respect; and to fight for freedom, justice and democracy.

Today, we remember Dr. King as a towering spiritual leader and a lifelong warrior for equality and justice. As we celebrate his legacy, I am reminded of this line from a gospel song: “We’ve come too far from where we started. Nobody told me that the road would be easy. I don’t believe He brought me this far to leave me.” Dr. King’s story is a reminder that progress is never easy—but it is always possible—and that good things get done on our march toward a more perfect Union. We have never lived up to the ideals of our Nation, but we have never walked away from them either. May we be inspired by Dr. King’s path and motivated by his legacy, working together to build a world founded on freedom, equality, and justice for all.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim Monday, January 20, 2025, as the Martin Luther King, Jr., Federal Holiday. I encourage all Americans to observe this day with appropriate civic, community, and service projects in honor of Dr. King and to visit MLKDay.gov to find Martin Luther King, Jr., Day of Service projects across our country.

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

A handwritten signature in black ink, appearing to read "Joe Biden", is written over a horizontal line.

Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 21–456; FCC 24–117; FR ID 273430]

Spectrum Sharing Rules for NGSO Fixed-Satellite Service Systems; Correction

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: The Federal Communications Commission (Commission) is correcting a final rule that appeared in the **Federal Register** on December 13, 2024. The final rule clarified the methodology to be used in compatibility analyses submitted by non-geostationary satellite orbit (NGSO) fixed-satellite service (FSS) system grantees.

DATES: Effective January 22, 2025, except for the amendment to § 25.261 in amendatory instruction 3, which is delayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the effective date of § 25.261 in instruction 3.

FOR FURTHER INFORMATION CONTACT: Clay DeCell, 202–418–0803.

SUPPLEMENTARY INFORMATION: On December 13, 2024, the Commission published a final rule amending paragraphs (d) and (e) of § 25.261 and announcing an effective date of those amendments of January 13, 2025. However, the amendment to paragraph (d) of § 25.261 requires approval of the Office of Management and Budget under the Paperwork Reduction Act before it can become effective, as stated elsewhere in the final rule. In addition, the amendment to paragraph (e) of § 25.261 adds a cross-reference to paragraph (d) of that section, which is not yet effective. To correct this effective date error, this document reverts the text of paragraphs (d) and (e) of § 25.261 and adds a delayed

instruction to re-insert the rule amendments adopted in the final rule after the Commission announces OMB approval and the effective date of the amendments to paragraphs (d) and (e) of § 25.261.

List of Subjects in 47 CFR Part 25

Satellites.

Accordingly, 47 CFR part 25 is corrected by making the following correcting amendments:

PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

■ 2. Amend § 25.261 by removing and reserving paragraph (d) and revising paragraph (e).

The revision reads as follows:

§ 25.261 Sharing among NGSO FSS space stations.

* * * * *

(e) *Sunsetting.* Ten years after the first authorization or grant of market access in a processing round, the systems approved in that processing round will no longer be required to protect earlier-rounds systems, and instead will be required to share spectrum with earlier-round systems under paragraph (c) of this section.

■ 3. Delayed indefinitely, further amend § 25.261 by adding paragraph (d) and revising paragraph (e) to read as follows:

§ 25.261 Sharing among NGSO FSS space stations.

* * * * *

(d) *Protection of earlier-round systems.* Prior to commencing operations, an NGSO FSS licensee or market access recipient must either certify that it has completed a coordination agreement with any operational NGSO FSS system licensed or granted U.S. market access in an earlier processing round, or submit for Commission approval a compatibility showing which demonstrates by use of a degraded throughput methodology that it will not cause harmful interference to any such system with which coordination has not been completed. If an earlier-round system becomes operational after a later-round system has commenced operations, the

later-round licensee or market access recipient must submit a certification of coordination or a compatibility showing with respect to the earlier-round system no later than 60 days after the earlier-round system commences operations as notified pursuant to § 25.121(b) or otherwise.

(1) Compatibility showings must contain the following elements:

(i) A demonstration that the later-round system will cause no more than 3 percent time-weighted average degraded throughput of the link to the earlier-round system, for links with a baseline link availability of 99.0 percent or higher at a C/N threshold of 0 dB;

(ii) A demonstration that the later-round system will cause no more than 0.4 percent absolute change in link availability to the earlier-round system using a C/N threshold value of 0 dB, for links with a baseline link availability of 99.0 percent link availability or higher; and

(iii) With respect to an earlier-round system that has not yet satisfied its 50 percent deployment milestone pursuant to § 25.164(b)(1), the compatibility showing may consider only 50 percent deployment of the earlier-round system; if the 50 percent deployment milestone has been satisfied, the showing must consider 100 percent deployment of the authorized system.

(2) Compatibility showings will be placed on public notice pursuant to § 25.151(a)(13).

(3) While a compatibility showing remains pending before the Commission, the submitting NGSO FSS licensee or market access recipient may commence operations on an unprotected, non-interference basis with respect to the operations of the system that is the subject of the showing.

(4) A later-round NGSO FSS system will be required to conform its operations to its compatibility showing submitted for the protection of an earlier-round system to the extent necessary to protect the actual number of deployed and operating space stations of the earlier-round system.

(e) *Sunsetting.* Ten years after the first authorization or grant of market access in a processing round, the systems approved in that processing round will no longer be required to protect earlier-rounds systems under paragraph (d) of this section, and instead will be required to share spectrum with earlier-

round systems under paragraph (c) of this section.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2025–01115 Filed 1–21–25; 8:45 am]

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Proposed Rules

Federal Register

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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.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 22–405; Report No. 3222; FR ID 271711]

Petition for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for reconsideration.

SUMMARY: Petition for Reconsideration (Petition) has been filed in the

Commission's proceeding by Robert McAllan, CEO, and Rich Morena, COO/CFO, on behalf of Press Communications, LLC.

DATES: Oppositions to the Petition must be filed on or before February 6, 2025. Replies to oppositions to the Petition must be filed on or before February 18, 2025.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Thomas Nessinger, Media Bureau, Audio Division, (202) 418–2700, Thomas.Nessinger@fcc.gov; or James Bradshaw, Media Bureau, Audio Division, (202) 418–2700, James.Bradshaw@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Report No. 3222, released December 30, 2024. The full text of this

document can be accessed online via the Commission's Electronic Comment Filing System at: <http://apps.fcc.gov/ecfs/>. The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5 U.S.C. 801(a)(1)(A), because no rules are being adopted by the Commission.

Subject: Modifying Rules for FM Terrestrial Digital Audio Broadcasting Systems, MB Docket No. 22–405, First Report and Order, FCC 24–105, published at 89 FR 84096 on October 21, 2024.

Number of Petitions Filed: 1.

Federal Communications Commission.

Marlene Dortch,
Secretary.

[FR Doc. 2025–00493 Filed 1–21–25; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

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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

Natural Resources Conservation Service

Notice of Intent To Prepare a Supplemental Environmental Impact Statement for the Odessa Subarea Special Study Project in Adams, Franklin, Grant, and Lincoln Counties, Washington

AGENCY: Natural Resources Conservation Service, U.S. Department of Agriculture (USDA).

ACTION: Notice of Intent (NOI) to prepare a Supplemental Environmental Impact Statement (SEIS).

SUMMARY: The Natural Resources Conservation Service (NRCS) Washington State Office, in coordination with the U.S. Bureau of Reclamation (Reclamation) and the Washington State Department of Ecology (Ecology), announces its intent to prepare an SEIS for the Odessa Subarea Special Study Project. The SEIS is necessary to evaluate modification of a component of Alternative 4A that would install a buried pipeline irrigation across lands that were not evaluated in FEIS. Installation of this pipeline would require blasting which was not addressed in FEIS. The intended effect of this action would result in the most economically viable way of providing surface water irrigation to specific cultivated lands in the Study Area in lieu of groundwater irrigation. The SEIS will examine an irrigation delivery system designated East Low Canal (EL) 11.8 that would serve approximately 7,638 acres of land currently served by groundwater in the northeastern portion of the East Columbia Basin Irrigation District (ECBID) in Grant County. NRCS is accepting comments regarding significant issues, potential alternatives, information, and analyses relevant to the proposed action from all interested

individuals, Federal and State agencies, and Tribes.

DATES: We will consider comments that are received by February 21, 2025. We will consider comments received after this period to the extent possible.

ADDRESSES: We invite you to submit comments in response to this notice. You may submit your comments through the method below:

- *Mail or Hand Delivery:* Farmers Conservation Alliance, 102 State Street, Hood River, OR 97031; or Phone: (541) 716-6085. In your comments, specify the SEIS for EL 11.8.

- *Electronic Submittal:* Comments may be submitted online at <https://www.ogwrp-programs.org/watershed-plan>.

All comments received will be posted without change and made publicly available on the project web page <https://www.ogwrp-programs.org/watershed-plan>.

FOR FURTHER INFORMATION CONTACT:

Jules Riley, telephone: (509) 507-0178; email: jules.riley@usda.gov for questions related to submitting comments; or visit the project website at <https://www.ogwrp-programs.org/watershed-plan>.

Individuals who require alternative means for communication should contact the U.S. Department of Agriculture (USDA) Target Center at (202) 720-2600 (voice and text telephone [TTY]) or dial 711 for Telecommunications Relay service (both voice and text telephone users can initiate this call from any telephone).

SUPPLEMENTARY INFORMATION:

Purpose and Need

The project area is located within the Odessa Subarea in Adams, Franklin, Grant, and Lincoln Counties, Washington. The Reclamation and Ecology 2012 Final EIS (FEIS) was published in a local newspaper on August 31, 2012. Reclamation selected Alternative 4A, the Modified Partial-Replacement-Banks with Limited Spring Diversion Scenario. This alternative delivers surface water from the Columbia Basin Project (CBP) to irrigated lands that currently rely on declining groundwater supply in the Odessa Subarea Special Study Area (Study Area).

The primary purpose for the proposed action is to maintain economic viability by providing surface water from CBP to

replace groundwater from declining wells currently used for irrigation in the Study Area. Watershed planning is authorized under the Watershed Protection and Flood Prevention Act of 1954 (Pub. L. 83-566), as amended, and the Flood Control Act of 1944 (Pub. L. 78-534). This SEIS will analyze a distribution system route that traverses lands not included in the 2012 FEIS Study Area.

This action is needed to address declining groundwater supply in the Study Area and avoid economic loss to the region's agricultural sector. Located in central Washington State, ECBID is the largest irrigation district in the State, with authorization to irrigate 472,000 acres. Currently, 167,365 acres are irrigated and managed by 4,500 landowners within CBP. Additionally, ECBID provides infrastructure to deliver irrigation surface water for 87,638 acres associated with the Odessa Groundwater Replacement Program.

Under Alternative 4A, ECBID would provide CBP surface water for irrigation to replace groundwater irrigation to approximately 70,000 acres of lands north and south of I-90. The proposed action is essential to deliver CBP water to lands currently irrigated with groundwater. The 2012 FEIS conceptually analyzed alternatives for alignments that would deliver surface water from CBP to the lands to be served by the proposed EL 11.8 distribution system, specifically within alternatives analyzed in detail and not selected.

Water delivery to these lands was proposed to be served by a new canal, designated the East High Canal. With the selection of Alternative 4A as the preferred alternative, the East High Canal was not chosen for construction to service those lands. However, due to the flexibility afforded in the 2012 FEIS, and due to the irrigator's need for surface water in that area, a new alignment was subsequently designed from EL to ensure the delivery of surface water to the area.

The lands that will be analyzed in the SEIS Study Area include a mix of undeveloped and agricultural lands within the Odessa Groundwater Management Subarea and the Odessa Subarea Special Study Area boundaries in Grant County. A portion of the lands that the distribution system would cross from EL to the delivery point were not analyzed in the 2012 FEIS Study Area,

and the SEIS will consider the impacts of construction and operation of EL 11.8 on these lands. The construction of EL 11.8 is anticipated to require blasting in the first 5.5 miles of the alignment. The 2012 FEIS did not analyze noise and vibration effects associated with blasting because the distribution alignments anticipated at the time were not expected to require blasting. NRCS will, therefore, analyze the effects of noise and vibration within the anticipated affected area. The lands that the distribution system would serve were analyzed in the 2012 FEIS Study Area, and NRCS has determined that additional analysis of these lands is not needed.

If selected as the SEIS preferred alternative after finalization of the SEIS, EL 11.8 would become a component of Alternative 4A. This would be formalized by amending the NRCS 2024 ROD for Alternative 4A to include this distribution system. A map of the EL 11.8 distribution system is available at: <http://www.ogwrp-programs.org/watershed-plan>. The EL 11.8 would be included in the watershed plan being written by NRCS for Alternative 4A to be eligible for funding under Public Law 83-566.

Estimated Federal funds required for the construction of the proposed action that would become a component of Alternative 4A will exceed \$25 million. Consistent with section 2 of the Watershed Protection and Flood Prevention Act of 1954, (16 U.S.C. 1002), given that the Federal construction cost are estimated to be greater than \$25 million, the Agriculture, Nutrition and Forestry Committee of the Senate and the Committee on Agriculture of the House of Representatives will be notified that the Chief of NRCS plans to authorize this project for implementation.

Preliminary Proposed Action and Alternatives, Including No Action

The SEIS objective is to formulate and evaluate alternatives for the avoidance of economic loss to the region's agricultural sector along with impacts to domestic and municipal water supplies. The SEIS will analyze a distribution system route that was not included in Alternative 4A for delivery of surface water from the CBP to replace groundwater irrigation in lands in the Odessa Subarea Special Study Area. The SEIS is expected to evaluate two alternatives: one no action alternative and one action alternative.

The alternatives that may be considered for detailed analysis include:

- *Alternative 1—No Action*
Alternative: Taking no action would

consist of activities conducted if no Federal action or funding were provided for the proposed action. If the No Action Alternative is selected, the irrigators in the Study Area would not be able to maintain economic viability because they would not be able to access irrigation water. The groundwater levels in the Study Area are declining. Due to that decline, irrigation water quantities are expected to become insufficient to support agricultural needs, which would lead to economic loss in the project area. Declining groundwater levels may also impact area domestic and municipal water supply. No Federal action or funding would be associated with the proposed action with the No Action Alternative.

- *Alternative 2—Proposed Action—EL 11.8.* The proposed action would include the construction and operation of EL 11.8, which is a surface water distribution system alignment north of I-90 and east of Ephrata, Washington that would provide irrigation surface water from EL to lands 5 to 10 miles east along road W NE. The proposed EL 11.8 system would include a new canal turnout infrastructure, a large-scale canal pump station, and 10.5 miles of large-diameter pipeline (60-inch-through 44-inch-diameter mainline). The EL 11.8 system would serve approximately 7,638 acres of land currently served by groundwater. If EL 11.8 is chosen as the preferred alternative in the supplemental EIS, these lands would be a portion of the overall 70,000 acres of land authorized under Alternative 4A for one-to-one replacement of groundwater irrigation with CBP surface water. The lands that the distribution system would serve were analyzed in the 2012 FEIS study area; however, a portion of the pipeline alignment for the distribution system is proposed to cross lands that were not analyzed in the 2012 FEIS. The SEIS Study Area includes a mix of undeveloped and agricultural lands within the Odessa Groundwater Management Subarea and the Odessa Subarea Special Study Area boundaries in Grant County. Ownership of lands in the project area consists of private, State and Federal landholders.

Summary of Expected Impacts

If the proposed action is chosen as the preferred alternative in the supplemental EIS, it will become a component of Alternative 4A.

The SEIS will be prepared as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA, (42 U.S.C. 4332(2)(C))); the Council on Environmental Quality Regulations (40 CFR parts 1500 through

1508); and NRCS regulations that implement NEPA in 7 CFR part 650.

Resource concerns for the scope of resource effects analysis for the SEIS will be similar to that documented in the 2012 FEIS. The SEIS will analyze construction and operational impacts on the previously unanalyzed area that the EL 11.8 distribution system will cross, and the effects of blasting (noise and vibration) in the blast effect zone that will be used to construct the distribution system. Additionally, NRCS solicited comments from the public and coordinated with agency and tribal interested parties during the 2024 FEIS adoption process to ascertain relevant resource concerns. Environmental resources in the project area consist of the natural and human-made environment. Resource concerns to be identified and addressed in the SEIS include: the presence of Endangered Species Act (ESA)-listed species including candidate species; biological resources such as shrub-steppe habitat; geology and soils; noise and vibration related to potential blasting during construction; and cultural resources.

Anticipated Permits and Authorizations

The following permits, authorizations, or consultation processes are anticipated to be required or have previously been fully addressed as noted below:

- *ESA.* Consultation with the U.S. Fish and Wildlife Service would be conducted as required by ESA.
- *ESA.* Based on coordination with National Marine Fisheries Service (NMFS) for the 2024 adoption of the FEIS by NRCS, NMFS decided that additional consultation or reinitiation of ESA under its jurisdiction was not needed since no additional withdrawals of CBP water would occur under the proposed action.
- *Clean Water Act and National Pollutant Discharge Elimination System (NPDES).* The project would require permitting under section 402 of the NPDES for stormwater discharge from a construction site.
- *National Historic Preservation Act (NHPA) Section 106.* Consultation with Tribal Nations and interested parties would be conducted as required by the NHPA.

- *Washington State Environmental Policy Act (SEPA).* Coordination for SEPA approval would be required for construction and operation of EL 11.8 within non-Federal lands. As a cooperating agency, it is anticipated that Ecology will adopt the supplemental EIS for SEPA needs in accordance with Washington Administrative Code 197-11-610.

- *Washington Department of Fish and Wildlife (WDFW) Hydraulic Project Approval (HPA)*. Consultation with WDFW and potential HPA permits would be required for projects in or near State waters.

- *Local Grading and Storm Permit*. Consultation for potential grading and storm permits would be required with Grant County for all construction work within non-Federal lands.

Schedule of Decision-Making Process

A draft SEIS (DSEIS) will be prepared and circulated for review and comment by agencies, Tribes, consulting parties, and the public for 45 days as required by the regulations in 40 CFR 1503.1, 1502.20, 1506.11, and 1502.17, and 7 CFR 650.13. The DSEIS is anticipated to be published in the **Federal Register**, approximately 12 months after publication of this NOI. A Final SEIS is anticipated to be published within 6 months of completion of the public comment period for the DSEIS.

NRCS will decide whether to implement or withdraw the proposed action alternatives as evaluated in the SEIS. A DSEIS will be completed and will be publicly available for comments. The Responsible Federal Official (RFO) and decision-maker for NRCS is the Washington State Conservationist. Reclamation, as a cooperating Federal agency, will make a decision to issue its own ROD in a similar manner. The decision-maker and RFO for Reclamation is the Regional Director, Columbia-Pacific Northwest Region.

Public Scoping Process

Public scoping is not a requirement for an SEIS (40 CFR 1502.9 (d)(3)). Public scoping was conducted for the 2012 FEIS and is documented in the 2012 FEIS and associated ROD. For the 2024 adoption of the FEIS, NRCS solicited public comments and conducted agency and tribal outreach and coordination. Comments received, including the names and addresses of those who commented, are part of the public record and are documented in the NRCS 2024 ROD for the FEIS adoption.

Identification of Potential Alternatives, Information, and Analyses

NRCS invites agencies, Tribes, consulting parties, and individuals that have special expertise, legal jurisdiction, or interest to provide written comments concerning the scope of the analysis and identification of potential alternatives, information, and analyses relevant to the Proposed Action.

The information about historic and cultural resources within the area potentially affected by the proposed project will assist NRCS in identifying and evaluating impacts to such resources in the context of both NEPA and NHPA.

NRCS will invite Native American Tribes to consult on a government-to-government basis in accordance with the regulations in 36 CFR 800.2 and 800.3, Executive Order 13175, and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources and historic properties, will be given due consideration.

Authorities

This document is published as specified by the NEPA regulations regarding publication of an NOI to issue a SEIS (40 CFR 1501). Watershed planning is authorized under the Watershed Protection and Flood Prevention Act of 1954, as amended and the Flood Control Act of 1944.

Federal Assistance Programs

The title and number of the Federal Assistance Program as found in the Assistance Listing¹ to which this document applies is 10.904, Watershed Protection and Flood Prevention. The Regional Conservation Partnership Program is a potential funding source in addition to other funding opportunities that may arise, for which the title and number of the Federal Assistance Program is: 10.932—Regional Conservation Partnership Program.

Executive Order 12372

Executive Order 12372, “Intergovernmental Review of Federal Programs,” requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. This project is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

U.S. Department of Agriculture Non-Discrimination Policy

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its

agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Individuals who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible agency or USDA TARGET Center at (202) 720-2600 (voice and telephone) or dial 711 for Telecommunications Relay Service (both voice and text telephone users can initiate this call from any phone). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> and at any USDA office, or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail to U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410; (2) fax to (202) 690-7442; or by (3) email to program.intake@usda.gov.

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Roylene Comes At Night,

Washington State Conservationist, USDA Natural Resources Conservation Service.

[FR Doc. 2025-01440 Filed 1-21-25; 8:45 am]

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¹ See <https://sam.gov/content/assistance-listings>.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–50–2024]

Foreign-Trade Zone (FTZ) 49; Authorization of Production Activity; Merck, Sharp & Dohme LLC; (Pharmaceutical Products for Research and Development); Rahway, New Jersey

On September 18, 2024, Merck, Sharp & Dohme LLC submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 49Y, in Rahway, New Jersey.

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 (89 FR 78845, September 26, 2024). On January 16, 2024, 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: January 16, 2025.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2025–01478 Filed 1–21–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–190]

Sol Gel Alumina-Based Ceramic Abrasive Grains From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation; Correction

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

ACTION: Notice; correction.

SUMMARY: The U.S. Department of Commerce (Commerce) published notice in the **Federal Register** of January 14, 2025, in which Commerce initiated the less-than-fair-value (LTFV) investigation on sol gel alumina-based ceramic abrasive grains (ceramic abrasive grains) from the People's Republic of China (China). This notice contained an appendix that included a typographical error with respect to the Harmonized Tariff Schedule of the United States (HTSUS) subheadings in the scope of the investigation.

FOR FURTHER INFORMATION CONTACT:

Thomas Cloyd, Office VII, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1246.

SUPPLEMENTARY INFORMATION:**Background**

On January 14, 2025, Commerce published in the **Federal Register** the initiation notice of the LTFV investigation on ceramic abrasive grains from China.¹ In the *Initiation Notice*, Commerce inadvertently made a typographical error with respect to one of the relevant HTSUS subheadings in the appendix, “Scope of the Investigation.”

Correction

In the **Federal Register** of January 14, 2025, in FR Doc. 2025–00544,² on page 3183, in the second column, correct the first HTSUS referenced in the fifth paragraph of the section “Appendix—Scope of the Investigation” as follows:

The merchandise subject to this investigation is properly classified under subheadings 2818.10.2010 and 2818.10.2090 of the Harmonized Tariff Schedule of the United States (HTSUS). Other merchandise subject to the current scope, including when incorporated into the abovementioned downstream articles, may be classified under HTSUS subheadings 2818.10.1000, 2818.20.0000, 2818.30.0000, 3824.99.1100, 3824.99.1900, 6805.10.0000, 6805.20.0000, 6805.30.1000, 6805.30.5000, 6804.22.1000, 6804.22.4000, 6804.22.6000, 8204.12.0000, 8474.90.0010, 8474.90.0020, 8474.90.0050, and 8474.90.0090. Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

For a full description of the scope of this investigation, revised to reflect the correction specified above, *see* the appendix to this notice.

Notice to Interested Parties

This notice is issued and published in accordance with sections 732 and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.203(c).

¹ *See Sol Gel Alumina-Based Ceramic Abrasive Grains from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 90 FR 3179 (January 14, 2025) (*Initiation Notice*).

² *Id.*

Dated: January 16, 2025.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix**Scope of the Investigation**

The merchandise covered by this investigation is sol gel alumina-based ceramic abrasive grains which are comprised of minimum 94% aluminum oxide (Al₂O₃), and may contain other compounds, including, but not limited to, titanium dioxide, silicon dioxide, calcium oxide, sodium superoxide, ferric oxide, magnesium oxide, di-aluminum magnesium tetroxide, lanthanum oxide, lanthanum magnesium oxide, zirconium dioxide, or zirconium carbonate. Grain sizes of sol gel alumina-based ceramic abrasive grains range from 0.85 mm to 0.0395 mm (which corresponds to American National Standards Institute (ANSI) grit sizes from 20 to 280).

Shapes include but are not limited to angular, sharp, extra sharp, blocky, splintery, round stripped, triangular or shaped like extruded rods or stars.

Ceramic abrasive grains have unique crystalline structures that impart certain advanced properties, such as their extreme hardness and strength ranging between 16 and 22 gigapascals by the Vickers Diamond Indent Method, high melting point (2050 °C), and a single- or multi-phase microstructure, which may contain multiple phases, having crystalline sizes ranging from 0.05 to 30 μm. These ceramic abrasive grains include but are not limited to blue, white, white-translucent, or off-white opaque colors.

Sol gel alumina-based ceramic abrasive grains are covered by the scope of this investigation, whether or not incorporated into downstream articles, including but not limited to, abrasive papers, grinding wheels, grinding cylinders, and grinding discs. When incorporated into downstream articles, only the sol gel alumina-based ceramic abrasive grains component of such articles is covered by the product scope, and not the downstream product as a whole.

The merchandise subject to this investigation is properly classified under subheadings 2818.10.2010 and 2818.10.2090 of the Harmonized Tariff Schedule of the United States (HTSUS). Other merchandise subject to the current scope, including when incorporated into the abovementioned downstream articles, may be classified under HTSUS subheadings 2818.10.1000, 2818.20.0000, 2818.30.0000, 3824.99.1100, 3824.99.1900, 6805.10.0000, 6805.20.0000, 6805.30.1000, 6805.30.5000, 6804.22.1000, 6804.22.4000, 6804.22.6000, 8204.12.0000, 8474.90.0010, 8474.90.0020, 8474.90.0050, and 8474.90.0090. Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

[FR Doc. 2025–01494 Filed 1–21–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–844]

Narrow Woven Ribbons With Woven Selvege From Taiwan: Final Results of Antidumping Duty Administrative Review; 2022–2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that narrow woven ribbons with woven selvedge (ribbons) from Taiwan were sold in the United States at less than normal value during the period of review (POR) September 1, 2022, through August 31, 2023.

DATES: Applicable January 22, 2025.

FOR FURTHER INFORMATION CONTACT: Paul Senoyuit, 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) 482–6106.

SUPPLEMENTARY INFORMATION:

Background

On October 10, 2024, Commerce published in the **Federal Register** the preliminary results of the 2022–2023 administrative review¹ of the antidumping duty order on ribbons from Taiwan.² We invited interested parties to comment on the *Preliminary Results*. No interested party submitted comments. Accordingly, the final results of review remain unchanged from the *Preliminary Results*. Because Commerce received no comments on the *Preliminary Results*, we have not modified our analysis, and no decision memoranda accompany this notice. We are, hereby, adopting the *Preliminary Results* as the final results of this review. Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as Amended (the Act).

¹ See *Narrow Woven Ribbons With Woven Selvege from Taiwan: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2022–2023*, 89 FR 82207 (October 10, 2024) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² See *Narrow Woven Ribbons With Woven Selvege from Taiwan and the People’s Republic of China: Antidumping Duty Orders*, 75 FR 53632 (September 1, 2010); see also *Narrow Woven Ribbons With Woven Selvege from Taiwan and the People’s Republic of China: Amended Antidumping Duty Orders*, 75 FR 56982, 56985 (September 17, 2010) (collectively, *Order*).

Scope of the Order

The merchandise covered by this *Order* is narrow woven ribbons with woven selvedge from Taiwan. For a complete description of the scope of the *Order*, see the *Preliminary Results*.³

Use of Adverse Facts Available

This review covers the mandatory respondents Hao Shyang Ind. Co. Ltd. (Hao Shyang) and Lung Che Ribbons Enterprises Co., Ltd. (Lung Che). As discussed in the *Preliminary Results*, Commerce determined the weighted-average dumping margin for Hao Shyang and Lung Che on the basis of adverse facts available (AFA), pursuant to sections 776(a) and (b) of the Act. Accordingly, because no interested parties submitted comments on this determination in the *Preliminary Results* and there is no basis upon which to revise our findings pursuant to sections 776(a) and (b) of the Act, we continue to rely entirely on AFA for the mandatory respondents in these final results.

Final Results of Review

We determine the following estimated weighted-average dumping margins exist for the POR:

Exporter or producer	Weighted-average dumping margin (percent)
Hao Shyang Ind. Co. Ltd	137.20
Lung Che Ribbons Enterprises Co. Ltd	137.20

Disclosure

Normally, Commerce discloses to interested parties the calculations of the final results of an administrative review within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of the final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because we made no changes from the *Preliminary Results*, there are no new calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

For companies subject to this review, 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 entered, or withdrawn from warehouse, for consumption on or after the publication date in the **Federal Register** 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 Hao Shyang and Lung Che will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by a producer or exporter not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the producer or exporter participated; (3) if the exporter is not a firm covered in this review, or a previous segment, but the producer is, the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 4.37 percent *ad valorem*, the all-others rate established in the less-than-fair-value investigation.⁴ These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final 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 the POR. 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.⁵

⁴ See *Order*.

⁵ See 19 CFR 351.402(f)(3).

³ See *Preliminary Results* PDM at 3–5.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an 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 the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protection order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: January 14, 2025.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2025–01496 Filed 1–21–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE**International Trade Administration**

[C–570–191]

Sol Gel Alumina-Based Ceramic Abrasive Grains From the People's Republic of China: Initiation of Countervailing Duty Investigation; Correction

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

ACTION: Notice; correction.

SUMMARY: The U.S. Department of Commerce (Commerce) published notice in the **Federal Register** of January 14, 2025, in which Commerce initiated the countervailing duty (CVD) investigation on sol gel alumina-based ceramic abrasive grains (ceramic abrasive grains) from the People's Republic of China (China). This notice contained an appendix that included a typographical error with respect to the Harmonized Tariff Schedule of the United States (HTSUS) subheadings in the scope of the investigation.

FOR FURTHER INFORMATION CONTACT:

Suresh Maniam, Office I, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue

NW, Washington, DC 20230; telephone: (202) 482–1603.

SUPPLEMENTARY INFORMATION:**Background**

On January 14, 2025, Commerce published in the **Federal Register** the initiation notice of the CVD investigation on ceramic abrasive grains from China.¹ In the *Initiation Notice*, Commerce inadvertently made a typographical error with respect to one of the relevant HTSUS subheadings in the appendix, “Scope of the Investigation.”

Correction

In the **Federal Register** of January 14, 2025, in FR Doc. 2025–00545,² on page 3178, in the third column, correct the first HTSUS referenced in the fifth paragraph of the section “Appendix Scope of the Investigation” as follows:

The merchandise subject to this investigation is properly classified under subheadings 2818.10.2010 and 2818.10.2090 of the Harmonized Tariff Schedule of the United States (HTSUS). Other merchandise subject to the current scope, including when incorporated into the abovementioned downstream articles, may be classified under HTSUS subheadings 2818.10.1000, 2818.20.0000, 2818.30.0000, 3824.99.1100, 3824.99.1900, 6805.10.0000, 6805.20.0000, 6805.30.1000, 6805.30.5000, 6804.22.1000, 6804.22.4000, 6804.22.6000, 8204.12.0000, 8474.90.0010, 8474.90.0020, 8474.90.0050, and 8474.90.0090. Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

For a full description of the scope of this investigation, revised to reflect the correction specified above, *see* the appendix to this notice.

Notice to Interested Parties

This notice is issued and published in accordance with sections 702 and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.203(c).

¹ *See Sol Gel Alumina-Based Ceramic Abrasive Grains from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 90 FR 3175 (January 14, 2025) (*Initiation Notice*).

² *Id.*

Dated: January 16, 2025.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix**Scope of the Investigation**

The merchandise covered by this investigation is sol gel alumina-based ceramic abrasive grains which are comprised of minimum 94% aluminum oxide (Al₂O₃), and may contain other compounds, including, but not limited to, titanium dioxide, silicon dioxide, calcium oxide, sodium superoxide, ferric oxide, magnesium oxide, di-aluminum magnesium tetroxide, lanthanum oxide, lanthanum magnesium oxide, zirconium dioxide, or zirconium carbonate. Grain sizes of sol gel alumina-based ceramic abrasive grains range from 0.85 mm to 0.0395 mm (which corresponds to American National Standards Institute (ANSI) grit sizes from 20 to 280).

Shapes include but are not limited to angular, sharp, extra sharp, blocky, splintery, round stripped, triangular or shaped like extruded rods or stars.

Ceramic abrasive grains have unique crystalline structures that impart certain advanced properties, such as their extreme hardness and strength ranging between 16 and 22 gigapascals by the Vickers Diamond Indent Method, high melting point (2050 °C), and a single- or multi-phase microstructure, which may contain multiple phases, having crystalline sizes ranging from 0.05 to 30 μm. These ceramic abrasive grains include but are not limited to blue, white, white-translucent, or off-white opaque colors.

Sol gel alumina-based ceramic abrasive grains are covered by the scope of this investigation, whether or not incorporated into downstream articles, including but not limited to, abrasive papers, grinding wheels, grinding cylinders, and grinding discs. When incorporated into downstream articles, only the sol gel alumina-based ceramic abrasive grains component of such articles is covered by the product scope, and not the downstream product as a whole.

The merchandise subject to this investigation is properly classified under subheadings 2818.10.2010 and 2818.10.2090 of the Harmonized Tariff Schedule of the United States (HTSUS). Other merchandise subject to the current scope, including when incorporated into the abovementioned downstream articles, may be classified under HTSUS subheadings 2818.10.1000, 2818.20.0000, 2818.30.0000, 3824.99.1100, 3824.99.1900, 6805.10.0000, 6805.20.0000, 6805.30.1000, 6805.30.5000, 6804.22.1000, 6804.22.4000, 6804.22.6000, 8204.12.0000, 8474.90.0010, 8474.90.0020, 8474.90.0050, and 8474.90.0090. Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

[FR Doc. 2025–01495 Filed 1–21–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE517]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Trident Seafoods Bunkhouse Dock Replacement Project, Kodiak, Alaska

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: NMFS has received a request from Trident Seafoods Corporation (Trident) for the re-issuance of a previously issued incidental harassment authorization (IHA) with the only change being effective dates. The initial IHA authorized take of six species of marine mammals, by Level B harassment only, incidental to construction associated with the Bunkhouse Dock replacement project in Kodiak, Alaska. The project has been delayed and none of the work covered in the initial IHA has been conducted. The scope of the activities and anticipated effects remain the same, authorized take numbers are not changed, and the required mitigation, monitoring, and reporting remains the same as included in the initial IHA. NMFS is, therefore, issuing a second identical IHA to cover the incidental take analyzed and authorized in the initial IHA.

DATES: The initial IHA was effective from March 1, 2024, through February 28, 2025. Trident has requested re-issuance with new effective dates of March 1, 2025, through February 28, 2026.

ADDRESSES: An electronic copy of the final 2024 IHA previously issued to Trident, Trident's application, and the **Federal Register** notices proposing and issuing the initial IHA may be obtained by visiting <https://www.fisheries.noaa.gov/action/incidental-take-authorization-trident-seafoods-corporation-bunkhouse-dock-replacement>. In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Rachel Wachtendonk, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:**Background**

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act (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 authorization for incidental takings 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 March 12, 2024, NMFS published final notice of our issuance of an IHA authorizing take of marine mammals incidental to the Bunkhouse Dock replacement project in Kodiak, Alaska (89 FR 17820). The effective dates of that IHA were March 1, 2024, through February 28, 2025. On November 6, 2024, Trident informed NMFS that the project was delayed. None of the work identified in the initial IHA (*e.g.*, pile driving and removal) has occurred. Trident submitted a request that we

reissue an identical IHA that would be effective from March 1, 2025, through February 28, 2026, in order to conduct the construction work that was analyzed and authorized through the previously issued IHA. Therefore, re-issuance of the IHA is appropriate.

Summary of Specified Activity and Anticipated Impacts

The planned activities (including mitigation, monitoring, and reporting), authorized incidental take, and anticipated impacts on the affected stocks are the same as those analyzed and authorized through the previously issued IHA.

The purpose of Trident's construction project is to remove the degraded dock and replace it with a new structure to provide safe housing and waterfront infrastructure for seafood processing. The location, timing, and nature of the activities, including the types of equipment planned for use, are within scope of those described in the initial IHA. The mitigation and monitoring are also as prescribed in the initial IHA.

Species that are expected to be taken by the planned activity include humpback whale (*Megaptera novaeangliae*), killer whale, (*Orcinus orca*), Dall's porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), Steller sea lion (*Eumetopias jubatus*), and harbor seal (*Phoca vitulina*). A description of the methods and inputs used to estimate take anticipated to occur and, ultimately, the take that was authorized is found in the previous documents referenced above. The data inputs and methods of estimating take are identical to those used in the initial IHA. NMFS has reviewed recent Stock Assessment Reports, information on relevant Unusual Mortality Events, and recent scientific literature, and determined that no new information affects our original analysis of impacts or take estimate under the initial IHA.

We refer to the documents related to the previously issued IHA, which include the **Federal Register** notice of the issuance of the initial 2024 IHA for Trident's construction work (89 FR 17820, March 12, 2024), Trident's application, the **Federal Register** notice of the proposed IHA (88 FR 88874, December 26, 2023), and all associated references and documents.

Determinations

Trident will conduct activities as analyzed in the initial 2024 IHA. As described above, the number of authorized takes of the same species and stocks of marine mammals are identical to the numbers that were found to meet

the negligible impact and small numbers standards and authorized under the initial IHA and no new information has emerged that would change those findings. The re-issued 2025 IHA includes identical required mitigation, monitoring, and reporting measures as the initial IHA, and there is no new information suggesting that our analysis or findings should change.

Based on the information contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; and (4) Trident's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action with respect to environmental consequences on the human environment.

Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review. This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NAO 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act (ESA) of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species, in this case with the NMFS' Alaska Regional Office (AKRO).

NMFS is authorizing take of the Mexico-North Pacific distinct population segment (DPS) of humpback whale, and the western DPS of the Steller sea lion, which are listed as threatened or endangered under the ESA. The NMFS AKRO issued a Biological Opinion under section 7 of the ESA on the issuance of an IHA to Trident under section 101(a)(5)(D) of the MMPA by NMFS OPR. The biological opinion concluded that the action is not likely to jeopardize the continued existence of the listed species.

Authorization

NMFS has issued an IHA to Trident for in-water construction activities associated with the specified activity from March 1, 2025, through February 28, 2026. All previously described mitigation, monitoring, and reporting requirements from the initial 2024 IHA are incorporated.

Dated: January 15, 2025.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2025-01448 Filed 1-21-25; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE619]

Marine Mammals; File No. 28233

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

ACTION: Notice; extension of comment period.

SUMMARY: Notice is hereby given that the National Marine Fisheries Service is extending the public comment period associated with the notice of receipt for an application for a permit to import bottlenose dolphins (*Tursiops truncatus*) submitted by the Clearwater Marine Aquarium.

DATES: The comment period for the notice published on December 20, 2024, at 89 FR 104107, is extended. Written comments must be received on or before March 20, 2025.

ADDRESSES: The application and related documents are available online at <https://www.fisheries.noaa.gov/action/permit-application-import-5-bottlenose-dolphins-file-no-28233-clearwater-marine-aquarium>.

You may submit comments, identified by NOAA-NMFS-2024-0140, by any of the following methods:

- **Electronic Submission:** Submit electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov. To submit comments via the e-Rulemaking Portal, enter NOAA-NMFS-2024-0140 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Comment Now" icon on the right of that line.

- **Mail:** Comments on the application should be addressed to: Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; ATTN: Jolie Harrison, Chief, Permits and Conservation Division.

Instructions: Comments must be submitted by one of the above methods. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division via one of the methods listed above. The request should set forth the specific reasons why a hearing on this amendment would be appropriate.

FOR FURTHER INFORMATION CONTACT:

Jennifer Skidmore or Courtney Smith, Ph.D., (301) 427-8401.

SUPPLEMENTARY INFORMATION:

On December 20, 2024 (89 FR 104107), the National Marine Fisheries Service (NMFS) published notice of a permit application submitted by the Clearwater Marine Aquarium, 249 Windward Passage, Clearwater, FL 33767 (Responsible Party: James Powell, Ph.D.). The applicant is requesting to import up to five adult male bottlenose dolphins from Attica Zoological Park in Athina, Greece, to the Clearwater Marine Aquarium for public display. The requested duration of the permit is five years. In response to a request to extend the public comment period, NMFS is extending the public comment period for an additional 45 days.

Dated: January 15, 2025.

Julia M. Harrison,

*Chief, Permits and Conservation Division,
Office of Protected Resources, National
Marine Fisheries Service.*

[FR Doc. 2025-01407 Filed 1-21-25; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0647-XE616]

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 87 Assessment Webinar VI for Gulf of Mexico White, Pink, and Brown Shrimp.

SUMMARY: The SEDAR 87 assessment process of Gulf of Mexico white, pink, and brown shrimp will consist of a Data Workshop, a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION.**

DATES: The SEDAR 87 Assessment Webinar VI will be held Tuesday, February 11, 2025, from 1 p.m. until 5 p.m., Eastern Time.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571-4366; email: Julie.neer@safmc.net.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop.

The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and State and Federal agencies.

The items of discussion during the Assessment Webinar VI are as follows:

Participants will review the assessment modeling work to date and provide recommendations to the analytic team.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: January 15, 2025.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2025-01405 Filed 1-21-25; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE596]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Empire Wind Offshore Wind Energy Project Offshore of New York

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

ACTION: Notice; modification of letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, its implementing regulations, and NMFS' MMPA Regulations for Taking Marine Mammals Incidental to Construction of the Empire Wind Offshore Wind Project Offshore of New York, notification is hereby given that upon request from Empire Wind, LLC (Empire Wind), NMFS has modified a Letter of Authorization (LOA) issued to Empire Wind for the take of marine mammals incidental to activities associated with construction of the Empire Wind Offshore Wind Energy Project (hereafter known as the "Project") in Federal and State waters offshore New York. Specifically, NMFS has modified the LOA Holder's name as well as mitigation and monitoring measures related to vessel strike avoidance, sound field verification reporting, and requirements for passive acoustic monitoring (PAM). NMFS has also made modifications to additional measures to improve clarify and better align with the Biological Opinion. NMFS has determined that these modifications do not change the findings made for the regulations and does not result in any change in the total estimated number of takes of marine mammals.

DATES: The modified LOA is valid through February 21, 2029.

ADDRESSES: The issued modified LOA may be obtained online at https://www.fisheries.noaa.gov/action/incidental-take-authorization-empire-offshore-wind-llc-construction-empire-wind-project-ew1?check_logged_in=1.

FOR FURTHER INFORMATION CONTACT: Jessica Taylor, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the "take" of marine mammals, with certain

exceptions. 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 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, regulations are promulgated (when applicable), and public notice and an opportunity for public comment are provided.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). If such findings are made, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to as “mitigation”); and requirements pertaining to the monitoring and reporting of such takings.

NMFS promulgated a final rule in the **Federal Register** on February 14, 2024 (89 FR 11342), which governs the incidental take of marine mammals incidental to Empire Wind’s construction of the Project in Federal and State waters offshore New York, specifically within the Bureau of Ocean Energy Management (BOEM) Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS) Lease Area OCS-A-0512 and along two export cable routes to sea-to-shore transition points. The rule became effective on February 22, 2024, and is valid through February 21, 2029. The regulations allow NMFS to approve requests for modification to the LOA’s specified activity or the mitigation, monitoring, or reporting measures if NMFS determines the requested change does not change the findings made for promulgation of the regulations and does not result in more than a minor change in the total estimated number of takes (see 50 CFR 217.287(b)).

NMFS issued a LOA to Empire Wind on February 22, 2024, and published a notice of issuance in the **Federal Register** on February 27, 2023 (89 FR 14442). The LOA authorized Empire Wind to take, by harassment, marine mammals incidental to specified

construction activities, specifically impact pile driving of wind turbine generator and offshore substation jacket foundations, vibratory pile driving of cofferdams and goal posts, pneumatic hammering of casing pipes, and high-resolution geophysical vessel-based site characterization surveys, within the specified geographical region.

Summary of Request and Analysis

On December 4, 2024, NMFS received a request from Empire Wind to transfer the LOA to Empire Leaseholder LLC (Empire Leaseholder), an affiliate wholly owned by Empire Wind. To ensure safety during vessel transit, Empire Wind requested for NMFS to modify the LOA safety exemption language to include a provision for allowing deviations from the vessel strike avoidance requirements (LOA measure 3(b)) so Project vessels could maintain safe maneuvering speed when oceanographic, hydrographic, and/or meteorological conditions restrict vessel maneuverability. Empire Wind also requested revisions to the reporting timeline for bubble curtain performance and maintenance report for piles for which abbreviated sound field verification (SFV) monitoring is performed. These provisions will be more practicable and align with the Project’s Biological Opinion, issued on September 8, 2023. In addition, Empire Wind requested for NMFS to allow the Pile Driving Mitigation and Monitoring Plan (PDMMP) to specify the number and location of PAM operators and to allow the PAM Plan to specify PAM operator protocols during foundation pile driving, instead of these requirements being specified in the LOA. NMFS determined none of these changes will affect the amount, the type of take authorized, or our findings as described in the final rule. Therefore, we have modified the attached LOA, specifically measures 3(b), 3(c)(7)(v), and 4(c)(2), thus fulfilling Empire Wind’s request.

In reviewing Empire Wind’s request, NMFS also recognized the need to update additional measures to improve clarity and better align the LOA with the Biological Opinion. NMFS moved the safety exemption for foundation pile driving to the beginning of the foundation pile driving section (LOA measure 3 (c)) to clarify that this measure applies to all foundation pile driving activities. In addition, NMFS modified the language for the maximum hammer energies ((3)(c)(2)) and soft start requirements ((3)(c)(4)) to provide additional flexibility for application of these requirements in the field. NMFS made minor revisions to the language in

the mitigation and monitoring sections to improve the clarity of the requirements. To better align with the Biological Opinion, NMFS made minor revisions to the language in the sound field verification (SFV) monitoring requirements (LOA measures 3(c)(13)). NMFS also clarified the Protected Species Observer (PSO) and PAM Operator experience qualification requirements in section 4(a) of the LOA for foundation installation, cable landfall construction/marina activities, and high-resolution geophysical (HRG) surveys. NMFS’ evaluation of the requested and necessary additional LOA modifications indicated that these modifications would not change the amount or nature of anticipated impacts of activities on marine mammals. Specifically, none of the benefits of any of the mitigation or monitoring measures that have been modified here were considered quantitatively in the analyses (*i.e.*, only the 10-decibel sound attenuation and seasonal restrictions were quantitatively considered such that take numbers were reduced). In consideration of the above, NMFS has determined that these modifications do not result in changes in the total estimated take numbers or otherwise change any of the findings made for the regulations.

Authorization

NMFS has issued a modified LOA to Empire Wind authorizing the take, by harassment, of small numbers of marine mammals incidental to specified construction activities associated with the Project, which includes the modified mitigation, monitoring, and reporting measures discussed herein.

Dated: January 16, 2025.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2025–01469 Filed 1–21–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE606]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the New London Pier Extension Project at the Naval Submarine Base

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for the re-issuance of a previously issued incidental harassment authorization (IHA) with the only change being effective dates. The initial IHA authorized take of six species of marine mammals, by Level B harassment, and for take of harbor seals, gray seals, and harp seals by Level A harassment, incidental to construction associated with the New London Pier Extension Project at the Naval Submarine Base (SUBASE) New London in Groton, Connecticut. The project has been delayed and none of the work covered in the initial IHA has been conducted. The scope of the activities and anticipated effects remain the same, authorized take numbers are not changed, and the required mitigation, monitoring, and reporting remains the same as included in the initial IHA. NMFS is, therefore, issuing a second identical IHA to cover the incidental take analyzed and authorized in the initial IHA.

DATES: This IHA is effective from February 1, 2026, through January 31, 2027.

ADDRESSES: An electronic copy of the final 2024 IHA previously issued to the Navy, the Navy's application, and the **Federal Register** notices proposing and issuing the initial IHA may be obtained by visiting <https://www.fisheries.noaa.gov/action/incidental-take-authorization-united-states-navys-construction-us-naval-submarine-base-new>. In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Rachel Wachtendonk, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act (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 authorization for incidental takings 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 June 14, 2024, NMFS published final notice of our issuance of an IHA authorizing take of marine mammals incidental to the New London Pier Extension Project at Naval the SUBASE New London in Groton, Connecticut (89 FR 50565). The effective dates of that IHA were December 1, 2024, through November 30, 2025. On November 20, 2024, the Navy informed NMFS that the project was delayed. None of the work identified in the initial IHA (*e.g.*, pile driving and removal) has occurred. The Navy submitted a request that we issue an identical IHA that would be effective from February 1, 2026, through January 31, 2027, in order to conduct the construction work that was analyzed and authorized through the previously issued IHA. Therefore, issuance of the IHA is appropriate.

Summary of Specified Activity and Anticipated Impacts

The planned activities (including mitigation, monitoring, and reporting), authorized incidental take, and anticipated impacts on the affected stocks are the same as those analyzed

and authorized through the previously issued IHA.

The purpose of this project is to extend the existing Pier 31 to provide two berths for a submarine platform that is approximately 80 ft longer than the existing submarines. The location, timing, and nature of the activities, including the types of equipment planned for use, are within scope of those described in the initial IHA. The mitigation and monitoring are also as prescribed in the initial IHA.

Species that are expected to be taken by the planned activity include Atlantic white-sided dolphin (*Lagenorhynchus acutus*), harbor porpoise (*Phocoena phocoena*), gray seal (*Halichoerus grypus*), harbor seal (*Phoca vitulina*), and harp seal (*Pagophilus groenlandicus*). A description of the methods and inputs used to estimate take anticipated to occur and the take that was authorized is found in the **Federal Register** notice of the proposed IHA (89 FR 27717, April 18, 2024). The data inputs and methods of estimating take are identical to those used in the initial IHA. NMFS has reviewed recent Stock Assessment Reports, information on relevant Unusual Mortality Events, and recent scientific literature, and determined that our original analysis of impacts and take estimate under the initial IHA remains valid.

We refer to the documents related to the previously issued IHA, which include the **Federal Register** notice of the issuance of the initial 2024 IHA for the Navy's construction work (89 FR 50565, June 14, 2024), the Navy's application, the **Federal Register** notice of the proposed IHA (89 FR 27717, April 18, 2024), and all associated references and documents.

Determinations

The Navy will conduct activities as analyzed in the initial 2024 IHA. As described above, the number of authorized takes of the same species and stocks of marine mammals are identical to the numbers that were found to meet the negligible impact and small numbers standards and authorized under the initial IHA and no new information has emerged that would change those findings. The new issued IHA includes identical required mitigation, monitoring, and reporting measures as the initial IHA, and there is no new information suggesting that our analysis or findings should change.

Based on the information contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and

their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; and (4) the Navy's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are potentially effected by this action.

National Environmental Policy Act

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental take authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS determined that the issuance of the initial IHA qualified to be categorically excluded from further National

Environmental Policy Act review. NMFS has determined that the application of this categorical exclusion remains appropriate for this reissued IHA.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS determined that formal consultation under section 7 of the ESA is not required for this action.

Authorization

NMFS has issued an IHA to the Navy for in-water construction activities associated with the specified activity

from February 1, 2026, through January 31, 2027. All previously described mitigation, monitoring, and reporting requirements from the initial 2024 IHA are incorporated.

Dated: January 15, 2025.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2025-01389 Filed 1-21-25; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[NTIA-2024-0005]

RIN: RIN 0660-XC065

Impact of L-Band MSS 'Direct-to-Device' Operations on GPS

Correction

In notice document 2024-30760, appearing on pages 105542 through 105553 in the issue of Friday, December 27, 2024, make the following correction:

On page 105552, at the bottom of the page, Figure 1 should appear as below.

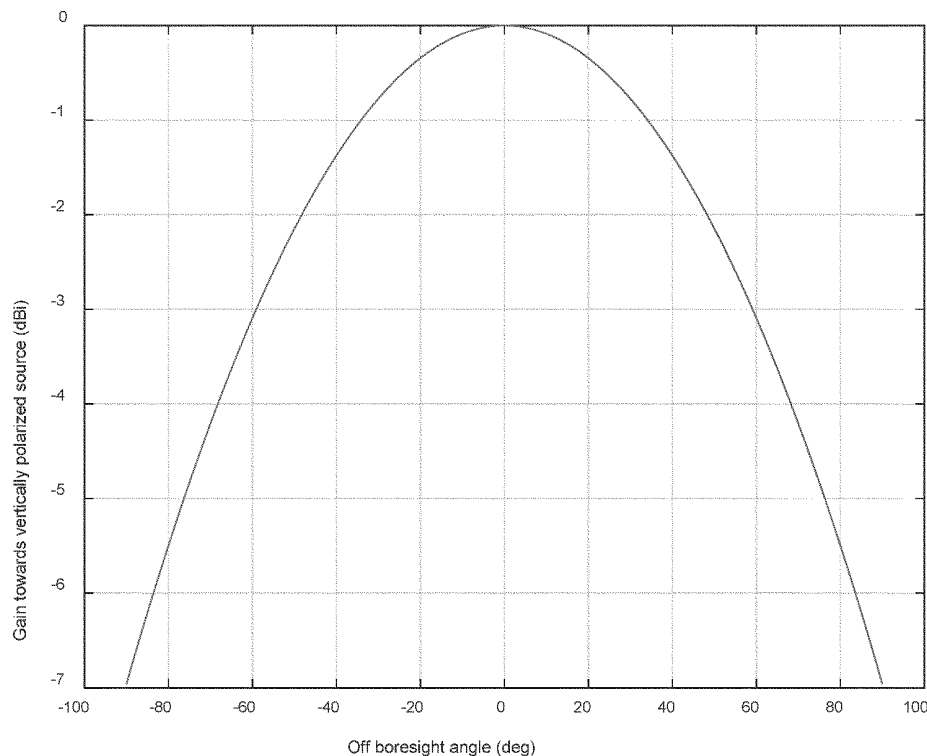


Figure 1. Representative HPR Antenna Gain Pattern Towards Vertically Polarized Source

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Comment Request; National Civilian Community Corps Impact Studies

AGENCY: The Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Corporation for National and Community Service (operating as AmeriCorps) is proposing to reinstate an information collection.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by March 24, 2025.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) Electronically through www.regulations.gov (preferred method).

(2) By mail sent to: AmeriCorps, Attention Melissa Gouge, 250 E Street SW, Washington, DC 20525.

(3) By hand delivery or by courier to the AmeriCorps mailroom at the mail address given in paragraph (2) above, between 9 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

Comments submitted in response to this notice may be made available to the public through regulations.gov. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comment that may be made available to the public, notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Melissa Gouge, 202–606–6736, or by email at mgouge@americorps.gov.

SUPPLEMENTARY INFORMATION:

Title of Collection: AmeriCorps NCCC Impact Studies.

OMB Control Number: 3045–0189.

Type of Review: Reinstatement of previously approved collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 300.

Total Estimated Number of Annual Burden Hours: 190.

Abstract: The purpose of the information collection is to collect data for the previously approved National Civilian Community Corps (NCCC) impact studies. The studies assess the performance of NCCC programs and their impact on members and on the communities served by the program. In particular, the studies investigate three main components of NCCC: (1) the impact of NCCC on developing leaders; (2) the impact of NCCC on strengthening communities; and (3) retention at the different phases of the program, from application to completion.

The previously approved information collection expired on 12/31/2022.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal

agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. All written comments will be available for public inspection on regulations.gov.

Mary Hyde,

Director, Office of Research and Evaluation.

[FR Doc. 2025–01425 Filed 1–21–25; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 24–27]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Pamela Young at (703) 953–6092, pamela.a.young14.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

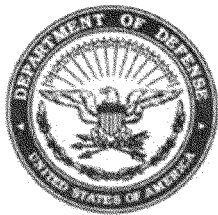
SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 24–27 and Policy Justification.

Dated: January 16, 2025.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001–FR–P



DEFENSE SECURITY COOPERATION AGENCY
 2800 Defense Pentagon
 Washington, DC 20301-2800

March 8, 2024

The Honorable Mike Johnson
 Speaker of the House
 U.S. House of Representatives
 H-209, The Capitol
 Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 24-27, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Republic of Korea for defense articles and services estimated to cost \$350 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

James A. Hursch
 Director

Enclosures:

1. Transmittal
2. Policy Justification

BILLING CODE 6001-FR-C

Transmittal No. 24-27

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Republic of Korea

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$ 6 million
Other	\$344 million
TOTAL	\$350 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Six (6) T-700 GE 401C or 401D Engines

Non-MDE:

Also included are spare engine containers; spare and repair parts; ferry support; publications and technical documentation; personnel training and training equipment; United States (U.S.) Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Navy (KS-P-GST)

(v) *Prior Related Cases, if any:* KS-P-SEL

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* March 8, 2024

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION*Republic of Korea—Engines and Sustainment for MH-60R Multi-Mission Helicopters*

The Republic of Korea (ROK) has requested to buy six (6) T-700 GE 401C or 401D engines. Also included are spare engine containers; spare and repair parts; ferry support; publications and technical documentation; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$350 million.

This proposed sale will support the foreign policy goals and national security objectives of the U.S. by improving the security of a major ally that is a force for political stability and economic progress in the Indo-Pacific region.

The proposed sale will improve the ROK's capability to perform anti-surface and anti-submarine warfare missions along with the capability to perform secondary missions including vertical replenishment, search and rescue, and communications relay. The ROK will use the enhanced capability as a deterrent to regional threats and to strengthen its homeland defense. The

ROK will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be the General Electric Company, located in Lynn, MA. There are no known offset agreements proposed in connection with this potential sale.

Implementation of the proposed sale will require eight U.S. Government and four contractor personnel to visit the ROK on a temporary basis for program technical oversight and support requirements, including program and technical reviews, as well as to provide training and maintenance support in country.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2025-01490 Filed 1-21-25; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Transmittal No. 24-22]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Pamela Young at (703) 953-6092, pamela.a.young14.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

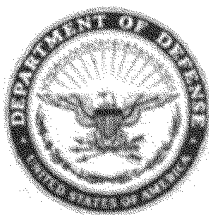
SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 24-22, Policy Justification, and Sensitivity of Technology.

Dated: January 16, 2025.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
2800 DEFENSE PENTAGON
WASHINGTON, DC 20301-2800

February 27, 2024

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 24-22, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Germany for defense articles and services estimated to cost \$281 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

James A. Hursch
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 6001-FR-C

Transmittal No. 24-22

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Germany

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$ 0
Other	\$281 million
TOTAL	\$281 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

None

Non-MDE:

Included are AN/PRC-117 radios; AN/PRC-160 radios; spare and repair parts; support equipment; tools and test equipment; diagnostic equipment; technical data and publications; personnel training and training equipment; United States (U.S.) Government and

contractor technical assistance; technical and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Army (GY-B-XBU, GY-B-XBV, GY-B-XBW, GY-B-XBX)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None
(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress*: February 27, 2024

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Germany—High-Frequency, Very-High Frequency, and Ultra-High Frequency Radios

The Government of Germany has requested to buy AN/PRC-117 radios; AN/PRC-160 radios; spare and repair parts; support equipment; tools and test equipment; diagnostic equipment; technical data and publications; personnel training and training equipment; U.S. Government and contractor technical assistance; technical and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$281 million.

This proposed sale will support the foreign policy and national security of the U.S. by improving the security of a NATO Ally that is an important force for political and economic stability in Europe.

The proposed sale will improve interoperability between Germany and other NATO military forces and will increase secure communications effectiveness to help combat current and future threats. Germany will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be L3Harris Global Communications, Inc., Rochester, NY. There are no known

offset agreements in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of U.S. Government or contractor representatives to Germany.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 24-22

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology*:

1. The AN/PRC-117 and AN/PRC-160 radios and their accessories are used to transmit and receive voice and data information using Type-1 encryption.

2. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Germany can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to Germany.

[FR Doc. 2025-01492 Filed 1-21-25; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 24-25]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Pamela Young at (703) 953-6092, pamela.a.young14.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 24-25, Policy Justification, and Sensitivity of Technology.

Dated: January 16, 2025.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
 2800 Defense Pentagon
 Washington, DC 20301-2800

March 7, 2024

The Honorable Mike Johnson
 Speaker of the House
 U.S. House of Representatives
 H-209, The Capitol
 Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 24-25, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Republic of Korea for defense articles and services estimated to cost \$170.6 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

James A. Hursch
 Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 6001-FR-C

Transmittal No. 24-25

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Republic of Korea

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$ 6.9 million
Other	\$163.7 million
TOTAL	\$170.6 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Five (5) BQM-177A Subsonic Sea-Skimming Aerial Targets (SSAT) for KDX-III Batch-II AEGIS Class Destroyers

Non-MDE:

Also included are GQM-163 target drones; classified books and other publications (technical and non-technical); test support; technical documentation; personnel training;

United States (U.S.) Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Navy (KS-P-GTP)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or*

Defense Services Proposed to be Sold:
See Attached Annex

(viii) *Date Report Delivered to Congress:* March 7, 2024

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Republic of Korea—Subsonic Sea-Skimming Aerial Targets for KDX-III Batch-II AEGIS Class Destroyers

The Republic of Korea has requested to buy five (5) BQM-177A Subsonic Sea-Skimming Aerial Targets (SSAT) for KDX-III Batch-II AEGIS Class Destroyers. Also included are GQM-163 target drones; classified books and other publications (technical and non-technical); test support; technical documentation; personnel training; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$170.6 million.

This proposed sale will support the foreign policy goals and national security objectives of the U.S. by improving the security of a major ally that is a force for political stability and economic progress in the Indo-Pacific region.

The proposed sale will improve the Republic of Korea's capability to meet current and future threats by performing Combat System Ship Qualification Trials (CSSQT) for its new KDX-III Batch-II AEGIS Class Destroyers. The KDX-III Batch-II CSSQT efforts will demonstrate the ship's ability to safely and effectively launch and control weapons, demonstrate proper integrated hardware operation, demonstrate system performance based on key requirements, and provide realistic training for the shipboard anti-air warfare firing teams. The Republic of Korea will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor for the BQM-177A SSAT will be Kratos Defense, Sacramento, CA, and Fort Walton Beach, FL. The principal contractor for the GQM-163A target drones will be Northrop Grumman, Chandler, AZ. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or

contractor representatives to the Republic of Korea.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 24-25

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The BQM-177A Subsonic Sea-Skimming Aerial Target (SSAT) is a subsonic target with capabilities to provide realistic threat representation. This aerial target replicates modern subsonic Anti-Ship Cruise Missile threats in support of fleet training and developmental, and operational testing of major Department of Defense and international weapon systems. The BQM-177A aerial targets support live-fire Test and Evaluation events for AEGIS, SM-6, SM-2, Rolling Airframe Missile (RAM), Evolved Sea Sparrow Missile (ESSM), and fleet training events. The BQM-177A assets for this potential sale will not be physically delivered to the Republic of Korea. They will remain in U.S. Navy (USN) custody and reserved as an allocation to the Republic of Korea until they are required at the USN Pacific Missile Range Facility (PMRF) to support the KDX-III Batch-II AEGIS Class Destroyers' (DDG 995, DDG 996, and DDG 997) Combat System Ship Qualification Trials (CSSQT).

2. The GQM-163A Coyote is a non-recoverable supersonic sea-skimming aerial target capable of speeds in excess of Mach 2.7, cruising altitudes from 13 to 66 feet, high diving speeds at Mach 3.9, and cruising altitudes up to 52,000 feet. This aerial target replicates a family of supersonic sea-skimming anti-ship cruise missile threats to meet critical Test and Evaluation requirements of Ship Self-Defense Systems (SSDS) and fleet training. The GQM-163A aerial target supports live-fire Test and Evaluation events for AEGIS, SM-6, SM-2, RAM, ESSM, and fleet training events. The GQM-163A assets for this potential sale will not be physically delivered to the Republic of Korea. They will remain in USN custody and reserved as an allocation to the Republic of Korea until they are required at the USN PMRF to support the KDX-III Batch-II AEGIS Class Destroyers' (DDG 995, DDG 996 and DDG 997) CSSQT.

3. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

4. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

5. A determination has been made that the Republic of Korea can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

6. All defense articles and services listed in this transmittal have been authorized for release and export to the Republic of Korea.

[FR Doc. 2025-01491 Filed 1-21-25; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 24-32]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Pamela Young at (703) 953-6092, pamela.a.young14.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 24-32 and Policy Justification.

Dated: January 16, 2025.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY

2800 Defense Pentagon
Washington, DC 20301-2800

March 7, 2024

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 24-32, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Canada for defense services estimated to cost \$138 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

James A. Hursch
Director

Enclosures:

1. Transmittal
2. Policy Justification

BILLING CODE 6001-FR-C

Transmittal No. 24-32

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Canada

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$ 0
Other	\$138 million

TOTAL	\$138 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

None

Non-MDE:

Telecommunications services providing Tactical Narrowband Satellite Communications (SATCOM) access to Canadian Armed Forces users over the Mobile User Objective System (MUOS) service; communication technical assistance to provide operational support, lifecycle management support, and engineering technical assistance and services; personnel training and training equipment; United States (U.S.) Government and contractor engineering;

technical and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Air Force (CN-D-DAV)

(v) *Prior Related Cases, if any:* CN-P-FEU, CN-P-FFN

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* March 7, 2024

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Canada—Mobile User Objective System Access

The Government of Canada has requested to buy telecommunications services providing Tactical Narrowband Satellite Communications (SATCOM) access to Canadian armed forces users over the Mobile User Objective System (MUOS) service; communication technical assistance to provide operational support, lifecycle management support, and engineering technical assistance and services; personnel training and training equipment; U.S. Government and contractor engineering; technical and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$138 million.

This proposed sale will support the foreign policy and national security objectives of the U.S. by helping to improve the military capability of Canada, a NATO Ally that is an important force for ensuring political stability and economic progress and a contributor to military, peacekeeping, and humanitarian operations around the world.

The proposed sale will improve Canada's ability to meet current and future threats by providing ultra-high frequency SATCOM access. MUOS access will increase Canada's capacity to conduct operations in concert with U.S. forces for the defense of North America. Enhanced functionality in northern latitudes is integral to meeting Canada's North American Aerospace Defense Command missions and makes MUOS particularly beneficial to continental air defense collaboration. Canada will have no difficulty absorbing these services into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be General Dynamics, Reston, VA. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Canada.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2025-01489 Filed 1-21-25; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 24-17]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Pamela Young at (703) 953-6092, pamela.a.young14.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 24-17, Policy Justification, and Sensitivity of Technology.

Dated: January 16, 2025.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY

2800 Defense Pentagon
Washington, DC 20301-2800

March 8, 2024

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 24-17, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of North Macedonia for defense articles and services estimated to cost \$111 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

James A. Hursch
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 6001-FR-C

Transmittal No. 24-17

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of North Macedonia

(ii) *Total Estimated Value:*

Major Defense Equipment * \$ 45.6 million

Other \$ 65.4 million

TOTAL \$111.0 million

Funding Source: National Funds and Foreign Military Financing

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Foreign Military Sales case MK-B-UCC was below congressional notification

threshold at \$78.54 million (\$23.16 million in MDE) and included a total of seventy-one Joint Light Tactical Vehicles (JLTV), consisting of forty-eight (48) M1278A1/A2 JLTV Heavy Gun Carriers (HGC); seventeen (17) M1280A1/A2 JLTV General Purpose (GP); and six (6) M1281A1/A2 JLTV Close Combat Weapons Carriers (CCWC). The Government of North

Macedonia has requested that the case be amended to include an additional eighteen (18) M1278A1/A2 JLTV HGC and seven (7) M1280A1/A2 JLTV GP. This amendment will cause the case to exceed the notification threshold, and thus notification of the entire program is required. The above notification requirements are combined as follows:

Major Defense Equipment (MDE):

Sixty-six (66) M1278A1/A2 JLTV HGC
Twenty-four (24) M1280A1/A2 JLTV GP

Six (6) M1281A1/A2 JLTV CCWC

Non-MDE:

Also included are Common Remotely Operated Weapon Stations (CROWS); CROWS spare parts; CROWS Basic Issue Items (BII)—Boresight Kit Components; CROWS packaging and handling; CROWS installation and training; M2A1 machine guns with support equipment; MK19 Mod III with support equipment; M240B machine guns with support equipment; MK93 weapon mount; Driver's Vision Enhancer (DVE); Maintenance Tool Set Toughbook Laptops; high frequency radios; communications equipment; Defense Advanced Global Positioning System Receivers (DAGR) with Selective Availability Anti-Spoofing Modules (SAASM) and support equipment; JLTV kits; Vehicle Integration kits; LCD 4.0; spare and repair parts; Supplemental Common Tool Kit (SCTK); Special Tools and Test Equipment (STTE); Objective Gunner Protection Kit (OGPK); Javelin Integration Bracket Kit; turret rings and hatches; technical manuals and publications; New Equipment Training (NET); United States (U.S.) Government and contractor technical engineering, logistics, and personnel services; JLTV Field Service Representative support; JLTV integration support, and other related elements of logistics and program support.

(iv) *Military Department:* Army (MK-B-UCC)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* March 8, 2024

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

North Macedonia—Joint Light Tactical Vehicles

The Government of North Macedonia has requested to buy an additional eighteen (18) M1278A1/A2 Joint Light Tactical Vehicle (JLTV) Heavy Gun Carriers (HGC); and seven (7) M1280A1/A2 Joint Light Tactical Vehicle (JLTV) General Purpose (GP) that will be added to a previously implemented case whose value was under the congressional notification threshold. The original Foreign Military Sales (FMS) case, valued at \$78.54 million (\$23.16 million in MDE), included a total of seventy-one (71) JLTVs, consisting of forty-eight (48) M1278A1/A2 JLTVs HGC; seventeen (17) M1280A1/A2 JLTVs GP; and six (6) M1281A1/A2 JLTVs Close Combat Weapons Carrier (CCWC). This notification is for a combined total of sixty-six (66) M1278A1/A2 JLTV HGC; twenty-four (24) M1280A1/A2 JLTV GP; and six (6) M1281A1/A2 JLTV CCWC. Also included are Common Remotely Operated Weapon Stations (CROWS); CROWS spare parts; CROWS Basic Issue Items (BII)—Boresight Kit Components; CROWS packaging and handling; CROWS installation and training; M2A1 machine guns with support equipment; MK19 Mod III with support equipment; M240B machine guns with support equipment; MK93 weapon mount; Driver's Visor Enhancer (DVE); Maintenance Tool Set Toughbook Laptops; high frequency radios; communications equipment; Defense Advanced Global Positioning System Receivers (DAGR) with Selective Availability Anti-Spoofing Modules (SAASM) and support equipment; JLTV kits; Vehicle Integration kits; LCD 4.0; spare and repair parts; Supplemental Common Tool Kit (SCTK); Special Tools and Test Equipment (STTE); Objective Gunner Protection Kit (OGPK); Javelin Integration Bracket Kit; turret rings and hatches; technical manuals and publications; New Equipment Training (NET); U.S. Government and contractor technical engineering, logistics, and personnel services; JLTV Field Service Representative support; JLTV integration support, and other related elements of logistics and program support. The estimated total cost is \$111 million.

This proposed sale will support the foreign policy and national security of the U.S. by improving the security of a NATO Ally that is an important force for political and economic stability in Europe.

The proposed sale will enhance North Macedonia's capability to meet current and future threats by providing a

credible force that is capable of deterring adversaries and participating in NATO operations. The proposed sale will support its goal of improving national and territorial defense as well as interoperability with U.S. and NATO forces. North Macedonia will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be Oshkosh Defense, Oshkosh, WI; AM General, Auburn Hills, MI; Leonardo DRS, West Plains, MO, and L3Harris, Melbourne, FL. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require temporary duty travel of three to five U.S. Government representatives to North Macedonia for a duration of up to five years. Implementation of this proposed sale will require contractor representatives for support equipment fielding and training.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 24–17

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Joint Light Tactical Vehicle (JLTV) program is a light tactical vehicle designed to replace the U.S. military's aging High Mobility Multipurpose Wheeled Vehicle fleet. It was designed to close the existing gap in payload, performance, and protection with our adversaries during multi-domain operations. It is an optimal choice for a spectrum of light tactical vehicle missions anywhere in the world. All JLTV mission variants include a strong balance of protection, maneuverability, speed, reliability, and combat service support capability that far surpasses any similar vehicle in its weight class today.

2. The JLTV is designed to be a system of systems. The JLTV uses a modular design that allows it to integrate with various material and equipment used by U.S. forces in tactical operations.

3. The JLTV has inherent armor built into the base vehicle. It is what the U.S. Government calls A-Kit armor. This A-Kit inherent armor provides both opaque and transparent armor solutions to provide a 360-degree azimuthal (*i.e.*, all around) protection that includes an elevated fire level of protection from a

spectrum of kinetic energy and small arms fire threats. The JLTV also has other survivability enhancements, notably automatic fire extinguishing protection and structural rollover protection of 150 percent of the vehicle's Ground Vehicle Weight Rating.

4. The AN/VAS-5 Driver's Vision Enhancer is compact thermal camera providing armored vehicle drivers with day or nighttime visual awareness in clear or reduced vision (fog, smoke, dust) situations. The system provides the driver a 180-degree viewing angle using a high-resolution infrared sensor and image stabilization to reduce the effect of shock and vibration. The viewer and monitor are ruggedized for operation in tactical environments.

5. The Common Remote Operated Weapon Station (CROWS) is an externally mounted weapon mounting and control system that allows the gunner to remain inside the vehicle's protected armor while firing a variety of crew-served weapons. The CROWS provides remote day and night sighting and ballistic control capacity, enabling first-burst engagement of targets at maximum effective weapon range while on the move.

6. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

7. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

8. A determination has been made that North Macedonia can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

9. All defense articles and services listed in this transmittal are authorized for release and export to the Government of North Macedonia.

[FR Doc. 2025-01493 Filed 1-21-25; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity; Notice of Meeting

AGENCY: National Advisory Committee on Institutional Quality and Integrity (NACIQI or Committee), Office of

Postsecondary Education, U.S. Department of Education.

ACTION: Announcement of an open meeting.

SUMMARY: This notice sets forth the agenda, time, and instructions to access or participate in the February 19–20, 2025 meeting of NACIQI, and provides information to members of the public regarding the meeting, including requesting to make written or oral comments. Committee members will meet in-person while accrediting agency representatives and public attendees will participate virtually.

DATES: The NACIQI meeting will be held on February 19–20, 2025 from 9 a.m. to 5 p.m. eastern standard time.

ADDRESSES: U.S. Department of Education, 400 Maryland Avenue SW, Barnard Auditorium, Washington, DC 20202 [Only NACIQI members and Department of Education staff will participate in the meeting at this address]. There is a possibility that the meeting could shift to a virtual meeting for all participants. If that happens, the published registration link and supporting information described in this notice for public attendees will remain the same.

FOR FURTHER INFORMATION CONTACT:

George Alan Smith, Executive Director/ Designated Federal Official (DFO), NACIQI, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202, telephone: (202) 453-7757, or email: George.Alan.Smith@ed.gov.

SUPPLEMENTARY INFORMATION:

Statutory Authority and Function: NACIQI is established under Section 114 of the Higher Education Act (HEA) (20 U.S.C. 1011c). NACIQI advises the Secretary of Education with respect to:

- The establishment and enforcement of the standards of accrediting agencies or associations under subpart 2, part H, title IV of the HEA, as amended;
- The recognition of specific accrediting agencies or associations;
- The preparation and publication of the list of nationally recognized accrediting agencies and associations;
- The eligibility and certification process for institutions of higher education under Title IV of the HEA, together with recommendations for improvement in such process;
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions; and
- Any other advisory function relating to accreditation and institutional eligibility that the

Secretary of Education may prescribe by regulation.

The notice of this meeting is required under 5 U.S.C. chapter 10 (commonly known as the Federal Advisory Committee Act) and section 114(d)(1)(B) of the HEA of 1965, as amended.

Meeting Agenda

The purpose of the meeting is to conduct a review of compliance reports submitted by the following agencies.

Compliance Reports

1. American Occupational Therapy Association, Accreditation Council for Occupational Therapy Education. Scope of Recognition: The accreditation and preaccreditation of occupational therapy educational programs offering the professional master's degree and occupational therapy doctorate (OTD) degree; the accreditation of occupational therapy assistant programs offering a baccalaureate degree and associate degree; and the accreditation of these programs offered via distance education. Geographic Area of Accrediting Activities: The United States. The compliance report includes findings of noncompliance with certain criteria in 34 Code of Federal Regulations (CFR) part 602 identified in the October 19, 2022, letter from the senior Department official (SDO) following the July 19, 2022, NACIQI meeting. The SDO letter is available under NACIQI meeting date 7/19/2022, at <https://surveys.ope.ed.gov/erecognition/#/public-documents>.

2. Accrediting Council for Pharmacy Education. Scope of Recognition: The accreditation and pre-accreditation of professional degree programs in pharmacy leading to the degree of Doctor of Pharmacy, including those programs offered via distance education. Geographic Area of Accrediting Activities: The United States. The compliance report includes findings of noncompliance with certain criteria in 34 CFR part 602 identified in the November 7, 2022, letter from the SDO following the July 19, 2022, NACIQI meeting. The SDO letter is available under NACIQI meeting date 7/19/2022, at <https://surveys.ope.ed.gov/erecognition/#/public-documents>.

3. Middle States Commission on Secondary Schools. Scope of Recognition: The accreditation of institutions with postsecondary, non-degree granting career and technology programs, to include the accreditation of postsecondary, non-degree granting institutions that offer all or part of their educational programs via distance education modalities. Geographic Area of Accrediting Activities: The United

States. The compliance report includes findings of noncompliance with certain criteria in 34 CFR part 602 identified in the October 19, 2022, letter from the SDO following the July 19, 2022, NACIQI meeting. The SDO letter is available under NACIQI meeting date 7/19/2022, at <https://surveys.ope.ed.gov/erecognition/#/public-documents>.

4. Southern Association of Colleges and Schools, Commission on Colleges. Scope of Recognition: The accreditation and pre-accreditation ("Candidate for Accreditation") of degree-granting institutions of higher education in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia, including the accreditation of educational programs offered via distance and correspondence education, and direct assessment within these institutions. The accreditation status of these institutions and their recognition extends to the SACSCOC Board of Trustees, Executive Council, and the Appeals Committee of the Collegiate College Delegate Assembly on cases of initial candidacy or initial accreditation and for continued accreditation or candidacy. The compliance report includes findings of noncompliance with certain criteria in 34 CFR part 602 identified in the November 7, 2022, letter from the SDO following the July 19, 2022, NACIQI meeting. The SDO letter is available under NACIQI meeting date 7/19/2022, at <https://surveys.ope.ed.gov/erecognition/#/public-documents>.

To ensure sufficient time for all agency reviews, including NACIQI questions and discussion, the Department requests that the agencies limit their opening statements to 10 minutes (total for one or more statements), and that the agencies avoid extended discussions about agency representatives and their backgrounds. Following the brief opening statement, the agency's presentation should focus on the regulatory criteria, and in particular, responses to areas where the staff has recommended a finding of noncompliance or substantial compliance, or where other concerns have been raised that the agency would like to address. However, the agency should expect that questions from NACIQI members may focus on other areas.

Policy Discussion

In addition to its review of accrediting agencies and State approval agencies for Secretarial recognition, there will be time for Committee discussions regarding any of the categories within

NACIQI's statutory authority in its capacity as an advisory committee.

Instructions for Accessing the Meeting

Registration

Committee members will meet in-person while agency representatives and public attendees will participate virtually.

You may register for the meeting on your computer using the link below. After you register, you will receive a confirmation email containing personalized participation links for each day of the two-day meeting no later than 8 a.m. eastern standard time on February 19, 2025.

Registration Link

<https://events.zoomgov.com/ev/AkUnUrmMegceMmqd0BBbIHADGCqw5xwkYhy7XdPs2bDUwoDZXDJx-AgNwP68fGGyDttDmaZQKfk65rLXCitGkp4r-TJkFVvAEgODt55SEmBafYw>

Public Comment

Submission of requests to make an oral comment regarding a specific accrediting agency under review, or to make an oral comment or written statement regarding other issues within the scope of NACIQI's authority:

Opportunity to submit a written statement regarding a specific accrediting agency under review was solicited by a previous **Federal Register** notice published on November 6, 2023 (88 FR 76194; Document Number 2023–24434). The period for submission of such statements is now closed.

Additional written statements regarding a specific accrediting agency or state approval agency under review will not be accepted at this time. However, members of the public may submit written statements regarding other issues within the scope of NACIQI's authority, as outlined under section 114 of the HEA (20 U.S.C. 1011c).

Members of the public may make oral comments regarding a specific accrediting agency under review and/or other issues within the scope of NACIQI's authority. Oral comments may not exceed three minutes. Oral comments about an agency's recognition when a compliance report has been required by the SDO or the Secretary must relate to the criteria for recognition cited in the SDO's letter that requested the report, or in the Secretary's appeal decision, if any. Oral comments about an agency seeking expansion of scope must be directed to the agency's ability to serve as a recognized accrediting agency with respect to the kinds of institutions or programs requested to be

added. Oral comments about the renewal of an agency's recognition must relate to its compliance with the criteria for the Recognition of Accrediting Agencies, which are available at <https://www.ed.gov/admins/finaid/accred/index.html>.

Instructions on Requesting To Make Public Comment

To request to make oral comments of three minutes or less during the February 19–20, 2025 meeting, please follow either Method One or Method Two below. To submit a written statement to NACIQI concerning its work outside a specific accrediting agency under review, please follow Method One.

Method One: Submit an email to the ThirdPartyComments@ed.gov mailbox. Please do not send material directly to NACIQI members. In order to be considered for the current cycle review, written statements and requests to make oral comment must be received by February 12, 2025 and include the subject line "Oral Comment Request: (agency name)," "Oral Comment Request: (subject)" or "Written Statement: (subject)." The email must include the name(s), title, organization/affiliation, mailing address, email address, and telephone number, of the person(s) submitting a written statement or requesting to speak. All individuals submitting an advance request in accordance with this notice will be afforded an opportunity to speak.

Method Two (Only available to those seeking to make oral comments): Submit a request by email on February 19, 2025, between 7:45 a.m.–8:45 a.m. eastern standard time to the ThirdPartyComments@ed.gov mailbox. The email must include the subject on which the requestor wishes to comment, in addition to his or her name, title, organization/affiliation, mailing address, email address, and telephone number. If you intend to make your comments by dialing into the meeting rather than using a computer, please be sure to include that information in your email request. A total of up to fifteen minutes for each agenda item will be allotted for oral commenters who register on February 19, 2025 between 7:45 a.m. and 8:45 a.m. eastern standard time. Individuals will be selected on a first-come, first-served basis. If selected, each commenter may not exceed three minutes.

Access to Records of the Meeting: The Department will post the official report of the meeting on the NACIQI website <https://sites.ed.gov/naciqi/archive-of-meetings/> within 90 days after the meeting. In addition, pursuant to 5

U.S.C. 1009, the public may request to inspect records of the meeting at 400 Maryland Avenue SW, Washington, DC, by emailing aslrecordsmanager@ed.gov or by calling (202) 453-7415 to schedule an appointment. The SDO's (as defined in 34 CFR 602.3) decisions, pursuant to 34 CFR 602.36, associated with all NACIQI meetings can be found at the following website: <https://surveys.ope.ed.gov/erecognition/#/public-documents>.

Reasonable Accommodations: The dial-in information and weblink access to the meeting are accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You also may access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Section 114 of the HEA of 1964, as amended (20 U.S.C. 1011c).

Nasser Paydar,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 2025-01459 Filed 1-21-25; 8:45 am]

BILLING CODE 4000-01-P

ELECTION ASSISTANCE COMMISSION

Notice; Request for Comment; Correction

AGENCY: Election Assistance Commission.

ACTION: Notice; correction.

SUMMARY: The U.S. Election Assistance Commission published a document in the **Federal Register** on December 16, 2024 regarding the U.S. Election Assistance Commission proposed information collection in the National Mail Voter Registration Form. The notice contained an incorrect subject heading.

FOR FURTHER INFORMATION CONTACT: Raymond Williams at 202-924-0794, or email research@eac.gov; U.S. Election Assistance Commission, 633 3rd Street NW, Suite 200, Washington, DC 20001.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of December 16, 2024 in FR Doc. 2024-29679, at 89 FR 101596 in the third column, correct the SUBJECT HEADING to read:

Agency Information Collection Activities: National Mail Voter Registration Form

Camden Kelliher,

General Counsel, U.S. Election Assistance Commission.

[FR Doc. 2025-01455 Filed 1-21-25; 8:45 am]

BILLING CODE 4810-71-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, February 20, 2025; 5:30-7p.m. CST.

ADDRESSES: West Kentucky Community and Technical College, Emerging Technology Center, Room 215, 5100 Alben Barkley Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Robert "Buz" Smith, Federal Coordinator, by Phone: (270) 441-6821 or Email: Robert.Smith@pppo.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to provide advice and recommendations concerning the following EM site-specific issues: clean-up activities and environmental restoration; waste and nuclear materials management and disposition; excess

facilities; future land use and long-term stewardship. The Board may also be asked to provide advice and recommendations on any EM program components.

Tentative Agenda:

- Administrative Activities
- Public Comment Period

Public Participation: The meeting is open to the public. The EM SSAB, Paducah will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Robert "Buz" Smith in advance of the meeting. The Department of Energy will hear oral public comments during the meeting. A 15-minute public comment period will take place at the end of the agenda. Individual oral comments are to be limited to two minutes per speaker to ensure time for all who wish to speak. Written statements may be filed either before or after the meeting. Written comments submitted by 5 p.m. CST on Friday, February 28, 2025, will be included in the minutes. Please submit written comments to Zachery Boyarski at Zachary.Boyarski@pppo.gov with "Public Comment" in the subject line. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: Minutes will be available by writing or calling Eric Roberts, Board Support Manager, Emerging Technology Center, Room 221, 4810 Alben Barkley Drive, Paducah, KY 42001; Phone: (270) 554-3004. Minutes will also be available at the following website: <https://www.energy.gov/pppo/pgdp-cab/listings/meeting-materials>.

Signing Authority: This document of the Department of Energy was signed on January 15, 2025, by David Borak, Committee Management Officer, 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 January 15, 2025.

Jennifer Hartzell,

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

[FR Doc. 2025-01416 Filed 1-21-25; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Notice of Availability: Draft Energy Storage Strategy and Roadmap; Extension of Public Comment Period

AGENCY: Department of Energy (DOE).

ACTION: Notice of availability (NOA); extension of public comment period.

SUMMARY: On December 20, 2024, the Department of Energy (DOE) published a notice entitled "Notice of Availability: Draft Energy Storage Strategy and Roadmap." DOE is extending the public comment period announced in that notice, which currently closes on February 3, 2025, by 45 days. The comment period will now remain open until March 20, 2025, to allow additional time for the public to review and comment on the Draft DOE Energy Storage Strategy and Roadmap.

DATES: The comment period for the NOA published on December 20, 2024 (89 FR 104129) is extended. DOE will accept comments responding to this NOA submitted on or before March 20, 2025, 11:59 p.m. eastern time (ET).

ADDRESSES: Interested parties may submit comments electronically to esgc@hq.doe.gov, with the subject line "Energy Storage SRM—Comments". Only electronic responses will be accepted. DOE will not accept hand-delivered submissions.

Requirements for Submissions: To be assured of consideration, submit any written comments by the deadline. All submissions must be in English. Responses must be provided as a Microsoft Word (.doc) or (.docx) attachment to the email with no more than 10 pages in length. Comments submitted should be machine-readable and should not be copy-protected. Comments must include the following responder information: company/institution name (if applicable); company/institution/individual contact name; contact's address, phone number, and email address; and a self-identified respondent category (see **SUPPLEMENTARY INFORMATION** section). This information may be used if there are issues or questions with the comment submission. DOE may not consider submissions that you do not make in accordance with these instructions.

Response Guidance: To facilitate comment submission, DOE is providing a comment template at <https://www.energy.gov/oe/draft-energy-storage-strategy-and-roadmap-stakeholder-comment>. Use of this template is not required; however, any comments provided must reference the relevant page and line number in the Draft DOE Energy Storage Strategy and Roadmap. If a comment addresses a table or figure, that cross-reference should be provided. To assist DOE's review of submitted comments, for each comment, please indicate a comment type from the following list: editorial; technical; reference; or other. See the provided template for guidance on each comment type.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information may be submitted electronically to Caitlin Callaghan at esgc@hq.doe.gov, or at (202) 586-1411. Please direct media inquiries to DOE Office of Public Affairs, (202) 586-4940 or DOENews@hq.doe.gov.

SUPPLEMENTARY INFORMATION: DOE is seeking general feedback on the Draft DOE Energy Storage Strategy and Roadmap (Energy Storage SRM) as part of its process to update the Energy Storage Grand Challenge 2020 Roadmap. The Draft Energy Storage SRM can be found here: <https://www.energy.gov/oe/draft-energy-storage-strategy-and-roadmap-stakeholder-comment>. Additional information is available in the original notice (89 FR 104129).

Based on consideration of the current timeline for public comment, including recognition of several Federal holidays, DOE is extending the public comment period announced in 89 FR 104129 by 45 days. Therefore, the public comment period is extended until March 20, 2025.

Signing Authority

This document of the Department of Energy was signed on January 15, 2025, by Gene Rodrigues, Assistant Secretary for the Office of Electricity, 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 January 15, 2025.

Jennifer Hartzell,

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

[FR Doc. 2025-01394 Filed 1-21-25; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5362-021]

Kennebunk Light and Power District; Notice of Intent To Prepare an Environmental Assessment

On March 31, 2021, and supplemented on April 8, 2021, Kennebunk Light and Power District (licensee) filed an application for surrender of its license for the Lower Mousam Hydroelectric Project No. 5362. The project is located on the Mousam River in York County, Maine. The project does not occupy any Federal lands.

The licensee proposes to surrender its license because more cost-effective sources of electricity are available and the project is no longer cost-effective to operate. The licensee proposes to decommission the project by removing all flashboards, disconnecting the leads from the generators, removing all generation and electrical equipment, as well as securing each project development with fencing. The dams would remain in place and no ground disturbing activities are proposed other than fencing.

Commission staff issued a public notice of the application on April 21, 2021, setting May 21, 2021 as the deadline for filing comments, motions to intervene, and protests. The U.S. Department of Commerce, Maine Department of Inland Fisheries and Wildlife, and the U.S. Department of Interior filed timely notices of intervention and comments. Maine Rivers, Mousam and Kennebunk Rivers Alliance, Mousam Rivers Coalition, Maine Department of Marine Resources, and Trout Unlimited filed timely motions to intervene and comments. Additionally, non-profits and numerous private citizens filed comments or protests, including: Maine Audubon Society, National Marine Fisheries Service, the U.S. Fish and Wildlife Service, Maine Audubon Society, and the Wells National Estuarine Research Reserve. Numerous commenters recommend removal of the dams and

oppose surrender of the project as proposed by the licensee (*i.e.*, without dam removal).

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the project.¹ Commission staff plans to issue an EA by April 30, 2025. Revisions to the schedule may be made as appropriate. The EA will be issued for a 30-day comment period. All comments filed on the EA will be reviewed by staff and considered in the Commission's final decision on the proceeding.

With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal to cooperate in the preparation of the EA planned to be issued April 2025. Agencies wishing to cooperate, or further discuss the benefits, responsibilities, and obligations of the cooperating agency role, should contact staff listed at the bottom of this notice by February 5, 2025. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members, and others to access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or *OPP@ferc.gov*.

Any questions regarding this notice may be directed to Diana Shannon at (202) 502-6136 or *diana.shannon@ferc.gov*.

Dated: January 15, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025-01501 Filed 1-21-25; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP25-45-000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on January 7, 2025, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street Suite 1300, Houston, Texas 77002-2700, filed in the above referenced docket, a prior notice request pursuant to sections 18 CFR 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA), and Columbia's blanket certificate issued in Docket No. CP83-76-000, for authorization to plug and abandon one injection/withdrawal well and to abandon connecting pipeline and appurtenant facilities (Victory A Well 4289 Abandonment Project), all located in at the Victory A Storage Field in Wetzel County, West Virginia. The Victory A Well 4289 Abandonment Project is necessary to comply with the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Storage Final Rule, which requires operators to assess and minimize well integrity risks. Well 4289, and the associated facilities are no longer necessary due to their low performance and inability to contribute significantly to the total deliverability of the Victory A Storage Field. Abandoning these facilities will eliminate routine maintenance requirements and the associated costs. The estimated cost of the project is approximately \$862,500, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from

FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

Any questions concerning this request should be directed David A. Alonzo, Manager of Project Authorizations, 700 Louisiana Street Suite 1300, Houston, Texas 77002-2700, (832) 320-5477, or david_alonzo@tcenergy.com.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on March 17, 2025. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or *OPP@ferc.gov*.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,¹ any person² or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's

¹ 18 CFR 157.205.

² Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

¹ In accordance with the Council on Environmental Quality's regulations, the unique identification number for documents relating to this environmental review is EAXX-019-20-000-1728462509. 40 CFR 1501.5(c)(4) (2024).

regulations,³ and must be submitted by the protest deadline, which is March 17, 2025. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁴ and the regulations under the NGA⁵ by the intervention deadline for the project, which is March 17, 2025. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to/intervene.asp>.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before March 17,

2025. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP25–45–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Protest", "Intervention", or "Comment on a Filing"; or⁶

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP25–45–000.

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other method: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or FercOnlineSupport@ferc.gov.

Protests and motions to intervene must be served on the applicant either by mail at: David A. Alonzo, Manager of Project Authorizations, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas, or by email (with a link to the document) at david_alonzo@tcenergy.com. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project

⁶ Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at www.ferc.gov using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

Dated: January 14, 2025.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2025–01431 Filed 1–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP25–24–000]

Texas Eastern Transmission, LP; Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Amendment to the Certificate of Public Convenience and Necessity for the Entriken Amendment Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document, that will discuss the environmental impacts for the Entriken Amendment Project (Amendment Project) involving abandonment of facilities by Texas Eastern Transmission, LP (Texas Eastern) in Huntingdon County, Pennsylvania. This is a proposed amendment to Certificate of Public Convenience and Necessity for the Armagh and Entriken Replacement Project (2023 Order) under docket CP22–486–000, issued on October 23, 2023. The Commission will use this environmental document in its decision-making process.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes

³ 18 CFR 157.205(e).

⁴ 18 CFR 385.214.

⁵ 18 CFR 157.10.

into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as “scoping.” The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission’s NEPA process is described below in the NEPA Process and Environmental Document section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00pm Eastern Time on February 13, 2025. Comments may be submitted in written form. Further details on how to submit comments are provided in the Public Participation section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this project to the Commission before the opening of this docket on December 9, 2024, you would need to file those comments in Docket No. CP25–24–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission’s current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement

agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

Texas Eastern provided landowners with a fact sheet prepared by the FERC entitled “An Interstate Natural Gas Facility On My Land? What Do I Need To Know?” which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission’s proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (www.ferc.gov) under the Natural Gas, Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or FercOnlineSupport@ferc.gov.

(1) You can file your comments electronically using the eComment feature, which is located on the Commission’s website (www.ferc.gov) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is located on the Commission’s website (www.ferc.gov) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on “eRegister.” You will be asked to select the type of filing you are making; a comment on a particular project is considered a “Comment on a Filing”; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP25–24–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be

addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Additionally, the Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

The Commission’s Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202)502–6595 or OPP@ferc.gov.

Summary of the Proposed Project

Under the 2023 Order, the Armagh and Entriaken Replacement Project consisted of the abandonment of pipeline facilities, construction of pipeline facilities, and the abandonment of gas-driven compression facilities to be replaced with electric-motor driven (EMD) facilities. With the Amendment Project, Texas Eastern proposes to modify the certificated facilities at the Entriaken Compressor Station from a 24,000 horsepower (hp) electric-motor driven compressor unit to a 24,306 hp gas-driven compressor unit. The Amendment Project is proposed due to uncertainties regarding obtaining the electrical transmission power needed at the Entriaken Station to support the EMD compressor unit approved in the 2023 Order.

Specifically, the Amendment Project would consist of the following:

- installation of one 24,306-hp Solar Titan 250 Gas Turbine compressor unit;
- abandonment of one 22,000-hp GE Frame 5 gas-driven compressor unit and the associated auxiliary piping and equipment;
- re-use of air-cooled heat exchangers to service the existing Titan 250 Compressor unit (2T);
- installation of 4 bays of new air-cooled heat exchangers to service new Titan 250 gas-driven compressor unit (3T);

- installation of new domestic gas meter and odorizer;
- installation of a new compressor building, office building, and electrical and control building;
- installation of a new recompression building and new battery building;
- minor station piping modifications; and
- installation of other appurtenant facilities.

Land Requirements for Construction

The Amendment Project would be within the workspaces approved in the 2023 Order, on an approximately 55-acre property owned by Texas Eastern and lies within a fenced area encompassing approximately 18 acres. Approximately 28.70 acres of land would be disturbed during construction, including 18.10 acres of land within the existing fence line of the station and 10.60 acres of workspace which would expand the station fence line to encompass the new compressor building and office building.

NEPA Process and the Environmental Document

Any environmental document issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- environmental justice;
- air quality and noise; and
- reliability and safety.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project and make recommendations on how to lessen or avoid impacts on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the EIS will present Commission staff's independent analysis of the issues. If Commission staff prepares an EA, a "Notice of Schedule for the Preparation of an Environmental Assessment" will be issued. The EA may be issued for an allotted public comment period. The

Commission would consider timely comments on the EA before making its decision regarding the proposed project. If Commission staff prepares an EIS, a "Notice of Intent to Prepare an EIS/ Notice of Schedule" will be issued, which will open up an additional comment period. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary¹ and the Commission's natural gas environmental documents web page (<https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents>). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the environmental document.² Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.³ The environmental document for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

¹ For instructions on connecting to eLibrary, refer to the last page of this notice.

² The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at title 40, Code of Federal Regulations (CFR), section 1501.8.

³ The Advisory Council on Historic Preservation's regulations are at 36 CFR part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Environmental Mailing List

The environmental mailing list includes Federal, State, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to GasProjectAddressChange@ferc.gov stating your request. You must include the docket number CP25–24–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments. OR

(2) Return the attached "Mailing List Update Form" (appendix 2).

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at www.ferc.gov using the eLibrary link. Click on the eLibrary link, click on "General Search" and enter the docket number in the "Docket Number" field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at <https://www.ferc.gov/news-events/events> along with other related information.

Dated: January 14, 2025.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2025-01428 Filed 1-21-25; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 349-245]

Alabama Power Company; Notice of Application for Non-Project Use of Project Land and Waters Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

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

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 349-245.

c. *Date Filed:* July 26, 2024.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Martin Dam Hydroelectric Project.

f. *Location:* The Martin Dam Hydroelectric Project is located in Tallapoosa, Elmore, and Coosa counties, Alabama; the proposed docks would be located in Elmore County.

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

h. *Applicant Contact:* Unzell Kelley, Alabama Power Company (205) 517-0885 ukelley@southernco.com.

i. *FERC Contact:* Mary Karwoski, (678) 245-3027, mary.karwoski@ferc.gov.

j. *Cooperating agencies:* With this notice, the Commission is inviting Federal, State, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. See 94 FERC ¶ 61,076 (2001).

k. *Deadline for filing comments, motions to intervene, and protests:* February 14, 2025.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <https://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <https://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P-349-245. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Request:* The licensee requests Commission authorization to permit Harmony Cove, LLC to construct one residential dock which would accommodate 16 watercrafts, as part of the common area of Harmony Cove Subdivision. The licensee previously permitted a ten-slip dock and concrete boat ramp in 2021. The proposal would allow the existing boat ramp and two docks which would accommodate a total of 26 watercraft.

m. *Locations of the Application:* This filing may be viewed on the Commission's website at <https://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. You may also register online at <https://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or email

FERCOnlineSupport@ferc.gov, for TTY, call (202) 502-8659. Agencies may obtain copies of the application directly from the applicant.

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

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

p. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

q. The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Dated: January 15, 2025.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2025-01502 Filed 1-21-25; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Project No. 349–244]****Alabama Power Company; Notice of Application for Non-Project Use of Project Land and Waters Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests**

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

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 349–244.

c. *Date Filed:* July 9, 2024.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Martin Dam Hydroelectric Project.

f. *Location:* The Martin Dam Hydroelectric Project is located in Tallapoosa, Elmore, and Coosa counties, Alabama; the proposed docks would be located in Tallapoosa County.

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

h. *Applicant Contact:* Unzell Kelley, Alabama Power Company, (205) 517–0885, ukelley@southernco.com.

i. *FERC Contact:* Mary Karwoski, (678) 245–3027, mary.karwoski@ferc.gov.

j. *Cooperating agencies:* With this notice, the Commission is inviting Federal, State, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. *Deadline for filing comments, motions to intervene, and protests:* February 14, 2025.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <https://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <https://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866)

208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P–349–244. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Request:* The licensee requests Commission authorization to permit Slate Barganier Holdings, LLC to construct a new floating dock, which would accommodate 8 watercrafts, seven new fixed docks each accommodating 1 watercraft (7 total watercrafts), and to allow the relocation and extension of an existing dock to allow six additional watercrafts (16 total watercrafts). The proposal is part of the common area of The Village Trails North Subdivision Common Area. The licensee previously permitted a concrete seawall and a dock accommodating twelve watercrafts, with the two inward most slips restricted for non-use to meet residential permitting guidelines required by the Shoreline Management Plan. The existing and proposed docks would accommodate a total of 31 watercrafts.

m. *Locations of the Application:* This filing may be viewed on the Commission's website at <https://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. You may also register online at <https://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502–8659. Agencies may

obtain copies of the application directly from the applicant.

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

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

p. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title “COMMENTS”, “PROTEST”, or “MOTION TO INTERVENE” as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

q. The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: January 15, 2025.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2025–01503 Filed 1–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Project No. 2535–130]****Dominion Energy South Carolina, Inc.;
Notice Dismissing Request for
Rehearing**

On October 27, 2023, Dominion Energy South Carolina, Inc. (Dominion Energy), filed a final license application to relicense its Stevens Creek Hydroelectric Project No. 2535. On November 8, 2023, Commission staff issued a notice of application and solicited additional study requests. On December 11, 2023, Augusta-Richmond County, Georgia, filed additional study requests with the Commission. On November 25, 2024, Commission staff issued a letter responding to the additional study requests and explained that no further studies were needed. On December 26, 2024, Augusta-Richmond County filed a request for rehearing of Commission staff's November 25, 2024 letter.

Rule 713(b) of the Commission's Rules of Practice and Procedure permits requests for rehearing "of any final decision or other final order in a proceeding."¹ An order is final, and thus subject to rehearing, only when it imposes an obligation, denies a right, or fixes some legal relationship as a consummation of the administrative process.² The November 24, 2024 Commission staff letter is not a final Commission decision or order on the final license application, which remains pending before the Commission, nor imposes an obligation on the license applicant or any other party.

When the Commission, or its delegate, issues a final order regarding Dominion Energy's license application, Augusta-Richmond County may, at that time, file a request for rehearing. Thus, Commission staff's November 25, 2024 letter is interlocutory and does not fall within the scope of Rule 713. Accordingly, the request for rehearing is dismissed.³

¹ 18 CFR 385.713(b) (2024); *see also* 15 U.S.C. 717r(a) (parties "aggrieved by an order issued by the Commission in a proceeding . . . may apply for a rehearing within thirty days after the issuance of such order").

² *Reliable Automatic Sprinkler Co. v. Consumer Prod. Safety Comm'n*, 324 F.3d 726, 731 (D.C. Cir. 2003) (holding that "final agency action 'mark[s] the consummation of the agency's decision-making process' and is 'one by which rights or obligations have been determined, or from which legal consequences will flow'" (quoting *Bennett v. Spear*, 520 U.S. 154, 178 (1997)).

³ *See, e.g., Exelon Gen Co.*, 131 FERC ¶ 61,166, at PP 15–16 (2010) (denying rehearing of a study plan

This notice constitutes final agency action. Requests for rehearing by the Commission of this notice must be filed within 30 days of the date of issuance of this notice, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. 825l(a), and section 385.713 of the Commission's regulations, 18 CFR 385.713 (2024).

Dated: January 14, 2025.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2025–01430 Filed 1–21–25; 8:45 am]

BILLING CODE 6717–01–P**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****Combined Notice of Filings #1**

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

Docket Numbers: EC25–41–000.

Applicants: Blue Canyon Windpower LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Blue Canyon Windpower LLC.

Filed Date: 1/13/25.

Accession Number: 20250113–5224.

Comment Date: 5 p.m. ET 2/3/25.

Docket Numbers: EC25–42–000.

Applicants: EDPR CA Solar Park LLC, EDPR CA Solar Park II LLC, Sandrini BESS Storage LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of EDPR CA Solar Park LLC, et al.

Filed Date: 1/13/25.

Accession Number: 20250113–5226.

Comment Date: 5 p.m. ET 2/3/25.

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

Docket Numbers: ER15–1883–023; ER10–1852–100; ER10–1890–029; ER10–1951–075; ER10–1962–029; ER19–1076–014; ER11–2160–029; ER11–2192–025; ER19–1073–013; ER11–3635–022; ER11–4462–098; ER11–4677–030; ER11–4678–029;

determination letter, in part, because letter was a procedural decision by Commission staff); *Pub. Util. Dist. No. 1 of Douglas Cnty., Wash.*, 122 FERC ¶ 61,032, at P 7 & n.9 (2008) (dismissing request for rehearing of denial of study request); *Duke Power*, 117 FERC ¶ 61,303, at PP 5–7 (2006) (affirming dismissal as interlocutory of request for rehearing of environmental assessment); *Duke Energy Corp.*, 111 FERC ¶ 61,489, at PP 12–14 (2005) (denying request for rehearing of Secretary's notice dismissing request for rehearing of staff decision not to extend environmental scoping process).

ER12–631–030; ER12–676–024; ER12–2444–028; ER13–1991–034; ER13–1992–034; ER13–2112–024; ER14–1496–001; ER15–1016–022; ER15–1375–023; ER15–1418–023; ER15–2243–020; ER15–2477–022; ER16–90–022; ER16–91–022; ER16–632–022; ER16–2443–019; ER17–196–012; ER17–582–021; ER17–583–021; ER17–804–006; ER17–838–072; ER17–2340–019; ER18–772–014; ER18–807–015; ER18–1978–015; ER19–1392–013; ER20–819–016; ER20–820–015; ER20–2380–011; ER20–2622–009; ER20–2695–014; ER21–1580–011; ER21–2118–010; ER21–2293–010; ER21–2294–012; ER21–2304–011; ER21–2674–008; ER22–96–007; ER22–415–010; ER22–1370–010; ER22–2824–009; ER23–71–004; ER23–147–006; ER23–148–006; ER23–853–004; ER23–854–005; ER23–884–005; ER23–1208–004; ER23–1541–004; ER23–1542–004; ER23–1543–004; ER24–34–005; ER24–61–004; ER24–136–006; ER24–359–004; ER24–817–005; ER24–818–003; ER24–827–003; ER25–67–001; ER25–109–001.

Applicants: Silver State South Storage, LLC, Grace Orchard Solar II, LLC, Grace Orchard Energy Center, LLC, Yellow Pine Solar II, LLC, Babbitt Ranch Energy Center, LLC, Crow Creek Solar, LLC, Sunlight Storage II, LLC, Sky Ranch Solar, LLC, Proxima Solar, LLC, Desert Peak Energy Storage II, LLC, Desert Peak Energy Storage I, LLC, Desert Peak Energy Center, LLC, North Central Valley Energy Storage, LLC, Sonoran Solar Energy, LLC, Storey Energy Center, LLC, Saint Energy Storage II, LLC, Resurgence Solar II, LLC, Resurgence Solar I, LLC, Buena Vista Energy Center, LLC, Yellow Pine Solar, LLC, Sunlight Storage, LLC, Arlington Energy Center III, LLC, Route 66 Solar Energy Center, LLC, Borderlands Wind, LLC, Arlington Solar, LLC, Arlington Energy Center II, LLC, Fish Springs Ranch Solar, LLC, Dodge Flat Solar, LLC, Sky River Wind, LLC, Mohave County Wind Farm LLC, Wilmot Energy Center, LLC, Saint Solar, LLC, Blythe Solar IV, LLC, Blythe Solar III, LLC, High Lonesome Mesa Wind, LLC, Casa Mesa Wind, LLC, Pinal Central Energy Center, LLC, New Mexico Wind, LLC, Golden Hills North Wind, LLC, NextEra Energy Marketing, LLC, Coram California Development, L.P., Whitney Point Solar, LLC, Westside Solar, LLC, Pima Energy Storage System, LLC, NextEra Blythe Solar Energy Center, LLC, Blythe Solar II, LLC, Blythe Solar 110, LLC, Golden Hills Interconnection, LLC, Golden Hills Wind, LLC, Silver State Solar Power South, LLC, Adelanto Solar II, LLC, McCoy Solar, LLC, Shafter Solar, LLC, Mountain View Solar, LLC, Genesis

Solar, LLC, Desert Sunlight 300, LLC, Desert Sunlight 250, LLC, North Sky River Energy, LLC, Perrin Ranch Wind, LLC, Windpower Partners 1993, LLC, Vasco Winds, LLC, NextEra Energy Montezuma II Wind, LLC, NEPM II, LLC, Hatch Solar Energy Center I, LLC, Alta Wind VIII, LLC, Red Mesa Wind, LLC, FPL Energy Montezuma Wind, LLC, Windstar Energy, LLC, High Winds, LLC, NextEra Energy Services Massachusetts, LLC, FPL Energy Green Power Wind, LLC, Florida Power & Light Company, Adelanto Solar, LLC.

Description: Triennial Market Power Analysis for Southwest Region of Adelanto Solar, LLC, et al.

Filed Date: 1/14/25.

Accession Number: 20250114–5192.

Comment Date: 5 p.m. ET 3/17/25.

Docket Numbers: ER19–90–007.

Applicants: Clean Energy Future—Lordstown, LLC.

Description: Compliance filing: Informational Filing Pursuant to Schedule 2 of the PJM OATT to be effective N/A.

Filed Date: 1/15/25.

Accession Number: 20250115–5182.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER19–1216–004.

Applicants: Northwest Ohio Wind, LLC.

Description: Northwest Ohio Wind, LLC submits informational report in advance of a transaction by which a 50% ownership interest in NWOW will be transferred to F8 Renewables NWO Wind, LLC, and Request for Confidential Treatment.

Filed Date: 12/16/24.

Accession Number: 20241216–5325.

Comment Date: 5 p.m. ET 1/24/25.

Docket Numbers: ER22–279–003.

Applicants: PSEG Keys Energy Center LLC.

Description: Compliance filing: Parkway Generation Keys Energy Center LLC submits tariff filing per 35: Informational Filing Pursuant to Schedule 2 of the PJM OATT to be effective N/A.

Filed Date: 1/15/25.

Accession Number: 20250115–5174.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER22–285–003.

Applicants: PSEG Fossil Sewaren Urban Renewal LLC.

Description: Compliance filing: Parkway Generation Sewaren Urban Renewal Entity LLC submits tariff filing per 35: Informational Filing Pursuant to Schedule 2 of the PJM OATT to be effective N/A.

Filed Date: 1/15/25.

Accession Number: 20250115–5180.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER22–294–003.

Applicants: PSEG Fossil LLC.

Description: Compliance filing: Parkway Generation Operating LLC submits tariff filing per 35: Informational Filing Pursuant to Schedule 2 of the PJM OATT to be effective N/A.

Filed Date: 1/15/25.

Accession Number: 20250115–5177.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–824–000; EL24–121–000.

Applicants: Old Dominion Electric Cooperative v. The Potomac Edison Company, FirstEnergy Service Company, and PJM Interconnection, L.L.C., First Energy Service Company, Potomac Edison Company.

Description: Refund Report of First Energy Service Company et al.

Filed Date: 12/23/24.

Accession Number: 20241223–5468.

Comment Date: 5 p.m. ET 1/21/25.

Docket Numbers: ER25–927–000.

Applicants: CenterPoint Energy Houston Electric, LLC.

Description: 205(d) Rate Filing: TFO Tariff Interim Rate Revision to Conform with PUCT to be effective 1/13/2025.

Filed Date: 1/15/25.

Accession Number: 20250115–5000.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–928–000.

Applicants: Pacific Gas and Electric Company.

Description: 205(d) Rate Filing: TO SA 480: LS Power Grid California, LLC IA (Round Mountain) to be effective 12/23/2024.

Filed Date: 1/15/25.

Accession Number: 20250115–5001.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–929–000.

Applicants: Union Electric Company.

Description: 205(d) Rate Filing: 2025–01–15 SA 4431 Ameren Missouri-City of Kirkwood CA to be effective 3/17/2025.

Filed Date: 1/15/25.

Accession Number: 20250115–5050.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–930–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Original GIA Service Agreement SA No. 7459; Project Identifier #AF1–322 to be effective 12/16/2024.

Filed Date: 1/15/25.

Accession Number: 20250115–5051.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–931–000.

Applicants: Pacific Gas and Electric Company.

Description: 205(d) Rate Filing: RS 248: Silicon Valley Power Grizzly Amendment Filing to be effective 3/17/2025.

Filed Date: 1/15/25.

Accession Number: 20250115–5066.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–932–000.

Applicants: American Transmission Systems, Incorporated.

Description: 205(d) Rate Filing: ATSI submits Construction Agreement, SA No. 6628 to be effective 3/17/2025.

Filed Date: 1/15/25.

Accession Number: 20250115–5067.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–933–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 376 to be effective 12/16/2024.

Filed Date: 1/15/25.

Accession Number: 20250115–5088.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–934–000.

Applicants: San Juan Solar 1, LLC.

Description: 205(d) Rate Filing: Filing of Revised Rate Schedule and Request for Waivers to be effective 1/16/2025.

Filed Date: 1/15/25.

Accession Number: 20250115–5095.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–935–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 8 to be effective 3/17/2025.

Filed Date: 1/15/25.

Accession Number: 20250115–5108.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–936–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: 205(d) Rate Filing: Initial Filing of Rate Schedule FERC No. 402 to be effective 12/16/2024.

Filed Date: 1/15/25.

Accession Number: 20250115–5116.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–937–000.

Applicants: Entergy Arkansas, LLC.

Description: 205(d) Rate Filing: MSS–4R Amendments to be effective 3/16/2025.

Filed Date: 1/15/25.

Accession Number: 20250115–5119.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–938–000.

Applicants: Aron Energy Prepay 51 LLC.

Description: Initial Rate Filing: Baseline new to be effective 3/17/2025.

Filed Date: 1/15/25.

Accession Number: 20250115–5148.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–939–000.

Applicants: Aron Energy Prepay 52 LLC.

Description: Initial Rate Filing: Baseline new to be effective 3/17/2025.

Filed Date: 1/15/25.

Accession Number: 20250115–5149.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–940–000.

Applicants: Aron Energy Prepay 53 LLC.

Description: Initial Rate Filing:

Baseline new to be effective 3/17/2025.

Filed Date: 1/15/25.

Accession Number: 20250115–5152.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–941–000.

Applicants: Aron Energy Prepay 54 LLC.

Description: Initial Rate Filing:

Baseline new to be effective 3/17/2025.

Filed Date: 1/15/25.

Accession Number: 20250115–5153.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–943–000.

Applicants: Midcontinent Independent System Operator, Inc., Southwest Power Pool, Inc.

Description: Compliance filing:

Midcontinent Independent System Operator, Inc. submits tariff filing per 35: 2025–01–15 Petition for Waiver of MISO–SPP JOA re: Coordinated System Plan Study to be effective N/A.

Filed Date: 1/15/25.

Accession Number: 20250115–5170.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–944–000.

Applicants: Duke Energy Progress, LLC.

Description: 205(d) Rate Filing: DEP–DEP Surplus Interconnection Service Study Agreement (Warsaw 2) to be effective 1/16/2025.

Filed Date: 1/15/25.

Accession Number: 20250115–5192.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: ER25–945–000.

Applicants: Duke Energy Carolinas, LLC.

Description: 205(d) Rate Filing: DEC–DEC Surplus Interconnection Service Study Agreement (Maidens Creek) to be effective 1/16/2025.

Filed Date: 1/15/25.

Accession Number: 20250115–5194.

Comment Date: 5 p.m. ET 2/5/25.

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, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) 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: <https://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: January 15, 2025.

Carlos D. Clay,

Acting Deputy Secretary.

[FR Doc. 2025–01510 Filed 1–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP25–44–000]

Gulf South Pipeline Company, LLC; Notice of Application and Establishing Intervention Deadline

Take notice that on January 6, 2025, Gulf South Pipeline Company, LLC (Gulf South), 9 Greenway Plaza, Suite 2800, Houston, Texas, 77046, filed an application under section 7(c)(1)(B) of the Natural Gas Act (NGA), and Rule 207(a)(5) requesting an exemption from certificate requirements to drill a stratigraphic test well to determine the feasibility of developing a natural gas storage project in Wharton County, Texas (Project). The Project consists of drilling a single stratigraphic test well to test the salt characteristics of the underlying salt dome formation. The test well is necessary to determine the technical, environmental, and economic feasibility of developing an underground natural gas storage facility, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

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 (<https://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

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

Any questions regarding the proposed project should be directed to J. Kyle Stephens, Vice President, Regulatory Affairs, 9 Greenway Plaza, Suite 2800, Houston, Texas, 77046, by phone at (713) 479–8033, or by email at Kyle.Stephens@bwpipelines.com.

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,¹ within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file comments on the project, you can protest the filing, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on

¹ 18 CFR 157.9.

February 5, 2025. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or *OPP@ferc.gov*.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections, to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be.

Protests

Pursuant to sections 157.10(a)(4)² and 385.211³ of the Commission's regulations under the NGA, any person⁴ may file a protest to the application. Protests must comply with the requirements specified in section 385.2001⁵ of the Commission's regulations. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

To ensure that your comments or protests are timely and properly recorded, please submit your comments on or before February 5, 2025.

There are three methods you can use to submit your comments or protests to the Commission. In all instances, please reference the Project docket number CP25-44-000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments or protests electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide

comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Comment on a Filing"; or

(3) You can file a paper copy of your comments or protests by mailing them to the following address below. Your written comments must reference the Project docket number (CP25-44-000).

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502-8258 or *FercOnlineSupport@ferc.gov*.

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,⁶ has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁷ and the regulations under the NGA⁸ by the intervention deadline for the project, which is February 5,

2025. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp*.

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP25-44-000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Intervention." The eFiling feature includes a document-less intervention option; for more information, visit *https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf*; or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP25-44-000.

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502-8258 or *FercOnlineSupport@ferc.gov*.

Protests and motions to intervene must be served on the applicant either by mail at: J. Kyle Stephens, Vice President, Regulatory Affairs, 9 Greenway Plaza, Suite 2800, Houston, Texas 77046 or by email (with a link to the document) at *Kyle.Stephens@bwpipelines.com*. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service

² 18 CFR 157.10(a)(4).

³ 18 CFR 385.211.

⁴ Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

⁵ 18 CFR 385.2001.

⁶ 18 CFR 385.102(d).

⁷ 18 CFR 385.214.

⁸ 18 CFR 157.10.

can be via email with a link to the document.

All timely, unopposed⁹ motions to intervene are automatically granted by operation of Rule 214(c)(1).¹⁰ Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.¹¹ A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208-FERC, or on the FERC website at www.ferc.gov using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

Intervention Deadline: 5:00 p.m. Eastern Time on February 5, 2025.

Dated: January 15, 2025.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2025-01505 Filed 1-21-25; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IN79-6-000]

FERC Form 580, Interrogatory on Fuel and Energy, Purchase Practices; Notice of Request for Partial Waiver

Take notice that on October 31, 2024, pursuant to Rule 207(a)(5) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure,¹ DTE Electric Company submitted a request for a partial waiver of the requirement to respond to the 2024 FERC Form 580 Interrogatory on Fuel and Energy Purchase Practices, as more fully explained in the request.

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, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the 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 (<https://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

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

The Commission strongly encourages electronic filings of comments, protests

and interventions in lieu of paper using the "eFiling" link at <https://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.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Comment Date: 5:00 p.m. Eastern time on January 22, 2025.

Dated: January 15, 2025.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2025-01504 Filed 1-21-25; 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: PR25-25-000.

Applicants: Columbia Gas of Pennsylvania, Inc.

Description: 284.123 Rate Filing: Revised Statement of Operating Conditions per PAPUC11-21-2024 Order to be effective 12/14/2024.

Filed Date: 1/15/25.

Accession Number: 20250115-5045.

Comment Date: 5 p.m. ET 2/5/25.

Docket Numbers: RP25-353-000.

Applicants: MMGJ Arkansas

Upstream, LLC, Razorback Production, LLC.

Description: Joint Petition for Limited Waiver of Capacity Release Regulations, et al. of MMGJ Arkansas Upstream, LLC et al.

Filed Date: 1/14/25.

Accession Number: 20250114-5191.

Comment Date: 5 p.m. ET 1/27/25.

⁹ The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

¹⁰ 18 CFR 385.214(c)(1).

¹¹ 18 CFR 385.214(b)(3) and (d).

¹ 18 CFR 385.207.

Docket Numbers: RP25–354–000.

Applicants: Guardian Pipeline, L.L.C.

Description: 4(d) Rate Filing: Negotiated Rate PAL Agreements to be effective 1/15/2025.

Filed Date: 1/15/25.

Accession Number: 20250115–5069.

Comment Date: 5 p.m. ET 1/27/25.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) 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: <https://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: January 15, 2025.

Carlos D. Clay,

Acting Deputy Secretary.

[FR Doc. 2025–01511 Filed 1–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP25–12–000]

Rover Pipeline LLC; Supplemental Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Rover-Bulger Compressor Station and Harmon Creek Meter Station Expansion Project

On December 11, 2024, Office of Energy Projects staff issued a “Notice of

Scoping Period Requesting Comments on Environmental Issues for the Rover—Bulger Compressor Station and Harmon Creek Meter Station Expansion Project”. It has come to our attention that some individuals were inadvertently omitted from the mailing list and did not receive the notice. As such, we are issuing a Supplemental Notice of Scoping Period.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document, that will discuss the environmental impacts of the Rover—Bulger Compressor Station and Harmon Creek Meter Station Expansion Project (Project) involving construction and operation of facilities by Rover Pipeline LLC (Rover) in Smith Township, Washington County, Pennsylvania. The Commission will use this environmental document in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the extension of the scoping process the Commission will use to gather input from the public and interested agencies regarding the project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as “scoping.” The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission's NEPA process is described below in the NEPA Process and Environmental Document section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00pm Eastern Time on February 13, 2025. Comments may be submitted in written form. Further details on how to submit comments are provided in the Public Participation section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental

document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this project to the Commission before the opening of this docket on October 31, 2024, you will need to file those comments in Docket No. CP25–12–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

Rover provided landowners with a fact sheet prepared by the FERC entitled “An Interstate Natural Gas Facility On My Land? What Do I Need To Know?” which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (www.ferc.gov) under the Natural Gas, Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or FercOnlineSupport@ferc.gov.

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (www.ferc.gov) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on “eRegister.” You will be asked to select the type of filing you are making; a comment on a particular project is considered a “Comment on a Filing”; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP25–12–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed

to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Additionally, the Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Summary of the Proposed Project

Rover proposes to construct, own, and operate certain facilities at its existing Bulger Compressor Station, located at milepost 0 of Rover's Burgettstown Lateral in Washington County, Pennsylvania. The proposed expansion of the Bulger Compressor Station would consist of the following facilities:

- one new 2,750-horsepower compressor unit package and cooling;
- one discharge filter separator;
- one unit blowdown silencer;
- extension of the existing compressor building and station fencing; and
- associated interconnect piping systems.

The Project also includes expansion of Rover's existing Harmon Creek Receipt Meter Station located within the Bulger Compressor Station. The proposed meter station expansion consist of one ultrasonic meter skid, one flow control skid, one filter separator, and associated interconnect piping. The Project would allow Rover to ensure delivery of Range Resources—Appalachia LLC's (Range) requested transportation quantities at the required pressures. According to Rover, the

Project is designed to provide to an additional 400,000 dekatherms of natural gas per day.

The general location of the project facilities is shown in appendix 1.¹

Land Requirements for Construction

The Project would impact about 8.38 acres of land within and immediately adjacent to Rover's existing Bulger Compressor Station. About 8.05 acres of land would be used for temporary workspace, including 6.62 acres of existing aboveground facilities, 1.09 acres of an existing permanent access road, 0.24 acre of an existing parking area, and 0.10 acre of a temporary access road. Of the 8.38 acres, about 0.33 acre of open space land cover would be permanently impacted due to the extension of the compressor station fence line by 50 feet. Rover would convert the 0.33 acre of open space land cover to gravel to accommodate the addition of the new compressor unit and building.

NEPA Process and the Environmental Document

Any environmental document issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- environmental justice;
- air quality and noise; and
- reliability and safety.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project and make recommendations on how to lessen or avoid impacts on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the

EIS will present Commission staff's independent analysis of the issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/Notice of Schedule* will be issued, which will open up an additional comment period. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary² and the Commission's natural gas environmental documents web page (<https://www.ferc.gov/industries-data/natural-gas/environmental-documents>). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the environmental document.³ Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.⁴

² For instructions on connecting to eLibrary, refer to the last page of this notice.

³ The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at title 40, Code of Federal Regulations (CFR), section 1501.8.

⁴ The Advisory Council on Historic Preservation's regulations are at 36 CFR part 800. Those regulations define historic properties as any prehistoric or historic district, site, building,

¹ The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at www.ferc.gov using the link called "eLibrary". For instructions on connecting to eLibrary, refer to the last page of this notice. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll free, (886) 208-3676 or TTY (202) 502-8659.

The environmental document for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list Federal, State, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission’s regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to GasProjectAddressChange@ferc.gov stating your request. You must include the docket number CP24–88–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached “Mailing List Update Form” (appendix 2).

Additional Information

Additional information about the project is available from the Commission’s Office of External Affairs, at (866) 208–FERC, or on the FERC website at www.ferc.gov using the eLibrary link. Click on the eLibrary link, click on “General Search” and enter the docket number in the “Docket Number” field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission’s calendar located at <https://www.ferc.gov/news-events/events> along with other related information.

Dated: January 14, 2025.
Debbie-Anne A. Reese,
Secretary.
[FR Doc. 2025–01427 Filed 1–21–25; 8:45 am]
BILLING CODE 6717–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

[OMB No. 3064–0025; –0200; –0214]

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995, invites the general public and other Federal agencies to take this opportunity to comment on the request to renew the existing information collections described below (OMB Control No. 3064–0025; –0200 and –0214). The notices of proposed renewal for these

information collections were previously published in the **Federal Register** on November 5, 2024, allowing for a 60-day comment period.

DATES: Comments must be submitted on or before February 21, 2025.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *Agency website:* <https://www.fdic.gov/resources/regulations/federal-register-publications/>.
- *Email:* comments@fdic.gov. Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Regulatory Counsel, MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street NW building (located on F Street NW), on business days between 7 a.m. and 5 p.m.

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: Manny Cabeza, Regulatory Counsel, 202–898–3767, mcabeza@fdic.gov, MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collection of information:

1. *Title:* Application for Consent to Exercise Trust Powers.
OMB Number: 3064–0025.
Form Number: 6200/09.
Affected Public: Insured State nonmember banks wishing to exercise trust powers.
Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN (OMB No. 3064–0025)

Information collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Average time per response (HH:MM)	Annual burden (hours)
1. Application for Consent to Exercise Trust Powers—Eligible Depository Institutions 12 CFR 303.242 (Mandatory).	Reporting (On Occa- sion).	3	1	08:00	24

structure, or object included in or eligible for inclusion in the National Register of Historic Places.

SUMMARY OF ESTIMATED ANNUAL BURDEN (OMB NO. 3064–0025)—Continued

Information collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Average time per response (HH:MM)	Annual burden (hours)
2. Application for Consent to Exercise Trust Powers—Not-Eligible Depository Institutions, 12 CFR 303.242 (Mandatory).	Reporting (On Occasion).	1	1	24:00	24
Total Annual Burden (Hours) .....	.....	.....	.....	.....	48

Source: FDIC.

General Description of Collection: FDIC regulations (12 CFR 333.2) prohibit any insured State nonmember bank from changing the general character of its business without the prior written consent of the FDIC. The exercise of trust powers by a bank is usually considered a change in the general character of a bank's business if the bank did not exercise those powers previously. Therefore, unless a bank is currently exercising trust powers, it must file a formal application to obtain

the FDIC's written consent to exercise trust powers. State banking authorities, not the FDIC, grant trust powers to their banks. The FDIC merely consents to the exercise of such powers. Applicants use form FDIC 6200/09 to obtain the FDIC's consent. There is no change in the methodology or substance of this information collection. The decrease in total estimated annual burden from 72 hours in 2022 to 48 hours currently is due to a decrease in the number of

applications for expedited processing from eligible depository institutions.

2. *Title:* Joint Standards for Assessing Diversity Policies and Practices.

OMB Number: 3064–0200.

Form Number: 2710/05—Diversity Self-Assessment (paper form), 2710/06—Diversity Self-Assessment (electronic form).

Affected Public: Insured state nonmember banks, and insured state savings associations.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN (OMB NO. 3064–0200)

Information collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Joint Standards for Assessing Diversity Policies and Practices—Paper Form, Interagency policy statement (Voluntary).	Reporting (Annual)	6	1	08:00	48
2. Joint Standards for Assessing Diversity Policies and Practices—Electronic Form (Implementation), Interagency policy statement (Voluntary).	Reporting (Annual)	36	1	07:00	252
3. Joint Standards for Assessing Diversity Policies and Practices—Electronic Form (Ongoing), Interagency policy statement (Voluntary).	Reporting (Annual)	139	1	03:00	417
4. Joint Standards for Assessing Diversity Policies and Practices—Free-Form, Interagency policy statement (Voluntary).	Reporting (Annual)	6	1	12:00	72
5. Joint Standards for Assessing Diversity Policies and Practices—Non-material, Interagency policy statement (Voluntary).	Reporting (Annual)	14	1	00:06	1
6. Joint Standards for Assessing Diversity Policies and Practices—Public Disclosure, Interagency policy statement (Voluntary).	Disclosure (Annual)	201	1	01:00	201
Total Annual Burden (Hours) .....	.....	.....	.....	.....	991

Source: FDIC.

General Description of Collection: Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Act) required the Office of the Comptroller of the Currency, the Federal Reserve System, the FDIC, the Consumer Financial Protection Bureau, and the Securities and Exchange Commission each to establish an Office of Minority and Women Inclusion (OMWI) to be responsible for all matters of the agency relating to diversity in

management, employment, and business activities. The Act also instructed each OMWI Director to develop standards for assessing the diversity policies and practices of entities regulated by the agency. The agencies worked together to develop joint standards (Joint Standards) and, on June 10, 2015, they jointly published in the **Federal Register** the “Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and

Practices of Entities Regulated by the Agencies” (Policy Statement). The Policy Statement includes Joint Standards that cover “Practices to Promote Transparency of Organizational Diversity and Inclusion.” These Joint Standards contemplate that a regulated entity is transparent about its diversity and inclusion activities by making certain information available to the public annually on its websites or through other appropriate

communications methods, in a manner reflective of the entity's size and other characteristics. The specific information referenced in these standards is (a) the entity's diversity and inclusion strategic plan; (b) its policy on its commitment to diversity and inclusion; (c) its progress toward achieving diversity and inclusion in its workforce and procurement activities; and (d) opportunities available at the entity that promote diversity. In addition, the Policy Statement includes Joint Standards that address "Entities' Self-Assessment." The Joint Standards for Entities' Self-Assessment envision that a

regulated entity, in a manner reflective of its size and other characteristics, (a) conducts annually a voluntary self-assessment of its diversity policies and practices; (b) monitors and evaluates its performance under its diversity policies and practices on an ongoing basis; (c) provides information pertaining to its self-assessment to the OMWI Director of its primary Federal financial regulator; and (d) publishes information pertaining to its efforts with respect to the Joint Standards.. There is no change in the methodology or substance of this information collection. The decrease in total estimated annual burden from

1560 hours in 2022 to 991 hours currently is due to the expectation that most repeat respondent banks would use the copy/clone feature in the Financial Institution Diversity-Self Assessment (FID-SA) for their future submissions, thereby saving a substantial amount of response time and reducing their overall burden hours.

3. *Title:* Computer Security Incident Notification Requirements.

OMB Number: 3064-0214.

Form Number: None.

Affected Public: Businesses or other for-profit.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN (OMB No. 3064-0214)

Information collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Notification Incident Reporting, 12 CFR 304.23 (Mandatory).	Reporting (On Occa- sion).	67	1.25	03:00	252
2. Service Provider Notification, 12 CFR 304.24 (Mandatory).	Reporting (On Occa- sion).	832	1	03:00	2,496
Total Annual Burden (Hours) .....	.....	.....	.....	.....	2,748

Source: FDIC.

General Description of Collection: The Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, and the FDIC (collectively, the agencies) are issuing a notice of proposed rulemaking (the proposed rule) that would require a banking organization to notify its primary Federal regulator upon the occurrence of a significant computer security incident. This notification requirement is intended to serve as an early alert to a banking organization's primary Federal regulator and is not intended to include an assessment of the incident. The proposed rule would allow a banking organization to authorize or contract with a bank service provider to allow the bank service provider to make the relevant notifications to the banking organization's primary Federal regulator on the banking organization's behalf. Moreover, a bank service provider as defined herein and in accordance with the Bank Service Company Act (BSCA) would be required to notify affected banking organization customers within four hours of when it experiences a computer-security incident that it reasonably believes could disrupt, degrade, or impair services provided subject to the BSCA for four or more hours. "Bank service providers" would include both bank service companies and third-party service providers, under the BSCA. There is no change in the

methodology or substance of this information collection. The increase in total estimated annual burden from 2,694 in 2022 to 2,748 currently is due to a change in the estimated number of respondents.

Request for Comment

Comments are invited on (a) whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on January 15, 2025.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2025-01424 Filed 1-21-25; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The 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 the BHC Act (12 U.S.C. 1842(c)).

Comments received are subject to public disclosure. In general, comments

received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

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 February 21, 2025.

A. Federal Reserve Bank of Richmond (Brent B. Hassell, Assistant Vice President) P.O. Box 27622, Richmond, Virginia 23261. Comments can also be sent electronically to

Comments.applications@rich.frb.org:

1. *United Community Banks, Inc., Greenville, South Carolina*; to acquire ANB Holdings, Inc., and thereby indirectly acquire American National Bank, both of Oakland Park, Florida.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2025-01484 Filed 1-21-25; 8:45 am]

BILLING CODE P

thresholds for interlocking directorates required by the 1990 amendment of section 8 of the Clayton Act.

DATES: January 22, 2025.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Grengs (202-326-2612), Bureau of Competition, Office of Policy and Coordination.

SUPPLEMENTARY INFORMATION: Section 8 prohibits, with certain exceptions, one person from serving as a director or officer of two competing corporations if two thresholds are met. Competitor corporations are covered by section 8 if each one has capital, surplus, and undivided profits aggregating more than \$10,000,000, with the exception that no corporation is covered if the competitive sales of either corporation are less than \$1,000,000. Section 8(a)(5) requires the Federal Trade Commission to revise those thresholds annually, based on the change in gross national product. The new thresholds, which take effect immediately, are \$51,380,000 for section 8(a)(1), and \$5,138,000 for section 8(a)(2)(A).

Authority: 15 U.S.C. 19(a)(5).

April J. Tabor,

Secretary.

[FR Doc. 2025-01513 Filed 1-21-25; 8:45 am]

BILLING CODE 6750-01-P

required by the 2000 amendment of section 7A of the Clayton Act; and the revised filing fee schedule for the same Act required by division GG of the 2023 Consolidated Appropriations Act.

DATES: February 21, 2025.

FOR FURTHER INFORMATION CONTACT:

Nora Whitehead (nwhitehead@ftc.gov, 202-326-3262), Bureau of Competition, Premerger Notification Office, 400 7th Street SW, Washington, DC 20024.

SUPPLEMENTARY INFORMATION: This document announces updates to (1) the thresholds for the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as required by the 2000 amendment of section 7A of the Clayton Act; and (2) the filing fee schedule for the same Act, as required by division GG of the 2023 Consolidated Appropriations Act. Both updates are discussed in more detail below.

(1) The Jurisdictional Thresholds

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Public Law 94-435, 90 Stat. 1390 (“the Act”), requires all persons contemplating certain mergers or acquisitions, which meet or exceed the jurisdictional thresholds in the Act, to file notification with the Commission and the Assistant Attorney General and to wait a designated period of time before consummating such transactions. Section 7A(a)(2) requires the Federal Trade Commission to revise those thresholds annually, based on the change in gross national product, in accordance with section 8(a)(5).

The new jurisdictional thresholds, which take effect 30 days after publication in the **Federal Register**, are as follows:

FEDERAL TRADE COMMISSION

Revised Jurisdictional Thresholds for Section 8 of the Clayton Act

AGENCY: Federal Trade Commission.

ACTION: Annual notice of revision.

SUMMARY: The Federal Trade Commission announces the revised

FEDERAL TRADE COMMISSION

Revised Jurisdictional Thresholds for Section 7A of the Clayton Act

AGENCY: Federal Trade Commission.

ACTION: Annual notice of revision.

SUMMARY: The Federal Trade Commission announces the revised thresholds for the Hart-Scott-Rodino Antitrust Improvements Act of 1976

Subsection of 7A	Original jurisdictional threshold	2025 Adjusted jurisdictional threshold
7A(a)(2)(A)	\$200 million	\$505.8 million.
7A(a)(2)(B)(i)	\$50 million	\$126.4 million.
7A(a)(2)(B)(i)	\$200 million	\$505.8 million.
7A(a)(2)(B)(ii)(i)	\$10 million	\$25.3 million.
7A(a)(2)(B)(ii)(i)	\$100 million	\$252.9 million.
7A(a)(2)(B)(ii)(II)	\$10 million	\$25.3 million.
7A(a)(2)(B)(ii)(II)	\$100 million	\$252.9 million.
7A(a)(2)(B)(ii)(III)	\$100 million	\$252.9 million.
7A(a)(2)(B)(ii)(III)	\$10 million	\$25.3 million.

Any reference to the jurisdictional thresholds and related thresholds and limitation values in the HSR rules (16

CFR parts 801 through 803) and the Antitrust Improvements Act Notification and Report Form (“the HSR

Form”) and its Instructions will also be adjusted, where indicated by the term “(as adjusted)”, as follows:

Original threshold	2025 Adjusted threshold
\$10 million	\$25.3 million.
\$50 million	\$126.4 million.

Original threshold	2025 Adjusted threshold
\$100 million	\$252.9 million.
\$110 million	\$278.2 million.
\$200 million	\$505.8 million.
\$500 million	\$1.264 billion.
\$1 billion	\$2.529 billion.

(2) The Filing Fee Thresholds

Section 605 of Public Law 101–162 (15 U.S.C. 18a note) requires the Federal Trade Commission to assess and collect filing fees from persons acquiring voting securities or assets under the Act. The original filing fee thresholds are set forth in section 605. Division GG of the 2023 Consolidated Appropriations Act,

Public Law 117–328, 136 Stat. 4459, requires the Federal Trade Commission to revise these filing fee thresholds and amounts based on the percentage change in the GNP for such fiscal year compared to the GNP for the year ending September 30, 2022 (for the filing fee thresholds) and the percentage increase, if any, in the Consumer Price Index, as determined by the Department

of Labor or its successor, for the year then ended over the level so established for the year ending September 30, 2022 (for the fee amounts).

Any reference to the fee thresholds and related values in the HSR rules (16 CFR parts 801 through 803) and the HSR Form and its Instructions will also be adjusted, where indicated by the term “(as adjusted)”, as follows:

Original filing fee	Original applicable size of transaction *	2025 Adjusted filing fee	2025 Adjusted applicable size of transaction *
\$30,000	less than \$161.5 million.	\$30,000	less than \$179.4 million.
100,000	not less than \$161.5 million but less than \$500 million.	105,000	not less than \$179.4 million but less than \$555.5 million.
250,000	not less than \$500 million but less than \$1 billion.	265,000	not less than \$555.5 million but less than \$1.111 billion.
400,000	not less than \$1 billion but less than \$2 billion.	425,000	not less than \$1.111 billion but less than \$2.222 billion.
800,000	not less than \$2 billion but less than \$5 billion.	850,000	not less than \$2.222 billion but less than \$5.555 billion.
2,250,000	\$5 billion or more.	2,390,000	\$5.555 billion or more.

* As determined under Section 7A(a)(2) of the Act.

By direction of the Commission.

April Tabor,
Secretary.

[FR Doc. 2025–01518 Filed 1–21–25; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[NIOSH Docket 094]

World Trade Center Health Program; Petitions 031, 036, 039, and 053—Amyotrophic Lateral Sclerosis; Finding of Insufficient Evidence

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

ACTION: Denial of petitions for addition of a health condition.

SUMMARY: The Administrator of the World Trade Center (WTC) Health Program received four petitions (Petitions 031, 036, 039, and 053) to add amyotrophic lateral sclerosis (ALS) to the List of WTC-Related Health Conditions (List). Upon reviewing the scientific and medical literature, including information provided by

petitioners, the Administrator determined that there is insufficient evidence to support taking further action at this time regarding ALS. The Administrator also finds that insufficient evidence exists to request a recommendation of the WTC Health Program Scientific/Technical Advisory Committee (STAC), to publish a proposed rule, or to publish a determination not to publish a proposed rule.

DATES: The Administrator of the WTC Health Program is denying these petitions for the addition of a health condition as of January 22, 2025.

ADDRESSES: Visit the WTC Health Program website at <https://www.cdc.gov/wtc/received.html> to review Petitions 031, 036, 039, and 053.

FOR FURTHER INFORMATION CONTACT: Rachel Weiss, Program Analyst, 1090 Tusculum Avenue, MS: C–48, Cincinnati, OH 45226; telephone (404) 498–2500 (this is not a toll-free number); email NIOSHregs@cdc.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- A. WTC Health Program Statutory Authority
- B. Procedures for Evaluating a Petition
- C. Petitions 031, 036, 039, and 053
- D. Review of Scientific Evaluation
- E. Administrator’s Final Decision on Whether

To Propose the Addition of Amyotrophic Lateral Sclerosis to the List
F. Approval to Submit Document to the Office of the Federal Register

A. WTC Health Program Statutory Authority

Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347, as amended by Pub. L. 114–113, Pub. L. 116–59, Pub. L. 117–328, and Pub. L. 118–31), added Title XXXIII to the Public Health Service (PHS) Act,¹ thereby establishing the WTC Health Program within HHS. The WTC Health Program provides medical monitoring and treatment benefits for health conditions on the List² to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery, and cleanup workers who responded to the September 11, 2001, terrorist attacks in

¹ Title XXXIII of the PHS Act is codified at 42 U.S.C. 300mm to 300mm–64. Those portions of the James Zadroga 9/11 Health and Compensation Act of 2010 found in Titles II and III of Public Law 111–347 do not pertain to the WTC Health Program and are codified elsewhere.

² The List of WTC-Related Health Conditions is established in 42 U.S.C. 300mm–22(a)(3)–(4) and 300mm–32(b); additional conditions may be added through rulemaking and the complete list is provided in WTC Health Program regulations at 42 CFR 88.15.

New York City, at the Pentagon, and in Shanksville, Pennsylvania (responders). The Program also provides benefits to eligible persons who were present in the dust or dust cloud on September 11, 2001, or who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area³ (survivors).

All references to the Administrator of the WTC Health Program (Administrator) in this document mean the Director of the National Institute for Occupational Safety and Health (NIOSH) or his designee.

Pursuant to section 3312(a)(6)(B) of the PHS Act, interested parties may petition the Administrator to add a health condition to the List in 42 CFR 88.15. Within 90 days after receipt of a valid petition to add a condition to the List, the Administrator must take one of the following four actions described in section 3312(a)(6)(B) of the PHS Act and § 88.16(a)(2) of the WTC Health Program regulations: (1) Request a recommendation of the STAC; (2) publish a proposed rule in the **Federal Register** to add such health condition; (3) publish in the **Federal Register** the Administrator's determination not to publish such a proposed rule and the basis for such determination; or (4) publish in the **Federal Register** a determination that insufficient evidence exists to take action under (1) through (3) above.

More information about the WTC Health Program, including the List and the petition process, is available at www.cdc.gov/wtc/.

B. Procedures for Evaluating a Petition

In addition to the regulatory provisions, the WTC Health Program has developed policies to guide the review of submissions and petitions,⁴ as well as the evaluation of evidence supporting the potential addition of a non-cancer health condition to the List.⁵

A valid petition must include sufficient medical basis for the association between the September 11, 2001, terrorist attacks and the health condition to be added. In accordance with WTC Health Program *Policy and Procedures for Handling Submissions*

and *Petitions to Add a Health Condition to the List of WTC-Related Health Conditions*, reference to a peer-reviewed, published, epidemiologic study about the health condition among 9/11-exposed populations or to clinical case reports of health conditions in WTC responders or survivors may demonstrate the required medical basis. In accordance with 42 CFR 88.16(a)(5), the Administrator is required to consider a new petition for a previously-evaluated health condition determined not to qualify for addition to the List only if the new petition presents a new medical basis for the association between 9/11 exposures and the condition to be added. A new medical basis is evidence not previously reviewed by the Administrator.

After the Program has determined that a petition is valid, and in accordance with the *Policy and Procedures for Adding Non-Cancer Conditions to the List of WTC-Related Health Conditions (Policy and Procedures)*, the Administrator directs the WTC Health Program Science Team (Science Team) to conduct a review of the scientific literature to determine if the available scientific information has the potential to provide a basis for a decision on whether to add the health condition to the List.⁶ The literature review is a keyword search of relevant scientific databases intended to identify peer-reviewed, published, epidemiologic studies about the health condition among 9/11-exposed populations.

Using validity indicators detailed in the *Policy and Procedures*, the Science Team evaluates the scientific quality of each peer-reviewed, published, epidemiologic study of the health condition that exhibits the potential to provide a basis for deciding whether to propose adding the health condition to the List identified in the literature search. The Science Team then evaluates the studies, individually and together, to characterize the evidence of a causal association between 9/11 exposures and the health condition. The Science Team's evaluation includes consideration of the Bradford Hill weight of evidence criteria,⁷ study limitations, and whether the studies are

representative of the 9/11-exposed population of responders and survivors. After assessing the degree to which the evidence supports a causal association between 9/11 exposures and the health condition, the Science Team will assign the evidence to one of the following five categories:

- (1) substantial likelihood of causal association,
- (2) high likelihood of causal association,
- (3) limited likelihood of causal association,
- (4) no likelihood of causal association, or
- (5) inadequate evidence to determine the likelihood of causal association.

The Science Team provides the outcome of its evaluation to the Administrator. A health condition may be added to the List if peer-reviewed, published, epidemiologic studies provide support that there is a substantial likelihood of a causal association between the health condition and 9/11 exposures (Category 1).⁸ If the evaluation of evidence provided in peer-reviewed, published, epidemiologic studies of the health condition in 9/11 populations demonstrates a high, but not substantial, likelihood of a causal association between the 9/11 exposures and the health condition (Category 2),⁹ then the Administrator may consider additional highly relevant scientific evidence regarding exposures to 9/11 agents in non-9/11 exposure scenarios. If that additional assessment establishes that there is now sufficient evidence to support the conclusion that a causal association between the 9/11 exposures and the health condition is substantially likely among 9/11-exposed populations (Category 1), the health condition may be proposed for addition to the List.

More information about the WTC Health Program, including the List and the petition process, is available at www.cdc.gov/wtc/.

⁸ *Substantial likelihood of causal association* means that the association is strongly supported by evidence from high-quality, peer-reviewed, published epidemiologic studies of the health condition in 9/11-exposed populations and there is high confidence that the association cannot be explained by chance, bias, confounding, or any other alternative explanation. See *supra* note 5 at 12.

⁹ *High likelihood of causal association* means that the scientific evidence, taken as a whole, demonstrates that the likelihood of a causal association is less than substantial, but definitively more than limited. Therefore, there is some meaningful likelihood that the association can be explained by chance, bias, confounding, or another alternative explanation. See *supra* note 5 at 12.

³ See 42 U.S.C. 300mm–5(7); 42 CFR 88.1.

⁴ See WTC Health Program [2014], *Policy and Procedures for Handling Submissions and Petitions to Add a Health Condition to the List of WTC-Related Health Conditions*, May 14, 2014, <http://www.cdc.gov/wtc/pdfs/WTCHPPPPetitionHandlingProcedures14May2014.pdf>.

⁵ See WTC Health Program [2024], *Policy and Procedures for Adding Non-Cancer Conditions to the List of WTC-Related Health Conditions*, October 18, 2024, https://www.cdc.gov/wtc/pdfs/policies/WTCHPP_PP_Adding_NonCancer_Health_Conditions_20241018.pdf.

⁶ *Id.* at 6.

⁷ Hill AB [1965], *The Environment and Disease: Association or Causation?* Proc R Soc Med 58(5):295–300. According to the *Policy and Procedures for Adding Non-Cancer Conditions to the List of WTC-Related Health Conditions*, the “Bradford Hill criteria are a leading weight of evidence framework which comprises nine aspects of association. These aspects comprise strength of association, consistency, specificity, temporality, biological gradient, plausibility, coherence, experiment, and analogy.” See *supra* note 5 at 9, footnote 21.

C. Petitions 031, 036, 039, and 053

The Administrator of the WTC Health Program received four petitions requesting the addition of amyotrophic lateral sclerosis to the List of WTC-Related Health Conditions between 2021 and 2024. Of the scientific references provided in each petition, six were found to meet the validity requirement of being peer-reviewed, published, epidemiologic studies about the health condition among 9/11-exposed populations or to clinical case reports of health conditions in WTC responders or survivors. Each petition and its medical basis is described below.

On July 12, 2021, the Administrator received a petition (Petition 031) from a WTC responder requesting the addition of “Amyotrophic Lateral Sclerosis (ALS)” to the List.¹⁰ The petition’s validity was established by references to three peer-reviewed, published, epidemiologic studies that demonstrate a medical basis for the association between 9/11 exposures and ALS. The referenced studies and literature reviews each individually establishing a medical basis are as follows:

- *Neurodegenerative Diseases: Occupational Occurrence and Potential Risk Factors, 1982 through 1991*, by Schulte et al. [1996],¹¹ is a peer-reviewed, published case-control study of occupational exposures and neurodegenerative diseases, including ALS, using death certificate data in a national mortality surveillance database.
- *Toxicant Exposure and Bioaccumulation: A Common and Potentially Reversible Cause of Cognitive Dysfunction and Dementia*, by Genuis and Kelln [2015],¹² is a peer-reviewed, published review article of the literature on bioaccumulation following exposure to toxicants, some of which are 9/11 agents, and increased risk of cognitive dysfunction and dementia resulting from neurodegenerative diseases including ALS.
- *Military Service, Deployments, and Exposures in Relation to Amyotrophic Lateral Sclerosis Etiology and Survival*, by Beard and Kamel [2015],¹³ is a peer-

reviewed, published review of the evidence associating ALS and motor neuron diseases (MNDs) with military service, deployments, and exposures, from peer-reviewed epidemiologic studies published through 2013. These three studies suggest a potential association between exposure to 9/11 agents (specifically experiences that might cause psychological harm, physical hazards, and chemical hazards, including heavy metals) and ALS, and thus provided a sufficient medical basis to consider the submission a valid petition.

On April 7, 2022, the Administrator received a petition (Petition 039), requesting the addition of “Amyotrophic Lateral Sclerosis (ALS), Lou Gehrig’s disease,” to the List.¹⁴ A second petition (Petition 036), submitted by the same petitioner, was received by the Administrator on April 14, 2022.¹⁵ The petitions’ validity was established by references to one peer-reviewed, published, epidemiologic study that demonstrates a positive association between 9/11 exposures and ALS:

- *Prospective study of chemical exposures and amyotrophic lateral sclerosis*, by Weisskopf et al. [2009],¹⁶ is a peer-reviewed, published prospective cohort study of the relationship between exposure to chemicals, including formaldehyde (a 9/11 agent), and ALS in over 1 million cancer prevention study participants.

This study suggests a potential association between exposure to formaldehyde, a 9/11 agent, and ALS, and thus provided a sufficient medical basis to consider the submission a valid petition.

On January 30, 2024, the Administrator received a petition (Petition 053), requesting the addition of “Amyotrophic Lateral Sclerosis (ALS)” to the List.¹⁷ The petition’s validity was established by references to two peer-reviewed, published, epidemiologic studies that demonstrate a medical basis for the association between 9/11 exposures and ALS. The studies

establishing a medical basis are as follows:

- *Occupational Exposures and Neurodegenerative Diseases—A Systematic Literature Review and Meta-Analyses*, by Gunnarsson and Bodin [2019], is a peer-reviewed, published review article discussing the links between occupational exposures and neurodegenerative diseases.
- *Blood Metal Levels and Amyotrophic Lateral Sclerosis Risk: A Prospective Cohort*, by Peters et al. [2021], is a prospective cohort study comparing metal levels in blood samples for ALS patients and controls, to investigate whether metals such as arsenic, cadmium, copper, and lead are associated with ALS mortality.

These studies suggest a potential association between cadmium, lead, and zinc and ALS, and thus provided a sufficient medical basis to consider the submission a valid petition.

D. Review of Scientific Evaluation

In response to Petitions 031, 036, 039, and 053, and pursuant to the *Policy and Procedures*, the WTC Health Program conducted a systematic literature search to identify peer-reviewed, published, epidemiologic studies of ALS or motor neuron disease (MND) in 9/11-exposed populations.¹⁸

The literature search conducted by the WTC Health Program found no studies that directly examined ALS or MND risk in the 9/11-exposed population. However, the search identified six peer-reviewed, published, epidemiologic studies of mortality from nervous systems disorders, including ALS¹⁹ in 9/11-exposed populations:

- *A 15-Year Follow-Up Study of Mortality in a Pooled Cohort of World Trade Center Rescue and Recovery*

¹⁸ The complete list of search terms is as follows: amyotrophic lateral sclerosis, motor neuron disease, motor neuron syndrome, lateral sclerosis, Lou Gehrig’s disease, neurodegenerative disorder, amyotrophy, progressive muscular atrophy, ALS, and motor neuropathy. The following databases were searched: APA PsycInfo®, CINAHL (EBSCOhost), Embase Classic+Embase, Health & Safety Science Abstracts (ProQuest), NIOSHTIC-2, Ovid MEDLINE®, Scopus, and Toxicology Abstracts (ProQuest).

¹⁹ All six of the studies examined mortality patterns in the 9/11-exposed population using composite outcomes that included ALS along with other disorders of the nervous system and sensory organs. The six studies all used composite outcomes grouped together in the “NIOSH-119 Death Categories and Corresponding International Classification of Disease Codes for 1960 through 2004,” available at <https://www.cdc.gov/niosh/ltras/pdf/Rate-Info-Table-1.pdf>. Diseases of the nervous system and sense organs, categorized by NIOSH as “Major 15,” includes such health conditions as ALS, Parkinson’s disease, hereditary and idiopathic neuropathy, and many other nervous system disorders.

¹⁰ See Petition 031, WTC Health Program: Petitions Received, <http://www.cdc.gov/wtc/received.html>.

¹¹ Schulte PA, Burnett CA, Boeniger MF, Johnson J [1996], *Neurodegenerative Diseases: Occupational Occurrence and Potential Risk Factors, 1982 through 1991*, Am J Public Health 86(9):1281–8.

¹² Genuis SJ and Kelln KL [2015], *Toxicant Exposure and Bioaccumulation: A Common and Potentially Reversible Cause of Cognitive Dysfunction and Dementia*, Behav Neurol 2015:620143.

¹³ Beard JD and Kamel F [2015], *Military Service, Deployments, and Exposures in Relation to*

Amyotrophic Lateral Sclerosis Etiology and Survival, Epidemiol Rev 37(1):55–70.

¹⁴ See Petition 039, WTC Health Program: Petitions Received, <http://www.cdc.gov/wtc/received.html>.

¹⁵ NB: The petition numbers are out of order because the WTC Health Program processed the second submission first.

¹⁶ Weisskopf MG, Morozova N, O’Reilly EJ, McCullough ML, Calle EE, Thun MJ, Ascherio A [2009], *Prospective Study of Chemical Exposures and Amyotrophic Lateral Sclerosis*, J Neurol Neurosurg Psychiatry 80(5):558–61.

¹⁷ See Petition 053, WTC Health Program: Petitions Received, <http://www.cdc.gov/wtc/received.html>.

Workers, by Li et al. [2023],²⁰ examined mortality among 60,631 Fire Department of New York (FDNY) responders, including firefighters and emergency medical service providers ($n = 15,887$), the WTC Health Program general responder cohort (GRC) ($n = 25,657$), and the WTC Health Registry (WTCHR) ($n = 19,087$).

- *All-Cause and Cause-Specific Mortality in a Cohort of WTC-Exposed and Non-WTC-Exposed Firefighters*, by Singh et al. [2023],²¹ examined mortality patterns in male FDNY firefighters ($n = 10,786$) followed through 2016 (163,583 person-years).²²

- *Mortality among Fire Department of the City of New York Rescue and Recovery Workers Exposed to the World Trade Center Disaster, 2001–2017*, by Colbeth et al. [2020; 2023],²³ examined mortality patterns in 15,431 FDNY responders followed through 2017 (248,665 person-years).

- *Mortality among Rescue and Recovery Workers and Community Members Exposed to the September 11, 2001 World Trade Center Terrorist Attacks, 2003–2014*, by Jordan et al. [2018],²⁴ examined WTCHR enrollees categorized as rescue/recovery workers ($n = 29,280$; 308,340 person-years) and lower Manhattan area community members ($n = 39,643$; 416,448 person-years).

- *Mortality among World Trade Center Rescue and Recovery Workers, 2002–2011*, by Stein et al. [2016],²⁵

examined mortality in GRC responders ($n = 30,947$; 164,563 person-years).

- *Mortality among Survivors of the Sept 11, 2001, World Trade Center Disaster: Results from the World Trade Center Health Registry Cohort*, by Jordan et al. [2011],²⁶ conducted the first study of mortality among members of the WTCHR (2003–2009). Registry participants comprised responders ($n = 13,337$; 74,967 person-years), and community members ($n = 28,593$; 161,519 person-years); however, the study sample was restricted to participants residing in New York City at the time of Registry enrollment ($n = 41,930$).

Pursuant to the WTC Health Program's *Policy and Procedures*, the Program conducted an evaluation of the six studies identified in the literature search to determine the likelihood of a causal association between 9/11 exposures, including exposures to 9/11 agents,²⁷ and the petitioned health condition.²⁸ The systematic literature search, the WTC Health Program Science Team's evaluation and synthesis of the available literature, and the Science Team's conclusions regarding the association between 9/11 exposure and ALS are described in full in the *WTC Health Program Science Team Evaluation of Scientific Evidence Regarding the Addition of Amyotrophic Lateral Sclerosis to the List of WTC-Related Health Conditions* (Scientific Evaluation) found in the docket for this notice.²⁹

Trade Center Rescue and Recovery Workers, 2002–2011, Am J Ind Med 59(2):87–95.

²⁶ Jordan HT, Brackbill RM, Cone JE, Debchoudhury I, Farfel MR, Greene CM, Hadler JL, Kennedy J, Li J, Liff J, Stayner L, Stellman SD [2011], *Mortality among Survivors of the Sept 11, 2001, World Trade Center Disaster: Results from the World Trade Center Health Registry Cohort*, Lancet 378(9794):879–887.

²⁷ 9/11 agents are chemical, physical, biological, or other hazards reported in a published, peer-reviewed exposure assessment study of responders, recovery workers, or survivors who were present in the New York City disaster area, or at the Pentagon site, or the Shanksville, Pennsylvania site, as those locations are defined in 42 CFR 88.1, as well as those hazards not identified in a published, peer-reviewed exposure assessment study, but which are reasonably assumed to have been present at any of the three sites. See WTC Health Program [2018], *Development of the Inventory of 9/11 Agents*, July 17, 2018, https://wwwn.cdc.gov/ResearchGateway/Content/pdfs/Development_of_the_Inventory_of_9-11_Agents_20180717.pdf.

²⁸ None of the studies provided to establish medical basis were found to meet the criteria for further evaluation, although they are discussed briefly in the Scientific Evaluation, *infra* note 28.

²⁹ World Trade Center Health Program Science Team [2024], *WTC Health Program Science Team Evaluation of Scientific Evidence Regarding the Addition of Amyotrophic Lateral Sclerosis to the List of WTC-Related Health Conditions*, November 20, 2024.

The six studies identified as high-quality and summarized in the Scientific Evaluation were evaluated individually and together to determine whether they provide a basis to support the addition of ALS to the List based on a causal relationship between 9/11 exposures to WTC dust, injury, or experiences and ALS. As described in the *Policy and Procedures*, the WTC Health Program uses the following Bradford Hill criteria to evaluate studies of 9/11-exposed populations: strength of association³⁰ and precision of the risk estimate,³¹ consistency of association,³² specificity,³³ temporality,³⁴ biological gradient,³⁵ and plausibility,³⁶ coherence,³⁷ and analogy.³⁸ In addition

³⁰ It is generally thought that strong associations are more likely to be causal than weak associations; however, a weak association does not rule out a causal relationship.

³¹ Precision of the risk estimate describes the random error ("chance") inherent in estimating the strength of association (the effect size) between exposure and the health condition. It is often expressed as a confidence interval illustrating a range of plausible values of the effect estimate given sampling error. A narrow confidence interval indicates a more precise measure of the effect and a wider interval indicates greater uncertainty. While precision is not a Bradford Hill criterion, the Science Team takes it into consideration to evaluate the extent of random error in study estimates.

³² Consistent findings are demonstrated when they have been repeatedly reported by multiple studies. When assessing consistency, the Science Team also considers differences in study quality that could explain inconsistent study findings. If only a single study is available for evaluation, the Science Team will place more emphasis on evaluating the strength of the association and precision of the risk estimate.

³³ Specificity is the premise that an association is more likely to be causal if it is observed between one cause and one effect. In practice, epidemiologic examinations of health conditions in the 9/11-exposed population involve complex exposures to multiple 9/11 agents suspected of causing multifactorial diseases; therefore, specificity has a limited role in Science Team evaluations. Specificity has been given no weight in this evaluation due to the complexity of the proposed association between multiple 9/11 agents and ALS, a multifactorial disease.

³⁴ Temporality is the condition that the 9/11 exposure must precede the health condition of interest and is typically assessed when considering aspects of exposure in the study design.

³⁵ Studies establish an exposure-response relationship by demonstrating that increases in exposure (*i.e.*, exposures of greater intensity and/or longer duration) are associated with a greater incidence of disease. A thorough evaluation of exposure-response requires analysis of multiple levels of exposure such that the investigator can demonstrate that the risk increases with increasing levels of exposure.

³⁶ Study findings demonstrate a basis in scientific theory that supports the relationship between the exposure and the health effect, and do not conflict with known facts about the biology of the health condition.

³⁷ Coherence implies that the interpretation of a causal association agrees with known disease etiology.

³⁸ Analogy is used to inform on biological plausibility and coherence by contrasting the

Continued

²⁰ Li J, Hall CB, Yung J, Kehm RD, Zeig-Owens R, Singh A, Cone JE, Brackbill RM, Farfel MR, Qiao B, Schymura MJ, Shapiro MZ, Dasaro CR, Todd AC, Prezant DJ, Boffetta P [2023], *A 15-Year Follow-Up Study of Mortality in a Pooled Cohort of World Trade Center Rescue and Recovery Workers*, Environ Res 219:115116.

²¹ Singh A, Zeig-Owens R, Cannon M, Webber MP, Goldfarb DG, Daniels RD, Prezant DJ, Boffetta P, Hall CB [2023], *All-Cause and Cause-Specific Mortality in a Cohort of WTC-Exposed and Non-WTC-Exposed Firefighters*, Occup Environ Med 80(6):297–303.

²² Person-years means the cumulative sum of time that all study participants are under observation.

²³ Colbeth HL, Zeig-Owens R, Hall CB, Webber MP, Schwartz TM, Prezant DJ [2020], *Mortality among Fire Department of the City of New York Rescue and Recovery Workers Exposed to the World Trade Center Disaster, 2001–2017*, Int J Environ Res Public Health 17(17):6266. Colbeth HL, Zeig-Owens R, Hall CB, Webber MP, et al. [2023], *Correction: Colbeth et al. Mortality among Fire Department of the City of New York rescue and recovery workers exposed to the World Trade Center disaster, 2001–2017*, Int J Environ Res Public Health 2020, 17, 6266, Int J Environ Res Public Health 20(16):6585.

²⁴ Jordan HT, Stein CR, Li J, Cone JE, Stayner L, Hadler JL, Brackbill RM, Farfel MR [2018], *Mortality among Rescue and Recovery Workers and Community Members Exposed to the September 11, 2001 World Trade Center Terrorist Attacks, 2003–2014*, Environ Res 163:270–279.

²⁵ Stein CR, Wallenstein S, Shapiro M, Hashim D, Moline JM, Udasin I, Crane MA, Luft BJ, Lucchini RG, Holden WL [2016], *Mortality among World*

to the Bradford Hill criteria, the Science Team also considered the limitations of the evaluated evidence and whether the evidence represents the 9/11-exposed population.
The Science Team discussed its evaluation in full in the Scientific

Evaluation, and summarized its findings in table 5, which is reproduced here:

Aspect of associative causal inference ("Bradford Hill Criteria") [Hill 1965]	Evaluation findings
Strength of association (and estimate precision).	Among six high-quality studies identified for evaluation, none examined ALS risk separately in 9/11-exposed populations [Colbeth et al. 2020, 2023; Jordan et al. 2011; Jordan et al. 2018; Li et al. 2023; Singh et al. 2023; Stein et al. 2016]. Among the six studies, only one reported a statistically significant positive association of indicating modest excess of mortality from nervous system disorders, including ALS, among WTC Health Registry community members [Jordan et al. 2018]. The authors attributed the observed excess to Alzheimer's disease, not ALS. The finding strongly depended on the choice of control group, indicating a potential for strong selection bias. The use of composite outcomes, external reference groups, and lack of exposure information are important study limitations common to all studies evaluated.
Consistency	All but the study by Jordan et al. [2018] reported less than expected deaths from nervous disorders when using an external reference population. Results supporting a causal association between 9/11 exposure and composite outcomes of neurologic diseases including ALS were not reproduced in different 9/11-exposed populations (e.g., firefighters, general responders, and community members). The lack of reproducible results is a strong limitation of causal inference.
Temporality	9/11 exposure was presumed to precede ALS onset because all studies were longitudinal and began observation on or after 9/11. However, no studies specifically examined temporal variations in risk.
Biological gradient	One study examined the exposure-response between categories of 9/11 exposure and mortality from a composite of other nervous system disorders (including ALS) in community members [Jordan et al. 2018]. That study found no evidence of increasing risk with 9/11 exposure.
Plausibility, Coherence, and Analogy.	There are no established environmental factors that are causal for ALS; therefore, no 9/11 agent has been identified as a contributing cause. However, the literature supports a general conclusion that a causal association between a 9/11 agent (e.g., metals, silica, formaldehyde) and ALS is plausible, although unproven. The assumption that the risk observed in a composite outcome is analogous to ALS risk is unsubstantiated, which is an important study limitation.
Representativeness	There was representation of all groups of 9/11-exposed populations.

Upon review of the evidence available in peer-reviewed, published, epidemiological studies regarding ALS among 9/11-exposed populations, the Science Team has assessed the degree to which the evidence supports a causal association between 9/11 exposures and ALS and has determined that the available evidence is inadequate to determine the likelihood of a causal association ³⁹ between 9/11 exposures and ALS (Category 5). The Science Team's evaluation and categorization of the evidence has been provided to the Administrator.

E. Administrator's Final Decision on Whether To Propose the Addition of Amyotrophic Lateral Sclerosis to the List

Based on the Scientific Evaluation and the Science Team's finding that there is inadequate evidence to determine whether a causal association exists between 9/11 exposures and ALS, the Administrator has determined that there is insufficient evidence of causal association between 9/11 exposures and

evidence on the suspected causal association with that from an established association between similar (analogous) causes or effects.
³⁹ See *Policy and Procedures* supra note 5 at Sec. V.E.—Evidence is Inadequate to Determine a Causal Association.

ALS to propose adding the condition to the List.⁴⁰ Pursuant to PHS Act, sec. 3312(a)(6)(B)(iv) and 42 CFR 88.16(a)(2)(iv), and in accordance with Sec. IX.B. of the *Policy and Procedures*, the Administrator is publishing this notice of his determination of insufficient evidence.

For the reasons discussed above, the request of Petitions 031, 036, 039, and 053 to add ALS to the List of WTC-Related Health Conditions is denied.

F. Approval To Submit Document to the Office of the Federal Register

The Secretary, HHS, or his designee, the Director, Centers for Disease Control and Prevention (CDC) and Administrator, Agency for Toxic Substances and Disease Registry (ATSDR), authorized the undersigned, the Administrator of the WTC Health Program, to sign and submit the document to the Office of the Federal Register for publication as an official document of the WTC Health Program. Mandy Cohen M.D., M.P.H., Director, CDC, and Administrator, ATSDR,

⁴⁰ See *Policy and Procedures* supra note 5 at Sec. VIII.B, proposed additions to the List are made pursuant to PHS Act, sec. 3312(a)(6)(B)(ii) and 42 CFR 88.16(a)(2)(ii). The Administrator has also determined that insufficient evidence is available to publish a determination not to publish a proposed

approved this document for publication on January 6, 2025.

John J. Howard,
Administrator, World Trade Center Health Program and Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.
[FR Doc. 2025–00692 Filed 1–17–25; 11:15 am]
BILLING CODE 4163–18–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–754 and 731–TA–1732 (Preliminary)]

Temporary Steel Fencing From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.
ACTION: Notice.

rule in the **Federal Register** (pursuant to PHS Act, sec. 3312(a)(6)(B)(iii) and 42 CFR 88.16(a)(2)(iii)); nor is requesting a recommendation from the STAC (pursuant to PHS Act, sec. 3312(a)(6)(B)(i) and 42 CFR 88.16(a)(2)(i)) warranted.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–754 and 731–TA–1732 (Preliminary) pursuant to the Tariff Act of 1930 (“the Act”) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of temporary steel fencing from China, provided for in subheading 7308.90.95 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce (“Commerce”) extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by March 3, 2025. The Commission’s views must be transmitted to Commerce within five business days thereafter, or by March 10, 2025.

DATES: January 15, 2025.

FOR FURTHER INFORMATION CONTACT: Kristina Lara ((202) 205–3386), 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 these investigations may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to petitions filed on January 15, 2025, by ZND US Inc, Statesville, North Carolina.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission’s Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission’s rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission’s rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Office of Investigations will hold a staff conference in connection with the preliminary phase of these investigations beginning at 9:30 a.m. on Wednesday, February 5, 2025. Requests to appear at the conference should be emailed to preliminaryconferences@usitc.gov (DO NOT FILE ON EDIS) by no later than noon (12 p.m.) on Monday, February 3, 2025. Please provide an email address for each conference participant in the email. Information on conference procedures, format, and participation, including guidance for requests to appear as a witness via videoconference, will be available on the Commission’s Public Calendar (Calendar (USITC) | United States International Trade Commission). A nonparty who has testimony that may aid the Commission’s deliberations may request permission to participate by submitting a short statement.

Please note the Secretary’s Office will accept only electronic filings during 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.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission’s rules, any person may submit to the Commission on or before 5:15 p.m. on February 10, 2025, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties shall file written testimony and supplementary material in connection with their presentation at the conference no later than 4:00 p.m. on February 4, 2025. 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.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to § 207.3 of the Commission’s rules, any person submitting information to the Commission in connection with these investigations 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 any information that it submits to the Commission during these investigations 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 these or related investigations or reviews, 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.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice

is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: January 15, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025-01434 Filed 1-21-25; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1431]

Certain Nanolaminate Alloy Coated Metal Parts and Products Containing Same; Notice of 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 November 19, 2024, under section 337 of the Tariff Act of 1930, as amended, on behalf of Modumetal, Inc. of Snohomish, Washington. A letter supplementing the complaint was filed on December 4, 2024. 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 nanolaminate alloy coated metal parts, components thereof, and products containing the same by reason of the infringement of certain claims of U.S. Patent No. 10,253,419 ("the '419 patent") and U.S. Patent No. 11,242,613 ("the '613 patent"). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests 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: Susan Orndoff, The Office of Docket Services, U.S. International Trade Commission, telephone (202) 205-1802.

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 (2024).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 15, 2025, *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 1–3, 5, and 7 of the '419 patent and claims 1–3 and 5 of the '613 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 "metal parts coated with Parker Hannifin's ToughShield® Plus coating as well as bundles containing one or more parts with ToughShield® Plus coating";^{1 2 3}

¹ The Commission is not making a decision on the merits at this stage. Rather, the Commission has only assessed whether the complainant has satisfied the pleading requirements for purposes of institution. To that end, the scope of this investigation includes only those articles as to which the complaint states factual allegations of an alleged violation of section 337 as required by the statute and Commission regulations. The complaint as supplemented fails to contain any factual allegation that metal parts are being imported into the United States for domestic ToughShield Plus finishing in violation of section 337. For this reason, the Commission has determined to modify the plain language description of the accused products proposed by the complainant by deleting the phrase "components that are metal parts imported into the United States for domestic ToughShield® Plus finishing." The complainant may move to amend the complaint and NOI to add components, including metal parts imported for finishing, to the scope of the investigation if complainant makes factual allegations in support thereof for example based on information received in discovery. Further, there is no requirement that "components thereof" must appear in the case

(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 complainant is: Modumetal, Inc., 20124 Broadway Ave., Building A, Snohomish, WA 98296

(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: Parker Hannifin Corporation, 6035 Parkland Boulevard, Cleveland, OH 44124

Lu Chu Shin Yee Works Co., Ltd., 46, Shin Ming Road, Luchu District, Kaohsiung City, Taiwan 82146

(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.

caption in order for the Commission to take action against any attempts to circumvent a Commission remedial order. *See also Certain Crafting Machines and Components Thereof*, Inv. No. 337-TA-1426, Notice of Investigation, 89 FR 99905 (Dec. 11, 2024).

² While Commissioner Schmidtlein agrees to institute this investigation and agrees with the modification of the plain language description of accused articles, she disagrees with her fellow Commissioners' decision to change the caption by deleting the phrase "components thereof." The Commission has routinely included "components thereof" language in the caption when proposed by complainants, and she sees no reason to treat it differently here. In Commissioner Schmidtlein's view, the absence of such language raises the question of whether a later enforcement action could be brought to remedy circumvention of an order through the importation of components given that the Commission's practice has been to define the scope of remedial orders consistent with the notice of investigation. *See Certain Automated Mech. Transmission Sys. for Medium-Duty and Heavy-Duty Trucks and Components Thereof*, Inv. No. 337-TA-503, Comm'n Op., 2007 WL 4473082, *10 (Aug. 1, 2007) ("[T]he scope of the remedy is dependent upon the scope of the investigation, which is determined by the notice of investigation.").

³ Commissioner Kearns agrees with the majority that Complainant has failed to provide any factual allegations that the only components identified in the Complaint, "metal parts imported into the United States for ToughShield plus finishing," violate section 337 either based on direct or indirect infringement. He also agrees that the Commission may take action against attempts to circumvent a remedial order even if "components thereof" does not appear in the case caption. He notes, moreover, that if sufficient allegations were presented in the Complaint, the Commission does have the authority under appropriate circumstances to investigate a section 337 violation involving imported components that are used to directly infringe the patent only after importation. *See Certain High-Density Fiber Optic Equipment and Components Thereof*, Inv. No. 337-TA-1194, Comm'n Op. at 98–104 (Additional Views of Chair Kearns Regarding "Articles that Infringe").

On January 15, 2025, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of Michigan in *United States v. Hino Motors, Ltd., Hino Motors Manufacturing U.S.A., Inc., and Hino Motor Sales U.S.A., Inc.*, (“Defendants”) Civil Action No. 2:25-cv-10144.

The United States, on behalf of the Environmental Protection Agency (“EPA”), filed a Complaint in this lawsuit seeking civil penalties and injunctive relief from Defendants for alleged violations of title II of the Clean Air Act, as amended, 42 U.S.C. 7521–7590, and the regulations promulgated thereunder, which aim to protect human health and the environment by reducing emissions of nitrogen oxides (“NO_x”) and other pollutants from mobile sources of air pollution, including new engines for motor vehicles and nonroad equipment. The State of California has filed a separate Complaint alleging corresponding claims for civil penalties and injunctive relief against Defendants under the Clean Air Act’s citizen suit provisions, 42 U.S.C. 7404(a)(1), and California laws and regulations.

When the United States’ Complaint was filed, the United States also lodged a proposed Consent Decree among the United States on behalf of EPA, the People of the State of California on behalf of the the California Air Resources Board, and Defendants (the “Joint Consent Decree”). If approved by the Court, the Joint Consent Decree would resolve the claims against Defendants in the United States’ Complaint on behalf of EPA, as well as related claims by U.S. Customs and Border Patrol and the National Highway Transportation and Safety Administration. The Joint Consent Decree would also partially resolve the claims against Defendants in the California Complaint. On January 15, 2025, California filed a separate proposed Consent Decree between Defendants and California (the “California Partial Consent Decree”). The California Partial Consent Decree would resolve the remaining claims in the California Complaint.

The Joint Consent Decree would require Defendants to: (i) pay a civil penalty of \$525,000,000; (ii) take steps to remedy the alleged violations, including conducting a vehicle recall program to modify model year 2017–2019 J05E and J08E truck engines; (iii) implement a corporate compliance program; and (iv) perform mitigation projects to offset 100% of the excess NO_x and other pollutant emissions caused by Defendants’ violations.

The California Partial Consent Decree would resolve California state claims for a proportional amount of the civil penalty recovered under the Joint Consent Decree and for an additional payment for a mitigation program in California administered by the California Air Resources Board.

The publication of this notice opens a period for public comment on the

Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Hino Motors, Ltd., et al.*, D.J. Ref. No. 90–5–2–1–12485. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be filed in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the proposed Consent Decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Eric D. Albert,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2025–01481 Filed 1–21–25; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modification of Consent Decree Under the Clean Air Act

On January 14, 2025, the Department of Justice lodged a proposed Modification to a Consent Decree with the United States District Court for the Northern District of Ohio, in the lawsuit entitled *United States v. Buckeye Egg Farm, LLC, et al*, Civil Action No. 3:03–CV–0768 (2004 N.D. OH).

In 2004, EPA and DOJ entered into a Consent Decree (“CD”) with the inter-related predecessors of Ohio Fresh Eggs, LLC (“OFE”) to resolve Clean Air Act (“CAA”) violations at several of defendants’ barns in Ohio that house egg-laying chickens. The CD required OFE, which had purchased the facilities, to install particulate matter (“PM”) control equipment and implement best management practices to reduce ammonia emissions. In 2017,

the lessee of OFE’s facilities requested termination of the CD. EPA conducted an inspection of the facilities and found numerous violations of the CD. The proposed Modification amends the CD to resolve these violations by providing alternative injunctive relief approved by EPA that will achieve the emission reduction goals of the CD and requiring payment of \$5,816,250 in penalties for violations of CD requirements to install and operate emissions controls and to submit quarterly reports.

The publication of this notice opens a period for public comment on the proposed Modification of the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Buckeye Egg Farm, LLC et al.*, D.J. Ref. No. 90–5–2–1–07262. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the Modification of the Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the Modification of the Consent Decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Patricia McKenna,

Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2025–01392 Filed 1–21–25; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE**[OMB Number 1110–0065]****Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; 2013 Private Industry Feedback Survey****AGENCY:** Cyber Division, Federal Bureau of Investigation, Department of Justice.**ACTION:** 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Cyber Division (CyD) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until February 21, 2025.

FOR FURTHER INFORMATION CONTACT: The proposed information collection was previously published in the **Federal Register** on November 27, 2024, allowing a 60-day comment period. If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Lawrence Quigley, Unit Chief, FBI, CyD, 935 Pennsylvania Ave. NW, Washington, DC 20535; email: lwquigley@fbi.gov; telephone: 304–367–3766. Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted via email to OIRA_submissions@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and/or
- 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.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the information collection or the OMB Control Number [1110–0065]. This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a previously approved collection.
2. *Title of the Form/Collection:* 2013 Private Industry Feedback Survey.
3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* N/A.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected Public: The FBI, Cyber Division, produces reports that provide information related to cyber trends and threats for private sector partners. The reports are referred to as Private Industry Notifications (PINs) and FBI Liaison Alert Systems (FLASHs). In order to improve the PIN/FLASH reports, a “Feedback” Section has been added to the reports containing a URL that links to a voluntary online survey. The results of the survey are reviewed by Cyber Division and used to improve future reports to better serve the FBI's private sector partners.

Abstract: The FBI, Cyber Division, provides a voluntary “Feedback” Section on reports related to cyber trends and threats for private sector partners. Obligation to Respond: Voluntary

5. *Total Estimated Number of Respondents:* An estimated 5,000 respondents will complete the survey.

6. *Estimated Time per Respondent:* It is estimated that it takes each respondent 3 minutes to complete the survey.

7. *Frequency:* Annually.

8. *Total Estimated Annual Time Burden:* The estimated public burden associated with this collection is 250 hours.

9. *Total Estimated Annual Other Costs Burden:* \$0.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218 Washington, DC 20530.

Dated: January 16, 2025.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2025–01462 Filed 1–21–25; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE**OMB Number 1105–0091****Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; Assumption of Concurrent Federal Criminal Jurisdiction in Certain Areas of Indian Country****AGENCY:** Office of Tribal Justice, Department of Justice.**ACTION:** 60-Day notice.

SUMMARY: The Office of Tribal Justice, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until March 24, 2025.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact

Gina Allery, Office of Tribal Justice, 950 Penn Ave. NW, Washington, DC 20530, (202) 514-8812, gina.allery@usdoj.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Abstract: This rule establishes the procedures for an Indian tribe that is subject to Public Law 280 (18 U.S.C. 1162(a)) to request that the United States accept concurrent criminal jurisdiction within the tribe's Indian country, and for the Attorney General to decide whether to consent to such a request.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a previously approved collection.
2. *The Title of the Form/Collection:* Assumption of Concurrent Federal

Criminal Jurisdiction in Certain Areas of Indian Country.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* 1105-0091, Office of Tribal Justice.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public State, local and tribal governments. The obligation to respond is voluntary.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The total or estimated number of respondents fewer than 350 respondents.

The time per response is 80 hours.

6. *An estimate of the total annual burden (in hours) associated with the collection:* Ex: The total annual burden hours for this collection is 28,000 hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* \$1,174,058.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency (annually)	Total annual responses	Time per response (hours)	Total annual burden (hours)
Ex: Survey (individuals or households)	350	1	1	80	28,000
<i>Unduplicated Totals</i>	350	.....	1	.....	28,000

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: January 15, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2025-01404 Filed 1-21-25; 8:45 am]

BILLING CODE 4410-FX-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On January 16, 2025, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Columbia in the lawsuit entitled *United States v. Fayat S.A.S., et al.*, Civil Action No. 1:25-cv-120.

The United States filed a Complaint, on behalf of the United States

Environmental Protection Agency, against Fayat S.A.S. and its subsidiaries BOMAG GmbH, BOMAG Americas, Inc., BOMAG (China) Construction Machinery Co., Ltd., MARINI S.p.A., RAVO B.V., Charlotte of America, Inc., PTC S.A.S., Secmair S.A.S., and MATHIEU S.A. alleging violations of sections 203(a) and 213(d) of the Clean Air Act, 42 U.S.C. 7522(a) and 7547(d), and implementing regulations, by their importation, introduction into commerce, and sale of nonroad equipment containing diesel engines that were not certified to model year engine emission standards. The Complaint also alleges related violations of labeling and reporting requirements and seeks civil penalties and appropriate injunctive relief.

Under the proposed Consent Decree, the Defendants will pay a civil penalty of \$11,000,000 and will complete a project to mitigate harm caused by excess nitrogen oxide and particulate matter emissions from the noncompliant engines.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant

Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Fayat S.A.S., et al.*, D.J. Ref. No. 90-5-2-1-12522. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the proposed Consent Decree, you may request assistance by email or by mail

to the addresses provided above for submitting comments.

Jason A. Dunn,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2025-01485 Filed 1-21-25; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On January 15, 2025, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Idaho in the lawsuit entitled *United States of America v. City of Driggs, Idaho, et. al.* Civ. No. 4:22-cv-00444.

The United States filed a complaint under the Clean Water Act ("CWA") against the City of Driggs, Idaho ("the City") and State of Idaho seeking injunctive relief and civil penalties for violations of the requirements of the City's National Pollutant Discharge Elimination System ("NPDES") permit and violations of an administrative order with the Environmental Protection Agency ("EPA"). The proposed Consent Decree would resolve the claims in the complaint, require the City to perform injunctive relief measures to ensure future compliance, and require the City to pay a penalty of \$400,000.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America v. City of Driggs, Idaho, et. al.* Civ. No. 4:22-cv-00444, D.J. Ref. No. 90-5-1-1-12596. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Any comments submitted in writing may be filed by the United States in whole or in part on the public comment docket without notice to the commenter.

During the public comment period, the consent decree may be examined

and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the consent decree, you may request assistance by email or mail to the addresses provided above for submitting comments.

Kathryn C. Macdonald,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2025-01480 Filed 1-21-25; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2006-0040]

SGS North America, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for SGS North America, Inc., as a Nationally Recognized Testing Laboratory (NRTL). **DATES:** The expansion of the scope of recognition becomes effective on January 22, 2025.

FOR FURTHER INFORMATION CONTACT:

Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693-1999; email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693-2300 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of SGS North America, Inc. (SGS) as a NRTL. SGS's expansion covers the addition of six test sites and one test standard to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an

acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including SGS, which details the NRTL's scope of recognition. These pages are available from the OSHA website at <http://www.osha.gov/dts/otpc/nrtl/index.html>.

SGS submitted five applications to OSHA to expand recognition as a NRTL. The first application was received on March 20, 2022 (OSHA-2006-0040-0084), requesting the addition of one test site in Brussels, Belgium. This application was revised on January 9, 2024 (OSHA-2006-0040-0089) to update the address on the original application. The second expansion application was received on March 29, 2022 (OSHA-2006-0040-0085), requesting the addition of one test site in Yokohama, Japan. This application was revised on May 9, 2024 (OSHA-2006-0040-0091) requesting an additional test standard in addition to the Yokohama site. The third expansion application was received on March 30, 2022 (OSHA-2006-0040-0086), requesting the addition of one test site in Munich, Germany. This application was revised on January 9, 2024 (OSHA-2006-0040-0090) to update the address on the application to Puchheim, Germany. The fourth (OSHA-2006-0040-0087) and fifth (OSHA-2006-0040-0088) applications were received on April 1, 2022, requesting the addition of two test sites in New Taipei

City, Taiwan and one in Gunpo-si, Gyeonggi-do, Korea. In total, the applications requested the addition of six sites and one test standard to the NRTL scope of recognition.

OSHA staff performed a detailed analysis of the application packets and reviewed other pertinent information. OTPCA staff also performed on-site reviews of SGS's Korea site on April 25 and May 7, 2024; SGS's two Taiwan sites on February 29–March 1, 2024; SGS's Germany site on June 15–16, 2023; SGS's Belgium site on June 15–16, 2023; and SGS's Japan on May 9–10, 2024, in which the assessors found some nonconformances with the requirements of 29 CFR 1910.7. SGS addressed these issues sufficiently and OTPCA has preliminarily determined

that OSHA should grant the application requests to add these six test sites and one test standard to SGS's NRTL scope of recognition.

OSHA published the preliminary notice announcing SGS's expansion applications in the **Federal Register** on November 5, 2024 (89 FR 87895). The agency requested comments by November 20, 2024, however no comments were received in response to this notice. OSHA is now proceeding with this notice to grant expansion to SGS's scope of recognition.

To obtain or review copies of all public documents pertaining to the SGS expansion applications, go to www.regulations.gov or contact the Docket Office (202) 693–2350 (TTY (877) 889–5627. Docket No. OSHA–

2006–0040 contains all materials in the record containing SGS's recognition.

II. Final Decision and Order

OSHA staff examined SGS's expansion applications, conducted detailed on-site assessments, and examined other pertinent information. Based on review of this evidence, OSHA finds that SGS meets the requirements of 29 CFR 1910.7 for expansion of recognition, subject to the specified limitations and conditions. OSHA, therefore, is proceeding with this final notice to grant SGS's scope of recognition. OSHA limits the expansion of SGS's recognition to include the sites listed below:

TABLE 1—LIST OF TEST SITES TO BE INCLUDED IN SGS'S NRTL SCOPE OF RECOGNITION

Site name	Address	Country
SGS Korea Co., Ltd	4, LS-ro 182 beon-gil, Gunpo-si, Gyeonggi-do, Republic of Korea 15807	Korea
SGS Taiwan Ltd	No. 31 & 33, Wu Chyuan Road, New Taipei Industrial Park, Wu Ku District, New Taipei City, Taiwan 248, Chinese Taipei.	Taiwan
SGS Taiwan Ltd. Site 2	No. 17, Wu Chyuan 8th Road, New Taipei Industrial Park, Wu Ku District, New Taipei City, Taiwan 248, Chinese Taipei.	Taiwan
SGS Germany GmbH	Benzstrasse 26/28, D–82178 Puchheim	Germany
SGS Belgium N.V	Riverside Business Park, Bld. Internationalelaan, 55/A, BE–1070 Brussels	Belgium
SGS Japan Inc	134, Good-cho, Hodogaya-ku, Yokohama Business Park North, Square I 3F, Yokohama, 240–0005.	Japan

Table 2 lists the one test standard included in SGS's applications for expansion for testing and certification of products under the NRTL Program.

TABLE 2—APPROPRIATE TEST STANDARD FOR INCLUSION IN SGS'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
ASME A17.5 ..	Elevator and Escalator Electrical Equipment.

OSHA's recognition of the sites listed in table 1 above, limits SGS to performing product testing and certifications only to the test standards for which the site has the proper capability and programs, and for test standards in SGS's scope of recognition. This limitation is consistent with the recognition that OSHA grants to other NRTLs that operate multiple sites. OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope

of recognition does not include these products.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, SGS must abide by the following conditions of the recognition:

1. SGS must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);
2. SGS must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and
3. SGS must continue to meet the requirements for recognition, including all previously published conditions on SGS's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of SGS as a NRTL, to include six recognized testing sites and one recognized test standard, subject to the limitations and conditions specified above.

III. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational

Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393; Sept. 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC, on January 14, 2025.

James S. Frederick,
Deputy Assistant Secretary of Labor for Occupational Safety and Health.
[FR Doc. 2025–01396 Filed 1–21–25; 8:45 am]
BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; General Working Conditions in Shipyard Employment Standard

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety & Health Administration (OSHA)-sponsored 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 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before February 21, 2025.

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: Nicole Bouchet by telephone at 202–693–0213, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: The collection of information requirements specified in this request apply to general working conditions in shipyard employment (29 CFR part 1915, subpart F). The specific collection of information requirements include employers obtaining information, utilities (§ 1915.83); employers providing information, sanitation (§ 1915.88); marking requirements, medical services and first aid, (§ 1915.87); developing written procedures, information exchange, tagging, and training, control of hazardous energy, (§ 1915.89). For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 25, 2024 (89 FR 85246).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency’s estimates 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.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject

to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: General Working Conditions in Shipyard Employment Standard.

OMB Control Number: 1218–0259.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of

Respondents: 4,096.

Total Estimated Number of Responses: 258,861.

Total Estimated Annual Time Burden: 84,818 hours.

Total Estimated Annual Other Costs Burden: \$8,784.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2025–01399 Filed 1–21–25; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Affirmative Decisions on Petitions for Modification Granted in Whole or in Part

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice.

SUMMARY: The Federal Mine Safety and Health Act of 1977 governs the application, processing, and disposition of petitions for modification of mandatory safety standards. Any mine operator or representative of miners may petition for an alternative method of complying with an existing safety standard. MSHA reviews the content of each submitted petition, assesses the mine in question, and ultimately issues a decision on the petition. This notice includes a list of petitions for modification that were granted after MSHA’s review and investigation, between July 1, 2024, and December 31, 2024.

ADDRESSES: Copies of the final decisions are posted on MSHA’s website at <https://www.msha.gov/regulations/rulemaking/petitions-modification>. The

public may inspect the petitions and final decisions in person at MSHA. To arrange an in-person visit, call 202–693–9455 or contact petitionsformodification@dol.gov.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), Noe.Song-Ae.A@dol.gov (email), or 202–693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 101(c) of the Federal Mine Safety and Health Act of 1977, any mine operator or representative of miners may petition to use an alternative approach to comply with a mandatory safety standard. In response, the Secretary of Labor (Secretary) or his or her designee may modify the application of a mandatory safety standard to that mine if the Secretary determines that: (1) An alternative method exists that will guarantee no less protection for the miners affected than that provided by the standard; or (2) the application of the standard will result in a diminution of safety to the affected miners.

MSHA bases the final decision on the petitioner’s statements, any comments and information submitted by interested persons, and a field investigation of the conditions at the mine. In some instances, MSHA may approve a petition for modification on the condition that the mine operator complies with other requirements noted in the decision. In other instances, MSHA may deny, dismiss, or revoke a petition for modification. In accordance with 30 CFR 44.5, MSHA publishes every final action granting a petition for modification.

II. Granted Petitions for Modification

On the basis of the findings of MSHA’s investigation, and as designee of the Secretary, MSHA granted or partially granted the petitions for modification below. Since the previous **Federal Register** notice (89 FR 68208) included petitions granted through June 30, 2024, the following are petitions granted between July 1, 2024, and December 31, 2024. The granted petitions are shown in the order that MSHA received them.

• *Docket Number:* M–2023–009–C.
FR Notice: 88 FR 55732 (08/16/2023).

Petitioner: Peabody Twentymile Coal Mining, LLC, 29515 Routt County Road 27, Oak Creek, Colorado 80467.

Mine: Foidel Creek Mine, MSHA ID No. 05–03836, located in Routt County, Colorado.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

• *Docket Number:* M–2023–010–C.

FR Notice: 88 FR 55724 (08/16/2023).

Petitioner: Peabody Twentymile Coal Mining, LLC, 29515 Routt County Road 27, Oak Creek, Colorado 80467.

Mine: Foidel Creek Mine, MSHA ID No. 05–03836, located in Routt County, Colorado.

Regulation Affected: 30 CFR 75.507–1(a) (Electrical equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

• *Docket Number:* M–2023–011–C.

FR Notice: 88 FR 55730 (08/16/2023).

Petitioner: Peabody Twentymile Coal Mining, LLC, 29515 Routt County Road 27, Oak Creek, Colorado 80467.

Mine: Foidel Creek Mine, MSHA ID No. 05–03836, located in Routt County, Colorado.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electrical equipment and conductors; permissibility).

• *Docket Number:* M–2023–025–C.

FR Notice: 89 FR 7413 (02/02/2024).

Petitioner: Panther Creek Mining, LLC, 903 Dawes Hollow, Dawes, West Virginia 25054.

Mine: Winchester 2 Mine, MSHA ID No. 46–09615, located in Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

• *Docket Number:* M–2023–026–C.

FR Notice: 89 FR 7415 (02/02/2024).

Petitioner: Panther Creek Mining, LLC, 903 Dawes Hollow, Dawes, West Virginia 25054.

Mine: Winchester 2 Mine, MSHA ID No. 46–09615, located in Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2025–01397 Filed 1–21–25; 8:45 am]

BILLING CODE 4520–43–P

POSTAL REGULATORY COMMISSION

[**Docket Nos.** MC2025–1133; K2025–1133; MC2025–1134; K2025–1134; MC2025–1135; K2025–1135; MC2025–1136; K2025–1136; MC2025–1137; K2025–1137; MC2025–1138; K2025–1138; MC2025–1139; K2025–1139; MC2025–1140; K2025–1140; MC2025–1141; K2025–1141; MC2025–1142; K2025–1142]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission’s consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 24, 2025.

ADDRESSES: Submit comments electronically via the Commission’s Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
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I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service’s request(s) can be accessed via the Commission’s website (<https://www.prc.gov>). Non-public portions of the Postal Service’s request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request’s acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). Section II also

establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service’s request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request’s acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s).*: MC2025–1133 and K2025–1133; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1308 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* January 15, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Jennaca Upperman; *Comments Due:* January 24, 2025.

2. *Docket No(s).*: MC2025–1134 and K2025–1134; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1309 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* January 15, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Jennaca Upperman; *Comments Due:* January 24, 2025.

3. *Docket No(s).*: MC2025–1135 and K2025–1135; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1310 to the Competitive Product List and Notice of Filing

¹ See Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

Materials Under Seal; *Filing Acceptance Date*: January 15, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Jennaca Upperman; *Comments Due*: January 24, 2025.

4. *Docket No(s)*: MC2025–1136 and K2025–1136; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1311 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: January 15, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Kenneth Moeller; *Comments Due*: January 24, 2025.

5. *Docket No(s)*: MC2025–1137 and K2025–1137; *Filing Title*: USPS Request to Add Priority Mail & USPS Ground Advantage Contract 597 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: January 15, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Kenneth Moeller; *Comments Due*: January 24, 2025.

6. *Docket No(s)*: MC2025–1138 and K2025–1138; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1312 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: January 15, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Kenneth Moeller; *Comments Due*: January 24, 2025.

7. *Docket No(s)*: MC2025–1139 and K2025–1139; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1313 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: January 15, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Almaroof Agoro; *Comments Due*: January 24, 2025.

8. *Docket No(s)*: MC2025–1140 and K2025–1140; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1314 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: January 15, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Almaroof Agoro; *Comments Due*: January 24, 2025.

9. *Docket No(s)*: MC2025–1141 and K2025–1141; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage

Contract 1315 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: January 15, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Elsie Lee-Robbins; *Comments Due*: January 24, 2025.

10. *Docket No(s)*: MC2025–1142 and K2025–1142; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1316 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: January 15, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Elsie Lee-Robbins; *Comments Due*: January 24, 2025.

III. Summary Proceeding(s)

None. See Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Jennie L. Jbara,

Primary Certifying Official.

[FR Doc. 2025–01500 Filed 1–21–25; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–102200; File No. 600–44]

CME Securities Clearing, Inc.; Notice of Filing of an Application for Registration as a Clearing Agency Under Section 17A of the Securities Exchange Act of 1934

January 15, 2025.

On December 13, 2024, CME Securities Clearing, Inc. (“CMESC”) filed with the Securities and Exchange Commission (“Commission”) an application on Form CA–1 (“Application”) under section 17A of the Securities Exchange Act of 1934 (“Exchange Act”) seeking to register as a clearing agency.¹ Specifically, the Application states that CMESC is applying to register as a clearing agency to provide central counterparty clearing services to market participants for their secondary cash market transactions in U.S. Treasury securities and transactions in repurchase and reverse repurchase agreements involving U.S. Treasury securities.² The Application provides detailed information regarding how CMESC proposes to satisfy the requirements of the Exchange Act. The proposed Rules of CMESC are included

as Exhibit E–3 to CMESC’s Form CA–1 application.

The Commission is publishing this notice to solicit comments on the Application. To grant CMESC’s request to register as a clearing agency, the Commission must find that it satisfies the requirements of the Exchange Act and the rules and regulations thereunder, including the determinations required under Exchange Act section 17A(b)(3)(A) through (I).³ Pursuant to section 17A of the Exchange Act, the Commission is directed, having due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and maintenance of fair competition among brokers and dealers, clearing agencies, and transfer agents, to use its authority to: (i) facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities (other than exempt securities); and (ii) facilitate the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities in accordance with the findings and to carry out the objectives set forth in section 17A.⁴ The Commission will consider any comments it receives in making its determination about whether to grant CMESC’s request to be registered as a clearing agency.

The Application states that CMESC would be wholly owned by its parent company, CME Group, Inc.⁵ CMESC is a corporation registered in the state of Delaware.⁶ CMESC would have its own Board of Directors, made up of at least five independent directors, one member representative, and one user representative.⁷ CMESC would also have several Board committees, including a Nominating Committee, Audit Committee, Regulatory Oversight Committee, and Risk Management Committee.⁸

CMESC’s proposed Rules describe two types of participants: first, Members, which would be able to clear proprietary Eligible Securities Transactions through CMESC and to authorize Users with respect to clearing Eligible Securities Transactions through CMESC; and second, Users, which

³ 15 U.S.C. 78s(a); 15 U.S.C. 78q–1(b)(3).

⁴ 15 U.S.C. 78q–1(a)(2)(A).

⁵ See Exhibit C and C–1 (narrative description of ownership and diagrams of overall CME Group structure).

⁶ See Exhibit E–1 (certificate of incorporation).

⁷ See Exhibit C–2 (diagram of CMESC’s structure); Exhibit E–2B (Board of Directors Charter).

⁸ See Exhibit E–2C (Risk Management Committee Charter); E–2D (Nominating Committee Charter); E–2E (Audit Committee Charter), and Exhibit E–2F (Regulatory Oversight Committee Charter).

¹ 15 U.S.C. 78q–1.

² See Exhibit J.

would be authorized by a Member and would be further classified as Independent Users or Supported Users. CMESC states that the primary difference between these User Types is that an Independent User is obligated to post margin and make variation payments to CMESC for its Independent User Account, whereas that obligation falls to a Supported User's authorizing Member in relation to the Supported User's Supported User Account at the Corporation. For both types of Users, the User is directly liable to the Corporation for settlement of their cleared transactions.⁹

A Member that authorizes a User is responsible for guaranteeing the financial performance of that User beyond the margin posted to the User's Account at the Applicant, and in this respect Members, but not Users, are required to make contributions to the Applicant's Guaranty Fund. A person will be admitted as a User only with the authorization of a Member and may utilize the Clearing Services as a User only for so long as it has a Member's authorization in place. In contrast to Members, CMESC does not impose direct financial responsibility requirements on User applicants and instead relies upon Members that authorize Users to determine the appropriate financial responsibility standards to impose, based on their assessment of a User's financial circumstances and their obligations to conduct due diligence of their authorized Users.¹⁰

In Exhibit J, the Application provides information regarding CMESC's risk management framework, which CMESC describes as being intended to: (i) reduce the potential impact of a participant default via credit risk management standards and ongoing monitoring, and (ii) ensure that CMESC has sufficient financial and liquidity resources to manage the default of a certain number of participants. CMESC states that it would use onboarding requirements for each of its Members to mitigate counterparty risk and would apply financial responsibility requirements to its Members. CMESC may take action against a Member for its failure to remain in compliance with such requirements. Additionally, CMESC states that it would seek to mitigate counterparty and liquidity risk through various mechanisms, including its credit rating process for Members, credit limits, daily risk monitoring, margin collection, settlement variation

exchange, backtesting, and stress testing.¹¹

With respect to risk management, the Application states that CMESC would maintain and structure a Guaranty Fund using its stress test methodology that is designed to ensure that the size of the Guaranty Fund is at least equal to the largest theoretical loss to the Registrant resulting from the Default of two Member Families, covering, if applicable, a predefined number of User accounts, in extreme but plausible market conditions.¹² The Application also states that CMESC would establish credit and liquidity "waterfalls" that would apply in the event of a default, to prevent losses to its Participants and minimize the potential for market disruption.¹³

With respect to systems, the Application states that CMESC's systems will be hosted in a virtual private cloud environment and in physical datacenters.¹⁴ Among other things, the Application describes CMESC's approach to operational resilience, availability and disaster recovery, and data backup.¹⁵

With respect to fees, the Application states that CMESC continues to engage the marketplace on its ultimate fee structure, which it plans to finalize as it approaches the launch date for operating its clearing agency. The Application also states that cleared repo and cleared U.S. Treasuries services that it offers will operate in a competitive environment, which in turn is expected to impact fees, and that fees for Members and Users will be published on CMESC's website when its clearing services are launched after filing a proposed rule change with the Commission pursuant to section 19(b)(3)(A) of the Exchange Act.¹⁶

CMESC's application on Form CA-1, including each exhibit thereto referenced above, is available online at www.sec.gov/rules/other/shtml as well as in the Commission's Public Reference Room. Interested persons are invited to submit written data, views, and arguments concerning the Application, including whether the application is consistent with the Exchange Act and the rules and regulations thereunder applicable to clearing agencies (e.g., Exchange Act Rules 17Ad-22, 17Ad-25, 17Ad-26, and Regulation SCI, among others).¹⁷

¹¹ See *id.*

¹² See *id.*

¹³ See *id.*

¹⁴ See Exhibit K; Exhibit M.

¹⁵ See Exhibit M.

¹⁶ See Exhibit E-5.

¹⁷ See 17 CFR 240.17Ad-22, 240.17Ad-25, and 240.17Ad-26; 17 CFR 242.1000 through 242.1007.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/proposed.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number 600-44 on the subject line.

Paper Comments

- Send paper comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number 600-44.

To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/other.shtml>).

Copies of the Form CA-1, all subsequent amendments, all written statements with respect to the Form CA-1 that are filed with the Commission, and all written communications relating to the Form CA-1 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 Section, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number 600-44 and should be submitted on or before March 10, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025-01410 Filed 1-21-25; 8:45 am]

BILLING CODE 8011-01-P

⁹ See Exhibit J.

¹⁰ See *id.*

¹⁸ 17 CFR 200.30-3(a)(16).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–102196; File Nos. SR–CboeBZX–2024–124; SR–CboeEDGX–2024–082; SR–CBOE–2024–056; SR–C2–2024–022]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Cboe EDGX Exchange, Inc.; Cboe Exchange, Inc.; Cboe C2 Exchange, Inc.; Notice of Withdrawal of Proposed Rule Change To Adopt Cboe Timestamping Service

January 15, 2025.

On December 13, 2024, Cboe BZX Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., and Cboe C2 Exchange, Inc. (“Exchanges”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b–4 thereunder,² proposed rule changes to adopt the Cboe Timestamping Service, which is a market data service comprised of two distinct market data reports. The proposed rule changes were immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.³ On January 10, 2025, the Exchanges withdrew the proposed rule changes (SR–CboeBZX–2024–124; SR–CboeEDGX–2024–082; SR–CBOE–2024–056; SR–C2–2024–022).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–01413 Filed 1–21–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–102201; File No. SR–NYSE–2024–48]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To Amend Section 802.01C of the NYSE Listed Company Manual (Price Criteria for Capital or Common Stock) To Restrict the Use of Reverse Stock Splits in Certain Circumstances

January 15, 2025.

I. Introduction

On September 30, 2024, New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b–4 thereunder,² a proposed rule change to amend Section 802.01C (Price Criteria for Capital or Common Stock) of the NYSE Listed Company Manual (“Manual”) to provide that (i) a listed company that falls below the price criteria set forth therein and effects a reverse stock split to regain compliance will not be eligible for a compliance period in certain circumstances, and (ii) a listed company may not effectuate a reverse stock split if it would result in the company falling below continued listing requirements. The proposed rule change was published for comment in the **Federal Register** on October 17, 2024.³

On November 25, 2024, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On December 20, 2024, the Exchange filed partial Amendment No. 1 to the proposed rule change, and on January 2, 2025, the Exchange withdrew partial Amendment No. 1 and filed partial Amendment No.

2 to the proposed rule change (“Amendment No. 2”).⁶ The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons and is approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 2

The Exchange is proposing to amend Section 802.01C of the Manual to provide that (i) a listed company that falls below the price criteria set forth therein and effects a reverse stock split to regain compliance will not be eligible for a compliance period in certain circumstances, and (ii) a listed company may not effectuate a reverse stock split if it would result in the company falling below continued listing requirements.

Section 802.01C of the Manual (“Section 802.01C”) provides that a listed company will be considered to be below compliance standards if the average closing price of a security as reported on the consolidated tape is less than \$1.00 over a consecutive 30 trading-day period (“Price Criteria”).⁷ Under Section 802.01C, once the company is notified that it has fallen below the Price Criteria, the company must bring its share price and average share price back above \$1.00 by six months following receipt of the notification. A listed company is not eligible to follow the procedures outlined in Sections 802.02 and 802.03 of the Manual with respect to this criteria.⁸ The company must, however,

⁶ Amendment No. 2 is available on the Commission’s website at <https://www.sec.gov/comments/sr-nyse-2024-48/srnyse202448-554495-1588362.pdf>. As discussed below, the Exchange’s proposal would prohibit a listed company from effectuating a reverse stock split if the effectuation of such reverse stock split results in the company’s security falling below the continued listing requirements of Section 802.01A of the Manual. In Amendment No. 2, the Exchange proposes to adopt additional rule text to provide that if a company effectuates a reverse stock split in such circumstances, the company would not be eligible to follow the procedures outlined in Sections 802.02 and 802.03 of the Manual and the Exchange would immediately commence suspension and delisting procedures with respect to such security in accordance with Section 804.00 of the Manual.

⁷ While the term “Price Criteria” is used as a defined term in Section 802.01C, the current rule does not actually provide a definition for the term. The Exchange is now proposing to define the term in the rule. See Notice, *supra* note 3, at 83738.

⁸ Sections 802.02 and 802.03 of the Manual set forth specific procedures for listed domestic companies and listed non-U.S. companies that are identified as being below the Exchange’s continued listing criteria. In general, Sections 802.02 and 802.03 of the Manual provide that if the Exchange

Continued

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as “establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.” 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 101306 (Oct. 10, 2024), 89 FR 83738 (“Notice”). Comments on the Notice are available at: <https://www.sec.gov/comments/sr-nyse-2024-48/srnyse202448.htm>.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 101746, 89 FR 95301 (Dec. 2, 2024) (designating January 15, 2025, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change).

notify the Exchange, within 10 business days of receipt of the notification, of its intent to cure the Price Criteria deficiency or be subject to suspension and delisting procedures as set forth in Section 804.00 of the Manual.⁹ The company can regain compliance at any time during the six-month cure period if on the last trading day of any calendar month during the cure period the company has a closing share price of at least \$1.00 and an average closing share price of at least \$1.00 over the 30 trading-day period ending on the last trading day of that month. In the event that at the expiration of the six-month cure period, both a \$1.00 closing share price on the last trading day of the cure period and a \$1.00 average closing share price over the 30 trading-day period ending on the last trading day of the cure period are not attained, the Exchange will commence suspension and delisting procedures as set forth in Section 804.00.¹⁰

Notwithstanding the foregoing, Section 802.01C provides that if a listed company determines that, if necessary, it will cure the price condition by taking an action that will require approval of its shareholders, it must so inform the Exchange in the above referenced notification, must obtain the shareholder approval by no later than its next annual meeting, and must implement the action promptly thereafter. The company will be deemed to have regained compliance with the Price Criteria if the price promptly exceeds \$1.00 per share, and the price remains above the level for at least the following 30 trading days.¹¹ The Exchange states that the action taken by a listed company to cure its noncompliance with the Price Criteria that is subject to shareholder approval is generally a reverse stock split.¹²

The Exchange now proposes to amend Section 802.01C to limit the circumstances under which a listed company that fails to meet the Price Criteria may be provided a compliance

period under Section 802.01C. Specifically, the Exchange proposes that, notwithstanding the general ability of a listed company to utilize a reverse stock split as a mechanism for regaining compliance with the Price Criteria, if a listed company's security fails to meet the Price Criteria and the company (i) has effected a reverse stock split over the prior one-year period¹³ or (ii) has effected one or more reverse stock splits over the prior two-year period with a cumulative ratio of 200 shares or more to one, then the company shall not be eligible for any compliance period specified in Section 802.01C and the Exchange will immediately commence suspension and delisting procedures with respect to such security in accordance with Section 804.00 of the Manual.

The Exchange also proposes to amend Section 802.01C to prohibit a listed company from effectuating a reverse stock split, for purposes of regaining compliance with the Price Criteria or otherwise, if the effectuation of such reverse stock split results in the company's security falling below the continued listing requirements of Section 802.01A of the Manual (Distribution Criteria for Capital or Common Stock (including Equity Investment Tracking Stock)). If a listed company effectuates a reverse stock split notwithstanding this limitation, the company would not be eligible to follow the procedures outlined in Sections 802.02 and 802.03 of the Manual¹⁴ and the Exchange would immediately commence suspension and delisting procedures with respect to such security in accordance with Section 804.00 of the Manual.¹⁵

In support of its proposal, the Exchange states that it has observed that some companies, typically those in financial distress or experiencing a prolonged operational downturn, engage in a pattern of repeated reverse stock splits.¹⁶ The Exchange states that such

behavior is often indicative of deep financial or operational distress within such companies, rendering them inappropriate for trading on the Exchange for investor protection reasons.¹⁷ The Exchange states that it has observed that the challenges facing such companies generally are not temporary and may be so severe that the company is not likely to maintain compliance with the Price Criteria on a sustained basis.¹⁸ Accordingly, the Exchange states the proposal protects investors and the public interest by enhancing the Exchange's listing requirements. In particular, the Exchange states that the proposal limits the ability of listed companies with a history of having a low stock price to use reverse stock splits as a means to remain qualified for listing and will result in the delisting of companies whose history of recurring inability to maintain price compliance is indicative of their financial instability and unsuitability for continued listing.¹⁹ Furthermore, the Exchange states that it is consistent with the protection of investors and the public interest to delist any company that takes a deliberate action that causes it to fall below an Exchange listing standard, including the effectuation of a reverse split that causes a company to fall below the Distribution Criteria.²⁰

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.²¹ In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act,²² which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market

identifies a company as being below the Exchange's continued listing criteria, the Exchange will notify the company within 10 business days and provide the company with an opportunity to submit a plan to regain compliance with the continued listing standards within 18 months. If the company does not submit a plan within a required deadline, or if the Exchange does not accept a plan, the Exchange will initiate suspension and delisting procedures. If the Exchange accepts a plan, the Exchange will review the company on a periodic basis for compliance with the plan.

⁹ See Section 802.01C. See also Notice, *supra* note 3, at 83738.

¹⁰ See Section 802.01C. See also Notice, *supra* note 3, at 83738.

¹¹ See Section 802.01C. See also Notice, *supra* note 3, at 83738.

¹² See Notice, *supra* note 3, at 83738.

¹³ The Exchange states that, for the avoidance of doubt, the proposed rule would apply to a listed company even if the company was in compliance with the Price Criteria at the time of its prior reverse stock split. See Notice, *supra* note 3, at 83738 n.4.

¹⁴ See *supra* note 8. A company identified as being below the continued listing requirements of Section 802.01A of the Manual ("Distribution Criteria") would normally be eligible to follow the procedures outlined in Sections 802.02 and 802.03 of the Manual, including to submit a plan to regain compliance with the Exchange's continued listing criteria. See Sections 802.01A, 802.02 and 802.03 of the Manual. Section 802.01A of the Manual sets forth alternative distribution criteria for continued listing based on number of total stockholders, average monthly trading volume, or number of publicly held shares, as applicable.

¹⁵ See Amendment No. 2, *supra* note 6.

¹⁶ See Notice, *supra* note 3, at 83739.

¹⁷ See *id.*

¹⁸ See *id.* The Exchange further states that the price concerns with these companies can be a leading indicator of other listing compliance concerns, and these companies often become subject to delisting for other reasons within a short period of time. See *id.*

¹⁹ See *id.*

²⁰ See *id.*

²¹ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²² 15 U.S.C. 78f(b)(5).

and a national market system, and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; and with Section 6(b)(7) of the Act,²³ which requires, among other things, that the rules of a national securities exchange provide a fair procedure for the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange.

The development and enforcement of meaningful listing standards²⁴ for an exchange is of critical importance to financial markets and the investing public. Among other things, such listing standards help ensure that exchange-listed companies will have sufficient public float, investor base, and trading interest to provide the depth and liquidity to promote fair and orderly markets. Meaningful listing standards also are important given investor expectations regarding the nature of securities that have achieved an exchange listing, and the role of an exchange in overseeing its market and assuring compliance with its listing standards.²⁵

The Exchange's proposal would eliminate the compliance periods available to listed companies to cure a Price Criteria deficiency in certain

circumstances, which could lead to earlier delisting of companies that fail to comply with the Price Criteria. In particular, a listed company that fails to meet the Price Criteria and that has effected a reverse stock split during the prior one-year period or has effected reverse stock splits with a cumulative ratio of 200 shares or more to one over the prior two-year period would not be eligible for any compliance periods under Section 802.01C²⁶ and the Exchange would immediately commence suspension and delisting of such company. In addition, the Exchange proposes to immediately commence suspension and delisting procedures with respect to any company that effects a reverse stock split that results in the company falling below the Distribution Criteria.

The Exchange's proposal is reasonably designed to enhance its continued listing standards, thereby protecting investors and the public interest. In particular, the proposal is reasonably designed to curtail the use of reverse stock splits to inappropriately delay delisting and thereby allow a company's security to remain listed on the Exchange for an extended period despite not being able to maintain compliance with the Price Criteria or Distribution Criteria. As discussed above, the Exchange states that engaging in a pattern of repeated reverse stock splits is often indicative of deep financial or operational distress that renders a company inappropriate for trading on the Exchange for investor protection reasons.²⁷ The Exchange can reasonably conclude from its experience that a listed company that has effected a reverse stock split over the prior one-year period or has effected one or more reverse stock splits over the prior two-year period with a cumulative ratio of 200 shares or more to one and is unable to maintain compliance with the Price Criteria, or a listed company that effects a reverse stock split that results in the company being unable to maintain compliance with the Distribution Criteria, indicates serious difficulties within such company that are likely to put continued downward pressure on the stock price, such that the company is less likely to regain compliance within any compliance periods. In this respect, the proposal is appropriately targeted to those listed companies' securities that are more likely to have serious recurrent issues in regaining and maintaining compliance with the

Exchange's Price Criteria and other continued listing standards.

The Exchange's proposal is reasonably designed to further investor protection by limiting the ability of listed companies with a history of having a low stock price to use reverse stock splits to remain qualified for listing.²⁸ The Exchange states that it has observed that the challenges facing such companies generally are not temporary and may be so severe that the companies are not likely to regain or maintain compliance on a sustained basis.²⁹ In addition, the Exchange states that the price concerns with such companies can be a leading indicator of other listing compliance concerns, and that these companies often become subject to delisting for other reasons within a short period of time.³⁰ Further, the continued listing of low-priced securities raises concerns that these securities may not have sufficient public float, investor base, and trading interest to promote fair and orderly markets and relatedly may have heightened susceptibility to manipulation. Given these concerns, the Exchange's proposal to immediately suspend and delist a company that is non-compliant with the Price Criteria or Distribution Criteria in the circumstances described above is appropriate and consistent with Section 6(b)(5) of the Act.

While the Commission recognizes that the Exchange delisting process is in part designed to allow listed companies experiencing temporary financial and/or business issues to regain compliance with continued listing standards, the proposal reasonably balances the intent of the delisting process with the need to prevent companies from taking advantage of the delisting process for an extended period of time despite not being able to comply with Exchange standards for continued listing, which is contrary to the goal of protecting investors and the public interest.

The proposed rule change, as modified by Amendment No. 2, is also consistent with Section 6(b)(7) of the Act³² in that it provides a fair procedure for the prohibition or limitation by the Exchange of any person with respect to access to services offered. A listed company whose securities are subject to immediate suspension and delisting under the proposal would still be able to seek review of a delisting determination from the Committee for Review of the Board of Directors of the Exchange as set forth in Section 804.00 of the Manual. Accordingly, the

²³ 15 U.S.C. 78f(b)(7).

²⁴ The Commission notes that this reference to "listing standards" is referring to both initial and continued listing standards.

²⁵ See, e.g., Securities Exchange Act Release Nos. 101271 (Oct. 7, 2024), 89 FR 82652, 82653 n.23 and accompanying text (Oct. 11, 2024) (SR-NASDAQ-2024-029) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 2, to Modify the Application of Bid Price Compliance Periods); 88716 (Apr. 21, 2020), 85 FR 23393 (Apr. 27, 2020) (SR-NASDAQ-2020-001) (Order Approving a Proposed Rule Change To Modify the Delisting Process for Securities With a Bid Price at or Below \$0.10 and for Securities That Have Had One or More Reverse Stock Splits With a Cumulative Ratio of 250 Shares or More to One Over the Prior Two-Year Period); 88389 (Mar. 16, 2020), 85 FR 16163 (Mar. 20, 2020) (SR-NASDAQ-2019-089) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 5815 To Preclude Stay During Hearing Panel Review of Staff Delisting Determinations in Certain Circumstances). See also Securities Exchange Act Release No. 81856 (Oct. 11, 2017), 82 FR 48296, 48298 (Oct. 17, 2017) (SR-NYSE-2017-31) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend the Listed Company Manual To Adopt Initial and Continued Listing Standards for Subscription Receipts) (stating that "[a]dequate standards are especially important given the expectations of investors regarding exchange trading and the imprimatur of listing on a particular market" and that "[o]nce a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue . . . so that fair and orderly markets can be maintained.").

²⁶ See *supra* notes 8–11 and accompanying text.

²⁷ See Notice, *supra* note 3, at 83739.

²⁸ See *id.*

²⁹ See *id.*

³⁰ See *id.*

proposal is appropriate in light of the need to protect investors and the public interest and the Exchange's process for review of a delisting determination will continue to provide a fair procedure for the review of delisting determinations in accordance with Section 6(b)(7) of the Act.

Finally, the comment letters received on the proposal were generally supportive.³¹

In sum, the Exchange's proposal appropriately identifies securities listed on its market that are more likely to have serious recurrent issues in regaining and maintaining compliance with the Exchange's continued listing standards, including the Price Criteria, and proposes reasonable changes to shorten the time that such non-compliant securities can remain trading on the Exchange, thereby protecting investors and the public interest in accordance with Section 6(b)(5) of the Act,³² while at the same time maintaining a fair procedure for affected listed companies to seek review of a delisting determination from the Committee for Review of the Board of Directors of the Exchange in accordance with Section 6(b)(7) of the Act.³³ For these reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act.

³¹ See Letters from Barbara Rairden, dated Oct. 15, 2024, and Anonymous, dated Oct. 15, 2024. See also Letter from the American Consumer and Investor Institute, dated Nov. 4, 2024 ("ACII Letter"), at 2 (stating that recent Exchange proposals, including SR-NYSE-2024-48, to amend listing rules to address concerns regarding "exchange-listed penny stocks and reverse stock splits" are "another incremental step towards protecting retail investors from the risks associated with such penny stocks and reverse splits"). This commenter also expresses support for additional proposals to enhance exchange listing standards to further address investor protection concerns, particularly those involving Nasdaq and NYSE listed companies with low-priced securities. In particular, this commenter recommends that the Commission engage with the industry, including a review of suggestions that have already been made, and update the penny stock rules and exchange listing standards. See ACII Letter at 4 (citing to Petition for Rulemaking on Exchange Listings of Penny Stocks filed with the Commission by Virtu Financial, Inc., dated July 15, 2024; and Letter from Ellen Greene, Managing Director and Joseph Corcoran, Managing Director, Securities Industry and Financial Markets Association, dated Oct. 8, 2024 (available at <https://www.sec.gov/comments/sr-nasdaq-2024-045/srnasdaq2024045-527615-1515662.pdf>)). These additional recommendations are not before the Commission in the NYSE proposal being considered herein. In approving this proposal, the Commission is finding the proposal before us is consistent with the Act.

³² 15 U.S.C. 78f(b)(5).

³³ 15 U.S.C. 78f(b)(7).

IV. Solicitation of Comments on Amendment No. 2 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether the proposed rule change, as modified by Amendment No. 2, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSE-2024-48 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-2024-48. 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSE-2024-48, and should be submitted on or before February 12, 2025.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 2 in the **Federal Register**. The changes in Amendment No. 2 provide greater clarity to the proposal. The proposed additional rule text in Amendment No. 2 clarifies the delisting process applicable to a company that effectuates a reverse stock split where the effectuation of such reverse stock split results in the company's security falling below the Distribution Criteria and is consistent with the Exchange's statements in the Notice.³⁴ Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,³⁵ to approve the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁶ that the proposed rule change (SR-NYSE-2024-48), as modified by Amendment No. 2, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁷

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025-01415 Filed 1-21-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-508, OMB Control No. 3235-0565]

Proposed Collection; Comment Request; Revision: Rule 482

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services,

³⁴ See Notice, *supra* note 3, at 83739 ("Furthermore, the Exchange proposes that a listed company would not be allowed to effectuate a reverse stock split, for purposes of regaining compliance with the Price Criteria or otherwise, if the effectuation of such reverse stock split results in the company's security falling below the continued listing requirements of Section 802.01A. If a listed company effectuated a reverse stock split notwithstanding this proposed limitation, the Exchange would promptly commence suspension and delisting procedures with respect to such company in accordance with Section 804.00.').

³⁵ 15 U.S.C. 78s(b)(2).

³⁶ 15 U.S.C. 78s(b)(2).

³⁷ 17 CFR 200.30-3(a)(12).

100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the “Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for revision and approval.

Like most issuers of securities, when an investment company (“fund”) ¹ offers its shares to the public, its promotional efforts become subject to the advertising restrictions of the Securities Act of 1933 (15 U.S.C. 77) (the “Securities Act”). In recognition of the particular problems faced by funds that continually offer securities and wish to advertise their securities, the Commission has adopted advertising safe harbor rules. The most important of these is rule 482 (17 CFR 230.482) under the Securities Act, which, under certain circumstances, permits funds to advertise investment performance data, as well as other information. Rule 482 advertisements are deemed to be “prospectuses” under Section 10(b) of the Securities Act (15 U.S.C. 77j(b)).

Rule 482 contains certain requirements regarding the disclosure that funds are required to provide in qualifying advertisements. These requirements are intended to encourage the provision to investors of information that is balanced and informative, particularly in the area of investment performance. For example, a fund is required to include disclosure advising investors to consider the fund’s investment objectives, risks, charges and expenses, and other information described in the fund’s prospectus, and highlighting the availability of the fund’s prospectus and, if applicable, its summary prospectus. In addition, rule 482 advertisements that include performance data of open-end funds or insurance company separate accounts offering variable annuity contracts are required to include certain standardized performance information, information about any sales loads or other nonrecurring fees, and a legend warning that past performance does not guarantee future results. Such funds including performance information in rule 482 advertisements are also required to make available to investors

month-end performance figures via website disclosure or by a toll-free telephone number, and to disclose the availability of the month-end performance data in the advertisement. The rule also sets forth requirements regarding the prominence of certain disclosures, requirements regarding advertisements that make tax representations, requirements regarding advertisements used prior to the effectiveness of the fund’s registration statement, requirements regarding the timeliness of performance data, and certain required disclosures by money market funds.

Rule 482 advertisements must be filed with the Commission or, in the alternative, with the Financial Industry Regulatory Authority (“FINRA”).² This information collection differs from many other federal information collections that are primarily for the use and benefit of the collecting agency.

Rule 482 contains requirements that are intended to encourage the provision to investors of information that is balanced and informative, particularly in the area of investment performance. The Commission is concerned that in the absence of such provisions fund investors may be misled by deceptive rule 482 advertisements and may rely on less-than-adequate information when determining in which funds they should invest money. As a result, the Commission believes it is beneficial for funds to provide investors with balanced information in fund advertisements in order to allow investors to make better-informed decisions.

On November 7, 2024, the Commission adopted amendments to rule 482 to correct outdated cross-references and conform the risk statements that money market funds must include in their advertisements and sales literature to the risk statements that money market funds must include in their prospectuses.³ The 2023 money market fund reform adopting release amended the risk statements that money market funds must include in their prospectuses to align with the changes to money market fund regulations adopted in that

release.⁴ However, rule 482 was not included in the amendments and the statements that rule 482 required were inconsistent with the recently amended regulatory framework for money market funds. Further, the risk statements that money market funds were required to include in prospectuses and advertisements have otherwise always been identical and the risk statements should not differ based on whether an investor is reviewing a prospectus or an advertisement. As a result, rule 482 included outdated references to concepts that have been removed or significantly modified in underlying money market fund regulations (*e.g.*, allowing temporary suspensions of redemptions). The amendments to rule 482 correct this error, make certain other conforming edits to further align the language of the risk statements with the risk statements that money market funds must include in their prospectuses, and correct inaccurate cross references to money market fund rules.

We estimate the total annual burden to comply with amended rule 482 to be 577,896 hours, at an average time cost of \$213,154,498. The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. The provision of information under rule 482 is necessary to obtain the benefits of the safe harbor offered by the rule. The information provided under rule 482 will not be kept confidential. 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.

Written comments are invited on: (a) 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; (b) the accuracy of the Commission’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given

² See note to rule 482(h) under the Securities Act, which states that “these advertisements, unless filed with [FINRA], are required to be filed in accordance with the requirements of § 230.497.” See also rule 24b-3 under the Investment Company Act (17 CFR 270.24b-3), which provides that any sales material, including rule 482 advertisements, shall be deemed filed with the Commission for purposes of Section 24(b) of the Investment Company Act upon filing with FINRA.

³ Conforming Amendments to Commission Rules and Forms, Investment Company Act Release No. 35377 (Nov. 7, 2024) (the “Adopting Release”).

⁴ See Money Market Fund Reforms; Form PF Reporting Requirements for Large Liquidity Fund Advisers; Technical Amendments to Form N-CSR and Form N-1A, Investment Company Act Release No. 34959 (July 12, 2023) [88 FR 51404 (Aug. 3, 2023)].

¹ “Investment company” refers to both investment companies registered under the Investment Company Act of 1940 (“Investment Company Act”) (15 U.S.C. 80a-1 *et seq.*) and business development companies.

to comments and suggestions submitted by March 24, 2025.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg, 100 F Street NE Washington, DC 20549 or send an email to: PRA_Mailbox@sec.gov.

Dated: January 15, 2025.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-01417 Filed 1-21-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Publishing in the *Federal Register* of January 21, 2025.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, January 23, 2025, at 2 p.m.

CHANGES IN THE MEETING: The Closed Meeting scheduled for Thursday, January 23, 2025, at 2 p.m., has been changed to Thursday, January 23, 2025, at 1 p.m.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Authority: 5 U.S.C. 552b.

Dated: January 17, 2025.

Stephanie J. Fouse,

Assistant Secretary.

[FR Doc. 2025-01596 Filed 1-17-25; 4:15 pm]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102203; File Nos. SR-OCC-2024-016]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of Proposed Rule Change by The Options Clearing Corporation Concerning Enhancements to the System for Theoretical Analysis and Numerical Simulations (“STANS”) and OCC’s Comprehensive Stress Testing (“CST”) Methodology, To Better Capture the Risks Associated With Short-Dated Options

January 15, 2025.

I. Introduction

On November 22, 2024, the Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change SR-OCC-2024-016, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (“Exchange Act”) ¹ and Rule 19b-4 ² thereunder, to (i) align assumptions across models and (ii) generate implied volatility shocks for options with a tenor of less than one month that are consistent with observed market dynamics.³ The proposed rule change was published for public comment in the *Federal Register* on December 6, 2024.⁴ The Commission has received no comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change (hereinafter defined as “Proposed Rule Change”).

II. Background

OCC is a central counterparty (“CCP”), which means that as part of its function as a clearing agency, it interposes itself as the buyer to every seller and the seller to every buyer for financial transactions. As the CCP for the listed options markets and for certain futures in the United States, OCC is exposed to the risk that one or more of its Clearing Members may fail to make a payment or to deliver securities. OCC addresses such risk exposure, in part, by requiring its members to provide collateral, including both margin collateral and Clearing Fund collateral. Margin is the collateral that CCPs collect to cover potential changes in a member’s

positions over a set period of time during normal market conditions. OCC’s Clearing Fund is a mutualized pool of financial resources to which each Clearing Member is required to contribute to ensure that OCC maintains sufficient qualifying liquid resources to manage its liquidity risk, and to address the tail risk that the margin collateral OCC collects from each Clearing Member might be insufficient to cover OCC’s credit exposure to a defaulting member in extreme but plausible market conditions.

OCC’s methodology for calculating margin collateral requirements is called the System for Theoretical Analysis and Numerical Simulations (“STANS”).⁵ OCC’s methodology for sizing and monitoring its Clearing Fund is called the Comprehensive Stress Testing (“CST”) methodology. OCC relies on STANS and the CST methodology to set collateral requirements to cover the financial risk posed by the positions OCC clears for its members. OCC states that the proportion of such positions that comprise short-dated options (“SDOs”) ⁶ has increased over the past several years.⁷ In response to this observation, OCC examined the risks posed by the increase in SDO trading and identified opportunities to improve the performance of the models comprising STANS and the CST methodology in covering the financial risk posed by the increase in SDO trading observed by OCC.⁸ As described below, OCC proposes two changes to the models comprising STANS and the CST methodology: one set of changes related to the day count conventions ⁹ and one set of changes related to the application of volatility shocks to theoretical option prices.¹⁰

⁵ Capitalized terms used but not defined herein have the meanings specified in OCC’s Rules and By-Laws, available at <https://www.theocc.com/about/publications/bylaws.jsp>.

⁶ SDOs are option contracts with a maturity of less than or equal to one month to expiration. See Notice of Filing, 89 FR at 97132.

⁷ See Notice of Filing, 89 FR 97132 (citing Cboe, *The Rise of SPX & ODTE Options* (July 27, 2023), available at <https://go.cboe.com/1/77532/2023-07-27/jfc83k>).

⁸ See Notice of Filing, 89 FR 97132 (stating that “opportunities exist to improve model performance for Clearing Member portfolios dominated by SDOs”).

⁹ OCC uses the term “day count convention” to refer to a standardized methodology for calculating the number of days between two dates. See Notice of Filing, 89 FR 97132, note 13. Both calendar and business day conventions are used by OCC in STANS and CST calculations. *Id.*

¹⁰ The implied volatility of an option is a measure of the expected future volatility of the option’s underlying security at expiration, which is reflected in the current option premium in the market. See Notice of Filing, 89 FR 97132, note 12.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Notice of Filing *infra* note 4, at 89 FR 97131.

⁴ See Securities Exchange Act Release No. 101780 (Dec. 2, 2024), 89 FR 97131 (Dec. 6, 2024) (File No. SR-OCC-2024-016) (“Notice of Filing”).

Day count conventions. The models supporting STANS and CST rely on two different day count conventions. Specifically, OCC's option price smoothing process uses calendar day convention, and OCC's implied volatility simulation uses trading day convention. OCC asserts that the usage of two different day count conventions results in differences in implied volatility, especially when non-trading days make up a large portion of the time-to-expiration (*e.g.*, on Fridays for options that expire the following Monday),¹¹ which is more pronounced in SDOs.¹²

OCC proposes to address the misalignment of day count conventions used in the models underlying both STANS and the CST methodology by processing data through a series of conversions to ensure that the data presented to the price smoothing and volatility simulation models is consistent with the assumptions of those models. Specifically, OCC would convert implied volatility data into a trading day convention before feeding that data into OCC's implied volatility simulation models. OCC would then convert the output of its implied volatility simulation models back into a calendar day convention before feeding those results into OCC's price smoothing process.

Volatility shocks. OCC's model for simulating theoretical prices assumes that the implied volatility shocks of the one-month tenor ("1M") are sufficient to cover the implied volatility changes for SDO tenors.¹³ As constructed, the models underlying both STANS and the CST methodology impose the same volatility shocks applied to 1M options to all options with tenors of less than one month. However, changes in implied volatility for SDOs can be much larger than the changes observed in 1M options.¹⁴

OCC proposes to estimate implied volatility shocks specific to options with a shorter tenor than 1M options rather than imposing the same shock on all options with one month or less to

maturity. Within STANS, OCC proposes to derive the shocks for SDOs from the shock applied to 1M options.

Specifically, OCC would derive the shocks for such options through the application of a square-root decay to the 1M option volatility.¹⁵ Within the CST methodology, OCC proposes to extend its existing processes for establishing implied volatility shocks to specific maturities that are less than one month (*i.e.*, two weeks, one week) and to rely on linear interpolation to establish shocks for even shorter maturities (*i.e.*, down to three days).

OCC summarized the potential impacts of the proposed changes to both margin and Clearing Fund requirements based on data from July 2023 to September 2024.¹⁶ For margin, OCC observed that the proposed changes would have caused an increase in average daily margin requirements of 0.58 percent with the daily impacts ranging from a 0.81 percent decrease to a 3.21 percent increase.¹⁷ For the Clearing Fund, OCC observed that the proposed changes would have caused the total Clearing Fund to decrease by 0.14 percent.¹⁸

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Exchange Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to such organization.¹⁹ Under the Commission's Rules of Practice, the "burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization ['SRO'] that proposed the rule change."²⁰

The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,²¹ and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent

with the Exchange Act and the applicable rules and regulations.²² Moreover, "unquestioning reliance" on an SRO's representations in a proposed rule change is not sufficient to justify Commission approval of a proposed rule change.²³

After carefully considering the Proposed Rule Change, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to OCC. More specifically, the Commission finds that the Proposed Rule Change is consistent with Exchange Act Rules 17Ad-22(e)(4)²⁴ and 17Ad-22(e)(6),²⁵ and with Section 17A(b)(3)(F) of the Exchange Act,²⁶ as described in detail below.

A. Consistency With Rules 17Ad-22(e)(4) and (6) Under the Exchange Act

Rule 17Ad-22(e)(4) under the Exchange 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 risk exposures to participants and those arising from payment clearing, and settlement processes by, in part, testing the sufficiency of its financial resources available to meet the minimum standards under Rules 17Ad-22(e)(4)(i) through (iii), as applicable.²⁷ Rule 17Ad-22(e)(6) under the Exchange Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, among other things, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.²⁸ Based on the review of the record, and for the reasons described below, OCC's proposed update to STANS and the CST methodology in the manner described above is consistent with Rules 17Ad-22(e)(4) and (6).

As described above, OCC proposes changes to both its margin methodology (STANS) and stress testing (CST) methodology. The proposed changes

¹¹ See Notice of Filing, 89 FR 97132.

¹² OCC states that SDOs are more sensitive to day-count convention alignment than contracts with longer expirations due to the proportionally larger difference in time to expiry between the trading day convention and calendar day convention for shorter dated tenors. See Notice of Filing, 89 FR 97133.

¹³ The "tenor" of an option is the amount of time remaining until its expiration or maturity. See Notice of Filing, 89 FR 97132, note 14.

¹⁴ OCC has observed that the day-over-day at the money implied volatility changes for the options with a one-week tenor are approximately twice that of the 1M tenor on certain risk factors such as SPX, RUT, QQQ, AAPL, and TSLA. See Notice of Filing, 89 FR 97132, note 15.

¹⁵ See Notice of Filing, 89 FR 97135.

¹⁶ See Notice of Filing, 89 FR 97136.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ 15 U.S.C. 78s(b)(2)(C).

²⁰ Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

²¹ *Id.*

²² *Id.*

²³ *Susquehanna Int'l Group, LLP v. Securities and Exchange Commission*, 866 F.3d 442, 447 (D.C. Cir. 2017).

²⁴ 17 CFR 240.17Ad-22(e)(4).

²⁵ 17 CFR 240.17Ad-22(e)(6).

²⁶ 15 U.S.C. 78q-1(b)(3)(F).

²⁷ 17 CFR 240.17Ad-22(e)(4)(vi).

²⁸ 17 CFR 240.17Ad-22(e)(6)(i).

would resolve inconsistent model assumptions by aligning the day count convention across models. The proposed changes would also provide for implied volatility shocks to options with tenors of less than one month that are consistent with historical evidence, rather than simply applying the shocks generated for 1M options. Each of the proposed changes is designed to more accurately reflect the particular attributes of the options OCC clears. In the context of STANS, therefore, the proposed changes would support the production of margining requirements consistent with such attributes. In the context of OCC's CST methodology, the changes would provide a more accurate basis on which to test the sufficiency of OCC's financial resources.

Accordingly, the Proposed Rule Change is consistent with Rules 17Ad-22(e)(4) and (6) under the Exchange Act.²⁹

B. Consistency With Section 17A(b)(3)(F) of the Exchange Act

Section 17A(b)(3)(F) of the Exchange Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.³⁰ As discussed above, the proposed changes would improve the performance of the models comprising STANS and the CST methodology by, among other things, supporting the production of margining requirements consistent with the particular attributes of the products that OCC clears and providing a more accurate basis on which to test the sufficiency of OCC's financial resources. These changes will, in turn, help ensure that OCC collects appropriate Clearing Fund collateral and reduce the likelihood that OCC would need to utilize Clearing Fund collateral of non-defaulting clearing members in the event of a default. For these reasons, OCC's proposed update to its Margin Policy in the manner described above is consistent with the safeguarding of securities and funds which are in OCC's custody or control or for which it is responsible. Accordingly, the Proposed Rule Change is consistent with the requirements of Section 17A(b)(3)(F) of the Exchange Act.³¹

IV. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed

Rule Change is consistent with the requirements of the Exchange Act, and in particular, the requirements of Section 17A of the Exchange Act³² and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,³³ that the Proposed Rule Change (SR-OCC-2024-016) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁴

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-01414 Filed 1-21-25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102202; File No. SR-OCC-2024-010]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Amendment No. 3 to Proposed Rule Change by The Options Clearing Corporation To Establish a Margin Add-On Charge That Would Be Applied to All Clearing Member Accounts To Help Mitigate the Risks Arising From Intraday and Overnight Trading Activity

January 15, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 14, 2025, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("SEC" or "Commission") This amendment ("Amendment No. 3") to the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

On July 25, 2024, OCC filed the proposed rule change File No. SR-OCC-

2024-010 ("Initial Filing").³ On January 8, 2025, OCC filed Amendment No. 2 to the Initial Filing ("Amendment No. 2"). This Amendment No. 3 to the Initial Filing is identical in substance to Amendment No. 2 but includes changes to references and table format to facilitate publication of the notice of filing in the **Federal Register** and supersedes Amendment No. 2. Amendment No. 3 would establish a margin add-on charge that would be applied to all Clearing Member accounts to help mitigate the risks arising from intraday and overnight trading activity. Through this amendment OCC is incorporating certain modifications to its proposal to address comments from industry participants. OCC also intends to conform the proposed rule change to the Commission's final rule⁴ amending the Covered Clearing Agency ("CCA") Standards concerning intraday margin calls, and to extend the implementation timeframe to address industry concerns and participants' desire for additional time to prepare for the proposed changes. This Amendment No. 3 would modify those aspects of the proposal as further described below and amend and restate the Initial Filing.

Proposed changes to OCC's Rules are contained in Exhibit 5A to Amendment No. 3 to File No. SR-OCC-2024-010. Proposed changes to OCC's Margin Policy are contained in confidential Exhibit 5B to Amendment No. 3 to File No. SR-OCC-2024-010. Material proposed to be added is marked by italicizing and material proposed to be deleted is marked with strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.⁵

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

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B),

³ See Exchange Act Release No. 100664 (Aug. 6, 2024), 89 FR 65695 (Aug. 12, 2024) (File No. SR-OCC-2024-010).

⁴ See Exchange Act Release No. 101446 (Oct. 25, 2024), 89 FR 91000 (Nov 18, 2024) (File No. S7-10-23).

⁵ OCC's By-Laws and Rules can be found on OCC's public website: <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

²⁹ 17 CFR 240.17Ad-22(e)(4) and 17 CFR 240.17Ad-22(e)(6).

³⁰ 15 U.S.C. 78q-1(b)(3)(F).

³¹ 15 U.S.C. 78q-1(b)(3)(F).

³² In approving the Proposed Rule Change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³³ 15 U.S.C. 78s(b)(2).

³⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On July 25, 2024, OCC filed with the Commission a proposed rule change, SR–OCC–2024–010 to establish a margin add-on charge (the “Intraday Risk Charge”) that would be applied to all Clearing Member accounts to assist

with mitigating the risks arising from intraday and overnight trading activity. On September 4, 2024, OCC amended the filing to include as Exhibit 2 an information memorandum OCC published on its website informing OCC’s membership of the details of the margin add-on charge. The Commission received comments regarding the proposed rule change⁶ and on November 7, 2024, issued an order instituting proceedings, pursuant to

Section 19(b)(2)(B) of the Exchange Act, to determine whether to approve or disapprove the proposed rule change.

Based on the comments the Commission received and a recent release of the Commission’s October 25, 2024, final rule amending the CCA Standards,⁷ OCC is filing this amendment to the Initial Filing. Material changes to the Initial Filing and the rationale for such amendments are summarized in the following table:

TABLE 1—SUMMARY OF CHANGES PROPOSED BY AMENDMENT NO. 3

[Footnotes at end of table.]

Initial filing	Amendment	Rationale for amendment
The Intraday Risk Charge would be calculated based on the average of the previous month’s daily peak intraday risk increases observed from 20-minute snapshots in overnight and regular trading hours, between 12:30 a.m. through 3:15 p.m. Central Time.	The Intraday Risk Charge would be calculated based on the average of the previous month’s daily peak intraday risk increases observed from 20-minute snapshots between 11:00 a.m. through 12:30 p.m. Central Time.	Industry participants commented that 20-minute snapshots during trading hours were too frequent, and suggested the OCC use fewer snapshots at predictable intervals. ^a OCC would continue to manage the intraday risk associated with overnight trading activity through its existing extended trading hour procedures. ^b
An OCC Officer may issue a margin call if a verified intraday risk increase during regular trading hours is greater than 3 standard deviations of a Clearing Member’s Intraday Risk Charge.	An OCC Officer may issue a margin call at a single intraday collection time if a Clearing Member’s verified intraday risk increase at or around 12:00 p.m. Central Time is greater than 3 standard deviations of the previous month’s daily peak intraday risk increases, observed from 20-minute snapshots between 12:30 a.m. through 3:15 p.m. Central Time.	The single collection timeframe aligns with (1) the timeframe in which the observations for the Intraday Risk Charge are measured, and (2) OCC’s current scheduled Portfolio Revaluation margin calls previously approved by the Commission. ^c
120-day implementation period following receipt of all necessary regulatory approval.	OCC would continue to monitor for breaches of the 3 standard deviation threshold in 20-minute snapshots throughout the trading day, and would continue to have authority to issue an intraday margin call under Rule 609, as it does today. Margin calls issued outside of the single intraday collection time must be approved by the Chief Financial Risk Officer, Chief Executive Officer, Chief Operation Officer, or Chief Risk Officer. OCC would implement the changes in September 2025.	Measuring against the Clearing Member’s peak intraday risk increases from both overnight and regular trading hours would result in a manageable number of potential risk increases to investigate for purposes of issuing margin calls, allowing OCC to focus on intraday activity presenting the most risk. This amendment aligns with (1) Commission guidance in the above-referenced final rule that schedule intraday margin calls may not be sufficient and that CCAs need to have the ability to make unscheduled intraday margin calls, ^d and (2) OCC’s current Portfolio Revaluation margin call process in allowing margin calls to be issued outside the single intraday collection time with escalated approvals. Industry participants have commented that 120 days is insufficient for them to prepare for the changes. The proposed implementation dates are within the compliance period for the Commission’s above-referenced final rule, which requires a CCA to implement rule-filed changes by December 15, 2025. ^e

^a See, e.g., letter from Kimberly Unger, CEO and Executive Director, The Security Traders Association of New York, Inc. dated October 30, 2024, available at <https://www.sec.gov/comments/sr-occ-2024-010/srocc2024010.htm>.

^b See Exchange Act Release No. 74268 (Feb. 12, 2015), 80 FR 8917 (Feb. 19, 2015) (SR–OCC–2014–24) (SR–OCC–2014–24) (requiring Clearing Members qualified to participate in overnight trading sessions to provide an additional margin requirement in an amount of the lesser of \$10 million or 10% of the Clearing Member’s net capital).

^c See Exchange Act Release No. 82658 (Feb. 7, 2018), 83 FR 6646, 6648 (SR–OCC–2017–007).

^d See Exchange Act Release No. 101446, *supra* note 7, 89 FR 91005.

^e *Id.* at 91037.

⁶ Comments on the proposed rule change are available at <http://www.sec.gov/comments/sr-occ-2024-010/srocc2024010.htm>.

⁷ See Exchange Act Release No. 101446 (Oct. 25, 2024), 89 FR 91000 (Nov. 18, 2024) (amending 17 CFR 240.17Ad–22–22(e)(6)(ii)).

(1) Purpose Background

OCC is the sole clearing agency for standardized equity options listed on national securities exchanges registered with the Commission. OCC also clears stock loan and futures transactions. In its role as a clearing agency, OCC guarantees the performance of its Clearing Members for all transactions cleared by OCC by becoming the buyer to every seller and the seller to every buyer (or the lender to every borrower and the borrower to every lender, in the case of stock loan transactions). These clearing activities could expose OCC to financial risks if a Clearing Member fails to fulfil its obligations to OCC. In its role as guarantor for all transactions cleared through OCC, one of the more material risks related to a Clearing Member's failure to perform is credit risk arising from the activity of the Clearing Members whose performance OCC guarantees. OCC manages these financial risks through financial safeguards, including the collection of margin collateral from Clearing Members designed to, among other things, address the market risk associated with a Clearing Member's positions during the period of time OCC has determined it would take to liquidate those positions.

At the start of each business day, OCC collects margin requirements for each marginable account calculated by OCC's proprietary System for Theoretical Analysis and Numerical Simulation ("STANS") based on the account's end-of-day positions from the previous business day.⁸ OCC also makes intraday margin calls in defined circumstances. For example, pursuant to OCC Rule 609 and OCC's Margin Policy, which has been filed with and approved as a rule by the Commission,⁹ OCC requires the deposit of intraday margin to reflect changes in the value of securities

deposited by the Clearing Member as margin when certain defined thresholds are breached.¹⁰ OCC also issues intraday margin calls when unrealized losses observed for an account based on positions from extended trading hours ("ETH")¹¹ exceed certain thresholds.¹² In addition, OCC maintains broad authority under OCC Rule 609 to issue intraday margin calls or otherwise set a Clearing Member's margin requirement in other circumstances, including as a protective measure pursuant to Rule 307.¹³

Since the time these existing margin collection processes were established, OCC has observed a significant increase in contract volume and, in particular, volume in option contracts traded on the day of their expiration—so-called "zero-days-to-expiration" or "0DTE" options.¹⁴ Currently, 0DTE option trading volume can spike to up to 40% of total trading volume on Friday expirations.¹⁵ This increase in 0DTE options trading has coincided with the proliferation of option expiries. Traditionally, listed options expired on the third Friday of the month.¹⁶ In 2005, the Chicago Board Options Exchange ("Cboe"), one of the participant exchanges for which OCC provides clearance and settlement services, began

listing weekly options on the S&P 500 Index ("SPX") expiring each Friday of the month, and subsequently introduced Monday and Wednesday weekly SPX expirations in 2016 before adding Tuesday and Thursday weekly SPX expirations in 2022.¹⁷ Weekly and daily expiration cycles were introduced to options on other indexes, single-name stocks, and exchange traded products (e.g., ETFs). As a result, options now expire every trading day of the year.

The increase in 0DTE options trading combined with increased intraday trading activity across other products poses challenges to OCC's risk management, particularly with respect to the management of OCC's overnight and intraday risk exposure to its Clearing Members in between the collections of margin at the start of each business day. Because OCC's STANS margin calculation is based on end-of-day positions, the margin requirement may not account for 0DTE options trading activity, since the Clearing Member would have either traded out of or exercised the options position, or the option would have expired by the end of the day. Similarly, in the current system the risk increase from intraday trading activity across other products would only be captured once end-of-day positions are established, which when margin calculations are applied would not account for the intraday risk increase from any positions that were traded out of. In addition, OCC's portfolio revaluation process for purposes of determining intraday margin calls to address the change in value of margin collateral is based on a Clearing Member's start-of-day collateral deposits, which would not include margin for 0DTE options or intraday positions. For these reasons OCC proposes to establish the Intraday Risk Charge add-on to capture such risk increases, and the associated Intraday Monitoring Thresholds regime to observe and measure risk increasing activity.

Proposed Changes

Based on industry and participant feedback and to conform to the recent release of the Commission's final rule amending the CCA Standards concerning intraday margin calls, and in order to mitigate OCC's intraday risk exposures, OCC proposes to: (i) narrow the window over which the Intraday Risk Charge would be calculated to between 11:00 a.m. to 12:30 p.m. Central Time, (ii) to remove any

¹⁰ See OCC Rule 609(a) ("[OCC] may require the deposit of additional margin ('intra-day margin') by any Clearing Member in any account at any time during any business day to reflect changes in: . . . (3) the value of securities deposited by the Clearing Member as margin . . ."); Exchange Act Release No. 82658, *supra* note 9, 83 FR 6648 ("Pursuant to the Margin Policy, OCC issues margin calls during standard trading hours when unrealized losses exceeding 50% of an account's total risk charges are observed for that account based on start-of-day positions.").

¹¹ ETH refers to trades executed in extended and overnight trading sessions offered by exchanges for which OCC provides clearance and settlement services. See Exchange Act Release No. 73343 (Oct. 14, 2014), 79 FR 62684 (Oct. 20, 2014) (SR-OCC-2014-805).

¹² See Exchange Act Release No. 82355 (Dec. 19, 2017), 82 FR 61060, 61064 (Dec. 26, 2017) (SR-OCC-2017-007) (codifying in the Margin Policy the ETH intraday margin call OCC would issue prior to 9:00 a.m. Central Time when: (1) unrealized losses observed for an account, based on new ETH positions, exceed 25% of that account's total risk charges and (2) the overall Clearing Member portfolio is also experiencing losses).

¹³ See OCC Rule 307C(b) (providing for protective measures in the form of requiring Clearing Members to adjust the amount or composition of margin, including but not limited to requiring the deposit of additional margin).

¹⁴ OCC has provided a confidential Exhibit 3A to Amendment No. 3 to File No. SR-OCC-2024-010 a 2023 study it conducted of its risk exposure to short-dated options.

¹⁵ *Id.* at 3-4.

¹⁶ Originally, options expiries occurred on the Saturday following the third Friday before the industry moved to Friday expirations in 2013. See Exchange Act Release No. 69772 (June 17, 2013), 78 FR 37645 (June 21, 2013) (File No. SR-OCC-2013-04).

¹⁷ See Cboe, *The Rise of SPX & 0DTE Options*, at 5 (July 27, 2023), available at <https://go.cboe.com/1/77532/2023-07-27/jfc83k>.

⁸ OCC makes its STANS Methodology Description available to Clearing Members. An overview of the STANS methodology is posted to OCC's public website: <https://www.theocc.com/Risk-Management/Margin-Methodology>.

⁹ See Exchange Act Release Nos. 100998 (Sept. 11, 2024), 89 FR 76171 (Sept. 17, 2024) (SR-OCC-2024-009); 99169 (Dec. 14, 2023), 88 FR 88163 (Dec. 20, 2023) (SR-OCC-2023-008); 98101 (Aug. 10, 2023), 88 FR 55775 (Aug. 16, 2023) (SR-OCC-2022-012); 96566 (Dec. 22, 2022), 87 FR 80207 (Dec. 29, 2022) (SR-OCC-2022-010); 91079 (Feb. 8, 2021), 86 FR 9410 (Feb. 12, 2021) (SR-OCC-2020-016); 90797 (Dec. 23, 2020), 85 FR 86592 (Dec. 30, 2020) (SR-OCC-2020-014); 87718 (Dec. 11, 2019), 84 FR 68992 (Dec. 17, 2019) (SR-OCC-2019-010); 86436 (July 23, 2019), 84 FR 36632 (July 29, 2019) (SR-OCC-2019-006); 86119 (June 17, 2019), 84 FR 29267 (June 21, 2019) (SR-OCC-2019-004); 83799 (Aug. 8, 2018), 83 FR 40379 (Aug. 14, 2018) (SR-OCC-2018-010); 82658 (Feb. 7, 2018), 83 FR 6646 (Feb. 14, 2018) (SR-OCC-2017-007).

reference to the Intraday Risk Charge with respect to the Intraday Monitoring Thresholds and limit the issuance of a margin calls to a single intraday collection time at or around 12:00 p.m. Central Time, (iii) clarify that intraday margin calls would be issued at a single intraday collection time, and any margin calls outside of the collection time must be approved by the Chief Financial Risk Officer, Chief Executive Officer, Chief Operations Officer, or Chief Risk Officer, (iv) provide FRM Officers with discretion on whether to issue or not issue a margin call based on certain facts and circumstances, while also requiring the documentation of such decisions, and (v) extend the implementation time frame from within 120 days of approval to September of 2025 to align with the projected Ovation release date, and provide more time for industry participants to prepare for the proposed rule change.

1. Intraday Risk Charge Add-On

In the Initial Filing,¹⁸ OCC had proposed a margin add-on charge (the “Intraday Risk Charge”), which would be calculated using the system currently employed to monitor Clearing Members’ overnight trading activity. Through OCC’s Watch Level surveillance under its Third-Party Risk Management Framework, OCC has also used this system to identify patterns of risk increasing activity in ODTE options for purposes of considering and calculating protective measures in the form of additional margin for particular Clearing Members when certain thresholds have been breached relative to a Clearing Member’s net capital. OCC proposed to extend that approach to all Clearing Members (without regard to net capital thresholds) and with respect to all products OCC clears.

OCC’s current intraday margin system recalculates the STANS margin risk using portfolio position sets updated every 20 minutes between 8:30 a.m. and 6:30 p.m. Central Time, and at-least every hour during ETH sessions. OCC considers that 20 minutes is sufficient time under OCC’s current system capabilities to provide consistent and reliable snapshot results at a steady cadence during regular trading hours with heavy trading activity. Outside of regular trading hours and during overnight trading, hourly intervals between snapshots were deemed more appropriate because of the significantly lower trading activity. OCC currently employs and will continue to use the intraday margin system for ETH

monitoring, including to determine when to issue an ETH margin call.¹⁹ This system calculates a forecasted margin requirement as if the positions at that point in time were present during the previous night’s margin calculation. Results that show an increase to the prior night’s margin requirement based on the STANS expected shortfall and stress test components are considered risk increasing. OCC would use the outputs from the previous night’s daily STANS methodology calculation, incorporating current portfolio changes, to monitor that day’s peak intraday risk increases. Under the Initial Filing,²⁰ the Intraday Risk Charge would have been calculated monthly as at least the average of the peak intraday risk increases (*i.e.*, an average of the largest risk increase calculated on each business day of the lookback period) as measured throughout overnight and regular trading hours (*i.e.*, between 12:30 a.m. through 3:15 p.m.).

OCC proposes to amend the proposed Intraday Risk Charge so that it is determined based on a narrower monitoring interval. Specifically, OCC would calculate the Intraday Risk Charge based on the average daily increased risk identified through OCC’s current intraday margin system between the hours of 11:00 a.m. and 12:30 p.m. Central Time; provided however, that OCC may adjust the Intraday Risk Charge as described further below. This change would address comments that the 20-minute snapshots during overnight and intraday trading hours were too frequent and suggested that OCC use fewer snapshots at predictable intervals. In particular, by narrowing the window, Execution-Only Clearing Members²¹ that are able to allocate trades prior to that window may eliminate or significantly reduce their intraday risk exposure for purposes of determining an Intraday Risk Charge.

As under the Initial Filing,²² the Intraday Risk Charge would be calculated on the first business day of the month and would be based on data and STANS outputs generated over the lookback period, which will be set as the previous month. The Intraday Risk

Charge would be calculated monthly as at least the average of the peak intraday risk increases over the shorter duration. OCC considers the one-month lookback period, a timeframe that includes one monthly and multiple weekly standard expirations, to be a conservative approach that would react faster to recent changes in the risk behavior of Clearing Members compared to a more extended lookback period and produces more relevant forecasts for the next monitoring cycle.²³

As under the Initial Filing,²⁴ the calculation of the peak intraday activity would capture all products that OCC clears, including ODTE options. The Intraday Risk Charge would apply to all margin accounts other than cross-margin accounts for OCC’s cross-margining program with the Chicago Mercantile Exchange (“CME”), which do not currently support intraday position feeds. OCC would retain authority to increase the amount of the charge for a particular Clearing Member beyond the average of the peaks, either when adjusting the Intraday Risk Charge on a monthly basis or on an intra-month basis, when conditions would warrant a different approach consistent with maintaining sufficient financial resources to cover OCC’s intraday credit exposure. Conditions that would cause OCC to increase the Intraday Risk Charge above the minimum amount include when OCC determines it maintains insufficient margin resources to cover the pattern or distribution of risk increases over the previous lookback period, or in cases of an account’s business expansion. OCC would also have authority to decrease the amount of the charge, which would be limited to a Clearing Member’s business reduction, termination of account(s), transfer of positions to different account(s), or the imposition of protective measures under Rule 307B. Such charge adjustments may apply to particular or all Clearing Members.

To effect the proposed changes, OCC proposes to amend Rule 601 by adding

²³ OCC also considered lookback periods of less than one-month, including a one-week period, and observed that any lookback period less than one-month was operationally intensive to implement. Establishing a monthly cadence allows OCC to investigate and exclude results from the intraday risk system that are not attributable to actual risk increasing activity, such as results caused by corporate actions. In any case, using a one-week lookback period would result in procyclical effects. Intraday Risk Charge moves for Clearing Members from one week to another would reduce the predictability of the add-on charge on Clearing Member margin requirements. As described above, OCC believes the one-month lookback provides a more conservative and relevant forecasts.

²⁴ See Exchange Act Release No. 100664, *supra* note 3, 89 FR 65696–97.

¹⁹ See Exchange Act Release No. 74268, *supra* Table 1 note b, 80 FR 8919 (describing the thresholds for overnight monitoring and potential margin calls).

²⁰ See Exchange Act Release No. 100664, *supra* note 3, 89 FR 65696.

²¹ OCC’s By-Laws define “Execution-Only Clearing Members” to mean a Clearing Member approved to act only as a Clearing Member that transfers confirmed trades or allocates position so other Clearing Members, and not to carry positions in its accounts with the OCC on a routine basis.

²² See Exchange Act Release No. 100664, *supra* note 3, 89 FR 65696.

¹⁸ See Exchange Act Release No. 100664, *supra* note 3, 89 FR 65696–98.

a new paragraph (i) as described above to incorporate the shorter time frame involved in the calculation of the Intraday Risk Charge. As in the Initial Filing,²⁵ OCC proposes to define the Intraday Risk Charge under proposed Rule 601(i)(1) to mean the additional margin assets required from a Clearing Member to mitigate any increased risk exposure to OCC not otherwise covered by the margin requirements already calculated in accordance with Rule 601 and OCC's policies and procedures. To reflect the narrower time from which the observations that determine the Intraday Risk Charge would be drawn, Rule 601(i)(1) would further provide that OCC may assess the Intraday Risk Charge as part of the Clearing Member's daily margin required, as needed, to mitigate exposure and cover uncollateralized risk resulting from "intraday trading activities," as opposed to "overnight and intraday trading activities" as proposed in the Initial Filing.²⁶ In the amended proposal, OCC would similarly remove other references to overnight trading activity from the OCC Rules and Margin Policy as proposed in the Initial Filing.

Proposed Rule 601(i)(2) would be modified to provide the method of calculation for the Intraday Risk Charge add-on, which would generally be set as the average of the peak intraday risk increases from portfolio position changes between 11:00 a.m. and 12:30 p.m. Central Time over the preceding month.²⁷ Proposed Rule 601(i)(3), would remain unchanged from the Initial Filing.²⁸ Specifically, that Rule would provide that OCC retains authority to adjust the Intraday Risk Charge if OCC determines that circumstances particular to a Clearing Member's activity would warrant a different approach consistent with maintaining sufficient financial resources to cover OCC's intraday credit exposure. Any adjustment under this Rule to decrease the amount of the Intraday Risk Charge calculated from the previous month's intraday risk increases would be limited to a Clearing

Member's business reduction, termination of account(s), transfer of positions to different account(s), or the imposition of protective measures under Rule 307B. Rule 601(i)(3) would also provide that OCC retains the authority to adjust the Intraday Risk Charge more frequently than monthly.

OCC would also amend its Margin Policy to describe material aspects of the Intraday Risk Charge as discussed herein. As under the Initial Filing,²⁹ the new charge would be added to the "Add-On Charges" section. That proposed addition, as amended, would provide that between 11:00 a.m. through 12:30 p.m., OCC measures the intraday exposure to each margin account for which intraday position information is available to identify intraday risk increases above the baseline STANS risk measurement. The proposed amendments to the Margin Policy would define this time window as the "Intraday Risk Charge Measurement Time." As under the Initial Filing,³⁰ the Margin Policy would define "risk increases" in this context as results that show an increase to a portfolio's prior night calculated risk measurement based on the STANS expected shortfall and stress test components.

As under the Initial Filing,³¹ the Margin Policy would further provide that on at least a monthly basis, OCC's Financial Risk Management department ("FRM") reviews and verifies the daily peak increases in the Intraday Risk Charge Measurement Time based on a referenced procedure maintained by FRM's Market Risk business unit.³² This verification of risk-increasing activity is intended to address certain known limitations in OCC's existing intraday system.³³ For example, the system does not take into account options affected by corporate action adjustments and newly listed option series or strikes, which do not receive adjusted metrics until the next overnight margin calculation process. In addition, the 20-minute snapshot generated by the system may not capture a complete trade in a single snapshot, which may result in a misalignment of the peak calculation for an account. The snapshot timing may also cause collateral movements to be recorded as risk-increasing deposits instead of being risk-reducing

movements. Pursuant to the referenced procedures, Market Risk would verify the peak daily results to prevent erroneous results from affecting the calculation of the Intraday Risk Charge. This verification process is similar to, and would proceed in a similar manner as, Market Risk's long-standing process for verifying results from OCC's system for monitoring a portfolio's unrealized losses based on current prices and start-of-day positions for purposes of charging intraday margin calls.³⁴ Upon completion of the verification process, OCC would apply the Intraday Risk Charge to Clearing Members for the upcoming month.

As under the Initial Filing,³⁵ the Margin Policy would provide that OCC may impose the Intraday Risk Charge in the amount of the average of the verified peak daily risk increases in the Intraday Risk Charge Measurement Time over the prior month with FRM Officer³⁶ approval. Adjustments to the charge can occur at the time of the monthly review or on an intramonth basis, e.g., in response to the intraday monitoring thresholds discussed below. Reductions would be limited to persistent changes in clearing activity that would reduce the risk profile of the account, e.g., business reduction, account terminations transfer of positions to different account(s), or the imposition of protective measures under Rule 307B. Any changes that would increase the charge over the minimum calculated may result from changes in the pattern or distribution of risk increases over the previous lookback period or persistent changes in clearing activity that would increase the risk profile of the account, e.g. business expansions. If the FRM Officer recommends any changes to an Intraday Risk Charge, the Model Risk Working Group ("MRWG") must review and is authorized to escalate the recommendation to the Office of the Chief Executive Officer, who must review and is authorized to approve the changes.³⁷ The Margin Policy vests review responsibility and escalation authority to the MRWG because it is a cross-functional group responsible for assisting OCC's management in overseeing OCC's model-related risk

²⁵ See Exchange Act Release No. 100664, *supra* note 3, 89 FR 65697.

²⁶ As discussed above, OCC would continue to address intraday risk exposure from overnight trading activity as it currently does under its ETH procedures. See *supra* Table 1 note b and accompanying text. Clearing Members trading during ETH hours will still be obligated to pay an ETH margin add-on charge, and any ETH related risk controls will continue to operate independently from the proposed Intraday Risk Charge changes.

²⁷ A lookback of one month was selected to represent a complete monthly options expiration cycle.

²⁸ See Exchange Act Release No. 100664, *supra* note 3, 89 FR 65697.

²⁹ See Exchange Act Release No. 100664, *supra* note 3, 89 FR 65697.

³⁰ *Id.*

³¹ *Id.*

³² OCC has provided as confidential Exhibit 3B to Amendment No. 3 to File No. SR-OCC-2024-010 a copy of the referenced procedure, the Market Risk Monitoring Procedure, marked to indicate changes that OCC intends to implement upon regulatory approval of this proposal.

³⁵ See Exchange Act Release No. 100664, *supra* note 3, 89 FR 65697-98.

³⁶ Officers are identified in OCC's By-Laws. See OCC By-Law Art IV. In this context, an FRM Officer would include any member of FRM appointed by the Chief Executive Officer or Chief Operating Officer, including a Managing Director, Executive Director or Executive Principal. *Id.*, at § 9.

³⁷ Such changes to the Intraday Risk Charge must be based on the current charge being insufficient as defined in Exhibit 5A and confidential Exhibit 5B to Amendment No. 3 to File No. SR-OCC-2024-010.

comprised of representatives from relevant OCC business units. OCC believes that the MRWG is the appropriate decisionmaker to consider whether a higher Intraday Risk Charge is warranted because it is composed of the subject matter experts most familiar with the performance of and risks associated with OCC's margin models, including personnel in OCC's Model Risk Management business unit, who, under OCC's Risk Management Framework, are responsible for evaluating model parameters and assumptions and providing effective

and independent challenge through OCC's model lifecycle.³⁸

OCC has reviewed the potential impact of the proposed add-on charge on all Clearing Members over a thirteen-month period.³⁹ OCC has observed that the proposed add-on would have generated a margin increase of less than 1.1% in the aggregate on average,⁴⁰ representing almost \$1.099 billion across all Clearing Members out of margin requirements. For comparison, under the Initial Filing, the proposed add-on would have generated an average margin increase of approximately \$1.968 billion, less than

a 1.9% increase. Of the ten firms that would be most impacted, which collectively represent approximately 73% of the additional margin that would have been assessed, the average daily margin percentage increases ranges from approximately 1% to less than 15%, based on data from September 2023 to September 2024, or between \$22 million and \$315 million.

As compared to the Initial Filing, that aggregate amount of the additional margin would be distributed across market-maker, firm and customer accounts as follows:

TABLE 2—IMPACT BY ACCOUNT TYPE

	Initial filing	Proposed amendment
Market-Maker Accounts	\$392.1 million	\$276.6 million.
Firm Accounts	\$590.5 million	\$306.3 million.
Customer Accounts	\$986.1 million	\$516.7 million.
All Accounts	\$1.9686 billion	\$1.0996 billion.

With respect to firms classified as Execution-Only Clearing Members, the add-on charge would generate approximately \$23.4 million of additional margin in the aggregate, down from \$39.4 million under the Initial Filing, assuming that Execution-Only Clearing Members made no changes to allocate trades prior to the Intraday Risk Charge Measurement Time.

2. Intraday Monitoring Thresholds

Under the Initial Filing,⁴¹ OCC proposed to establish monitoring and escalation criteria when a Clearing Member's intraday risk increase departs significantly from the activity that set the Intraday Risk Charge ("Intraday Monitoring Thresholds"). Generally, the new credit risk thresholds would have been specified as a set of levels based on standard deviations from a Clearing Member's Intraday Risk Charge. While OCC has narrowed the window of time for purposes of calculating the Intraday Risk Charge, OCC intends to continue to monitor for intraday risk increases throughout regular trading hours.

OCC proposes to establish the Intraday Monitoring Thresholds as

statistical measures (e.g., one, two or three standard deviations) above a Clearing Member's peak intraday risk increases over the prior month. OCC would measure the Intraday Monitoring Threshold for each Clearing Member against the average over the lookback period of the verified peak intraday risk increases determined between 12:30 a.m. and 3:15 p.m. (*i.e.*, the same window as for the Intraday Risk Charge under the Initial Filing). OCC believes that measuring the thresholds using this longer window, rather than against the Intraday Risk Charge as proposed to be amended above,⁴² would result in a more manageable number of potential risk increases for escalation, allowing OCC decisionmakers to focus on potential changes in activity that present the most risk. As under the Initial Filing,⁴³ OCC proposes to amend the section of the Margin Policy that currently addresses margin calls and adjustments. The Margin Policy would provide that FRM would establish and maintain Intraday Monitoring Thresholds in referenced market risk procedures for verified intraday risk increases that are greater than statistical measures above a Clearing Member's

average over the lookback period determined between 12:30 a.m. and 3:15 p.m. Central Time. This average would be determined separately and independently of the Intraday Risk Charge across Clearing Member accounts.

As under the Initial Filing,⁴⁴ the Margin Policy would also provide that FRM coordinates a review of those thresholds, as well as the calculation and lookback period, on an at least annual basis, or on an ad-hoc basis, as needed. OCC retains the authority to adjust the Intraday Monitoring Thresholds, as well as the calculation and lookback period, based on the review of intraday risk posed by Clearing Member's portfolio changes. Any such adjustment to the Intraday Monitoring Thresholds, calculation, or lookback period may apply to particular or all Clearing Members depending on an analysis of the activity generating peak intraday margin numbers, the number of breaches above the monitoring thresholds, and overall market activity and trends within the lookback period. The review would be presented to the MRWG, which must review and is authorized to escalate any

³⁸ See Exchange Act Release No. 95842, 87 FR 58416 (File No. SR-OCC-2022-010) (filing to establish OCC's Risk Management Framework). OCC Risk Management Framework is available on OCC's public website: <https://www.theocc.com/risk-management/risk-management-framework>.

³⁹ This impact assessment does not account for potential changes in Clearing Member behavior that might further reduce the impact. To the extent a Clearing Member allocates trades to other Clearing Members under OCC's Clearing Member Trade Assignment ("CMTA") Rules or otherwise reduces

its intraday risk in advance of the Intraday Risk Measurement Time, the actual impact of the Intraday Risk Charge may be less.

⁴⁰ OCC has included as confidential Exhibit 3C to Amendment No. 3 to File No. SR-OCC-2024-010 an assessment of the impact of the Intraday Risk Charge on OCC's Clearing Members. Exhibit 3C to the Initial Filing used data from 2023. Exhibit 3C to Amendment No. 3 uses data from September 2023 through September 2024.

⁴¹ See Exchange Act Release No. 100664, *supra* note 3, 89 FR 65698.

⁴² As indicated in the impact assessment above, the proposed amendments to the Intraday Risk Charge would have the effect of reducing the charge, which would make breaches of the Intraday Monitoring Thresholds more likely if measured against the Intraday Risk Charge as proposed to be amended.

⁴³ See Exchange Act Release No. 100664, *supra* note 3, 89 FR 65698.

⁴⁴ *Id.*

recommended changes to the Office of the Chief Executive Officer, who must review and is authorized to approve them. OCC's Risk Committee will be notified of all changes. As discussed above,⁴⁵ OCC believes that the MRWG is the appropriate decision-maker to consider any changes to the Monitoring Thresholds because it is composed of the subject matter experts most familiar with the performance of and risks associated with OCC's margin models.

3. Intraday Margin Calls

In the Initial Filing,⁴⁶ OCC proposed to issue margin calls on individual Clearing Member accounts if the verified intraday risk increases for those accounts breach and exceed the Intraday Risk Monitoring thresholds (*e.g.*, in excess of three standard deviations). Under the proposed amendments, OCC would maintain the proposed margin call, but would specify a scheduled, single collection time in which such a margin call would be collected in the ordinary course while maintaining authority to issue an unscheduled margin call outside that timeframe in extraordinary circumstances with additional escalations. As discussed below, these amendments are intended to align with OCC's existing intraday margin call processes and the Commission's October 25, 2024, final order amending the CCA Standards.

As under the Initial Filing,⁴⁷ the Margin Policy would provide that on at least a daily basis, FRM would review the intraday risk increases generated by the intraday risk system against the Intraday Monitoring Thresholds. As proposed to be amended, the Margin Policy would provide that if a verified intraday risk increase breach at or around 12:00 p.m. Central Time is greater than the Intraday Monitoring Thresholds, the Margin Policy would provide that an FRM Officer may issue a margin call,⁴⁸ make a margin adjustment to lock up excess collateral, or recommend protective measures under Rule 307. The Margin Policy would further be amended to provide that any such margin call issued by an FRM Officer would be collected as a single intraday collection time. Accordingly, the Margin Policy as amended would now provide a single,

scheduled time for the issuance and collection of such intraday margin calls. This collection timeframe aligns with the timeframe during which the observations for the Intraday Risk Charge are measured, and gives Clearing Members greater certainty about when the activity that would inform the call would be measured and the call imposed. The timing also aligns with the timing for OCC's current Portfolio Revaluation margin calls, which are generally collected at a single time based on a measurement of a portfolio's profit and loss at or around noon.⁴⁹ As with OCC's existing margin calls, the proposed margin call would be subject to a price minimum below which OCC generally would not issue a call.⁵⁰ Specifically, OCC has established a \$500,000 price minimum for issuing margin calls, which aligns with the minimum Clearing Fund deposit required of each Clearing Member.⁵¹

The Margin Policy would further provide that any margin calls issued outside of the standard processing time window must be approved by the Chief Financial Risk Officer, Chief Executive Officer, Chief Operating Officer, or Chief Risk Officer. This change aligns with OCC's current Portfolio Revaluation margin call process in allowing margin calls to be issued outside the single intraday collection time in exceptional circumstances with escalated approval. OCC believes that margin calls issued outside the single intraday collection time would be the exception, rather than the rule. This change also aligns with Commission guidance from its October 25, 2024, final rule amending the CCA Standards, suggesting that scheduled intraday margin calls may not be sufficient and that CCAs would need to have the ability to make unscheduled intraday margin calls.⁵²

The Margin Policy would be further revised to state that any margin call would be calculated as the difference between the reviewed intraday risk increase at the single intraday collection time at or around 12:00 p.m. Central Time and the Intraday Risk Charge. Intraday margin calls would only be increasing financial resources to OCC. Generally, an intraday margin call would be released the next business day.

Data from September 2023 to September 2024 indicates there would have been approximately 1024 potential margin calls issued under the proposed changes, as amended. The number of potential margin calls would not change as a result of the amendments to the Initial Filing. As amended, the average daily margin call amount would have been \$27 million, as opposed to \$25.1 million under the Initial Filing. This increase is attributable to the decrease in the pre-funded Intraday Risk Charge resulting from the proposed amendments to the Initial Filing.

4. Discretion To Issue Margin Calls

OCC also proposes to modify the Margin Policy to add a provision whereby an FRM Officer will have the discretion to decide whether to issue or not issue a margin call, if in their judgement the call is not necessary to effectively manage the risk posed to OCC based on the specific facts and circumstances. As under the Initial Filing, such circumstances would include instances where OCC's intraday risk system may produce results that may not indicate actual risk increasing activity,⁵³ such as (i) when the intraday risk increase can be attributed to one or more intraday events or actions including but not limited to portfolio level changes resulting from positive offsetting P&L amounts or positive offsetting asset values for options and collateral, or from non-risk increasing events such as the substitution of collateral or the pledging of additional valued securities within the same account, or (ii) if the risk increase in the account is the result of a corporate action, or the result of position transfers between accounts such as delayed CMTA's from execution-only accounts, or when a P&L unrealized loss generates a margin call that exceeds the intraday margin call. In addition, as proposed to be amended, the Margin Policy would provide that such circumstances also, including but not limited to, circumstances in which issuing a call would not align with broader systemic objectives such as minimizing potential procyclical effects and potential participant defaults.

In all such cases, the FRM Officer would be required to document the basis for their decision not to issue a margin call at the single intraday collection time for an account breaching the Intraday Risk Monitoring Threshold

⁴⁵ See *supra* note 25 and accompanying text.

⁴⁶ See Exchange Act Release No. 100664, *supra* note 3, 89 FR 65698.

⁴⁷ *Id.*

⁴⁸ Margin calls in this context are demands by OCC to Clearing Members for the deposit of additional margin in immediately available funds to increase their margin resources to meet increased margin requirements. Margin calls are issued subject to OCC's policies and procedures.

⁴⁹ See Exchange Act Release No. 82658, *supra* Table 1 note c, 83 FR 6648 (approving OCC's Margin Policy, including the timing of margin calls).

⁵⁰ *Id.* (approving OCC's Margin Policy, including the price minimum for margin calls).

⁵¹ See OCC Rule 1002(d).

⁵² See *supra* Table 1 note d and accompanying text.

⁵³ The Initial Filing discussed certain limitations of the intraday risk system that may result in erroneous intraday risk increases. See Exchange Act Release No. 100664, *supra* note 3, 89 FR 65697.

at or around 12:00 p.m. Central Time.⁵⁴ These proposed change from the Initial Filing are aligned with the Commission's guidance on intraday margin calls issued in its October 25, 2024, final rule amending the CCA Standards, concerning intraday margin calls.⁵⁵ The change is also aligned with the documentation requirement in new SEC Rule 17Ad-22(e)(6)(ii)(D), which requires a CCA to document when it determines not to issue an intraday call pursuant to its written policies and procedures.⁵⁶

5. Implementation Timeframe

In the Initial Filing,⁵⁷ OCC proposed a 120-day implementation timeframe based on the amount of time OCC believed it would need to deploy system changes following receipt of all necessary regulatory approval. Industry participants have commented on the proposal that more time is required for them to prepare for the changes. Accordingly, OCC proposes to extend the implementation period. Subject to regulatory approval of the proposal, OCC plans to implement the proposed changes in September of 2025. OCC will announce the implementation date of the proposed changes by an Information Memorandum posted to its public website at least 4 weeks prior to implementation. This proposed implementation is designed to align with, but is not contingent on, OCC's planned replacement of its core clearance and settlement system, ENCORE, with a new system, Ovation. The proposed implementation dates are within the compliance period for the Commission's October 25, 2024, final rule, which requires a CCA to implement rule-filed changes by December 15, 2025.⁵⁸

(2) Statutory Basis

OCC believes that the proposed changes are consistent with Section 17A(b)(3)(F) of the Exchange Act⁵⁹ and SEC Rule 17Ad-22(e)(6)(ii)

thereunder.⁶⁰ Section 17A(b)(3)(F) of the Act⁶¹ requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions and, in general protect investors and the public interest. OCC proposes to introduce a new Intraday Risk Charge add-on with certain associated monitoring procedures and establish new risk-based credit risk monitoring thresholds. The proposed rule change as described above would enhance OCC's framework for measuring, monitoring, and managing its credit risk. Currently, OCC may be exposed to increased credit exposure from uncollateralized intraday trading activity, including that of ODTE options that is not otherwise collateralized and captured by OCC's current margin system at the start of each business day. OCC believes the proposed changes would enable OCC to mitigate the credit exposure resulting from the increased risk of intraday trading that includes ODTE option contracts by using the system it currently operates to monitor overnight trading activity. The Intraday Risk Charge would provide OCC with additional margin resources to help mitigate this risk and allow OCC to continue to provide prompt and accurate clearance and settlement services of securities and derivatives transactions without disruption in the event of a Clearing Member default. Given OCC's designation as a systemically important financial market utility,⁶² OCC believes that changes that promote the prompt and accurate clearance and settlement thereby is in the public interest and the interests of investors. For these reasons, OCC believes the proposed changes are designed to promote the prompt and accurate clearance and settlement of securities transactions in accordance with Section 17A(b)(3)(F) of the Exchange Act.⁶³

Rule 17Ad-22(e)(6)(ii), as recently amended, requires OCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum:

(A) Marks participant positions to market and collects margin (including

variation margin or equivalent charges if relevant) at least daily;

(B) Monitors intraday exposures on an ongoing basis;

(C) Includes the authority and operational capacity to make intraday margin calls, as frequently as circumstances warrant, including (1) when risk thresholds specified by OCC are breached, or (2) when the products cleared or markets served display elevated volatility; and

(D) Documents when OCC determines not to make an intraday call pursuant to its written policies and procedures required under Rule 17Ad-22(e)(6)(ii)(C).⁶⁴

OCC's existing margin processes are already designed to mark positions to market and collect margin at least daily, consistent with Rule 17Ad-22(e)(6)(ii)(A).⁶⁵ Under the proposed changes, OCC would monitor accounts intraday activity in 20 minute intervals and would have the authority and operational capacity under OCC's existing Rule 609 to issue a margin call or take other action under Rule 307 to protect OCC based on the result of such monitoring, consistent with new Rule 17Ad-22(e)(6)(ii)(B).⁶⁶ Specifically, the Margin Policy would define risk thresholds—the Intraday Monitoring Threshold—for monitoring intraday exposure for purposes of issuing potential margin calls, consistent with Rule 17Ad-22(e)(6)(ii)(C).⁶⁷

In general, OCC would issue a Clearing Member a margin call during the scheduled intraday collection time in the event that Clearing Member's intraday risk increase, as measured at or around 12:00 p.m. Central Time breached the proposed Intraday Monitoring Threshold. The scheduled intraday margin call aligns with the timing of OCC's existing intraday margin calls when unrealized losses exceeding 50% of an account's total risk charges are observed for that account based on start-of-day positions, which were previously approved by the Commission.⁶⁸ However, as the Commission has noted, covered clearing agencies also need the authority and operational capacity to issue unscheduled margin calls.⁶⁹ Accordingly, OCC would maintain authority to make an exception to its general policy of issuing scheduled intraday margin calls with escalated

⁵⁴ For the avoidance of doubt, this documentation requirement would not extend to monitoring of Intraday Risk Monitoring Threshold breaches outside of the single intraday collection period, notwithstanding OCC's authority to make an exception to its written policies and procedures to issue a margin call for activity falling outside that period.

⁵⁵ See Exchange Act Release No. 101446, *supra* note 4, 89 FR 91009-10 (discussing factors for CCAs to consider when determining whether to issue an intraday margin call).

⁵⁶ 17 CFR 240.17Ad-22(e)(6)(ii)(D).

⁵⁷ See Exchange Act Release No. 100664, *supra* note 3, 89 FR 65698.

⁵⁸ See *supra* Table 1 note e and accompanying text.

⁵⁹ 15 U.S.C. 78q-1(b)(3)(F).

⁶⁰ 17 CFR 240.17Ad-22(e)(6)(ii).

⁶¹ 15 U.S.C. 78q-1(b)(3)(F).

⁶² The Financial Stability Oversight Council designated OCC as a SIFMU under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, 12 U.S.C. 5463.

⁶³ 15 U.S.C. 78q-1(b)(3)(F).

⁶⁴ 17 CFR 240.17Ad-22(e)(6)(ii).

⁶⁵ 17 CFR 240.17Ad-22(e)(6)(ii)(A).

⁶⁶ 17 CFR 240.17Ad-22(e)(6)(ii)(B).

⁶⁷ 17 CFR 240.17Ad-22(e)(6)(ii)(C).

⁶⁸ See *supra* Table 1 note c and accompanying text.

⁶⁹ See *supra* Table 1 note d and accompanying text.

approvals from OCC's most senior Officers.

In addition, consistent with Commission guidance from its October 25, 2024, final rule,⁷⁰ OCC's policies and procedures would preserve OCC's authority to determine not to issue an intraday margin call at the scheduled time, notwithstanding a breach of the Intraday Monitoring Thresholds, if OCC determines that the call is not necessary to effectively manage the risk posed to OCC based on the specific facts and circumstances, including, but not limited to, in circumstances in which the intraday risk system may not reflect actual intraday risk increases,⁷¹ or in circumstances in which issuing a call would not align with broader systemic objectives such as minimizing potential procyclical effects and potential participant defaults. In cases in which OCC does not issue a margin call at the single collection time under its policies and procedures when the Intraday Monitoring Thresholds are breached, the Margin Policy would require that an FRM Officer document that decision, consistent with, consistent with Rule 17Ad-22(e)(6)(ii)(D).⁷² Accordingly, OCC believes that the proposal is consistent with Rule 17Ad-22(e)(6)(ii).⁷³

For the above reasons, OCC believes that the proposed rule change is consistent with Section 17A of the Exchange Act⁷⁴ and the rules and regulations thereunder applicable to OCC.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) requires that the rules of a clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.⁷⁵ The proposed introduction of the new Intraday Risk Charge add-on and establishment of new credit risk monitoring thresholds would be used by OCC to manage its credit risk across all Clearing Members. Accordingly, OCC does not believe that the proposed rule change would unfairly hinder access to OCC's services.

While the proposed rule change may impact different accounts to a greater or lesser degree depending on each Clearing Member's trading activity, including portfolios containing a greater volume of 0DTE option positions, OCC

does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. As discussed above, OCC is obligated under the Exchange Act and the regulations thereunder to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, among other things, (i) considers, and produces margin levels commensurate with the risks and particular attributes of each relevant product, portfolio, and market, (ii) monitor intraday exposures on an ongoing basis, and (iii) maintain the authority and operational capacity to make intraday margin calls, as frequently as circumstances warrant, including when thresholds specified by the CCA are breached or when the products cleared or markets served display elevated volatility.⁷⁶ Overall, the impact analysis from the proposed baseline approach indicates there would be on average a small add-on included across all Clearing Member margin requirements, with the more significant add-on charges attributed to Clearing Members in a manner that ties with their intraday trading activities and the increased risk they present. OCC notes that while the impact analysis is based on prior activity, OCC expects that the impact of the add-on charge when released in production may be less than predicted. This is because OCC expects Clearing Members may adjust their behaviors through different means such as allocating their trades earlier and more often throughout the day, or working to better understand their customers trading and allocation strategies, in order to minimize the effects of the Intraday Risk Charge on their portfolios.

Moreover, the proposed rule change relates to risk management changes designed to mitigate OCC's credit exposure from the increased risk generated from Clearing Member trading activities that includes 0DTE option contracts. As noted above, the risk exposure from the significant increase in intraday trading activity of 0DTE options may not be adequately captured under OCC's current margin system. OCC believes the Intraday Risk Charge would be a risk-based approach suitable to mitigate the increased intraday risk exposure presented to OCC from such trading activities.

Furthermore, the proposed rule change would be applied uniformly

across all Clearing Members and affect all cleared products. In response to feedback from industry participants, the amendments to the proposal would provide additional clarity to participants by shortening the time horizon for assessing the Intraday Risk Charge, while also designating a singular intraday margin issue collection time for potential margin calls in the ordinary course. These changes are designed to address feedback from industry participants to provide them with the necessary predictability they need to allocate trades within their portfolio more often throughout the day while also allowing Clearing Members to actively manage their exposure to the Intraday Risk Charge. Accordingly, OCC believes that the proposed rule change would not impose any burden or impact on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/>)

⁷⁰ See *supra* note 55 and accompanying text.

⁷¹ See, e.g., *supra* notes 32–46 and accompanying text.

⁷² 17 CFR 240.17Ad-22(e)(6)(ii)(D).

⁷³ *Id.*

⁷⁴ 15 U.S.C. 78q–1.

⁷⁵ 15 U.S.C. 78q–1(b)(3)(I).

⁷⁶ See 17 CFR 240.17Ad-22(e)(6)(i)–(ii).

rules-regulations/self-regulatory-organization-rulemaking); or

- Send an email to rule-comments@sec.gov. Please include file number SR–OCC–2024–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–OCC–2024–010. 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 (<https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking>). 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR–OCC–2024–010 and should be submitted on or before February 12, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷⁷

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025–01412 Filed 1–21–25; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 12589]

60-Day Notice of Proposed Information Collection: Overseas Vetting Questionnaire

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to *March 24, 2025*.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the internet may comment on this notice by going to www.Regulations.gov. You can search for the document by entering “Docket Number: DOS–2024–0044” in the Search field. Then click the “Comment Now” button and complete the comment form.

- *Email:* hanksdp@state.gov.

Regular Mail: Send written comments to: Attn: Dustin Hanks, DS/SI/PSS, SA–20 10th Fl., 2201 C St. NW, Washington, DC 20522–2210.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Dustin Hanks, DS/SI/PSS, SA–20 10th Fl., 2201 C St. NW, Washington, DC 20522–2210, who may be reached on (202)949–6965 or at hanksdp@state.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Overseas Vetting Questionnaire.
- *OMB Control Number:* None.
- *Type of Request:* New collection.
- *Originating Office:* Office of Personnel Security and Suitability, DS/SI/PSS.
- *Form Number:* DS–7801.
- *Respondents:* Individuals subject to Department of State background investigations, reinvestigations, and continuous vetting.
- *Estimated Number of Respondents:* 25,000.

- *Estimated Number of Responses:* 25,000.

- *Average Time per Response:* 70 minutes.

- *Total Estimated Burden Time:* 29,167 annual hours.

- *Frequency:* Once per request.
- *Obligation to Respond:* Voluntary for applicants and required for incumbents.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- 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.
- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The information solicited on this form will be used to conduct background investigations, reinvestigations, and continuous vetting of persons for eligibility for logical access, physical access, credentialing, and fitness to perform work overseas for or on behalf of the U.S. Government as Locally Employed (LE) Staff and locally-hired third party contractors employed overseas at a U.S. Mission. For applicants, this form is to be used only after a conditional offer of employment has been made. This form is not to be used for national security positions.

Methodology

The collection of information will be presented to respondents as an electronically fillable form as well as through a static web page that will produce an electronic form.

Erin Smart,

Senior Coordinator for Security Infrastructure, Bureau of Diplomatic Security, Department of State.

[FR Doc. 2025–01447 Filed 1–21–25; 8:45 am]

BILLING CODE 4710–43–P

⁷⁷ 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 12637]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “The Book of Esther in the Age of Rembrandt” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “The Book of Esther in the Age of Rembrandt” at The Jewish Museum, New York, New York; the North Carolina Museum of Art, Raleigh, North Carolina; the Isabella Stewart Gardner Museum, Boston, Massachusetts; and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2025–01449 Filed 1–21–25; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12642]

International Maritime Organization Eleventh Session of the Sub-Committee on Ship Systems and Equipment (SSE) Meeting

ACTION: Notice of public meeting.

The Department of State will conduct a public meeting at 1 p.m. on Thursday, February 13, 2025, both in-person at Coast Guard Headquarters in Washington, DC, and via teleconference. The primary purpose of the meeting is to prepare for the 11th session of the International Maritime Organization’s (IMO) Sub-committee on Ship Systems and Equipment (SSE) to be held at IMO Headquarters in London, United Kingdom from Monday, February 24 to Friday, February 28, 2025.

Members of the public may participate up to the capacity of the teleconference via Microsoft Teams, which can handle 500 participants or up to the seating capacity of the room if attending in person. The meeting location will be the United States Coast Guard Headquarters, and the teleconference line will be provided to those who RSVP. To RSVP, participants should contact the meeting coordinator, LT Jeff Bors, by email at jeffrey.s.bors@uscg.mil, via phone at (571) 610–2849. LT Bors will provide access information for in-person and virtual attendance.

The agenda items to be considered at SSE 11 include:

- Adoption of the agenda
- Decisions of other IMO bodies
- New requirements for ventilation of survival craft (7.36)
- Development of design and prototype test requirements for the arrangements used in the operational testing of free-fall lifeboat release systems without launching the lifeboat (7.33)
- Revision of SOLAS chapter III and the LSA Code (2.16)
- Amendments to SOLAS chapter III and chapter IV of the LSA Code to require the carriage of self-righting or canopied reversible life rafts for new ships (7.30)
- Review and update of the Code of practice for atmospheric oil mist detectors (MSC.1/Circ.1086)
- Revision of the 2010 FTP Code to allow for new fire protection systems and materials (7.34)
- Review and update SOLAS regulation II–2/9 on containment of fire to incorporate existing guidance and clarify requirements
- Unified interpretation of provisions of IMO safety, security, environment,

facilitation, liability and compensation-related conventions (7.1)

- Validated model training courses (6.2)
- Development of amendments to SOLAS chapter II–2 and the FSS Code concerning detection and control of fires in cargo holds and on the cargo deck of containerships (7.15)
- Development of provisions to consider prohibiting the use of fire-fighting foams containing fluorinated substances, in addition to PFOS, for fire-fighting on board ships (7.41)
- Comprehensive review of the Requirements for maintenance, thorough examination, operational testing, overhaul and repair of lifeboats and rescue boats, launching appliances and release gear (resolution MSC.402(96)) to address challenges with their implementation (7.29)
- Amendments to the LSA Code for thermal performance of immersion suits (OW 14)
- Evaluation of adequacy of fire protection, detection and extinction arrangements in vehicle, special category and ro-ro spaces in order to reduce the fire risk of ships carrying new energy vehicles (7.37)
- Biennial status report and provisional agenda for SSE 12
- Election of Chair and Vice-Chair for 2026
- Any other business
- Report to the Maritime Safety Committee

Please note: The IMO may, on short notice, adjust the SSE 11 agenda to accommodate the constraints associated with the meeting format. Any changes to the agenda will be reported to those who RSVP.

Those who plan to participate should contact the meeting coordinator, LT Jeff Bors, by email at jeffrey.s.bors@uscg.mil, via phone at (571) 610–2849, or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509, by February 3rd, 2024. Please note that, due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Douglas A. Munro Coast Guard Headquarters Building at St. Elizabeth’s. This building is accessible by taxi, public transportation, and privately owned conveyance (upon request). Additionally, members of the public needing reasonable accommodation should advise the meeting coordinator not later than February 3, 2024. Requests made after that date will be considered but might not be possible to fulfill.

Additional information regarding this and other IMO public meetings may be found at: <https://www.dco.uscg.mil/IMO>.

(Authority: 22 U.S.C. 2656 and 5 U.S.C. 552)

Leslie W. Hunt,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2025–01479 Filed 1–21–25; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 12640]

Notice of Determinations; Culturally Significant Object Being Imported for Exhibition—Determinations: Exhibition of “The Swan, The SUW Series, Group IX: Part I, No. 12” Painting by Hilma af Klint

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object being imported from abroad pursuant to an agreement with its foreign owner or custodian for temporary exhibition within the Collection Galleries: 1880s–1940s of The Museum of Modern Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, is of cultural significance, and, further, that its temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of

Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2025–01450 Filed 1–21–25; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12638]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Sargent and Paris” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Sargent and Paris” at The Metropolitan Museum of Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2025–01451 Filed 1–21–25; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12639]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Monstrous Beauty: A Feminist Revision of Chinoiserie” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Monstrous Beauty: A Feminist Revision of Chinoiserie” at The Metropolitan Museum of Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2025–01452 Filed 1–21–25; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

[Docket No.: FAA–2024–2450; Summary Notice No.–2025–05]

Petition for Exemption; Summary of Petition Received; United Parcel Service Co.

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before February 11, 2025.

ADDRESSES: Send comments identified by docket number FAA–2024–2450 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.dot.gov/privacy>.

Docket: Background documents or comments received may be read at <https://www.regulations.gov> at any time.

Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Sean O'Tormey at 202–267–4044, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Dan Ngo,

Manager, Part 11 Petitions Branch, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2024–2450.

Petitioner: United Parcel Service Co.
Section of 14 CFR Affected:

§ 121.101(b).

Description of Relief Sought: The petitioner seeks an exemption to utilize weather data obtained from a micro weather station (MWS) as a back-up for when there is a failure of the Automated Surface Observing System (ASOS), or Automated Weather Observing System (AWOS) at an uncontrolled airport.

[FR Doc. 2025–01442 Filed 1–21–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

[Docket No. FAA–2024–2470]

Agency Information Collection

Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Agricultural Aircraft Operations

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 our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 21, 2024. The collection involves the submission of FAA Form 8710–3 for the certification process of agricultural aircraft operators, and other reporting and recordkeeping activities required of

agricultural aircraft operators. The information to be collected is necessary to evaluate the applicants' qualifications for certification. This collection also involves the submission of information in petitions for exemption by agricultural aircraft operators, plans for operations over congested areas, and recordkeeping requirements for agricultural aircraft operators.

DATES: Written comments should be submitted by February 21, 2025.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to oira_submission@omb.eop.gov, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Raymond Plessinger by email at: raymond.plessinger@faa.gov; phone: 717–443–7296.

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: 2120–0049.

Title: Agricultural Aircraft Operations.

Form Numbers: FAA Form 8710–3.

Type of Review: Renewal.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 21, 2024 (89 FR 84239). This collection involves the application for issuance or amendment of a 14 CFR part 137 Agricultural Aircraft Operator Certificate. Application for an original certificate or amendment of a certificate issued under 14 CFR part 137 is made on a form, and in a manner prescribed by the Administrator. The FAA form 8710–3 may be obtained from an FAA Flight Standards District Office, or online at <https://www.faa.gov/forms/>

[index.cfm/go/document.information/documentID/1020386](https://www.federalregister.gov/document/1020386). The completed application is sent to the district office that has jurisdiction over the area in which the applicant's home base of operation is located.

The information collected includes: type of application, operator's name/DBA, telephone number, mailing address, physical address of the principal base of operations, chief pilot/designee name, airman certificate grade and number, and aircraft make/model and registration numbers to be used.

This information collection also includes safety mitigation plans and public interest statements in petitions for exemption; plans for operations over congested areas; and recordkeeping requirements.

Respondents: There are 1,763 active agricultural aircraft operators. Approximately 50 operators are certificated annually, and approximately 50 certificates are surrendered or revoked.

Frequency: New applications when needed; current 14 CFR part 137 certificate do not expire, but may need to be amended on occasion.

Estimated Average Burden per Response: The FAA anticipates 100 applications for new certificates, at 0.5 hours each; 100 applications for amendment, at 0.5 hours each; 100 petitions for exemption, at 0.5 hours each; and 350 submissions of plans for

operations over congested areas, at 0.5 hours each. The total reporting burden is thus 650 responses and 325 hours.

All operators certificated under part 137 are required to maintain certain records for a minimum of 12 months. The FAA estimates this recordkeeping burden at 4.5 hours per operator. Assuming a universe of 1,763 operators, the annual recordkeeping burden is 7,934 hours.

Estimated Total Annual Burden: 325 reporting hours + 7,934 recordkeeping hours = 8,259 total hours.

Issued in Washington, DC, on January 15, 2025.

D. C. Morris,

Aviation Safety Analyst, Flight Standards Service, General Aviation and Commercial Division.

[FR Doc. 2025-01488 Filed 1-21-25; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names

of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on January 15, 2025. See Supplementary Information section for relevant date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202-622-2420; Assistant Director for Sanctions Compliance, 202-622-2490 or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Actions

On January 15, 2025, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

BILLING CODE 4810-AL-P

Entities

1. EXIMBANK OF RUSSIA JSC (a.k.a. AO ROSEKSIMBANK (Cyrillic: АО РОСЭКСИМБАНК); a.k.a. EXIMBANK OF RUSSIA; a.k.a. EXIMBANK OF RUSSIA ZAO; a.k.a. GOSUDARSTVENNY SPETSIALIZIROVANNY ROSSISKI EKSPORTNO-IMPORTNY BANK (ZAKRYTOE AKTSIONERNOE OBSHCHESTVO); a.k.a. ROSEKSIMBANK, ZAO; a.k.a. RUSSIAN EXPORT-IMPORT BANK; a.k.a. STATE SPECIALIZED RUSSIAN EXPORT-IMPORT BANK JOINT-STOCK COMPANY (Cyrillic: ГОСУДАРСТВЕННЫЙ СПЕЦИАЛИЗИРОВАННЫЙ РОССИЙСКИЙ ЭКСПОРТНО-ИМПОРТНЫЙ БАНК АКЦИОНЕРНОЕ ОБЩЕСТВО)), 12 Krasnopresnenskaya Embankments, Moscow 123610, Russia; SWIFT/BIC EXIRRUMM; Website eximbank.ru; Executive Order 13662 Directive Determination - Subject to Directive 1; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Organization Established Date 24 May 1994; Target Type Financial Institution; Tax ID No. 7704001959 (Russia); Legal Entity Number 253400HA6URWT39X2982; Registration Number 1027739109133 (Russia); All offices worldwide; for more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: STATE CORPORATION BANK FOR DEVELOPMENT AND FOREIGN ECONOMIC AFFAIRS VNESHECONOMBANK).

Designated pursuant to section 1(a)(i) of Executive Order 13662 of March 20, 2014, "Blocking Property of Additional Persons Contributing to the Situation in Ukraine," 79 FR 16169, 3 CFR, 2014 Comp., p. 233 (E.O. 13662) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

2. JOINT STOCK COMMERCIAL BANK PRIMORYE (a.k.a. AKB PRIMORYE PAO; f.k.a. JSCB PRIMORYE BANK; a.k.a. PJSCB PRIMORYE), UL. Svetlanskaya D. 47, Vladivostok 690990, Russia; SWIFT/BIC UNEPRU8V; Website <https://www.primbank.ru/>; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 27 Jul 1994; Target Type Financial Institution; Tax ID No. 2536020789 (Russia); Legal Entity Number 25340019U0SFT4YC9G79; Registration Number 1022500000566 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

3. JOINT STOCK COMPANY BANK DOM RF, St. Vozdvizhenka 10, Moscow 125009, Russia; SWIFT/BIC BDRFRUMM; Website www.domrfbank.ru; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Target Type Financial Institution; Tax ID No. 7725038124 (Russia); Legal Entity Number 253400QBQPWTFL8FAS39; Registration Number 1037739527077 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

4. AKTSIONERNOE OBSHCHESTVO GRUPPA KREMNIY EL (a.k.a. AO GRUPPA KREMNIY EL; a.k.a. CJSC KREMNIY AI GROUP; a.k.a. JSC GRUPPA KREMNIY EL; a.k.a. KREMNIY GROUP), Krasnoarmeyskaya 103, Bryansk 241037, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 3234043140 (Russia); Registration Number 1023202741781 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

5. FOREIGN INTELLIGENCE SERVICE OF THE RUSSIAN FEDERATION (a.k.a. SLUZHBA VNESHNEI RAZVEDKI ROSSISKOI FEDERATSII; a.k.a. SLUZHBA VNESHNEY RAZVEDKI; a.k.a. SVR ROSSII FKU; a.k.a. "SVR"), Building 1, 51 Ostozhenka st., Moscow 119034, Russia; Yasenevo 11 Kolpachny, Moscow 010100, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 09 Oct 2003; Target Type Government Entity; Tax ID No. 7728302546 (Russia); Government Gazette Number 00035837 (Russia); Registration Number 1037728048973 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

6. JOINT STOCK COMPANY SHVABE (a.k.a. AKTSIONERNOE OBSHCHESTVO SHVABE; a.k.a. AO SHVABE; f.k.a. SHVABE PAO), 176, Prospekt Mira, Moscow 129366, Russia; Executive Order 13662 Directive Determination - Subject to Directive 3; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Target Type State-Owned Enterprise; Registration ID 1107746256727 (Russia); Tax ID No. 7717671799 (Russia); Government Gazette Number 07508641 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukrainc.aspx#directives> [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: STATE CORPORATION ROSTEC).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

7. OPEN JOINT STOCK COMPANY RUSSIAN ELECTRONICS (Cyrillic: ОТКРЫТОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО РОССИЙСКАЯ ЭЛЕКТРОНИКА) (a.k.a. AO ROSELEKTRONIKA; a.k.a. JSC RUSELECTRONICS (Cyrillic: АО РОСЭЛЕКТРОНИКА); a.k.a. JSC RUSSIAN ELECTRONICS), 12 Kosmonavta Volkova, Moscow 127299, Russia; Ul. Vereiskaya D. 29, Str. 141, Moscow 121357, Russia; Executive Order 13662 Directive Determination - Subject to Directive 3; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Target Type State-Owned Enterprise; Registration ID 1027739000475 (Russia); Tax ID No. 7710277994 (Russia); Government Gazette Number 48532918 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives> [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: STATE CORPORATION ROSTEC).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

8. PUBLIC JOINT STOCK COMPANY UNITED AIRCRAFT CORPORATION (Cyrillic: ПУБЛИЧНОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО ОБЪЕДИНЕННАЯ АВИАСТРОИТЕЛЬНАЯ КОРПОРАЦИЯ) (a.k.a. MIG; f.k.a. OJSC UAC (Cyrillic: ОАО ОАК); f.k.a. ОТКРЫТОЕ АКТСИОНЕРНОЕ ОБЩЕСТВО ОБЕДИНЕННАЯ АВИАСТРОИТЕЛЬНАЯ КОРПОРАЦИЯ; a.k.a. PJSC UAC (Cyrillic: ПАО ОАК); a.k.a. PUBLICHNOE AKTSIONERNOE OBSHESTVO OBEDINENNAYA AVIASTROITELNAYA KORPORATSIYA; a.k.a. SUKHOI; a.k.a. UNITED AIRCRAFT CORPORATION), ul. Bolshaya Pioneerskaya, d. 1, Moscow 115054, Russia (Cyrillic: ул. Большая Пионерская, д. 1, город Москва 115054, Russia); Str.1, 22, Ulanskyi Pereulok, Moscow 101000, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2006; Target Type State-Owned Enterprise; Tax ID No. 7708619320 (Russia); Registration Number 1067759884598 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

9. SKOLKOVO FOUNDATION (a.k.a. FOUNDATION FOR DEVELOPMENT OF THE CENTER FOR ELABORATION AND COMMERCIALIZATION OF NEW TECHNOLOGIES), 5 Nobelya str., Skolkovo Innovation Centre, Moscow 121205, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2010; Tax ID No. 7701058410 (Russia); Registration Number 1107799016720 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

10. STATE SCIENTIFIC RESEARCH INSTITUTE OF MECHANICAL ENGINEERING IMENI V.V. BAKHIREVA (a.k.a. AO GOSNIIMASH; a.k.a. SCIENTIFIC RESEARCH

INSTITUTE FOR MECHANICAL ENGINEERING JSC IN THE NAME OF V.V. BAKHIREV), PR-KT Sverdlova D. 11 A, Dzerzhinsk 606002, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 13 Jan 1992; Tax ID No. 5249093130 (Russia); Registration Number 1085249000650 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: TACTICAL MISSILES CORPORATION JSC).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

11. ADVANCED RESEARCH FOUNDATION (a.k.a. FOND PERSPEKTIVNYKH ISSLEDOVANIY (Cyrillic: ФОНД ПЕРСПЕКТИВНЫХ ИССЛЕДОВАНИЙ); a.k.a. "FPI"), Nab. Berezhkovskaya, D. 22, Str. 3, Moscow 121059, Russia; Website fpi.gov.ru; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7710480347 (Russia); Registration Number 1127799026596 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

12. JOINT STOCK COMPANY RESEARCH AND PRODUCTION ASSOCIATION NAMED AFTER S. A. LAVOCHKINA (a.k.a. LAVOCHKIN SCIENTIFIC RESEARCH ASSOCIATION; a.k.a. NAUCHNO PROIZVODSTVENNOYE OBYEDINENIYE IMENI LAVOCHKINA; a.k.a. NPO IMENI LAVOCHKINA; a.k.a. S.A. LAVOCHKIN NPO; a.k.a. S.A. LAVOCHKIN SCIENTIFIC PRODUCTION ASSOCIATION), 24 Leningradskaya Str., Khimki, Moscow region 141411, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 05 Apr 2017; Tax ID No. 5047196566 (Russia); Registration Number 1175029009363 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

13. CREDIT BANK OF MOSCOW PUBLIC JOINT STOCK COMPANY (a.k.a. CREDIT BANK OF MOSCOW (Cyrillic: МОСКОВСКИЙ КРЕДИТНЫЙ БАНК); a.k.a. CREDIT BANK OF MOSCOW PJSC (Cyrillic: ПАО МОСКОВСКИЙ КРЕДИТНЫЙ БАНК)), Lukov pereulok 2, bldg. 1, Moscow 107045, Russia; SWIFT/BIC MCRBRUMM; Website www.mkb.ru; BIK (RU) 044525659; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 1992; Target Type Financial Institution; Executive Order 14024 Directive Information - For more information on directives, please visit the following link: <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/russian-harmful-foreign-activities-sanctions#directives>; Executive Order 14024 Directive Information Subject to Directive 3 - All transactions in, provision of financing for, and other dealings in new debt of longer than 14 days maturity or new equity where such new debt or new equity is issued on or after the 'Effective Date (EO

14024 Directive)' associated with this name are prohibited.; Listing Date (EO 14024 Directive 3): 24 Feb 2022; Effective Date (EO 14024 Directive 3): 26 Mar 2022; Registration ID 1027739555282 (Russia); Tax ID No. 7734202860 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

14. INTERNATIONAL INVESTMENT BANK (a.k.a. MEZHDUNARODNY INVESTITSIONNY BANK; a.k.a. "IIB"), Vaci ut, 188, Budapest H-1138, Hungary; Foutca 1, Budapest H-1011, Hungary; 7 Mash Poryvaevoy Street, Moscow 107078, Russia; SWIFT/BIC IIBMHU22; Website www.iib.int; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 10 Jul 1970; Target Type Financial Institution; Tax ID No. 30479900-1-51 (Hungary); alt. Tax ID No. 9909152110 (Russia); Legal Entity Number 2534000PHLD27VN98Y03 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

15. NATIONAL PAYMENT CARD SYSTEM JOINT STOCK COMPANY (a.k.a. AKTSIONERNOE OBSHCHESTVO NATSIONALNAYA SISTEMA PLATEZHNYKH KART; a.k.a. NSPK JSC), ul. Bolshaya Tatarskaya D. 11, Moscow 115184, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7706812159 (Russia); Registration Number 1147746831352 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

16. PUBLIC JOINT STOCK COMPANY BANK URALSIB (a.k.a. BANK URALSIB OAO; a.k.a. BANK URALSIB OJSC; a.k.a. BANK URALSIB PAO; a.k.a. BASHCREDITBANK; a.k.a. URALO-SIBIRSKIY BANK OAO; a.k.a. URAL-SIBERIAN BANK), 8 Efremova Street, Moscow 119048, Russia; SWIFT/BIC AVTBRUMM; Website <https://www.uralsib.ru>; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 27 Jan 1993; Target Type Financial Institution; Tax ID No. 0274062111 (Russia); Legal Entity Number 253400HYBTF10T9XBR98; Registration Number 1020280000190 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

17. PUBLIC JOINT STOCK COMPANY MTS BANK (f.k.a. MOSCOW BANK FOR RECONSTRUCTION AND DEVELOPMENT; f.k.a. OPEN JOINT STOCK COMPANY MTS BANK; a.k.a. PJSC MTS BANK), PR-KT Andropova D. 18, K. 1, Moscow 115432, Russia; Abu Dhabi, United Arab Emirates; SWIFT/BIC MBRDRUMM; Website www.mtsbank.ru; Secondary sanctions risk: See Section 11 of

Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 29 Jan 1993; Target Type Financial Institution; Tax ID No. 7702045051 (Russia); Legal Entity Number 2534005803A5MMD61T78; Registration Number 1027739053704 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

18. PUBLIC JOINT STOCK COMPANY SPB BANK (a.k.a. ALOR BANK), 38 Dolgorukovskaya str., bld. 1, Moscow 127006, Russia; SWIFT/BIC RTSBRUMM; Website www.spbbank.com; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Target Type Financial Institution; Tax ID No. 7831000034 (Russia); Registration Number 1037700041323 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

19. PUBLIC JOINT STOCK COMPANY TRANSCAPITALBANK (Cyrillic: ПУБЛИЧНОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО ТРАНСКАПИТАЛБАНК) (a.k.a. JOINT STOCK BANK TRANSCAPITALBANK; a.k.a. JOINT STOCK COMMERCIAL BANK TRANSCAPITALBANK CLOSED JOINT STOCK COMPANY; a.k.a. OPEN JOINT STOCK BANK TRANSCAPITALBANK; a.k.a. PJSC TRANSCAPITALBANK; a.k.a. TKB BANK PJSC (Cyrillic: ТКБ БАНК ПАО); a.k.a. TRANSCAPITALBANK PJSC; a.k.a. TRANSCAPITALBANK; a.k.a. "TKB PJSC"), 27/35, Voroncovskaya Ul., Moscow 109147, Russia; Bldg. 1, 24/2, Pokrovka str., Moscow 105062, Russia; SWIFT/BIC TJSCRUMM; Website www.tkbbank.ru; alt. Website tkbbank.com; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 1992; Target Type Financial Institution; Tax ID No. 7709129705 (Russia); Registration Number 1027739186970 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

20. SOVCOMBANK OPEN JOINT STOCK COMPANY (a.k.a. SOVCOMBANK OJSC), 46 Prospekt Tekstilshchikov, Kostroma 156000, Russia; SWIFT/BIC SOMRRUM1KST; Website sovcombank.ru; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 4401116480 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

21. SPB EXCHANGE (a.k.a. PUBLIC JOINT STOCK COMPANY SAINT PETERSBURG EXCHANGE; a.k.a. PUBLIC JOINT STOCK COMPANY SPB EXCHANGE; a.k.a. "PJSC SPB EXCHANGE"), Ul. Dolgorukovskaya D. 38, Korp. 1, Moscow 127006,

Russia; SWIFT/BIC XPETRU21; Website spbexchange.ru; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 21 Jan 2009; Target Type Financial Institution; Tax ID No. 7801268965 (Russia); Government Gazette Number 45573578 (Russia); Legal Entity Number 253400T8G8SXRUHTL526; Registration Number 1097800000440 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

22. T-BANK (a.k.a. JSC TINKOFF BANK; a.k.a. KHAMMASHBANK; a.k.a. TINKOFF CREDIT SYSTEMS BANK CLOSED JOINT STOCK COMPANY), Ul. 2nd Khutorskaya, 38A, building 26, Moscow 127287, Russia; SWIFT/BIC TICSRRMM; Website www.tinkoff.ru; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Target Type Financial Institution; Tax ID No. 7710140679 (Russia); Identification Number TQWL8F.99999.SL.643 (Russia); Legal Entity Number 2534000KL0PLD6KG7T76; Registration Number 1027739642281 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

23. BANK SAINT-PETERSBURG PUBLIC JOINT STOCK COMPANY (a.k.a. BANK SAINT PETERSBURG; a.k.a. BANK SAINT-PETERSBURG PJSC; f.k.a. OJSC BANK SAINT PETERSBURG), 64A, Malookhtinsky PR, Saint Petersburg 195112, Russia; SWIFT/BIC JSBSRU2P; Website www.bspb.ru; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 01 Jan 1990; Target Type Financial Institution; Tax ID No. 7831000027 (Russia); Legal Entity Number 253400BEVESMWQRXBQ11; Registration Number 1027800000140 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

24. BANK ZENIT PUBLIC JOINT STOCK COMPANY (f.k.a. BANK ZENIT OAO; a.k.a. BANK ZENIT PAO; f.k.a. OJSC BANK ZENIT; a.k.a. PJSC BANK ZENIT), Ul. Odesskaya D. 2, Moscow 117638, Russia; SWIFT/BIC ZENIRUMM; Website www.zenit.ru; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 01 Jan 1995; Target Type Financial Institution; Tax ID No. 7729405872 (Russia); Legal Entity Number 253400NT4MB307747N58; Registration Number 1927739056927 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

25. GAZPROMBANK JOINT STOCK COMPANY (Cyrillic: ГАЗПРОМБАНК АКЦИОНЕРНОЕ ОБЩЕСТВО) (a.k.a. BANK GPB JSC; f.k.a. GAZPROMBANK OPEN JOINT STOCK COMPANY; f.k.a. JOINT STOCK BANK OF THE GAS INDUSTRY GAZPROMBANK), 16 Nametkina Street, Bldg. 1, Moscow 117420, Russia; 6 Enh-Taivan St., Ulaanbaatar 14250, Mongolia; 6 Floor, Business Center Q, Block A, Building 15A, Kabanbay Batyra Avenue, Astana 010000, Kazakhstan; 10/48 Malcha Marg, Diplomatic Enclave, Chanakyapuri, Delhi 110021, India; Central International Trade Center, Suite No. 1205, Tower C, No. 6A Jianguomenwai Avenue, Chaoyang, Liaoning 100022, China; SWIFT/BIC GAZPRUMM; Website www.gazprombank.ru; Executive Order 13662 Directive Determination - Subject to Directive 1; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Organization Established Date 31 Jul 1990; alt. Organization Established Date 31 Jul 1990; Target Type Financial Institution; alt. Target Type State-Owned Enterprise; Executive Order 14024 Directive Information - For more information on directives, please visit the following link: <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/russian-harmful-foreign-activities-sanctions#directives>; Executive Order 14024 Directive Information Subject to Directive 3 - All transactions in, provision of financing for, and other dealings in new debt of longer than 14 days maturity or new equity where such new debt or new equity is issued on or after the 'Effective Date (EO 14024 Directive)' associated with this name are prohibited.; Listing Date (EO 14024 Directive 3): 24 Feb 2022; Effective Date (EO 14024 Directive 3): 26 Mar 2022; Tax ID No. 7744001497 (Russia); Legal Entity Number 253400WSS48YWMBUA688; Registration Number 1027700167110 (Russia); For more information on directives, please visit the following link: <https://ofac.treasury.gov/sanctions-programs-and-country-information/ukraine-russia-related-sanctions#directives> [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

26. JOINT STOCK COMMERCIAL BANK AK BARS PUBLIC JOINT STOCK COMPANY (a.k.a. AK BARS BANK; a.k.a. AKTSIONERNY KOMMERCHESKI BANK AK BARS PAO), D. 1, ul. Dekabristov, Kazan 420066, Russia; SWIFT/BIC ARRSRU2K; Website www.akbars.ru; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 26 Jul 2002; Target Type Financial Institution; Tax ID No. 1653001805 (Russia); Identification Number ZDFUFB.00000.LE.643 (Russia); Legal Entity Number 253400XEMNQ5WBP5635; Registration Number 1021600000124 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

27. JOINT STOCK COMMERCIAL BANK NOVIKOMBANK (Cyrillic: АКЦИОНЕРНЫЙ КОММЕРЧЕСКИЙ БАНК НОВИКОМБАНК АКЦИОНЕРНОЕ ОБЩЕСТВО) (a.k.a. AKTSIONERNY KOMMERCHESKI BANK NOVIKOMBANK AKTSIONERNOE OBSHCHESTVO; a.k.a. AO AKB NOVIKOMBANK (Cyrillic: АО АКБ НОВИКОМБАНК); a.k.a. JOINT STOCK COMMERCIAL BANK NOVIKOMBANK JOINT STOCK COMPANY; f.k.a. NOVIKOMBANK AO; a.k.a.

NOVIKOMBANK JCSB), bld.1, Polyanka Bolshaya str. 50/1, Moscow 119180, Russia (Cyrillic: ул. Полянка Большая, д. 50/1, стр. 1, Москва 119180, Russia); SWIFT/BIC CNOVRUMM; Website <http://www.novikom.ru>; BIK (RU) 044583162; Executive Order 13662 Directive Determination - Subject to Directive 3; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Organization Established Date 1993; Registration ID 1027739075891 (Russia); Tax ID No. 7706196340 (Russia); Government Gazette Number 17541272 (Russia); All offices worldwide. For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives> [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: STATE CORPORATION ROSTEC).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

28. JOINT STOCK COMPANY POST BANK (a.k.a. POCHTA BANK; a.k.a. POST BANK JSC), Preobrazhenskaya ploshchad, 8, Moscow 107061, Russia; SWIFT/BIC POSBRUMM; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Target Type Financial Institution; Tax ID No. 3232005484 (Russia); Identification Number DN2Q9U.99999.SL.643 (Russia); Legal Entity Number 2534001VHLQ1L34HNW95; Registration Number 1023200000010 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

29. PROMSVYAZBANK PUBLIC JOINT STOCK COMPANY (Cyrillic: ПУБЛИЧНОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО ПРОМСВЯЗЬБАНК) (f.k.a. OJSC PROMSVYAZBANK; a.k.a. PROMSVYAZBANK PAO (Cyrillic: ПАО ПРОМСВЯЗЬБАНК); a.k.a. PROMSVYAZBANK PJSC; a.k.a. PUBLICHNOE AKTSIONERNOE OBSHCHESTVO PROMSVYAZBANK), Smirnovskaya Street 10/22, Moscow 109052, Russia; Room 1308, SCITECH Tower22, Jianguomenwai Dajie, Beijing 100004, China; 7, MunirkaMarg, Vasant Vihar, New Delhi 110057, India; SWIFT/BIC PRMSRUMM; Website www.psbank.ru; BIK (RU) 044525555; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2001; Target Type Financial Institution; Tax ID No. 7744000912 (Russia); Government Gazette Number 40148343 (Russia); Registration Number 1027739019142 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

30. PUBLIC JOINT STOCK COMPANY ROSBANK (f.k.a. AKB ROSBANK OAO; f.k.a. AKB ROSBANK PAO; f.k.a. COMMERCIAL BANK NEZAVISIMOST; f.k.a. JOINT STOCK COMMERCIAL BANK ROSBANK; a.k.a. ROSBANK PJSC), 34 Mashy Poryvaevoy Street, Moscow 107078, Russia; PO Box 208, Moscow 107078, Russia; SWIFT/BIC RSBNRUMM; Website <https://www.rosbank.ru/>; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-

/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 02 Mar 1993; Equity Ticker ROSB; ISIN RU000A0IIIK26; Target Type Financial Institution; Tax ID No. 7730060164 (Russia); Legal Entity Number IIOXMZG026UQNRK6J0C60; Registration Number 1027739460737 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

31. SDM-BANK PUBLIC JOINT STOCK COMPANY (a.k.a. SDM-BANK PAO; a.k.a. SDM-BANK PJSC), Sh. Volokolamskoe d. 73, Moscow 125424, Russia; SWIFT/BIC SJSCRUMM; Website www.sdm.ru; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 17 Sep 1991; Target Type Financial Institution; Tax ID No. 7733043350 (Russia); Legal Entity Number 25340008GF2H0T8HKN44; Registration Number 1027739296584 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

32. ALEKSINSKII KHIMICHESKII KOMBINAT (a.k.a. ALEKSINSKY CHEMICAL COMBINE; a.k.a. ALEKSINSKY CHEMICAL PLANT; a.k.a. "AKHK"), pl. Pobedy D. 21, Aleksin 301361, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7111003056 (Russia); Registration Number 1027100507510 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

33. FEDERAL STATE ENTERPRISE PERM POWDER PLANT (Cyrillic: ФЕДЕРАЛЬНОЕ КАЗЕННОЕ ПРЕДПРИЯТИЕ ПЕРМСКИЙ ПОРОХОВОЙ ЗАВОД) (a.k.a. "PERM GUNPOWDER MILL"), Ul. Galperina 11, Perm 614101, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 5908006119 (Russia); Registration Number 1025901604156 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

34. FEDERAL STATE ENTERPRISE SCIENCE AND TECHNOLOGY ASSOCIATION KAZAN PLANT OF PRECISION ENGINEERING (a.k.a. FKP NPO KZTM; a.k.a. NAUCHNO PROIZVODSTVENNOE OBYEDINENIE KAZANSKII ZAVOD TOCHNOGO MASHINOSTROENIYA), 71 Mazita Gafuri Street, Kazan 420108, Russia; 2 Pionerskaya Street, Chapaevsk 446100, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 1654001773 (Russia); Registration Number 1021602829115 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

35. FEDERAL STATE ENTERPRISE YA M SVERDLOV PLANT (a.k.a. PLANT NAMED AFTER IA M SVERDLOV FEDERAL STATE ENTERPRISE), Sverdlova Street 4, Dzerzhinsk 606002, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 5249002485 (Russia); Registration Number 1025201752982 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

36. JOINT STOCK COMPANY IZHEVSK ELECTROMECHANICAL PLANT KUPOL (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО ИЖЕВСКИЙ ЭЛЕКТРОМЕХАНИЧЕСКИЙ ЗАВОД КУПОЛ) (a.k.a. AKTSIONERNOE OBSHCHESTVO IZHEVSKI ELEKTROMEKHANICHESKI ZAVOD KUPOL; a.k.a. AO IEMZ KUPOL (Cyrillic: АО ИЭМЗ КУПОЛ); a.k.a. JSC IEMZ KUPOL), ul. Pesochnaya 3, Izhevsk, Udmurtia Republic 426033, Russia (Cyrillic: УЛИЦА ПЕСОЧНАЯ, 3, Город Ижевск, РЕСПУБЛИКА УДМУРТСКАЯ 426033, Russia); Website www.kupol.ru; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 23 Apr 2002; alt. Organization Established Date 1957; Tax ID No. 1831083343 (Russia); Government Gazette Number 07502963 (Russia); Business Registration Number 1021801143374 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

37. JOINT STOCK COMPANY SPECIAL ECONOMIC ZONE OF INDUSTRIAL PRODUCTION ALABUGA (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО ОСОБАЯ ЭКОНОМИЧЕСКАЯ ЗОНА ПРОМЫШЛЕННО-ПРОИЗВОДСТВЕННОГО ТИПА АЛАБУГА) (a.k.a. AKTSIONERNOE OBSHCHESTVO OSOBAYA EKONOMICHESKAYA ZONA PROMYSHLENNO-PROIZVODSTVENNOGO TIPА ALABUGA; a.k.a. AO OEZ PPT ALABUGA (Cyrillic: АО ОЭЗ ППТ АЛАБУГА)), ul. Sh-2 (Oez Alabuga Ter.) 4/1, Yelabuga, Tatarstan 423600, Russia (Cyrillic: ТЕРРИТОРИЯ ОЭЗ АЛАБУГА, УЛИЦА Ш-2, КОПИУС 4/1, Елабужский Район, Республика Татарстан 423600, Russia); Prompleshchadka Alabuga, ul. Sh-2, Korp. 4/1, Yelabuga, Volga federal region, Republic of Tatarstan 423600, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 24 Jul 2006; Tax ID No. 1646019914 (Russia); Registration Number 1061674037259 (Russia); Government gazette Number 95427882 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

38. JOINT STOCK COMPANY UNITED ENGINE CORPORATION (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО ОБЪЕДИНЕННАЯ ДВИГАТЕЛЕСТРОИТЕЛЬНАЯ КОРПОРАЦИЯ) (a.k.a. AKTSIONERNOE OBSHCHESTVO OBEDINENNAYA DVIGATELESTROITELNAYA KORPORATSIYA; a.k.a. UNITED ENGINE CORP JSC; a.k.a. "АО ОДК" (Cyrillic: "АО ОДК")), 16, Budyonny Avenue, Moscow 105118, Russia; Per. Mayakovskogo D. 11, Moscow 109147, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 22 Nov 2007; Tax ID No. 7731644035 (Russia); Registration Number 1107746081717 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

39. KAZANSKII GOSUDARSTVENNYI KAZENNYI POROKHOVOI ZAVOD (a.k.a. FEDERAL STATE ENTERPRISE KAZAN FEDERAL STATE GUNPOWDER PLANT; a.k.a. "KGKPZ"), ul. Pervogo Maya D. 14, Kazan 420032, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 1656025681 (Russia); Registration Number 1031624002937 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

40. STATE CORPORATION ROSTEC (a.k.a. STATE CORPORATION FOR THE PROMOTION OF THE DEVELOPMENT, MANUFACTURE, AND EXPORT OF HIGH TECH PRODUCTS ROSTEC (Cyrillic: ГОСУДАРСТВЕННАЯ КОРПОРАЦИЯ ПО СОДЕЙСТВИЮ РАЗРАБОТКЕ, ПРОИЗВОДСТВУ И ЭКСПОРТУ ВЫСОКОТЕХНОЛОГИЧНОЙ ПРОМЫШЛЕННОЙ ПРОДУКЦИИ РОСТЕХ)), 24 Usacheva Str., Moscow 119048, Russia; 21 Gogolevsky Blvd., Moscow 119991, Russia; Executive Order 13662 Directive Determination - Subject to Directive 3; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Organization Established Date 03 Dec 2007; Registration ID 1077799030847 (Russia); Tax ID No. 7704274402 (Russia); Government Gazette Number 94137372 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

41. TACTICAL MISSILES CORPORATION JSC (Cyrillic: АО КОРПОРАЦИЯ ТАКТИЧЕСКОЕ РАКЕТНОЕ ВООРУЖЕНИЕ) (a.k.a. AKTSIONERNOE OBSHCHESTVO KORPORATSIYA TAKTICHESKOE RAKETNOE VOORUZHENIE; a.k.a. "КТРВ" (Cyrillic: "КТРВ")), d. 7, ul. Il'icha, Korolev, Moskovskaya Obl. 141080, Russia (Cyrillic: д. 7, ул. Ильича, Королёв, Московская Область 141080, Russia); Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary

sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 13 Mar 2003; Government Gazette Number 07503313 (Russia); Registration Number 1035003364021 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

42. TAMBOVSKII POROKHOVOI ZAVOD (a.k.a. TAMBOV GUNPOWDER PLANT; a.k.a. TAMBOV POWDER PLANT; a.k.a. "TPZ"), PR-kt Truda D.23, Kotovsk 393190, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Registration ID 1026801010994 (Russia); Tax ID No. 6825000757 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

43. VERTOLETY ROSSII AO (a.k.a. AKTSIONERNOE OBSHCHESTVO VERTOLETY ROSSII; a.k.a. JOINT STOCK COMPANY RUSSIAN HELICOPTERS; a.k.a. JSC RUSSIAN HELICOPTERS; a.k.a. OPEN JOINT STOCK COMPANY RUSSIAN HELICOPTERS; a.k.a. RUSSIAN HELICOPTERS JOINT STOCK COMPANY), Entrance 9, 12, Krasnopresnenskaya emb., Moscow 123610, Russia; 1, Ul. Bolshaya Pionerskaya, Moscow 115054, Russia; Executive Order 13662 Directive Determination - Subject to Directive 3; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Registration ID 1077746003334 (Russia); Tax ID No. 7731559044 (Russia); Government Gazette Number 98927243 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives> [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: STATE CORPORATION ROSTEC).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

44. JOINT STOCK COMPANY GAZSTROYIPROM (a.k.a. AKTSIONERNOE OBSHCHESTVO GAZSTROIIPROM; a.k.a. AO GAZSTROYIPROM; a.k.a. GAZSTROIIPROM AO), Ul. Tashkentskaya D. 3, Korpus 3 Lit. B, Saint Petersburg 196084, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 21 Jun 2018; Tax ID No. 7842155505 (Russia); Government Gazette Number 29749701 (Russia); Registration Number 1187847178705 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

45. JOINT STOCK COMPANY POLIMETALL (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО ПОЛИМЕТАЛЛ) (a.k.a. JOINT STOCK COMPANY POLYMETAL), prospekt Narodnogo Opolcheniya, d. 2 ofis 1063 Biznes-tsentr Gals, Saint Petersburg 198216,

Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 12 Mar 1998; Organization Type: Mining of other non-ferrous metal ores; Registration ID 1027802743308 (Russia); Tax ID No. 7805104870 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

46. JOINT STOCK COMPANY RAZREZ KOLYVANSKIY (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО РАЗРЕЗ КОЛЫВАНСКИЙ) (a.k.a. AO SIBANTRATSIT; a.k.a. JSC SIBERIAN ANTHRACITE; a.k.a. SIBANTHRACITE JSC), ul. Sovetskaya d. 2A Pos., Litvyanski 633224, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 5406192366 (Russia); Registration Number 1025404670620 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

47. JOINT STOCK COMPANY UGOLNAYA KOMPANIYA KUZBASSRAZREZUGOL (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО УГОЛЬНАЯ КОМПАНИЯ КУЗБАССРАЗРЕЗУГОЛЬ) (a.k.a. AO UK KUZBASSRAZREZUGOL), 4A Pionerski Bulvar, Kemerovo 650054, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 4205049090 (Russia); Registration Number 1034205040935 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

48. LIMITED LIABILITY COMPANY MACHINE BUILDING PLANT TONAR (a.k.a. LIMITED LIABILITY COMPANY PRODUCTION AND COMMERCIAL FIRM TONAR; a.k.a. MZ TONAR; a.k.a. OOO MZ TONAR), Ul. 1-Aya Leninskaya D. 76 A, Srednyaya Matrenka 142635, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 30 Nov 1990; Tax ID No. 5034016022 (Russia); Government Gazette Number 48806669 (Russia); Registration Number 1025007458200 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

49. LIMITED LIABILITY COMPANY SHIPBUILDING COMPLEX ZVEZDA (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ СУДОСТРОИТЕЛЬНЫЙ КОМПЛЕКС ЗВЕЗДА) (a.k.a. OOO SSK ZVEZDA (Cyrillic: OOO ССК ЗВЕЗДА)), ul. Alleya Truda 19V, Bolshoi Kamen 692806, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or

589.209; Tax ID No. 2503032517 (Russia); Registration Number 1152503000539 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY ROSNEFTEFLOT).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(ii) of E.O. 13662 for having materially assisted, sponsors, or provided financial, material, or technological support for, or goods and services to or in support, of JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to this order.

50. PUBLIC JOINT STOCK COMPANY PIPE METALLURGICAL COMPANY (Cyrillic: ПУБЛИЧНОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО ТРУБНАЯ МЕТАЛЛУРГИЧЕСКАЯ КОМПАНИЯ) (a.k.a. PUBLIC JOINT STOCK COMPANY TRUBNAYA METALLURGICHESKAYA KOMPANIYA; a.k.a. "PAO TMK" (Cyrillic: "ПАО ТМК"); a.k.a. "PJSC TMK"), 40 Pokrovka Street, Building 2A, Moscow 101000, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7710373095 (Russia); Registration Number 1027739217758 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

51. PUBLIC JOINT STOCK COMPANY SEVERSTAL (Cyrillic: ПУБЛИЧНОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО СЕВЕРСТАЛЬ) (a.k.a. PAO SEVERSTAL (Cyrillic: ПАО СЕВЕРСТАЛЬ)), 30 Mira Street, Cherepovets, Vologda Region 162608, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 3528000597 (Russia); Registration Number 1023501236901 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: MORDASHOV, Alexey Aleksandrovich).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

52. PUBLICHNOE AKTSIONERNOE OBSHCHESTVO MEHEL (a.k.a. MEHEL OAO; a.k.a. MEHEL PJSC; a.k.a. MEHEL STEEL GROUP OAO), 1, Krasnoarmeyskaya Street, Moscow 125167, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 19 Mar 2003; Tax ID No. 7703370008 (Russia); Legal Entity Number 253400C9GSPBSKERRP65; Registration Number 1037703012896 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

53. PUBLICHNOE AKTSIONERNOE OBSHCHESTVO RASPADSKAYA (a.k.a. OPEN JOINT STOCK COMPANY RASPADSKAYA; a.k.a. "RASPADSKAYA PAO"; a.k.a.

"RASPADSKAYA PJSC"), 27A, prospekt Kommunisticheski, Mezhdurechensk, Kemerovo region 652870, Russia; 106 Mira Street, Mezhdurechensk 652870, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 4214002316 (Russia); Registration Number 1024201389772 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

54. VELESSTROI LIMITED LIABILITY COMPANY (f.k.a. AMERKO OOO; a.k.a. OBSHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU VELESSTROI; a.k.a. VELESSTROY LIMITED LIABILITY COMPANY; a.k.a. "VELESSTROY"), UL. 2-YA Tverskaya-Yamskaya D. 10, Moscow 125047, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 04 Apr 2008; Tax ID No. 7709787790 (Russia); Government Gazette Number 85762734 (Russia); Registration Number 1087746466950 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

55. JOINT STOCK COMPANY ANGSTREM (a.k.a. ANGSTREM JSC), 2str3 Shokina Square, Zelenograd, Moscow 124498, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 23 Jun 1993; Tax ID No. 7735010706 (Russia); Registration Number 1027700140930 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

56. JOINT STOCK COMPANY MIKRON (a.k.a. MIKRON JSC; f.k.a. NII MOLEKULARNOI ELEKTRONIKI I ZAVOD MIKRON PAO; f.k.a. NIIME AND MIKRON; f.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO NII MOLEKULARNOY ELEKTRONIKI I ZAVOD MIKRON; a.k.a. PJSC MIKRON; a.k.a. PUBLICHNOE AKTSIONERNOE OBSHCHESTVO MIKRON), 1st Zapadny Proezd 12/1, Zelenograd 124460, Russia; d. 6 str. 1, ul. Akademika Valieva, Zelenograd, Moscow 124460, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 13 Jan 1994; Tax ID No. 7735007358 (Russia); Government Gazette Number 07589295 (Russia); Registration Number 1027700073466 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

57. LIMITED LIABILITY COMPANY NAVIMAKS GROUP (a.k.a. NAVIMAKS GRUPP), Sh. Korovinskoe D. 10, Str. 2, Office 3, Moscow 127486, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk:

Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7715851725 (Russia); Registration Number 1117746101770 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

58. LTD BINA GROUP (a.k.a. BINA GRUPP), Ul. Elektrozavodskaya D. 27, Str. 7, Moscow 107023, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7706725428 (Russia); Registration Number 1097746585452 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

59. PUBLICHNOE AKTSIONERNOE OBSHESTVO SOLLERS (a.k.a. PUBLIC JOINT STOCK COMPANY SOLLERS; a.k.a. SOLLERS PUBLIC JOINT STOCK COMPANY), Moscow International Business Centre, Northern Tower, 10, Testovskaya Street, Moscow 123317, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2002; Tax ID No. 3528079131 (Russia); Government Gazette Number 57126933 (Russia); Registration Number 1023501244524 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

60. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU K HOLDINGOVAYA KOMPANIYA YUESEM (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ХОЛДИНГОВАЯ КОМПАНИЯ ЮЭСМ) (a.k.a. LIMITED LIABILITY COMPANY HOLDING COMPANY YUESEM; a.k.a. ООО КХК YUESEM (Cyrillic: ООО ХК ЮЭСМ); a.k.a. USM HOLDINGS LIMITED), D. 28 Etazh 13 Kom. 21 Shosse Rublevskoe, Moscow, Russia 121609, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 9731001285 (Russia); Registration Number 1187746450231 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: USMANOV, Alisher Burhanovich).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

61. SISTEMA PUBLIC JOINT STOCK FINANCIAL CORPORATION (a.k.a. PUBLICHNOE AKTSIONERNOE OBSHESTVO AKTSIONERNAYA FINANSOVAYA SISTEMA), 10, Leontievskiy Pereulok, Moscow 125009, Russia; 13/1 Mokhovaya St, Moscow 125009, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7703104630 (Russia); Identification Number V65SV5.99999.SL.643 (Russia); Legal Entity Number

213800JSZ2UUK4QQK694; Registration Number 1027700003891 (Russia)
[UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

62. JOINT STOCK COMPANY AVTOVAZ (a.k.a. AO AVTOVAZ; a.k.a. OPEN JOINT STOCK COMPANY AVTOVAZ), Sh. Yuzhnoe D. 36, Tol'yatti 445024, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 20 Jul 1966; Tax ID No. 6320002223 (Russia); Government Gazette Number 00232934 (Russia); Registration Number 1026301983113 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

63. JOINT STOCK COMPANY STATE TRANSPORTATION LEASING COMPANY (a.k.a. AKTSIONERNOYE OBSHCHESTVO GOSUDARSTVENNAYA TRANSPORTNAYA LIZINGOVAYA KOMPANIYA (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО ГОСУДАРСТВЕННАЯ ТРАНСПОРТНАЯ ЛИЗИНГОВАЯ КОМПАНИЯ); a.k.a. GTLK AO (Cyrillic: АО ГТЛК); a.k.a. JSC GTLK; a.k.a. PJSC GTLK; a.k.a. PJSC STLC; a.k.a. PUBLIC JOINT STOCK COMPANY STATE TRANSPORT LEASING COMPANY), 31A Leningradsky prospekt, Bldg 1, Moscow 125284, Russia; ul. Respubliki, D. 73, Kom. 100, Salekhard, Yamalo-Nenets Autonomous Region 629008, Russia (Cyrillic: ул. Республики, д. 73, ком. 100, г. Салехард, Ямало-Ненецкий Автономный Округ 629008, Russia); Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7720261827 (Russia); Government Gazette Number 57992197 (Russia); Registration Number 1027739407189 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

64. PUBLIC JOINT STOCK COMPANY PIK SPECIALIZED HOMEBUILDER (Cyrillic: ПУБЛИЧНОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО ПИК СПЕЦИАЛИЗИРОВАННЫЙ ЗАСТРОЙЩИК) (a.k.a. "PJSC PIK SHB"), 19 Barrikadnaya Street, Building 1, Moscow 123242, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7713011336 (Russia); Registration Number 1027739137084 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

65. TRANSMASHHOLDING JSC (a.k.a. AO TRANSMASHHOLDING; a.k.a. "TMH"), ul. Efremova D. 10, Moscow 119048, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7723199790

(Russia); Registration Number 1027739893246 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

66. AKTSIONERNOE OBSHCHESTVO RUSGAZDOBYCHA (a.k.a. "AO RGD"), Ul. Vereiskaya D. 29, Str. 134, BTS Vereiskaya Plaza 3, Floor 7, Moscow 121357, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7705529981 (Russia); Registration Number 1127747296918 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

67. ARKTIK SPG 1 (a.k.a. ARCTIC LNG 1 LLC), Mkr Slavyanskii D. 9, Kabinet 333, Novyy Urengoy 629309, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 8904075340 (Russia); Registration Number 1148904001289 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

68. GAZPROM INVEST, OOO (a.k.a. GAZPROM INVEST; a.k.a. LIMITED LIABILITY COMPANY GAZPROM INVEST; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM INVEST'), d. 6 litera D ul. Startovaya, St. Petersburg 196210, Russia; Website zapad-invest.gazprom.ru; Executive Order 13662 Directive Determination - Subject to Directive 4; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Target Type State-Owned Enterprise; Registration ID 1077847507759 (Russia); Tax ID No. 7810483334 (Russia); Government Gazette Number 82129203 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives> [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: PUBLIC JOINT STOCK COMPANY GAZPROM).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

69. JOINT STOCK COMPANY UNITED METALLURGICAL COMPANY (a.k.a. "AO OMK"), Nab. Ozerkovskaya D. 28, Str. 2, Moscow 115184, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 23 Nov 1992; Tax ID No. 7736030085 (Russia); Registration Number 1027700121173 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

70. JSC SUEK (a.k.a. AKTSIONERNOE OBSHCHESTVO SIBIRSKAYA UGOLNAYA ENERGETICHESKAYA KOMPANIYA), d. 53 str. 7, ul. Dubininskaya, Moscow 115054, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7708129854 (Russia); Registration Number 1027700151380 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

71. LIMITED LIABILITY COMPANY ARCTIC LNG 2 (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ АРКТИК СПГ 2) (a.k.a. ООО АРКТИК СПГ 2), d. 9 kab. 117, mikroraion Slavyanski, Novy Urengoi 629309, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 8904075357 (Russia); Registration Number 1148904001278 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

72. LIMITED LIABILITY COMPANY OBSKY GAS CHEMICAL COMPLEX (a.k.a. LLC OBSKY GCC), Ul. Khudi Seroko D. 39, Pomeschch. 20, Yar Sale 629700, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 8901037441 (Russia); Registration Number 1198901000121 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

73. OPEN JOINT STOCK COMPANY TIKHORETSK MACHINE CONSTRUCTION PLANT V.V. VOROVSKY (a.k.a. JSC TIKHORETSK MACHINE BUILDING PLANT; a.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO TIKHORETSKI MASHINOSTROITELNY ZAVOD IM V.V. VOROVSKOGO; a.k.a. TMCP V.V. VOROVSKY; a.k.a. TMZ IM. V.V. VOROVSKOGO PAO; a.k.a. V.V. VOROVSKY TIKHORETSK MACHINE CONSTRUCTION PLANT JOINT STOCK COMPANY), 3, Sokolnicheskaya Street, Moscow 107014, Russia; Krasnoarmeyskaya St., 67, Tikhoretsk, Krasnodar Territory 352127, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 12 Nov 1992; Tax ID No. 2321003173 (Russia); Government Gazette Number 00210743 (Russia); Registration Number 1022303184738 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

74. REGENT BALTICA COMPANY LIMITED (a.k.a. REGENT BALTICA CO LTD), Ul. Beloostrovskaya D. 17, Kor. 2 BTS, Avantazh Of 101, Saint Petersburg 197342, Russia;

Ul. Savodovaya D. 117, Lit. A, Pomesheh. 3N, Office 1, Saint Petersburg 190008, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7842457680 (Russia); Registration Number 1117847326178 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

75. GAS INDUSTRY INSURANCE COMPANY SOGAZ (a.k.a. INSURANCE COMPANY OF GAZ INDUSTRY SOGAZ; a.k.a. SOGAZ INSURANCE), PR-KT Akademika Sakharova D. 10, Moscow 107078, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7736035485 (Russia); Legal Entity Number 253400L5RQK7PU6R7J04; Registration Number 1027739820921 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

76. JOINT STOCK COMPANY ALFA-BANK (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО АЛЬФА-БАНК) (a.k.a. ALFA-BANK; a.k.a. AO ALFA-BANK (Cyrillic: АО АЛЬФА-БАНК); a.k.a. JSC ALFA-BANK; f.k.a. OPEN JOINT STOCK COMPANY ALFA-BANK), Kalanchevskaya Street 27, Moscow 107078, Russia (Cyrillic: Ул. Каланчевская, Д.27, Город москва 107078, Russia); 27, Kalanchyovskaya Ul., Moscow 107078, Russia; SWIFT/BIC ALFARUMM; Website alfabank.ru; alt. Website alfabank.com; BIK (RU) 044525593; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 1990; Target Type Financial Institution; Executive Order 14024 Directive Information - For more information on directives, please visit the following link: <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/russian-harmful-foreign-activities-sanctions#directives>; Executive Order 14024 Directive Information Subject to Directive 3 - All transactions in, provision of financing for, and other dealings in new debt of longer than 14 days maturity or new equity where such new debt or new equity is issued on or after the 'Effective Date (EO 14024 Directive)' associated with this name are prohibited.; Listing Date (EO 14024 Directive 3): 24 Feb 2022; Effective Date (EO 14024 Directive 3): 26 Mar 2022; Tax ID No. 7728168971 (Russia); Registration Number 1027700067328 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

77. JOINT STOCK COMPANY RUSSIAN NATIONAL REINSURANCE COMPANY (a.k.a. "RNPK"; a.k.a. "RNRC"), Duat Place III Business Centre, Floor 5, 6 Gasheka Street, Moscow 125047, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Target Type State-Owned Enterprise; Tax ID No. 7706440687 (Russia); Registration Number 1167746727378 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

78. MOSCOW EXCHANGE (a.k.a. PUBLIC JOINT STOCK COMPANY MOSCOW EXCHANGE MICEX RTS (Cyrillic: ПУБЛИЧНОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО МОСКОВСКАЯ БИРЖА ММББ-ПТС); a.k.a. "MOEX"), 13, Bolshoy Kislovsky Lane, Moscow 125009, Russia; Website www.moex.com; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 1992; Target Type Financial Institution; Tax ID No. 7702077840 (Russia); Identification Number XNBBND.00005.ME.643 (Russia); Legal Entity Number 253400M5M1222KPNWE87; Registration Number 1027739387411 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

79. NATIONAL CLEARING CENTER (Cyrillic: НЕБАНКОВСКАЯ КРЕДИТНАЯ ОРГАНИЗАЦИЯ-ЦЕНТРАЛЬНЫЙ КОНТРАГЕНТ НАЦИОНАЛЬНЫЙ КЛИРИНГОВЫЙ ЦЕНТР) (a.k.a. CCP NCC; a.k.a. CENTRAL COUNTERPARTY NATIONAL CLEARING CENTER; a.k.a. "NCC"), 13 Bolshoy Kislovskii Per., Moscow 125009, Russia; SWIFT/BIC NCCBRUMM; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 30 May 2006; Target Type Financial Institution; Tax ID No. 7750004023 (Russia); Government Gazette Number 96537839 (Russia); Legal Entity Number 2534007UK6G30KDX1A47; Registration Number 1067711004481 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

80. NON-BANK CREDIT INSTITUTION JOINT STOCK COMPANY NATIONAL SETTLEMENT DEPOSITORY (Cyrillic: НЕБАНКОВСКАЯ КРЕДИТНАЯ ОРГАНИЗАЦИЯ АКЦИОНЕРНОЕ ОБЩЕСТВО НАЦИОНАЛЬНЫЙ РАСЧЕТНЫЙ ДЕПОЗИТАРИЙ) (a.k.a. NATIONAL SETTLEMENT DEPOSITORY; a.k.a. NCO JSC NSD; a.k.a. NKO AO NRD (Cyrillic: НКО АО НРД); a.k.a. "NSD"), 12, Spartakovskaya St., Moscow 105066, Russia; SWIFT/BIC MICURUMM; alt. SWIFT/BIC NADCRUMM; Website www.nsd.ru; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 27 Jun 1996; Tax ID No. 7702165310 (Russia); Legal Entity Number 253400M18U5TB02TW421; Registration Number 1027739132563 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

81. PUBLIC JOINT STOCK COMPANY SBERBANK OF RUSSIA (Cyrillic: ПУБЛИЧНОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО СБЕРБАНК РОССИИ) (f.k.a. JOINT

STOCK COMMERCIAL SAVINGS BANK OF THE RUSSIAN FEDERATION; f.k.a. JOINT STOCK COMMERCIAL SAVINGS BANK OF THE RUSSIAN SOVIET FEDERATIVE SOCIALIST REPUBLIC; f.k.a. OJSC SBERBANK OF RUSSIA; f.k.a. OPEN JOINT STOCK COMPANY SBERBANK OF RUSSIA; f.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO SBERBANK ROSSII; a.k.a. PJSC SBERBANK (Cyrillic: ПАО СБЕРБАНК); f.k.a. SBERBANK OF RSFSR; a.k.a. SBERBANK OF RUSSIA; a.k.a. SBERBANK ROSSII; f.k.a. SBERBANK ROSSII OAO; a.k.a. "SBERBANK INDIA"; a.k.a. "SBERBANK MUMBAI"), 19 ul. Vavilova, Moscow 117312, Russia (Cyrillic: ул. Вавилова, д. 19, Москва 117312, Russia); C305/306A Lufthansa Centre 50 Liangmaqiao Rd., Chaoyang District, Beijing 100027, China; upper ground floor and fourth floor, Birla Tower, 25-Barakhamba Road, New Delhi 110001, India; 81-B, 8th Floor, 5th North Avenue, Maker Maxity, Bandra Kurla Complex, Bandra East, Mumbai, Maharashtra 40051, India; SWIFT/BIC SABRRUMM; Website www.sberbank.ru; alt. Website www.sberbank.com; Executive Order 13662 Directive Determination - Subject to Directive 1; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Target Type Financial Institution; Executive Order 14024 Directive Information - For more information on directives, please visit the following link: <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/russian-harmful-foreign-activities-sanctions#directives>; Executive Order 14024 Directive Information Subject to Directive 3 - All transactions in, provision of financing for, and other dealings in new debt of longer than 14 days maturity or new equity where such new debt or new equity is issued on or after the 'Effective Date (EO 14024 Directive)' associated with this name are prohibited.; Listing Date (EO 14024 Directive 2): 24 Feb 2022; Effective Date (EO 14024 Directive 2): 26 Mar 2022; Listing Date (EO 14024 Directive 3): 24 Feb 2022; Effective Date (EO 14024 Directive 3): 26 Mar 2022; Tax ID No. 7707083893 (Russia); Registration Number 1027700132195 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

82. RUSSIAN DIRECT INVESTMENT FUND (Cyrillic: РОССИЙСКИЙ ФОНД ПРЯМЫХ ИНВЕСТИЦИЙ) (a.k.a. "RDIF" (Cyrillic: "РФПИ")), Presnenskaya nab., D. 8, Structure 1, MFK Capital City, South Tower, 7, 8th Floor, Moscow 123112, Russia (Cyrillic: Пресненская наб., д. 8, стр. 1 МФК Город Столиц, Южная башня, 7, 8 этаж, Москва 123112, Russia); Website www.rdif.ru; alt. Website www.investinrussia.com; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 01 Jun 2011; Target Type Government Entity [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

83. STATE CORPORATION BANK FOR DEVELOPMENT AND FOREIGN ECONOMIC AFFAIRS VNESHECONOMBANK (f.k.a. BANK FOR FOREIGN TRADE OF THE U.S.S.R.; a.k.a. GK VEB.RF; a.k.a. GOSUDARSTVENNAYA KORPORATSIYA

RAZVITIYA VEB.RF; a.k.a. STATE DEVELOPMENT CORPORATION VEB.RF (Cyrillic: ГОСУДАРСТВЕННАЯ КОРПОРАЦИЯ РАЗВИТИЯ ВЭБ.РФ); a.k.a. VEB.RF (Cyrillic: ВЭБ.РФ); f.k.a. VNESHEKONOMBANK; f.k.a. VNESHEKONOMBANK GK; f.k.a. VNESHEKONOMBANK SSSR; a.k.a. "BANK FOR DEVELOPMENT"; a.k.a. "VEB"), Akademik Sakharov Ave 9, Moscow 107996, Russia; Pr-kt, Akademika Sakharova, D. 9, Moscow 107078, Russia (Cyrillic: Пр-Кт Академика Сахарова, Д. 9, Город Москва 107078, Russia); 20A, CITIC Building, 19, Joanguomenwai Dajie, Beijing 100004, China; Shop No. 11, Arcade Ground Floor, World Trade Centre, Cuffe Prade, Colaba, Mumbai 400005, India; SWIFT/BIC BFEARUMM; Website www.veb.ru; BIK (RU) 044525060; Executive Order 13662 Directive Determination - Subject to Directive 1; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Organization Established Date 18 Aug 1922; Target Type State-Owned Enterprise; alt. Target Type Financial Institution; Tax ID No. 7750004150 (Russia); Government Gazette Number 00005061 (Russia); Registration Number 1077711000102 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

84. VTB BANK PUBLIC JOINT STOCK COMPANY (Cyrillic: БАНК ВТБ ПУБЛИЧНОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО) (f.k.a. BANK FOR FOREIGN TRADE OF RSFSR; f.k.a. BANK OF FOREIGN TRADE OF THE RUSSIAN FEDERATION; f.k.a. BANK VNESHEI TORGOVLI OAO; f.k.a. BANK VNESHNEI TORGOVLI ROSSISKOI FEDERATSII AS A PRIVATE JOINT STOCK COMPANY; f.k.a. BANK VNESHNEI TORGOVLI RSFSR; f.k.a. BANK VNESHNEY TORGOVLI JOINT STOCK COMPANY; f.k.a. BANK VNESHNEY TORGOVLI OPEN JOINT STOCK COMPANY; f.k.a. BANK VNESHNEY TORGOVLI ROSSIYSKOY FEDERATSII CLOSED JOINT STOCK COMPANY; f.k.a. BANK VTB OAO; f.k.a. BANK VTB OPEN JOINT STOCK COMPANY; a.k.a. BANK VTB PAO; a.k.a. BANK VTB PUBLICHNOE AKTSIONERNOE OBSHCHESTVO; f.k.a. CJSC BANK FOR FOREIGN TRADE OF THE RUSSIAN FEDERATION; f.k.a. JSC VTB BANK; f.k.a. OAO BANK VTB; f.k.a. OAO VNESHTORGBANK; f.k.a. OJSC CJSC BANK FOR FOREIGN TRADE; f.k.a. RUSSIAN VNESHTORGBANK; f.k.a. VNESHTORGBANK; f.k.a. VNESHTORGBANK OF RSFSR; f.k.a. VNESHTORGBANK ROSSII CLOSED JOINT STOCK COMPANY; a.k.a. VTB BANK; f.k.a. VTB BANK OAO; f.k.a. VTB BANK OPEN JOINT STOCK COMPANY; a.k.a. VTB BANK PAO; a.k.a. VTB BANK PJSC (Cyrillic: БАНК ВТБ ПАО); a.k.a. VTB BANK PJSC SHANGHAI BRANCH; a.k.a. "JSC VTB BANK NEW DELHI BRANCH"), 29, Bolshaya Morskaya str., St. Petersburg 190000, Russia; 37 Plyushchikha ul., Moscow 119121, Russia; 43, Vorontsovskaya str., Moscow 109044, Russia; 11 litera, per. Degtyarny, St. Petersburg 191144, Russia; 11, lit A, Degtyarnyy pereulok, St. Petersburg 191144, Russia; 43, bld.1, Vorontsovskaya str., Moscow 109147, Russia; Bashnya Zapad, Kompleks Federatsiya, 12, nab. Presnenskaya, Moscow 123317, Russia; str. 1, 43, ul. Vorontsovskaya, Moscow 109147, Russia; Vorontsovskaya Str 43, Moscow 109147, Russia; The Taj Mahal Hotel, Lobby Mezzanine Floor 1, Mansingh Road, New Delhi 110001, India; 1266 Nanjing Xilu Street, Jingan District, Shanghai 200040, China; 18 BC, CITIC Building, 19 Jianguomenwai Dajie, Beijing

100004, China; SWIFT/BIC VTBRUMM; Website www.vtb.com; alt. Website www.vtb.ru; BIK (RU) 044030707; alt. BIK (RU) 044525187; Executive Order 13662 Directive Determination - Subject to Directive 1; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Organization Established Date 17 Oct 1990; Target Type Financial Institution; Registration ID 1027739609391 (Russia); Tax ID No. 7702070139 (Russia); Government Gazette Number 00032520 (Russia); License 1000 (Russia); Legal Entity Number 253400V1H6ART1UQ0N98; For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

85. AMS GROUP LLC (a.k.a. AMS GRUPP; a.k.a. ANALYTICAL MARKETING CHEMICAL GROUP), Pl. Konstitutsii D. 3, K. 2 Lit. A, Pom. 101N, Saint Petersburg 196247, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7810819993 (Russia); Registration Number 1117847091856 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

86. FEDERAL SERVICE FOR MILITARY-TECHNICAL COOPERATION (a.k.a. "FSMTC"; a.k.a. "FSVTS"), Ovchinnikovskaya Nab., 18/1, Moscow 115035, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 23 Aug 2004; Target Type Government Entity; Tax ID No. 7705513237 (Russia); Registration Number 1047705052427 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

87. FEDERAL STATE INSTITUTION OF HIGHER VOCATIONAL EDUCATION MOSCOW INSTITUTE OF PHYSICS AND TECHNOLOGY (a.k.a. MOSKOVSKIY FIZIKO TEKHNIЧЕСКИЙ ИНСТИТУТ; a.k.a. "MFTI"; a.k.a. "MIPT"), 9 Institutskiy Per., Dolgoprudny, Moscow Region 141701, Russia; 1 A Kerchenskaya St., Moscow 117303, Russia; Ulitsa Gagarina 16, Zhukovsky, Moscow Region 140180, Russia; Klimentovskiy Pereulok 1 Stroyeniye 1, Moscow 115184, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 5008006211 (Russia); Registration Number 1027739386135 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

88. FEDERAL STATE UNITARY ENTERPRISE DUKHOV AUTOMATICS RESEARCH INSTITUTE (a.k.a. ALL-RUSSIA RESEARCH INSTITUTE OF AUTOMATICS; a.k.a. FEDERAL STATE UNITARY ENTERPRISE ALL-RUSSIAN AUTOMATICS RESEARCH INSTITUTE NAMED AFTER N.L. DUKHOV; a.k.a. "VNIIA"), 22 Sushchevskaya st., Moscow 127055, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 15 Apr 1994; Tax ID No. 7707074137 (Russia); Registration Number 1027739646164 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

89. JOINT STOCK COMPANY ROSSIYSKIYE KOSMICHESKIYE SISTEMY (a.k.a. ROSSIYSKIYE KOSMICHESKIYE SISTEMY; a.k.a. RUSSIAN SPACE SYSTEMS JSC; a.k.a. "RKS"; a.k.a. "RSS"), 53, Aviamotornaya Str., Moscow, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 23 Oct 2009; Tax ID No. 7722698789 (Russia); Registration Number 1097746649681 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

90. JSC ACADEMICIAN M.F. RESHETNEV INFORMATION SATELLITE SYSTEMS (a.k.a. ISS RESHETNEV), 52, Lenin Street, Zheleznogorsk, Krasnoyarsk Region 662972, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 03 Mar 2008; Tax ID No. 2452034898 (Russia); Business Registration Number 1082452000290 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

91. KAMAZ PUBLICLY TRADED COMPANY (a.k.a. KAMAZ PAO; a.k.a. KAMAZ PJSC; a.k.a. KAMAZ PTC; a.k.a. KAMSKOE OBEDINENIE PO PROIZVODSTVU BOLSHEGRUZYKH AVTOMOBILEI KAMAZ), d. 2, prospekt Avtozavodski, Naberezhnye Chelny, Tatarstan Resp. 423827, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 1969; Tax ID No. 1650032058 (Russia); Government Gazette Number 00231515 (Russia); Registration Number 1021602013971 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

92. MAIN DIRECTORATE OF DEEP SEA RESEARCH (a.k.a. FEDERAL STATE INSTITUTION MILITARY UNIT 40056; a.k.a. GLAVNOYE UPRAVLENIE

GLUBOKOVODSK ISSLEDOVANII; a.k.a. "GUGI"), 26A Oonezhskaya Str., Moscow 125413, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 08 Dec 2009; Tax ID No. 7443763446 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

93. PUBLIC JOINT STOCK COMPANY YAKOVLEV (a.k.a. IRKUT CORP PJSC; a.k.a. IRKUT CORPORATION JOINT STOCK COMPANY; a.k.a. KORPORATSIYA IRKUT PAO; a.k.a. NP KORPORATSIYA IRKUT PAO; f.k.a. OAO SCIENTIFIC PRODUCTION CORPORATION IRKUT; a.k.a. PUBLICHNOE AKTSIONERNOE OBSHCHESTVO NAUCHNO-PROIZVODSTVENNAYA IRKUT), 68, Leningradsky Prospekt, Moscow 125315, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 3807002509 (Russia); Registration Number 1023801428111 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

94. RUSSIAN FEDERAL NUCLEAR CENTER - ZABABAKHIN ALL-RUSSIA RESEARCH INSTITUTE OF TECHNICAL PHYSICS (a.k.a. CHELYABINSK-70; a.k.a. FEDERAL STATE UNITARY ENTERPRISE RUSSIAN FEDERAL NUCLEAR CENTER-ACADEMICIAN E.I. ZABABKHIN ALL-RUSSIAN SCIENTIFIC RESEARCH INSTITUTE OF TECHNICAL PHYSICS; a.k.a. KASLI NUCLEAR WEAPONS DEVELOPMENT CENTER; a.k.a. VSEROSSIYSKY NAUCHNO-ISSLEDOVATELSKIY INSTITUT TEKHNIЧЕСKОY FIZIKI; a.k.a. ZABABAKHIN ALL-RUSSIA RESEARCH INSTITUTE OF TECHNICAL PHYSICS; a.k.a. ZABABAKHIN INSTITUTE; a.k.a. "RFNC-VNIITF"; a.k.a. "VNIITF"), P.O. Box 245, Snezhinsk, Chelyabinsk Region 456770, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 1955; Tax ID No. 7423000572 (Russia); Registration Number 1027401350932 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

95. LIMITED LIABILITY COMPANY VOLGA DNEPR AIRLINES (a.k.a. AVIAKOMPANIYA VOLGA DNEPR; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTIU AVIAKOMPANIYA VOLGA DNEPR), D. 14 Karbysheva ul., Ulyanovsk 432072, Russia; 28B Mezhdunarodnoe sh., str. 2, et. 4 kom. 443, Moscow 141400, Russia; Hanoi, Vietnam; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Type: Freight air transport; Tax ID No. 7328510118 (Russia); Registration Number 1077328004841 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2025–01432 Filed 1–21–25; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on January 15, 2025. See **SUPPLEMENTARY INFORMATION** section for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Sanctions Compliance, 202–622–2490; or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Actions

On January 15, 2025, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individual

1. PRIKHODKO, Andrei Valeryevich (a.k.a. PRIKHODKO, Andrey Valeryevich), Moscow, Russia; DOB 26 Aug 1977; POB Moscow, Russia; nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; National ID No. 772335626982 (Russia) (individual) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of Executive Order 13662 of March 20, 2014, “Blocking Property of Additional Persons Contributing to the Situation in Ukraine,” 79 FR 16169, 3 CFR, 2014 Comp., p. 233 (E.O. 13662) for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of Executive Order 14024 of April 15, 2021, “Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation,” 86 FR 20249, 3 CFR, 2021 Comp., p. 542 (Apr. 15, 2021) (E.O. 14024) as amended by Executive Order 14114 of December 22, 2023, “Taking Additional Steps With Respect to the Russian Federation's Harmful Activities,” 88 FR 89271, 3 CFR, 2023 Comp., p. 721 (Dec. 22, 2023) (E.O. 14114) for operating or having operated in the financial services sector of the Russian Federation economy.

Entities

1. AKTSIONERNOE OBSHCHESTVO ATLANT TORG, Ul. 1-Ya Tekstilshchikov D. 12/9, Pomeshch. 5P, Moscow 109390, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 31 Jan 2024; Tax ID No. 9723222604 (Russia); Registration Number 1247700093211 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

2. AKTSIONERNOE OBSHCHESTVO TRANZAKTSII I RASCHETY, Proezd Lugovoi D. 9, K. 1, Pomeshch. 2/1, Moscow 109652, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 31 May 2024; Tax ID No. 9723231824 (Russia); Registration Number 1247700404907 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or

having operated in the financial services sector of the Russian Federation economy.

3. ANHUI HONGSHENG INTERNATIONAL TRADE CO LTD (a.k.a. ANHUI HONGSHENG INTERNATIONAL BUSINESS CO LTD), 200 Huaining Road, Heyedi, Shushan District, Hefei, Anhui 230000, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 27 Aug 2024; Unified Social Credit Code (USCC) 91340000MADXTQR3H (China) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

4. FUJIAN XINFUWANG INTERNATIONAL TRADE CO LTD (a.k.a. FUJIAN XINFUWANG INTERNATIONAL TRADING COMPANY LTD), Unit 2601, Hengli City, 128 Wusi Road, Gulou District, Fuzhou, Fujian 350000, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 11 Oct 2024; Unified Social Credit Code (USCC) 91350000MAE1HJFW50 (China) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

5. HANGZHOU XIANGHE TRADING CO LTD, Office 143, Floor 1, Building 1, 63 Jiuhuan Road, Shangcheng District, Hangzhou, Zhejiang Province, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Unified Social Credit Code (USCC) 91330102MAE1C08D6W (China) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the

financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

6. HEILONGJIANG SHUNSHENG ECONOMIC AND TRADE DEVELOPMENT CO LTD, Room 301, Building S21, No. 5566 Maple Leaf Blue Peninsula, Zhigu Third Street, Songbei District, Harbin, Heilongjiang 150000, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 09 Sep 2024; Unified Social Credit Code (USCC) 91230109MADXG1GK67 (China) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

7. HERBARIUM OFFICE MANAGEMENT LLC (a.k.a. GERBARIUM OFFICE MANAGEMENT LLC), Ul. Novyi Arbat D. 29, Kabinet 324, Moscow 121099, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7704877746 (Russia); Registration Number 5147746250890 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

8. JILIN PROVINCE SHUNDA TRADING COMPANY LTD, Office 1901, China Trade International Unit 1, Renmin Street No. 146, Nanguan District, Changchun City, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Unified Social Credit Code (USCC) 91220000MAE2BG024F (China) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

9. JOINT STOCK COMPANY ARCTUR (a.k.a. JSC ARKTUR), Ul Chaginskaya D. 4, Str. 13, Pomeschch. 6/2, Moscow 109380, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 24 Aug 2022; Tax ID No. 9725093383 (Russia); Registration Number 1227700519804 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

10. LIMITED LIABILITY COMPANY SIGMA PARTNERS, Ul. Lenina D. 10, Office 201A, Kostroma 156000, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 05 Jul 2023; Tax ID No. 4400015270 (Russia); Registration Number 1234400003463 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

11. PAYLINK LIMITED, Ul. 2-Ya Entuziastov D. 5, K. 40, Pomeschch. 3/2, Vn. Ter. G. Munitsipalnyy Okrug Perovo, Moscow 111024, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 10 Oct 2024; Tax ID No. 7720938259 (Russia); Registration Number 1247700672427 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

12. QINGDAO HEZHI BUSINESS SERVICE CO LTD, Room 303, Unit 1, Building 1, No.112 Ningxia Road, Shinan District, Qingdao, Shandong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 21 Aug 2024; Unified Social Credit Code (USCC) 91370200MADY0FLQ9J (China) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

13. QINGYUAN FO FENG LEDA SUPPLY CHAIN SERVICE CO LTD, Room 701, Lixin Shengfeikangcheng Commercial Office Building, 59 Zhenxing South Road, Shijiao Town, Fogang County, Guangdong Province, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Unified Social Credit Code (USCC) 91441821MADYPAQ94B (China) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

14. SHAANXI HONGRUN JINHUA TRADING CO LTD (a.k.a. SHAANXI HONGRUN JINHUA TRADE AND COMMERCE COMPANY LTD), Room 1511, Unit 2, Building 28, Shouchuang Fubei Gaoyin, Fengcheng 12th Road, Economic and Technological Development Zone, Xi'an, Shaanxi 710000, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or

589.209; Organization Established Date 11 Oct 2024; Unified Social Credit Code (USCC) 91610132MAE0TWT96D (China) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

15. XINJIANG FINANCIAL IMPORT AND EXPORT CO LTD, Office 720, 7th Floor, Yizhan Tiandi Building A, 336 Rongsheng Fifth Street, Economic and Technological Development Zone, Urumqi, Xinjiang, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Unified Social Credit Code (USCC) 91650106MADXMUBG3Q (China) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2025–01426 Filed 1–21–25; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on January 16, 2025. See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202–622–2420; the Assistant Director for Sanctions Compliance, 202–622–2490 or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Action

On January 16, 2025, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. ABDALLA, Ahmed (a.k.a. ABDALLA, Akhmed Abdalla Khalafalla; a.k.a. AHMED, Abdalla Khalafalla Abdalla; a.k.a. KHALAFALLAH, Abdallah Ahmed Abdallah), Pishonevskaya 20–1, Flat 76, Odessa, Odessa 65026, Ukraine; Apt. 5405, Amna Tower, Al Habtoor City, Dubai, United Arab Emirates; DOB 14 Mar 1978; POB Omdurman, Sudan; nationality Ukraine; Gender Male; Passport PU669310 (Ukraine) expires 20 Sep 2032; alt. Passport PU683987 (Ukraine) expires 28 Oct 2032; alt. Passport FM684476 (Ukraine) expires 05 Apr 2028; alt. Passport FB793884 (Ukraine) expires 09 Sep 2025 (individual) [SUDAN–EO14098] (Linked To: DEFENSE INDUSTRIES SYSTEM).

Designated pursuant to section 1(a)(v) of Executive Order 14098 of May 4, 2023, “Imposing Sanctions Certain Persons Destabilizing Sudan and Undermining the Goal of a Democratic Transition,” (E.O. 14098) for being a foreign person who is owned or controlled by, or has acted or purported to act for or on behalf of, directly or indirectly, the Defense Industries System, a person whose property and interests in property are blocked pursuant to E.O. 14098.

2. AL-BURHAN, Abdel Fattah (a.k.a. ALBURHAN, Abdalfath Alburhan A Alrahman; a.k.a. “BURHAN”), Port Sudan, Sudan; DOB 04 Jul 1960; POB Shandi, Sudan; nationality Sudan; Gender Male; Passport P11000434 (Sudan) expires 30 Aug 2033 (individual) [SUDAN–EO14098].

Designated pursuant to section 1(a)(ii)(A) of E.O. 14098 for being a foreign person who is or has been a leader, official, senior executive officer, or member of the board of directors of the Sudanese Armed Forces, an entity that has, or whose members have been responsible for, or complicit in, or have directly or indirectly engaged or attempted to engage in actions or policies that threaten the peace, security, or stability of Sudan, relating to the tenure of such leader, official, senior executive officer, or member of the board of directors.

Entities

1. PORTEX TRADE LIMITED (a.k.a. CLOUD COMPUTING INTERNATIONAL HONG KONG LIMITED; a.k.a. PORTEX TRADE FZE), Room 1502 Easey Coml Bldg, Wan Chai, Hong Kong, China; Organization Established Date 17 May 2011; Company Number 1602116 (Hong Kong); Business Registration Number 58369682 (Hong Kong) [SUDAN–EO14098] (Linked To: ABDALLA, Ahmed).

Designated pursuant to section 1(a)(v) of E.O. 14098 for being a foreign person who is owned or controlled by, or has acted or purported to act for or on behalf of, directly or indirectly, Ahmed Abdalla, a person whose property and interests in property are blocked pursuant to E.O. 14098.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2025–01499 Filed 1–21–25; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons and vessels that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons, including the identified vessels, are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on January 10, 2025. See **SUPPLEMENTARY INFORMATION** section for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Sanctions Compliance, 202–622–2490 or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Actions

On January 10, 2025, OFAC determined that the property and

interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. ALEKPEROV, Yusuf Vagitovich (a.k.a. ALEKPEROV, Iussuf), Russia; DOB 20 Jun 1990; POB Moscow, Russia; nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 770300105897 (Russia) (individual) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of Executive Order 13662 of March 20, 2014, “Blocking Property of Additional Persons Contributing to the Situation in Ukraine,” 79 FR 16169, 3 CFR, 2014 Comp., p. 233 (E.O. 13662) for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of Executive Order 14024 of April 15, 2021, “Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation,” 86 FR 20249, 3 CFR, 2021 Comp., p. 542 (Apr. 15, 2021) (E.O. 14024) as amended by Executive Order 14114 of December 22, 2023, “Taking Additional Steps With Respect to the Russian Federation’s Harmful Activities,” 88 FR 89271, 3 CFR, 2023 Comp., p. 721 (Dec. 22, 2023) (E.O. 14114). Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

2. BOGDANOV, Vladimir Leonidovich, Russia; DOB 28 May 1951; POB Suyerka, Uporovsky District, Tyumen Region, Russian Federation; nationality Russia; Gender Male; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 860205272069 (Russia) (individual) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

3. CHERNOV, Vladimir Nikolaevich, Russia; DOB 1970; nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 720601297051 (Russia) (individual) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

4. DYUKOV, Aleksandr Valeryevich (a.k.a. DYUKOV, Alexander), Russia; DOB 13 Dec 1967; POB Saint Petersburg, Russia;

nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 782570676482 (Russia) (individual) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

5. KUDRYASHOV, Sergei Ivanovich (a.k.a. KUDRYASHOV, Sergey Ivanovich), Russia; DOB 25 Jul 1967; nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 702203156990 (Russia) (individual) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

6. MAGANOV, Nail Ulfatovich, Russia; DOB 28 Jul 1958; POB Almet'yevsk, Russia; nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 164401094935 (Russia) (individual) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

7. VOROBYEV, Vadim Nikolaevich (a.k.a. VOROBEOV, Vadim Nikolaevich; a.k.a. VOROBYOV, Vadim Nikolaevich), Russia; DOB 16 Apr 1961; POB Pavlovo, Russia; nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209 (individual) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

8. BOBYLEV, Peter Mikhailovich, Russia; DOB 21 Jul 1980; POB Chelyabinsk, Russia; nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209 (individual) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

9. MARSHAVIN, Roman Anatolyevich, Russia; DOB 16 Sep 1977; POB Moscow, Russia; nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209 (individual) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

10. PAVLOV, Vadim Alekseevich, Russia; DOB 05 Dec 1977; POB Kalinkovich, Gomel Oblast, Belarus; nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209 (individual) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

11. SEMENOV, Dmitry Borisovich, Russia; DOB 06 Aug 1981; POB Moscow, Russia; nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209 (individual) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

12. SHEREMETTSEV, Eduard Mikhailovich, Russia; DOB 08 Feb 1979; POB Village of Karl Liebknecht, Kurchatovsky District, Kursk Region, Russia; nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209 (individual) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

13. VERHOV, Artem Aleksandrovich (a.k.a. VERKHOV, Artem; a.k.a. VERKHOV, Artyom), Russia; DOB 03 Aug 1986; POB

Zhezkazgan, Kazakhstan; nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209 (individual) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

14. DERYUSHKIN, Denis Olegovich, Moscow, Russia; DOB 20 Oct 1988; POB Gorkiy, Russia; nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Passport 758516894 (Russia) expires 17 Jul 2028 (individual) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

15. HALAVINS, Aleksejs, Riga, Latvia; DOB 19 Nov 1981; POB Riga, Latvia; nationality Latvia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Passport LV6197952 (Latvia) expires 28 Jul 2030; National ID No. 19118110919 (Latvia) (individual) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

16. NEMIROVSKIY, Alexander Valeryevich, Moscow, Russia; DOB 02 Jun 1989; POB Moscow, Russia; nationality Russia; Gender Male; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209 (individual) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

Entities

1. AKTSIONERNOE OBSHCHESTVO ACHIMGAZ (a.k.a. AO ACHIMGAZ), Mkr Slavyanskii D. 10, Novyy Urengoy 629309, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 8904047896 (Russia);

Registration Number 1068904007578 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

2. AKTSIONERNOE OBSHCHESTVO GAZPROM SHELFPROEKT (a.k.a. JSC GAZPROM SHELFPROJECT), Pr-Kt Leninskii D. 15A, Floor 9, Moscow 119071, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Target Type State-Owned Enterprise; Tax ID No. 7730250045 (Russia); Registration Number 1197746185691 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

3. AKTSIONERNOE OBSHCHESTVO SAMOTLORNEFTEPROMKHM (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО САМОТЛОРНЕФТЕПРОМХИМ) (a.k.a. “AO SNPKH” (Cyrillic: “АО СНПХ”)), Ul. Industrialnaya D. 95, Str. 1, Nizhnevartovsk 628600, Russia; Ul. Industrialnaya ZD. 95, Str. 1, Nizhnevartovsk 628616, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 8603118208 (Russia); Registration Number 1048600521408 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

4. AKTSIONERNOE OBSHCHESTVO TSENTR EKSPLOATATSIONNYKH USLUG (a.k.a. “OPERATIONAL SERVICES CENTRE”), Bulv Chistoprudnyi D 12, Korp 2, Moscow 101000, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 9722010773 (Russia); Registration Number 1217700541850 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

5. AKTSIONERNOE OBSHCHESTVO UPRAVLENIE PO POVYSHENIYU NEFTEOTDACHI PLASTOV I KAPITALNOMU REMONTU SKVAZHIN (a.k.a. “AO NPNI KRS”), Ul. Alma Atinskaya 125, Samara 443106, Russia; Zona Promyshlennaya D. 9 A, Svetloye 446368,

Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 6376000010 (Russia); Registration Number 1026303801809 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

6. ALFASTRAKHOVANIE GROUP (a.k.a. ALFASTRAKHOVANIE JSC; a.k.a. ALFASTRAKHOVANIE PLC), Likhacheva Prospekt, 15, Office 2/15, Moscow 115820, Russia; Ul. Shabolovka D. 31, Str. 5, Moscow 115162, Russia; website www.alfastrah.ru; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Target Type Financial Institution; Tax ID No. 7713056834 (Russia); Legal Entity Number 253400QMD7MRJ6LTSS76 (Russia); Registration Number 1027739431730 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy. Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

7. AMBRA LIMITED, Rm. 18, 27/F, Ho King Comm Ctr, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Company Number 3308446 (Hong Kong); Business Registration Number 75612414 (Hong Kong) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

8. AMSHA MARITIME, Room 101, Ground Floor, Rifle Range Road, Ghatkopar West, Mumbai, India; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2024; Identification Number IMO 6474020 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

9. AQUAQUASAR HOLDING LIMITED, Antigua, Antigua and Barbuda; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209;

Identification Number IMO 6482268

[UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

10. ARCTOS SHIPPING AND TRADE DMCC, 3O–01–5033 Jewellery & Gemplex 3, Dubai, United Arab Emirates; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 20 Nov 2023; Registration Number DMCC–908401 (United Arab Emirates); alt. Registration Number DMCC198423 (United Arab Emirates) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

11. ARGO TANKER GROUP LLC, Office 139, Building 2, Naberezhnaya Presnenskaya 10, Moscow 123112, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 9703142189 (Russia); Identification Number IMO 6426832 [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 operating or having operated in the energy sector of the Russian Federation economy.

12. ARGOS (Cyrillic: АРГОС), Ul. Morisa Toreza D. 1 B, Samara 443093, Russia; Ul. Tsentralnaya D. 15/10, Kogalym 628483, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Type: Support activities for petroleum and natural gas extraction; Tax ID No. 6311079117 (Russia); Registration Number 1056311044998 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

13. ARISTOS MARITIME INCORPORATED, Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island 96960, Marshall Islands; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6252035 [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

14. ATLAS NNB (Cyrillic: АТЛАС ННБ) (a.k.a. ATLAS DIRECTIONAL DRILLING SERVICES; a.k.a. “ATLAS DDS”), Ul. Grima D. 10, pomeshch. 7, Moscow 117036, Russia; Ul. Mozhaysky Val, Dom 8, Str. S, 10 etazh, Moscow, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 5836673287 (Russia); Registration Number 1155836003212 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

15. BLACK PEARL ENERGY TRADING LLC (a.k.a. BLACK PEARL ENERGY TRADING LLC FZ; a.k.a. OGC SHIPPING LLC FZ; a.k.a. STARLINE MANAGEMENT FZ LLC), Business Center 1, M Floor, The Meydan Hotel, Nad Al Sheba, Dubai, United Arab Emirates; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 30 Mar 2022; Registration Number 2201205 (United Arab Emirates) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

16. BLUEJOURNEY SHIPPING LIMITED, 60, Nevis Street, St. John's, Antigua and Barbuda; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6474033 [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

17. CELESTIAL STAR CORPORATION, Suite 10, 3rd Floor, La Ciotat, Mont Fleuri, Mahe, Seychelles; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6437253 [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

18. CHAMAIYATI DOROI MASAULIYATI MAKHDUDI GAZPROM NEFT TADZHIKISTAN (a.k.a. GAZPROM NEFT TAJIKISTAN LLC), Shokhmansur, Ayni, Dushanbe, Tajikistan; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 010023372 (Tajikistan); Business Registration Number 0110000477 (Tajikistan) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: PUBLIC JOINT STOCK COMPANY GAZPROM NEFT).

Designated pursuant to section 1(a)(iii) of E.O. 13662 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PUBLIC JOINT STOCK COMPANY GAZPROM NEFT, a person whose property and interests in property are blocked pursuant to E.O. 13662.

Also designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PUBLIC JOINT STOCK COMPANY GAZPROM NEFT, a person whose property and interests in property are blocked pursuant to E.O. 14024.

19. CHENG SHIPPING AND TRADER LIMITED, Suite 212, 2nd Floor, Block A, La Ciotat, Mont Fleuri, Mahe, Seychelles; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6419328 [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

20. COLUMBA LIMITED, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2022; Identification Number IMO 6341429 [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

21. CONMAR MARITIME DMCC, Dubai, United Arab Emirates; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 23 Jan 2023; Commercial Registry Number 195872 (United Arab Emirates); Registration Number DMCC–874218 (United Arab Emirates) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: BLACK PEARL ENERGY TRADING LLC).

Designated pursuant to section 1(a)(iii) of E.O. 13662 for being owned or controlled by, or having acted or purported to act for or on

behalf of, directly or indirectly, BLACK PEARL ENERGY TRADING LLC, a person whose property and interests in property are blocked pursuant to E.O. 13662.

Also designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, BLACK PEARL ENERGY TRADING LLC, a person whose property and interests in property are blocked pursuant to E.O. 14024.

22. CONRAD MANAGEMENT COMPANY LLC FZ, Business Center 1, M Floor, The Meydan Hotel, Nad Al Sheba, Dubai, United Arab Emirates; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 27 Jan 2022; Business Registration Number 2200438.1 (United Arab Emirates) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: HALAVINS, Aleksejs).

Designated pursuant to section 1(a)(iii) of E.O. 13662 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ALEKSEJS HALAVINS, a person whose property and interests in property are blocked pursuant to E.O. 13662.

Also designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ALEKSEJS HALAVINS, a person whose property and interests in property are blocked pursuant to E.O. 14024.

23. CRIUS LIMITED, Block 3, Un Shing House Phase 3, Un Chau Street, Kowloon, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2022; Identification Number IMO 6355621 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

24. CUBE VENTURES SHIPPING SA, Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island MH96960, Marshall Islands; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6389478 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

25. DANIKA ROBERT LIMITED, 6/F, Block 30, City One Shatin, Flat B, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary

sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2022; Organization Type: Transportation and storage; Identification Number IMO 6371374 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

26. DEMEX TRADING LIMITED DMCC, Unit No: 2904, Plot No: JLT-PH2-Y1A, JBC3, Jumeirah Lake Towers, Dubai, United Arab Emirates; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Registration Number DMCC-772021 (United Arab Emirates) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

27. DENKARS (Cyrillic: ДЕНКАРС), Ter. Severnyi Promyshlennyy Uzel Goroda d. 4ps, Nizhnevartovsk 628600, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 30 Jul 2001; Tax ID No. 8603100120 (Russia); Registration Number 1028600947650 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

28. JOINT STOCK COMPANY SOVCOMFLOT (a.k.a. JSC SOVCOMFLOT; a.k.a. PAO SOVCOMFLOT; a.k.a. PUBLIC JOINT STOCK COMPANY MODERN COMMERCIAL FLEET; a.k.a. PUBLICHNOE AKTSIONERNOE OBSHCHESTVO SOVREMENNYI KOMMERCHESKIY FLOT; a.k.a. "SCF"; a.k.a. "SCF GROUP"), Ul. Gasheka D. 6, Moscow 125047, Russia; Nab. Reki Moiki d.3, Lit. A, Saint Petersburg 191186, Russia; Building 3, Letter A, Moyka River Embankment, Saint Petersburg 191186, Russia; website sovcomfлот.ru; alt. Website www.scf-group.com; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Executive Order 14024 Directive Information—For more information on directives, please visit the following link: <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/russian-harmful-foreign-activities-sanctions#directives>; Executive Order 14024 Directive Information Subject to Directive 3—All transactions in, provision of financing for, and other dealings in new debt

of longer than 14 days maturity or new equity where such new debt or new equity is issued on or after the 'Effective Date (E.O. 14024 Directive)' associated with this name are prohibited.; Listing Date (E.O. 14024 Directive 3): 24 Feb 2022; Effective Date (E.O. 14024 Directive 3): 26 Mar 2022; Tax ID No. 7702060116 (Russia); Legal Entity Number 253400DYLWR5A6YAWJ69; Registration Number 1027739028712 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

29. PUBLIC JOINT STOCK COMPANY GAZPROM NEFT (a.k.a. GAZPROM NEFT JOINT STOCK COMPANY; a.k.a. GAZPROM NEFT PAO; a.k.a. GAZPROM NEFT PJSC; a.k.a. PUBLICHNOE AKTSIONERNOE OBSHCHESTVO GAZPROM NEFT), 5, Let. A, Galernaya, Saint Petersburg 190000, Russia; d. 3–5 litera A Ch. Pom. 1N kab. 2401, ul. Pochtamtskaya, St. Petersburg 190000, Russia; Executive Order 13662 Directive Determination—Subject to Directive 2; alt. Executive Order 13662 Directive Determination—Subject to Directive 4; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Executive Order 14024 Directive Information—For more information on directives, please visit the following link: <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/russian-harmful-foreign-activities-sanctions#directives>; Executive Order 14024 Directive Information Subject to Directive 3—All transactions in, provision of financing for, and other dealings in new debt of longer than 14 days maturity or new equity where such new debt or new equity is issued on or after the 'Effective Date (E.O. 14024 Directive)' associated with this name are prohibited.; Listing Date (E.O. 14024 Directive 3): 24 Feb 2022; Effective Date (E.O. 14024 Directive 3): 26 Mar 2022; Tax ID No. 5504036333 (Russia); Government Gazette Number 42045241 (Russia); Registration Number 1025501701686 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

30. DOUBLE HARMONY MARINE CORPORATION, Suite 10, 3rd Floor, La Ciotat Mont Fleuri, Mahe, Seychelles; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO

6399148 [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

31. DOXA SHIPPING LINE INC, LLC Plot 341–0, Al Zarooni Building, Al Murar, Dubai, United Arab Emirates; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Identification Number IMO 6386734 [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

32. ELGON MARITIME CORPORATION, 1st Floor, Dekk House, Zippora, Street, Providence Industrial Estate, Victoria, Mahe, Seychelles; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6466047 [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

33. ENERGY OF OIL AND GAS SERVICE LLC (a.k.a. “ENGSL LLC”), Yakimanskaya Naberezhnaya D. 4, Str.1, Moscow 119180, Russia; Ul. Grimaud D. 10A, Str. 1, Moscow 117292, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7727650928 (Russia); Registration Number 1087746582714 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

34. ETERRA CRUDE OIL ABROAD TRADING LLC, Dubai, United Arab Emirates; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 25 Nov 2022; Chamber of Commerce Number 431348 (United Arab Emirates); Registration Number 1849492 (United Arab Emirates) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having

operated in the energy sector of the Russian Federation economy.

35. FORNAX SHIP MANAGEMENT FZCO, Unit 40260–001, Building A1, IFZA Business Park, Dubai Silicon Oasis, Dubai, United Arab Emirates; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6466241 [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

36. FRAKDZKET VOLGA, Pr-Kt Fridrikha Engelsa D. 207, Engels 413111, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 6432005462 (Russia); Registration Number 1076432002680 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

37. FRINA EXPRESS CORPORATION, Suite 10, 3rd Floor, La Ciotat, Mont Fleuri, Mahe Island, Seychelles; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6507506 [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

38. FULDA SHIPPING CO, 80 Broad Street, Monrovia, Liberia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2024; Identification Number IMO 6491531; Registration Number C–126622 (Liberia) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: HALAVINS, Aleksejs).

Designated pursuant to section 1(a)(iii) of E.O. for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ALEKSEJS HALAVINS, a person whose property and interests in property are blocked pursuant to E.O. 13662.

Also designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ALEKSEJS HALAVINS, a person whose property and interests in property are blocked pursuant to E.O. 14024.

39. GAZPROM NEFT INTERNATIONAL SA, Rue Matthias Hardt 8–10, Luxembourg 1717, Luxembourg; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Business Registration Number B 154.621 (Luxembourg) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: PUBLIC JOINT STOCK COMPANY GAZPROM NEFT).

Designated pursuant to section 1(a)(iii) of E.O. 13662 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PUBLIC JOINT STOCK COMPANY GAZPROM NEFT, a person whose property and interests in property are blocked pursuant to E.O. 13662.

Also designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PUBLIC JOINT STOCK COMPANY GAZPROM NEFT, a person whose property and interests in property are blocked pursuant to E.O. 14024.

40. GAZPROM NEFT KAZAKHSTAN LLC, Prospekt Abaya 26 A, 2 Floor, Almaty 050013, Kazakhstan; Furmanova 187B, Almaty 050000, Kazakhstan; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Business Registration Number 070540009192 (Kazakhstan) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: PUBLIC JOINT STOCK COMPANY GAZPROM NEFT).

Designated pursuant to section 1(a)(iii) of E.O. 13662 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PUBLIC JOINT STOCK COMPANY GAZPROM NEFT, a person whose property and interests in property are blocked pursuant to E.O. 13662.

Also designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PUBLIC JOINT STOCK COMPANY GAZPROM NEFT, a person whose property and interests in property are blocked pursuant to E.O. 14024.

41. GAZPROM NEFT SHELF LIMITED LIABILITY COMPANY, Pr-kt Nevskii D. 38/4, Saint Petersburg 191186, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7725610285 (Russia); Registration Number 5077746978315 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

42. GAZPROMNEFT AERO JOINT STOCK COMPANY (a.k.a. GAZPROMNEFT AERO AO), Zoologicheskii Per Dom 2–4, Lit. B, Saint Petersburg 197198, Russia; Ul.

Krzhizhanovskogo D. 14, Korp. 3, Saint Petersburg 197198, Russia; Ul. Chapaev 15, Lit. A, Saint Petersburg 197101, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7714117720 (Russia); Registration Number 1027700232614 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

43. GAZPROMNEFT BITUMEN MATERIALS LIMITED LIABILITY COMPANY, 3-ya Liniya V.O. D. 62, Lit. A, Saint Petersburg 199178, Russia; Pr-kt Bolshoi V.O. D. 80, Lit. R, Floor 5, 6, Saint Petersburg 199106, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 6234000600 (Russia); Registration Number 1036238001645 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

44. GAZPROMNEFT KHANTOS LIMITED LIABILITY COMPANY, Ul. Lenina D. 56, Khanty-Mansiysk 628011, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 8618006063 (Russia); Registration Number 1058600001118 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

45. GAZPROMNEFT LUBRICANTS LTD (a.k.a. GAZPROMNEFT LUBRICANTS LLC; a.k.a. GAZPROMNEFT SM LLC), Ul. Krzhizhanovskogo D. 14/3, Blok B, Moscow 117218, Russia; Leningradsky Avenue 37A, Building 4, BC Arcus III, Moscow 125167, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7728640182 (Russia); Registration Number 1077762940331 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

46. GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, 3-ya Liniya

V.O d. 62, 5, lit. A, Saint Petersburg 199178, Russia; Block R, 80 Bolshoi prospect, Vasilyevski Island, Saint Petersburg 199106, Russia; Ul. Galernaya 5 Lit A., Saint Petersburg 190000, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7838392447 (Russia); Identification Number IMO 5402692; Registration Number 1077847626042 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

47. GAZPROMNEFT MOSCOW REFINERY JOINT STOCK COMPANY (a.k.a. AO GAZPROMNEFT MORP; a.k.a. AO GAZPROMNEFT MOSCOW REFINERY PLANT; a.k.a. GAZPROMNEFT MOSCOW REFINERY JSC; a.k.a. GAZPROMNEFT MNPZ AO; a.k.a. GAZPROMNEFT MOSKOVSKIY NPZ AO), Kv-l Kapotnya 2–I D. 1, K. 3, Russia 109429, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7723006328 (Russia); Registration Number 1027700500190 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

48. GAZPROMNEFT NOYABRSK OIL AND GAS JOINT STOCK COMPANY (a.k.a. GAZPROMNEFT NOYABRSKNEFTEGAZ), Ul. Lenina D. 59/87, Noyabrsk 629807, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 8905000428 (Russia); Registration Number 1028900703963 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

49. GAZPROMNEFT OMSK REFINERY JOINT STOCK COMPANY (a.k.a. GAZPROMNEFT OMSK REFINERY JSC; a.k.a. GAZPROMNEFT ONPZ OMSKIY REFINERY), PR–KT Gubkina, D. 1, Omsk 644040, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 5501041254 (Russia); Registration Number 1025500508956 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

50. GAZPROMNEFT ORENBURG LIMITED LIABILITY COMPANY (a.k.a. GAZPROMNEFT ORENBURG LLC; a.k.a. GAZPROMNEFT ORENBURG ZAO), Ul. Krasnoznamennaya D. 56/1, Orenburg 460024, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 5610218014 (Russia); Registration Number 1165658052450 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

51. GAZPROMNEFT TECHNOLOGICAL PARTNERSHIPS LIMITED LIABILITY COMPANY (a.k.a. “INDUSTRIX”), Ul. Yakubovicha d. 24, lit. A, Saint Petersburg 190000, Russia; ul. Promyshlennaya zd. 19, pomesch. 403, Khanty-Mansiysk 628011, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Target Type State-Owned Enterprise; Tax ID No. 8601066868 (Russia); Registration Number 1188617010064 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

52. GAZPROMNEFT VOSTOK LLC, Ul. Nakhimova D. 13A, Str. 1, Tomsk 634045, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7017126251 (Russia); Registration Number 1057002610378 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

53. GAZPROMNEFT YAMAL LIMITED LIABILITY COMPANY (a.k.a. GAZPROMNEFTEKHIM YAMAL), Ul. 50 Let Oktyabrya D. 8B, Tyumen 625000, Russia; Ul. Mira D. 43A, Salekhard 629002, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 8901001822 (Russia); Registration Number 1118903004989 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

54. GAZPROMNEFT ZAPOLYARYE LIMITED LIABILITY COMPANY (a.k.a. GAZPROMNEFT ZAPOLYARYE LLC), Ul. Tazhnaya D. 30A, Pomeschch. 10, Kabinet 207, Novyy Urengoy 629305, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Target Type State-Owned Enterprise; Tax ID No. 7728720448 (Russia); Registration Number 1097746829740 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

55. GESSI MARITIME CORPORATION, 1st Floor, Dekk House, Zippora Street, Providence Industrial Estate, Victoria, Mahe, Seychelles; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6466149 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

56. GIFTED PEAK LIMITED, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 31 Jan 2022; Company Number 3125459; Business Registration Number 73768871 (Hong Kong) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

57. GURON TRADING LIMITED, Unit 1411, 14/Floor, Cosco Tower, 183 Queen's Road, Sheung Wan, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 20 Dec 2021; Company Number 3114250 (Hong Kong); Business Registration Number 73655404 (Hong Kong) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

58. HAIMA SHIPPING LIMITED, Mahe, Seychelles; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6413519 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

59. HARMONY GROVE CORPORATION, Suite 10, 3rd Floor, La Ciotat, Mont Fleuri, Mahe, Seychelles; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6457171 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

60. HENGTAI SHIPPING LIMITED, Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island, Marshall Islands; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6498321 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

61. HERA GAM LIMITED, Unit 18, 9th Floor, Tower A, New Mandarin Plaza, 14, Science Museum Road, Tsim Sha Tsui East, Kowloon, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6473636 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

62. HONG KONG HANYUAN SHIPPING CO LIMITED, Rm. 4, 16/F, Ho King Comm Ctr, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 13 Jun 2022; Company Number 3161890 (Hong Kong); Business Registration Number 74136104 (Hong Kong) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

63. HONG KONG YONGYE SHIPPING LIMITED, Room 1003, 10th Floor, Tower 1, Lippo Centre, 89, Queensway, Central Admiralty, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6361055 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

64. HUIHAI HONG KONG SHIPPING CO LIMITED, Rm. 4, 16/F, Ho King Comm Ctr, 2—16 Fayuen St, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 30 May 2022; Company Number 3157252 (Hong Kong); Business Registration Number 74089456 (Hong Kong) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

65. INGOSSTRAKH INSURANCE COMPANY, Ul. Pyatnitskaya D. 12, Str. 2, Moscow 117997, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7705042179 (Russia); Legal Entity Number 253400GMWZ0DBU6G0E87; Registration Number 1027739362474 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

66. INTERNATIONAL MARINE MANAGEMENT FZE, P.O. Box 4422, Fujairah, United Arab Emirates; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209 [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: HALAVINS, Aleksejs).

Designated pursuant to section 1(a)(iii) of E.O. 13662 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ALEKSEJS HALAVINS, a person whose property and

interests in property are blocked pursuant to E.O. 13662.

Also designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ALEKSEJS HALAVINS, a person whose property and interests in property are blocked pursuant to E.O. 14024.

67. JOINT STOCK COMPANY INVESTGEOSERVIS (a.k.a. AO INVESTGEOSERVIS), Pr-Kt 60 Letiya Oktyabrya D. 10A, Pom XXII, Moscow 117036, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7704627560 (Russia); Registration Number 1067760718871 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

68. JOINT STOCK COMPANY OFS TECHNOLOGIES (a.k.a. OFS TECHNOLOGIES JSC), Proezd 1–I Krasnogvardeiskii D. 22, Str. 1, Floor/Pomeshch. 8/8.23, Mesto 174, Moscow 123112, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7714024384 (Russia); Registration Number 1027739299961 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

69. JOINT STOCK COMPANY ROSNEFTFLOT, Nab. Presnenskaya D. 6, Str. 2, Delovoi Kompleks Imperiya, Moscow 109004, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 6501096047 (Russia); Registration Number 1026500526590 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

70. JOINT STOCK COMPANY SURGUTNEFTGASBANK (a.k.a. CLOSED JOINT STOCK COMPANY SURGUTNEFTGASBANK; a.k.a. JSC BANK SNGB; a.k.a. SNGB AO; a.k.a. ZAO SNGB), 19 Kukuyevitskogo Street, Surgut 628400, Russia; website www.sngb.ru; Executive Order 13662 Directive Determination—Subject to Directive 4; Nationality of Registration Russia; Secondary sanctions

risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Registration ID 1028600001792 (Russia); Tax ID No. 8602190258 (Russia); For more information, please reference the following link: <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/OFAC-Recent-Actions.aspx> [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SURGUTNEFTGAS).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the financial services sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

71. KALININGRADNEFTEPRODUKT OOO (a.k.a. KALININGRADNEFTEPRODUKT LLC; a.k.a. LIMITED LIABILITY COMPANY KALININGRADNEFTEPRODUKT; a.k.a. LLC KALININGRADNEFTEPRODUKT), 22–b Komsomolskaya Ulitsa, Central District, Kaliningrad, Russia; Email Address knp@baltnet.ru; Executive Order 13662 Directive Determination—Subject to Directive 4; Nationality of Registration Russia; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Registration ID 1023900589240 (Russia); Tax ID No. 3900000136 (Russia); For more information, please reference the following link: <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/OFAC-Recent-Actions.aspx> [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SURGUTNEFTGAS).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

72. KANGEN MARITIME CORPORATION, 1st Floor, Dekk House, Zippora Street, Providence Industrial Estate, Port Victoria, Mahe, Seychelles; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Identification Number IMO 6466051 [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

73. KAT DENNINGS LIMITED, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 27 May 2022; Company Number 3157024 (Hong Kong); Business Registration Number 74087153 (Hong Kong) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

74. KINEF OOO (a.k.a. KINEF; a.k.a. LIMITED LIABILITY COMPANY PRODUCTION ASSOCIATION KIRISHINEFTORGSIINTEZ; a.k.a. LLC KINEF), d. 1 Shosse Entuziastov, Kirishi, Leningradskaya Oblast 187110, Russia; website <http://www.kinef.ru>; Email Address kinef@kinef.ru; Executive Order 13662 Directive Determination—Subject to Directive 4; Nationality of Registration Russia; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Registration ID 1024701478735 (Russia); Tax ID No. 4708007089 (Russia); For more information, please reference the following link: <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/OFAC-Recent-Actions.aspx> [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SURGUTNEFTGAS).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

75. KIRISHIAVTOSERVIS OOO (a.k.a. LIMITED LIABILITY COMPANY KIRISHIAVTOSERVIS; a.k.a. LLC KIRISHIAVTOSERVIS), Lit A, 12 Smolenskaya Ulitsa, St. Petersburg 196084, Russia; website www.kirishiavtoservis.ru; Executive Order 13662 Directive Determination—Subject to Directive 4; Nationality of Registration Russia; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Registration ID 1057807804064 (Russia); Tax ID No. 7840016802 (Russia); For more information, please reference the following link: <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/OFAC-Recent-Actions.aspx> [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SURGUTNEFTGAS).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

76. KUPA LINES INCORPORATED, Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island MH96960, Marshall Islands; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6315113 [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

77. LAGOSMARINE LIMITED, Andrea Araoyzou 2, Limassol 4150, Cyprus; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Organization Established Date 09 Oct 2019; Registration Number C402876 (Cyprus) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

78. LATHYRUS SHIPPING COMPANY, 80 Broad Street, Monrovia, Liberia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2024; Identification Number IMO 6498685; Registration Number C–126303 (Liberia) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: HALAVINS, Aleksejs).

Designated pursuant to section 1(a)(iii) of E.O. 13662 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ALEKSEJS HALAVINS, a person whose property and interests in property are blocked pursuant to E.O. 13662.

Also designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ALEKSEJS HALAVINS, a person whose property and interests in property are blocked pursuant to E.O. 14024.

79. LENGIPRONEFTEKHIM OOO (a.k.a. INSTITUT PO PROEKTIROVANIYU PREDPRIYATY NEFTEPERERABATYVAYUSCHEY I NEFTEKHIMICHESKOY PROMYSHLENNOSTI, LIMITED LIABILITY COMPANY; a.k.a. LIMITED LIABILITY COMPANY DESIGN AND ENGINEERING INSTITUTE FOR OIL REFINING AND PETROCHEMICAL ENTERPRISES; a.k.a.

LIMITED LIABILITY COMPANY OIL REFINING AND PETROCHEMICAL FACILITIES DESIGN INSTITUTE; a.k.a. LLC LENGIPRONEFTEKHIM), D. 94, Obvodnogo Kanala, nab, St. Petersburg 196084, Russia; Email Address lgnc@lgnc.spb.ru; Executive Order 13662 Directive Determination—Subject to Directive 4; Nationality of Registration Russia; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Registration ID 1057803105755 (Russia); Tax ID No. 7810327462 (Russia); For more information, please reference the following link: <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/OFAC-Recent-Actions.aspx> [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SURGUTNEFTEGAS).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

80. LENINOGORSKREMSERVICE LIMITED LIABILITY COMPANY (a.k.a. “LRS LLC”), Ul. Chaikovskogo D. 9A, K. 9/1, Leninogorsk 423250, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 1649015690 (Russia); Registration Number 1071689002923 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

81. LEPUS SAI LIMITED, Unit 13, 12/F, One Vita Supreme, Tuen Mun, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Company Number 3237451 (Hong Kong); Business Registration Number 74898491 (Hong Kong) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

82. LIMITED LIABILITY COMPANY CATKONEFT (a.k.a. KATKONEFT), Ul. Yantarnaya D. 8, Kogalym 628481, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 8608180009 (Russia); Registration Number 1028601441582 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

83. LIMITED LIABILITY COMPANY GAZPROMNEFT REGIONAL SALES, Per. Vilenskii D. 14, Lit. A, Office 203, Saint Petersburg 191014, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 4703105075 (Russia); Registration Number 1084703003384 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

84. LIMITED LIABILITY COMPANY NAFTAGAZ DRILLING (a.k.a. “LLC NG DRILLING”), Promuzel Pelei Panel 13, Noyabrsk 629800, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 8905053564 (Russia); Registration Number 1138905000090 (Russia) [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

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85. LIMITED LIABILITY COMPANY OIL SERVICE GARANT (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ОЙЛ СЕРВИС ГАРАНТ), ul. Ulyanovskaya d. 52/55, Office 20, 21, Samara 443001, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 6315646631 (Russia); Registration Number 1126315005948 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

86. LIMITED LIABILITY COMPANY RN SERVICE (a.k.a. "RN SERVICE"), Malyi Kaluzhskii Per D. 15, Str. 3, Moscow 119071, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7706660065 (Russia); Registration Number 5077746876257 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

87. LIMITED LIABILITY COMPANY WELLTECH (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ВЭЛЛТЕХ), ul. Noyabrskaya d. 7, floor 3, kabinet 315, 316, Kogalym 628486, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 8608062534 (Russia); Registration Number 1228600007943 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

88. LK VOLGA LIMITED LIABILITY COMPANY, Pr-kt Lenina D. 82, Office 818, Murmansk 183038, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 20 Oct 2014; Tax ID No. 4704095905 (Russia); Registration Number 1144704001837 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

89. LLC GOLFSTRIM (Cyrillic: ООО ГОЛЬФСТРИМ), Ul. Tsekhovaya 1, Almet'yevsk 423450, Russia; ul. Bolshaya Cheremushkinskaya d. 34, kom. 64-65, Moscow 117218, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 1650289328 (Russia); Registration Number 1141650013042 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

90. LOENGO SHIPPING AND TRADER LIMITED, Suite 212, 2nd Floor, Block A, La Ciotat, Mont Fleuri, Mahe, Seychelles; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6419331 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

91. LULE ONE SERVICES INC, 80 Broad Street, Monrovia, Liberia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2023; Identification Number IMO 6495401; Registration Number C-126723 (Liberia) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: HALAVINS, Aleksejs).

Designated pursuant to section 1(a)(iii) of E.O. 13662 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ALEKSEJS HALAVINS, a person whose property and interests in property are blocked pursuant to E.O. 13662.

Also designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ALEKSEJS HALAVINS, a person whose property and interests in property are blocked pursuant to E.O. 14024.

92. LUSEIA MARINE SERVICES CO LTD, Room 06, 13a/f., South Tower World Finance Centre Harbour City 17 Canton Road, Kowloon, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Company Number 3108454 (Hong Kong); Business Registration Number 73596751 (Hong Kong)

[UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

93. MARION COMMODITY DMCC, Jewellery & Gemplex 3, Unit No: 4112, Level No 1, DMCC Business Centre, Dubai, United Arab Emirates; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 20 Jul 2023; Registration Number DMCC-895200 (United Arab Emirates) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

94. MARSA ENERGY TRADING DMCC, Jumeirah Lakes Tower, Unit No: ALMAS-23-A, ALMAS Tower, Plot No: JLT-PH1-A0, Dubai, United Arab Emirates; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 23 Mar 2014; Registration Number DMCC-33790 (United Arab Emirates) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

95. MEGHAN GROUP LIMITED, Virgin Islands, British; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6478288 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

96. MERLUZA GROUP LIMITED, Rm. 20, Unit B3, 07/FL Tuen Mun Industrial Centre, No. 2 San Ping Circuit, Tuen Mun, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Company Number 3078779 (Hong Kong); Business Registration Number 73296828 (Hong Kong)

[UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

97. NAUCHNO PROIZVODSTVENNOE PREDPRIYATIE BURENIE (a.k.a. NPP BURENIE), Ul. Michurina D. 64, Komnata 21, Samara 443110, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 6316164422 (Russia); Registration Number 1116316003770 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

98. NEWTECK WELL SERVICE LLC (Cyrillic: ООО НЬЮТЕКС БЕЛЖИ СЕРВИС) (a.k.a. NYUTEKH VELL SERVICE), Ul. Surgutskaya d. 14, str. 1, Nefteyugansk 628309, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 4205237960 (Russia); Registration Number 1124205002239 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

99. NIS AD NOVI SAD (a.k.a. NAFTNA INDUSTRIJA SRBIJE AD NOVI SAD), 12 Narodnog Fronta, Novi Sad 21000, Serbia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 104052135 (Serbia); Business Registration Number 20084693 (Serbia) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: PUBLIC JOINT STOCK COMPANY GAZPROM NEFT).

Designated pursuant to section 1(a)(iii) of E.O. 13662 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PUBLIC JOINT STOCK COMPANY GAZPROM NEFT, a person whose property and interests in property are blocked pursuant to E.O. 13662.

Also designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PUBLIC JOINT STOCK COMPANY GAZPROM NEFT, a person whose property and interests in property are blocked pursuant to E.O. 14024.

100. NOBLEFU COMPANY LIMITED, Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island MH96960, Marshall Islands; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6352834 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

101. NOVGORODNEFTEPRODUCT OOO (a.k.a. LIMITED LIABILITY COMPANY NOVGORODNEFTEPRODUCT; a.k.a. NOVGORODNEFTEPRODUKT LLC), d. 20 Germana Ulitsa, Veliky Novgorod, Novgorodskaya Oblast 173002, Russia; Email Address office@nnp.surgutneftegas.ru; Executive Order 13662 Directive Determination - Subject to Directive 4; Nationality of Registration Russia; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Registration ID 1025300788644 (Russia); Tax ID No. 5321059365 (Russia); For more information, please reference the following link: <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/OFAC-Recent-Actions.aspx> [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SURGUTNEFTEGAS).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

102. OCEAN WATERS MARITIME CORPORATION, Suite 10, 3rd Floor, La Ciotat, Mont Fleuri, Mahe, Seychelles; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6416147 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

103. ODINE MARINE INCORPORATED (a.k.a. ODINE MARINE INC.), Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island 96960, Marshall Islands; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 27 Sep 2021; Identification Number IMO 6257274; Registration Number 111064 (Marshall Islands) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

104. OSOO GAZPROM NEFT AZIYA (a.k.a. GAZPROM NEFT ASIA LLC; a.k.a. GAZPROM NEFT AZIA LLC), 8 Microdistrict 28 A Oktyabrskiy, Bishkek 720001, Kyrgyzstan; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 02106200610072 (Russia); Business Registration Number 24176198 (Kyrgyzstan) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: PUBLIC JOINT STOCK COMPANY GAZPROM NEFT).

Designated pursuant to section 1(a)(iii) of E.O. 13662 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PUBLIC JOINT STOCK COMPANY GAZPROM NEFT, a person whose property and interests in property are blocked pursuant to E.O. 13662.

Also designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PUBLIC JOINT STOCK COMPANY GAZPROM NEFT, a person whose property and interests in property are blocked pursuant to E.O. 14024.

105. PAKER SERVICE (Cyrillic: ПАКЕР СЕРВИС) (a.k.a. "PACKER SERVICE"), Varshavskoe Shosse D. 1, Str. 6, Office 27, Moscow 117105, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 17 Oct 2006; Tax ID No. 7718607570 (Russia); Registration Number 1067758006348 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

106. PETRO WELT TECHNOLOGIES (Cyrillic: ПЕТРО БЕЛТ ТЕХНОЛОДЖИС), Per. 2-I Kazachii D. 4, Str. 1, Moscow 119180, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 31 Aug 2015; Tax ID No. 7706425914 (Russia); Registration Number 1157746800133 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

107. PRATUM OIL TRADING LLC, Dubai, United Arab Emirates; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 03 Sep 2022; Chamber of Commerce Number 484162 (United Arab Emirates); Registration Number 1792398 (United Arab Emirates) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

108. PROMINENT SHIPMANAGEMENT LIMITED, Unit 615, 6th Floor, LT Tower, 31, Chong Yip Street, Kwun Tong, Kowloon, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Company Number 3199991 (Hong Kong); Business Registration Number 74520161 (Hong Kong) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

109. PSKOVNEFTEPRODUKT OOO (a.k.a. LIMITED LIABILITY COMPANY MARKETING ASSOCIATION PSKOVNEFTEPRODUCT; a.k.a. LIMITED LIABILITY COMPANY PSKOVNEFTEPRODUCT), 4 Oktyabrsky Prospekt, Pskov 180000, Russia; Website <http://www.pskovnefteprodukt.ru>; Executive Order 13662 Directive Determination - Subject to Directive 4; Nationality of Registration Russia; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Registration ID 1026000970049 (Russia); Tax ID No. 6027042337 (Russia); For more information, please reference the following link: <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/OFAC-Recent-Actions.aspx> [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SURGUTNEFTEGAS).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

110. RN BURENIE LIMITED LIABILITY COMPANY (a.k.a. RN BURENIE), Ul. Kaluzhskaya m D. 15, Str. 31, Moscow 119071, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 7706613770 (Russia); Registration Number 1067746404681 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

111. RN VANKOR, Ul. 78 Dobrovolcheskoi Brigady, D.15, Krasnoyarsk 660077, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Target Type State-Owned Enterprise; Tax ID No. 2465142996 (Russia); Registration Number 1162468067541 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

112. RN-GRP LLC (Cyrillic: PH ГРП), Yuzhnaya Promzona, VTK, Raduzhny 628460, Russia; Per. Chapaevskii D. 14, Et 1 Pom.II, Kom 46, Moscow 125252, Russia; Website <https://oorngrp.rosneft.com/>; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 20 Aug 2015; Tax ID No. 8609016058 (Russia); Registration Number 1028601465111 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

113. RPK NORD LIMITED LIABILITY COMPANY, Pr-kt Lenina D. 82, Floor 17, Office 1701, Murmansk 183038, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 19 Mar 2015; Tax ID No. 5190045920 (Russia); Registration Number 1155190003165 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

114. RUSGAZALYANS, Ul. Nametkina D.12 A, Moscow 117420, Russia; Ul. Promyshlennaya D. 11, Novyy Urengoy 629306, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 8904084672 (Russia); Registration Number 1178901001730 (Russia) [UKRAINE-

EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

115. SAO VIET PETROL TRANSPORTATION COMPANY LIMITED, 3rd Floor, Viet Tower Building, 1, Thai Ha Street, Trung Liet Ward, Dong Da District, Hanoi, Vietnam; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6169710 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

116. SELENA LIVELY LIMITED, Industrial Building, 19-21, Hing Yip Street, Room 411, 4th Floor, Ming Sang, Kwun Tong, Kowloon, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2022; Organization Type: Transportation and storage; Identification Number IMO 6358878 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

117. SERPENS LIMITED, Unit 13, 12/F, One Vista Supreme, Tien Mun, Hong Kong, China; Flat B, 6th Floor, Block 30, City One Shatin 2, Hang Shing Street, Sha Tin, New Territories, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6341477; Company Number 3166784 (Hong Kong); Business Registration Number 74185404 (Hong Kong) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

118. SERVICE PROM KOMPLEKTATSIYA (Cyrillic: СЕРВИС ПРОМ КОМПЛЕКТАЦИЯ), ul. Industrialnaya 14, Pgt., Yablonovskii 385140, Russia; ul. Olimpiiskaya d. 8, lit. A, pomeshch. 3, 3/1 kabinet 503, Krasnodar 350049, Russia;

Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 0107022448 (Russia); Registration Number 1120107000848 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

119. SINO SHIP MANAGEMENT COMPANY LIMITED, Room 1902, Easey Commercial Building, 253-261 Hennessy Road, Wan Chai, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2019; Identification Number IMO 6085922 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

120. SO TVERNEFTEPRODUKT OOO (a.k.a. LIMITED LIABILITY COMPANY MARKETING ASSOCIATION TVERNEFTEPRODUCT; a.k.a. LLC MA TVERNEFTEPRODUCT; a.k.a. SBYTOVOE OBYEDINENIE TVERNEFTEPRODUKT), 6 Novotorzhskaya Ulitsa, Tver, Russia; Website www.tvernefteproduct.ru; Email Address tnp@dep.tvcom.ru; Executive Order 13662 Directive Determination - Subject to Directive 4; Nationality of Registration Russia; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Registration ID 1026900510647 (Russia); Tax ID No. 6905041501 (Russia); For more information, please reference the following link: <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/OFAC-Recent-Actions.aspx> [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SURGUTNEFTEGAS).

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

121. STREAM SHIP MANAGEMENT FZCO, Unit 27700-001, Dubai Silicon Oasis, Dubai, United Arab Emirates; P.O. Box 342001, Dubai, United Arab Emirates; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6450201 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of

the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

122. SUNNE CO LIMITED, 35 Tai Yau Street, Efficiency House, Flat A516, 5/F, San Po Kong, Kowloon, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 13 Jul 2021; Registration Number 73176503 (Hong Kong) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

123. SUNOR ILLC, Office G63, Bulvar Solnechnyy 25, Kaliningrad 236006, Russia; 18/2 South Street, Valletta, Malta; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 3906404657 (Russia); Identification Number IMO 5740562 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

124. SUNRISE X TRADING CO LIMITED, Rm A,12/F, ZJ300, Wan Chai, Hong Kong, China; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 30 Jun 2022; Business Registration Number 74194354 (Hong Kong) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

125. SURGUTNEFTEGAS (a.k.a. OPEN JOINT STOCK COMPANY SURGUTNEFTEGAS; a.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO SURGUTNEFTEGAZ; a.k.a. PAO SURGUTNEFTEGAS; a.k.a. PUBLICHNOE AKTSIONERNOE OBSHCHESTVO SURGUTNEFTEGAS; a.k.a. SURGUTNEFTEGAS PJSC; a.k.a. SURGUTNEFTEGAS PUBLIC JOINT STOCK COMPANY; a.k.a. SURGUTNEFTEGAZ OAO), ul. Grigoriya Kukuyevitskogo, 1, bld. 1, Khanty-Mansiysky Autonomous Okrug – Yugra, the city of Surgut, Tyumenskaya Oblast 628415, Russia; korp. 1 1 Grigoriya Kukuevitskogo ul., Surgut, Tyumenskaya oblast

628404, Russia; Street Kukuevitskogo 1, Surgut, Tyumen Region 628415, Russia; Website www.surgutneftegas.ru; Email Address secretary@surgutneftegas.ru; Executive Order 13662 Directive Determination - Subject to Directive 4; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

126. SURREY QUAYS COMPANY LIMITED, Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island MH96960, Marshall Islands; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2023; Identification Number IMO 6398167 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

127. SYMI SHIPPING LIMITED, 80 Broad Street, Monrovia, Liberia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6186182 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

128. TAGABO MARITIME CORPORATION, 1st Floor, Dekk House, Zippora Street, Providence Industrial Estate, Victoria, Seychelles; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6466152 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

129. TAIMYRBURSERVIS, Ul. Dalnyaya Zd. 4, Dudinka 647000, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Target Type State-Owned Enterprise; Tax ID No. 7703432328 (Russia); Registration Number 1177746882444 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

130. TEKHNRIZ (Cyrillic: ТЕХНРАЙЗ) (a.k.a. TECHNRAIZ; a.k.a. "TECHRISE LLC"), ul. Volochaevskaya d. 4, pomeshch. 1065, Kazan 420073, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 1660316073 (Russia); Registration Number 1181690060540 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

131. TNG GRUPP (Cyrillic: ТНГ ГРУПП) (a.k.a. "TNG GROUP"), Ul. Klimenta Voroshilova D. 21, Bugulma 423231, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 1645019164 (Russia); Registration Number 1051608047798 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

132. TRIDENT INFINITY LIMITED, Shop 113, Plot 9, Bhoomi Mall, Sector 15, CBD Belapur, Mumbai 400614, India; F2-2A, Oceanic House, Providence Highway, Mahe, Seychelles; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6443583 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

133. TSENTR NAUCHNO ISSLEDOVATELSKIKH I PROIZVODSTVENNYKH RABOT (Cyrillic: ЦЕНТР НАУЧНО ИССЛЕДОВАТЕЛЬСКИХ И ПРОИЗВОДСТВЕННЫХ РАБОТ) (a.k.a. CENTER FOR SCIENTIFIC-RESEARCH AND PRODUCTION WORK; a.k.a. LLC CENTER OF THE SCIENCE RESEARCH AND PRODUCTION WORKS; a.k.a. "LLC CNIPR"), Ul. Tsentralnaya d. 19, Kogalym 628483, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 8608053410 (Russia); Registration Number 1088608000436 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

134. TSS LIMITED LIABILITY COMPANY (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ТСС), Ul. Viktorenko D. 5, Str. 1, BTS Victory Plaza, Moscow 125167, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 08 May 2013; Tax ID No. 7714905368 (Russia); Registration Number 1137746409327 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

135. UDS NEFT, Ul. Lenina D. 21, BTS Forum, Izhevsk 426057, Russia; Ul. Pushkinskaya ZD. 277, Pomeshech. 53, Izhevsk 426057, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 1840040191 (Russia); Registration Number 1151840005690 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

136. VETERAN (Cyrillic: ВЕТЕРАН), ul. Magistralnaya d. 7, Buzuluk 461040, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 06 Sep 1993; Organization Type: Support activities for petroleum and natural gas extraction; Tax ID No. 5603007580 (Russia);

Registration Number 1025600575626 (Russia) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

137. WAVECREST MARITIME LIMITED, Office 706, Jumeirah Bay X2 Tower, Cluster X, Jumeirah Lakes Towers, Dubai P.O. Box 337188, United Arab Emirates; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6467819 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

138. WORTHALIANCE LIMITED, Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island, Marshall Islands; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6478345 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

139. XINGFU HAI SHIPPING LIMITED, Seychelles; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Identification Number IMO 6413774 [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

140. ZAO MUNAY MYRZA (a.k.a. MUNAI MYRZA CJSC), 8 Microdistrict 28 A Oktyabrskiy, Bishkek 720001, Kyrgyzstan; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Tax ID No. 01709199810113 (Kyrgyzstan); Business Registration Number 21984762 (Kyrgyzstan) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: PUBLIC JOINT STOCK COMPANY

GAZPROM NEFT).

Designated pursuant to section 1(a)(iii) of E.O. 13662 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PUBLIC JOINT STOCK COMPANY GAZPROM NEFT, a person whose property and interests in property are blocked pursuant to E.O. 13662.

Also designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PUBLIC JOINT STOCK COMPANY GAZPROM NEFT, a person whose property and interests in property are blocked pursuant to E.O. 14024.

141. ZION TRADE LIMITED, Office No. E2-111F-51, P2-ELOB, Hamriyah Free Zone, Sharjah, United Arab Emirates; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 23 Jan 2024; Registration Number 35675 (United Arab Emirates) [UKRAINE-EO13662] [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the energy sector of the Russian Federation economy.

Also designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

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On December 27, 2024, OFAC also identified the following vessels as property in which a blocked person has an interest under the relevant sanctions authority listed below:

Vessels

1. AKADEMIK GUBKIN (a.k.a. ACADEMIC GUBKIN) (UBZX4) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9842190; MMSI 273616040 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY ROSNEFTEFLOT).

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

2. ALEKSEY CHIRIKOV (UBXJ4) Supply Vessel Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9613551; MMSI 273369290 (vessel) [UKRAINE-EO13662]

[RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

3. ALEXANDER BEGGROV Products Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9876373 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

4. ALEXEY BOGOLYUBOV Products Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration

Identification IMO 9876361 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

5. ALISSA (TRAP2) Crude Oil Tanker Gabon flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9273052; MMSI 626248000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: DOXA SHIPPING LINE INC).

Identified as property in which DOXA SHIPPING LINE INC, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which DOXA SHIPPING LINE INC, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

6. AMBER 6 (3E2141) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-

Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9235713; MMSI 352001387 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SUNNE CO LIMITED).

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

7. APUS (3E2712) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9280885; MMSI 352001692 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SUNNE CO LIMITED).

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

8. AQUATICA (3E6678) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9299769; MMSI 352004367 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: CELESTIAL STAR CORPORATION).

Identified as property in which CELESTIAL STAR CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which CELESTIAL STAR CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

9. AQUILA II (3E2714) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9281152; MMSI 352001694 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SUNNE CO LIMITED).

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

10. ARIA (8P2495) Chemical/Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Year of Build

2009; Vessel Registration Identification IMO 9397559; MMSI 314987000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

11. ARIADNE (8P2446) Chemical/Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Year of Build 2008; Vessel Registration Identification IMO 9397547; MMSI 314948000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

12. ARJUN (3E5088) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9297357; MMSI 352002801 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: KANGEN MARITIME CORPORATION).

Identified as property in which KANGEN MARITIME CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which KANGEN MARITIME CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

13. ASTRA (XVJT7) Chemical/Oil Tanker Vietnam flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9273387; MMSI 574005470 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SAO VIET PETROL TRANSPORTATION COMPANY LIMITED).

Identified as property in which SAO VIET PETROL TRANSPORTATION COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SAO VIET PETROL TRANSPORTATION COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

14. ATLAS (8P2259) Products Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9413573; MMSI 314895000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: STREAM SHIP MANAGEMENT FZCO).

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

15. ATTICA (TRAT2) Crude Oil Tanker Gabon flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9436941; MMSI 626278000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: ELGON MARITIME CORPORATION).

Identified as property in which ELGON MARITIME CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which ELGON MARITIME CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

16. AULIS (3E5853) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9233765; MMSI 352003752 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: NOBLEFU COMPANY LIMITED).

Identified as property in which NOBLEFU COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which NOBLEFU COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

17. BOLERO (8P2492) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9412335; MMSI 314984000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person

whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

18. BORAY (UBGX6) Chemical/Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9198783; MMSI 273610900 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SUNOR LLC).

Identified as property in which SUNOR LLC, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SUNOR LLC, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

19. BOREY G (3E2481) Products Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9199127; MMSI 352001461 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: LUSEIA MARINE SERVICES CO LTD).

Identified as property in which LUSEIA MARINE SERVICES CO LTD, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which LUSEIA MARINE SERVICES CO LTD, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

20. BUK (UBOE3) Tug Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9201994; MMSI 273318480 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: RPK NORD LIMITED LIABILITY COMPANY).

Identified as property in which RPK NORD LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which RPK NORD LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

21. CALLISTO (8P2438) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9299692; MMSI 314942000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

22. CANGJIE (E5U5064) Crude Oil Tanker Cook Islands flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9299680; MMSI 518999083 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: KUPA LINES INCORPORATED).

Identified as property in which KUPA LINES INCORPORATED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which KUPA LINES INCORPORATED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

23. CANKIRI (3E4108) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9411331; MMSI 352002456 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: PROMINENT SHIPMANAGEMENT LIMITED).

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

24. CAPELLA (8P2447) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9341079; MMSI 314949000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: STREAM SHIP MANAGEMENT FZCO).

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

25. CAPTAIN KOSTICHEV (3E4142) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9301392; MMSI 352002205 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

26. CARL (8P2479) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9288851; MMSI 314975000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: CUBE VENTURES SHIPPING SA).

Identified as property in which CUBE VENTURES SHIPPING SA, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which CUBE VENTURES SHIPPING SA, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

27. CASSIOPEIA (8P2466) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9341081; MMSI 314964000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: STREAM SHIP MANAGEMENT FZCO).

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

28. CEPHEUS (3E3724) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9299721; MMSI 352001911 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: COLUMBA LIMITED).

Identified as property in which COLUMBA LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which COLUMBA LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

29. CHRISTOPHE DE MARGERIE (8E4097) LNG Carrier Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO

9737187; MMSI 352002442 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

30. CLIO (3E2767) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9238052; MMSI 352001855 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: HONG KONG YONGYE SHIPPING LIMITED).

Identified as property in which HONG KONG YONGYE SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which HONG KONG YONGYE SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

31. CORUM (3E2362) Products Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9544281; MMSI 352002588 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: PROMINENT SHIPMANAGEMENT LIMITED).

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

32. CRIUS (3E3759) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9251274; MMSI 352002070 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: CRIUS LIMITED).

Identified as property in which CRIUS LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which CRIUS LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

33. CUP (V2Y16) Crude Oil Tanker Antigua & Barbuda flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt.

Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9271327; MMSI 304768000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: BLUEJOURNEY SHIPPING LIMITED).

Identified as property in which BLUEJOURNEY SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which BLUEJOURNEY SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

34. DEYNA (3E5822) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9299903; MMSI 352003718 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SINO SHIP MANAGEMENT COMPANY LIMITED).

Identified as property in which SINO SHIP MANAGEMENT COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SINO SHIP MANAGEMENT COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

35. DIAMOND (8P2444) Chemical/Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Year of Build 2009; Vessel Registration Identification IMO 9385142; MMSI 314946000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

36. DIGNITY (UBIZ6) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9283241; MMSI 273253500 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: ARGO TANKER GROUP LLC).

Identified as property in which ARGO TANKER GROUP LLC, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which ARGO TANKER GROUP LLC, a person whose property and interests in property are

blocked pursuant to E.O. 14024, has an interest.

37. DMITRY MENDELEEV (UBJV8) Bunkering Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9888182; MMSI 273296810 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY).

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

38. DOBRYNYA (UBOO) Tug Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 8730077; MMSI 273449240 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY ROSNEFTEFLOT).

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

39. ELEGANCE (3E5080) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9383950; MMSI 352002791 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: PROMINENT SHIPMANAGEMENT LIMITED).

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

40. EMILY S (3E2473) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9321847; MMSI 352001452 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SUNNE CO LIMITED).

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

41. FEDOR USHAKOV (UBAQ3) Supply Vessel Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9753739; MMSI 273396260 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

42. FJORD SEAL (3E3737) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9513139; MMSI 352001925 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: PROMINENT SHIPMANAGEMENT LIMITED).

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

43. FREDA (3E5145) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9402469; MMSI 352003485 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: HERA GAM LIMITED).

Identified as property in which HERA GAM LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which HERA GAM LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

44. GALAXY (8P2373) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9826902; MMSI 314905000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: STREAM SHIP MANAGEMENT FZCO).

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

45. GAZPROMNEFT NORDWEST (UBAI2) Chemical/Products Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9590137; MMSI 273355640 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY).

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

46. GAZPROMNEFT ZUID EAST (UCSK) Chemical/Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9537109; MMSI 273353580 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY).

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

47. GENNADIY NEVELSKOY (UDFS) Supply Vessel Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9742120; MMSI 273396990 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

48. HEIDI A (3E2523) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9321976; MMSI 352001510 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SUNNE CO LIMITED).

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

49. HENG TAI (3E5359) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9419448; MMSI 352003963 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: HENGTAI SHIPPING LIMITED).

Identified as property in which HENGTAI SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which HENGTAI SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

50. HIMALAYAN (3E4651) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9392822; MMSI 352002872 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: GIFTED PEAK LIMITED).

Identified as property in which GIFTED PEAK LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which GIFTED PEAK LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

51. HUI HAI ATLANTIC (3E3814) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9312872; MMSI 352002139 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: HUIHAI HONG KONG SHIPPING CO LIMITED).

Identified as property in which HUIHAI HONG KONG SHIPPING CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which HUIHAI HONG KONG SHIPPING CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

52. HUIHAI PACIFIC (3E3800) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9346732; MMSI 352002122 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: HONG KONG HANYUAN SHIPPING CO LIMITED).

Identified as property in which HONG KONG HANYUAN SHIPPING CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which HONG KONG HANYUAN SHIPPING CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

53. HYPERION (8P2458) Chemical/Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9322968; MMSI 314958000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: FORNAX SHIP MANAGEMENT FZCO).

Identified as property in which FORNAX SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which FORNAX SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

54. IVAN AIVAZOVSKY Products Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9876359 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

55. IVY (XVJ17) Crude Oil Tanker Vietnam flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9337133; MMSI 574005380 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SAO VIET PETROL TRANSPORTATION COMPANY LIMITED).

Identified as property in which SAO VIET PETROL TRANSPORTATION COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SAO VIET PETROL TRANSPORTATION COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

56. JUPITER (8P2425) Chemical/Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Year of Build 2009; Vessel Registration Identification IMO 9397535; MMSI 314931000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

57. KAPAL CANTIK (E5U4767) Crude Oil Tanker Cook Islands flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9224283; MMSI 518998787 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: WORTHALIANCE LIMITED).

Identified as property in which WORTHALIANCE LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which WORTHALIANCE LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

58. KAPITAN GOTSKY (UBCF2) Shuttle Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9372559; MMSI 273335010 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

59. KIRILL LAVROV (UBOL9) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9333682; MMSI 273345750 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

60. KOLA (UBDQ5) Floating Storage Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9217979; MMSI 273414140 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: LK VOLGA LIMITED LIABILITY COMPANY).

Identified as property in which LK VOLGA LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which LK VOLGA LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

61. KRISHNA 1 (TRAT4) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9271585; MMSI 352004581 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: AMSHA MARITIME).

Identified as property in which AMSHA MARITIME, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which AMSHA MARITIME, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

62. LAUREN II (3FCU5) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9258521; MMSI 355070000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SUNNE CO LIMITED).

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

63. LEGACY (8P2256) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9339337; MMSI 314892000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: STREAM SHIP MANAGEMENT FZCO).

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

64. LEO (8P2467) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9412347; MMSI 314965000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

65. LEOPARD (XVKF7) Crude Oil Tanker Vietnam flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9284594; MMSI 574005550 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SAO VIET PETROL TRANSPORTATION COMPANY LIMITED).

Identified as property in which SAO VIET PETROL TRANSPORTATION COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SAO VIET PETROL TRANSPORTATION COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

66. LI BAI (3E4641) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9589750; MMSI 352002861 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: HAIMA SHIPPING LIMITED).

Identified as property in which HAIMA SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which HAIMA SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

67. LIBERTY (8P2253) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR

589.201 and/or 589.209; Vessel Registration Identification IMO 9339325; MMSI 314889000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

68. LYRA (3E2571) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9314088; MMSI 352001732 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: KAT DENNINGS LIMITED).

Identified as property in which KAT DENNINGS LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which KAT DENNINGS LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

69. M SOPHIA (3FTT) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9289477; MMSI 374933000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SUNNE CO LIMITED).

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

70. MAKALU (8P2533) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9314105; MMSI 314001002 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: DOUBLE HARMONY MARINE CORPORATION).

Identified as property in which DOUBLE HARMONY MARINE CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which DOUBLE HARMONY MARINE CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

71. MERCURY (TRAX8) Crude Oil Tanker Gabon flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt.

Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9321706; MMSI 626315000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: GESSI MARITIME CORPORATION).

Identified as property in which GESSI MARITIME CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which GESSI MARITIME CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

72. MERMAR (3E3356) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9231212; MMSI 352978243 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: MERLUZA GROUP LIMITED).

Identified as property in which MERLUZA GROUP LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which MERLUZA GROUP LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

73. MEROPE (3E2648) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9281891; MMSI 352002495 (vessel) [UKRAINE-EO13662] [IRAN-EO13902] [RUSSIA-EO14024] (Linked To: SHANGHAI FUTURE SHIP MANAGEMENT CO LTD; Linked To: LEPUS SAI LIMITED).

Identified as property in which LEPUS SAI LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which LEPUS SAI LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

74. MERU (9LS2036) Crude Oil Tanker Sierra Leone flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9187227; MMSI 667002333 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: HARMONY GROVE CORPORATION).

Identified as property in which HARMONY GROVE CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which HARMONY GROVE CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

75. MIKHAIL LAZAREV (UBZS8) Shuttle Tanker Russia flag; Secondary sanctions risk:

See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9837547; MMSI 273212310 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

76. MIKHAIL ULYANOV (UBAL3) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9333670; MMSI 273328440 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

77. MIN HANG (E5U5075) Crude Oil Tanker Cook Islands flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9257137; MMSI 518999094 (vessel) [UKRAINE–EO13662] [IRAN–EO13902] [RUSSIA–EO14024] (Linked To: SHANGHAI LEGENDARY SHIP MANAGEMENT COMPANY LIMITED; Linked To: AMBRA LIMITED).

Identified as property in which AMBRA LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which AMBRA LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

78. MINERVA M (3E2537) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9282479; MMSI 352001530 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SUNNE CO LIMITED).

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SUNNE CO LIMITED, a person whose property and

interests in property are blocked pursuant to E.O. 14024, has an interest.

79. MISTRAL 1 (T7AV4) Crude Oil Tanker San Marino flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9257993; MMSI 268249200 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: ODINE MARINE INCORPORATED).

Identified as property in which ODINE MARINE INCORPORATED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which ODINE MARINE INCORPORATED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

80. MOSKOVSKY PROSPECT (TRBE7) Crude Oil Tanker Gabon flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9511521; MMSI 626368000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

81. MOTI (J2JZ) Crude Oil Tanker Djibouti flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9281011; MMSI 621819067 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: WAVECREST MARITIME LIMITED).

Identified as property in which WAVECREST MARITIME LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which WAVECREST MARITIME LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

82. MUM (V2YP5) Crude Oil Tanker Antigua and Barbuda flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9315446; MMSI 305026000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: AQUAQUASAR HOLDING LIMITED).

Identified as property in which AQUAQUASAR HOLDING LIMITED, a

person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which AQUAQUASAR HOLDING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

83. MURMANSK (UBRR2) Chemical/Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9167930; MMSI 273430430 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY).

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

84. NANDA DEVI (TRAT3) Crude Oil Tanker Gabon flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9274434; MMSI 626279000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: TAGABO MARITIME CORPORATION).

Identified as property in which TAGABO MARITIME CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which TAGABO MARITIME CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

85. NEREUS SOPHIA (3E5862) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9266853; MMSI 352003763 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: MEGHAN GROUP LIMITED).

Identified as property in which MEGHAN GROUP LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which MEGHAN GROUP LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

86. NEVE (3E6083) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9224465; MMSI

352003222 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: TRIDENT INFINITY LIMITED).

Identified as property in which TRIDENT INFINITY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which TRIDENT INFINITY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

87. NIKOLAY ZADORNOV (3E3485) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9901037; MMSI 352002208 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

88. NS PRIDE (TRB16) Chemical/Oil Tanker Gabon flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Year of Build 2006; Vessel Registration Identification IMO 9322956; MMSI 626399000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

89. NS SILVER (3E7521) Chemical/Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Year of Build 2005; Vessel Registration Identification IMO 9309576; MMSI 352003367 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

90. NURKEZ (3E2311) Crude Oil Tanker Panama flag; Secondary sanctions risk: See

Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9253325; MMSI 352002470 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SERPENS LIMITED).

Identified as property in which SERPENS LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SERPENS LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

91. NURSULTAN NAZARBAYEV Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9842217 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY ROSNEFTEFLOT).

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

92. OKEANSKY PROSPECT (UBFV) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9866380; MMSI 273618730 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

93. OKEANSKY PROSPECT Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9898254 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY ROSNEFTEFLOT).

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

94. OLANGA (UBVH4) Products Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9286463; MMSI 273355340 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY).

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

95. OLIA (TRBO9) Crude Oil Tanker Gabon flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9268112; MMSI 626450000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: ARISTOS MARITIME INCORPORATED).

Identified as property in which ARISTOS MARITIME INCORPORATED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which ARISTOS MARITIME INCORPORATED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

96. OLIVIA (9LS2020) Crude Oil Tanker Sierra Leone flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9233741; MMSI 667002317 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: FRINA EXPRESS CORPORATION).

Identified as property in which FRINA EXPRESS CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which FRINA EXPRESS CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

97. OMSK (UBZU) Chemical/Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9418509; MMSI 273371330 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY).

Identified as property in which GAZPROMNEFT MARINE BUNKER

LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

98. ORIENT HARMONY (3E5021) Bulk Carrier Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9620633; MMSI 352002708 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: PROMINENT SHIPMANAGEMENT LIMITED).

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

99. ORIENT VISION (3E5020) Bulk Carrier Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9673202; MMSI 352002707 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: PROMINENT SHIPMANAGEMENT LIMITED).

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

100. OWENS (H3XW) LPG Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9223540; MMSI 373482000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SAO VIET PETROL TRANSPORTATION COMPANY LIMITED).

Identified as property in which SAO VIET PETROL TRANSPORTATION COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SAO VIET PETROL TRANSPORTATION COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

101. PANDA (XVJG7) Crude Oil Tanker Vietnam flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-

Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9284582; MMSI 574005540 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SAO VIET PETROL TRANSPORTATION COMPANY LIMITED).

Identified as property in which SAO VIET PETROL TRANSPORTATION COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SAO VIET PETROL TRANSPORTATION COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

102. PATHFINDER (8P2482) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9577094; MMSI 314976000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

103. PAVEL CHERNYSH (3E4132) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9301380; MMSI 352002195 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

104. PEGASUS (8P2449) Chemical/Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9276028; MMSI 314951000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: FORNAX SHIP MANAGEMENT FZCO).

Identified as property in which FORNAX SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which FORNAX SHIP MANAGEMENT FZCO, a person whose

property and interests in property are blocked pursuant to E.O. 14024, has an interest.

105. PING AN (3E4672) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9378632; MMSI 352002898 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: CHENG SHIPPING AND TRADER LIMITED).

Identified as property in which CHENG SHIPPING AND TRADER LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which CHENG SHIPPING AND TRADER LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

106. PREMIER (8P2443) Products Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Year of Build 2011; Vessel Registration Identification IMO 9577082; MMSI 314945000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

107. PROXIMA (8P2475) Chemical/Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9329655; MMSI 314971000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: FORNAX SHIP MANAGEMENT FZCO).

Identified as property in which FORNAX SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which FORNAX SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

108. PSKOV (8P2424) LNG Carrier Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9630028; MMSI 314930000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person

whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

109. PYTHON (8P2523) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9250531; MMSI 314993000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: OCEAN WATERS MARITIME CORPORATION).

Identified as property in which OCEAN WATERS MARITIME CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which OCEAN WATERS MARITIME CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

110. RIGEL (8P2389) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9511533; MMSI 314919000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

111. RN AMUR (UIZU) Tug Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9653068; MMSI 273333470 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY ROSNEFTFLOT).

Identified as property in which JOINT STOCK COMPANY ROSNEFTFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY ROSNEFTFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

112. RN SAKHALIN (UBCP8) Products Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR

589.201 and/or 589.209; Vessel Registration Identification IMO 9650016; MMSI 273399390 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY ROSNEFTFLOT).

Identified as property in which JOINT STOCK COMPANY ROSNEFTFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY ROSNEFTFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

113. RN USSURI (UBTK3) Tug Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9653070; MMSI 273320710 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY ROSNEFTFLOT).

Identified as property in which JOINT STOCK COMPANY ROSNEFTFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY ROSNEFTFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

114. SABLE (3E4117) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9524451; MMSI 352002179 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: PROMINENT SHIPMANAGEMENT LIMITED).

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

115. SAGA (8P2258) Chemical/Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9318553; MMSI 314894000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

116. SAGITTA (3E3674) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9296822; MMSI 352001616 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SUNNE CO LIMITED).

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

117. SAKARYA (3E3835) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9524463; MMSI 352002168 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: PROMINENT SHIPMANAGEMENT LIMITED).

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

118. SALT WOLF (3E3497) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9530917; MMSI 352002280 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: PROMINENT SHIPMANAGEMENT LIMITED).

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

119. SAMSUN (3E2327) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9436006; MMSI 352002486 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: PROMINENT SHIPMANAGEMENT LIMITED).

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

120. SANAR 7 (UBFX5) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9211999; MMSI 273615700 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SUNOR LLC).

Identified as property in which SUNOR ILLC, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SUNOR ILLC, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

121. SANAR 8 (UBFX8) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9212008; MMSI 273619700 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: SUNOR LLC).

Identified as property in which SUNOR ILLC, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SUNOR ILLC, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

122. SCF ENDEAVOUR (UIHP) Supply Vessel Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9335678; MMSI 273312540 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

123. SCF ENDURANCE (UIPN) Supply Vessel Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9335680; MMSI 273314650 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

124. SCF ENTERPRISE (UFHH2) Supply Vessel Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9335692; MMSI 273312060 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

125. SCF SAKHALIN (UHME) Supply Vessel Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9307724; MMSI 273318120 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

126. SERENADE (8P2363) Chemical/Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9318541; MMSI 314897000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

127. SHTURMAN ALBANOV (UBXO2) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9752084; MMSI 273397870 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

128. SHTURMAN KOSHELEV (UCMR) Products Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9759939; MMSI 273391160 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY).

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

129. SHTURMAN MALYGIN (UHBP) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9752096; MMSI 273398780 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

130. SHTURMAN OVTSYN (UBEP3) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9752101; MMSI 273391790 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

131. SHTURMAN SHCHERBININ (UEXZ) Products Tanker Russia flag; Secondary

sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9759927; MMSI 273385570 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY).

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

132. SHTURMAN SKURATOV (UBFP4) Products Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9759915; MMSI 273392990 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY).

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

133. SHUN TAI (5LIC9) Crude Oil Tanker Liberia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9242223; MMSI 636022303 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SYMI SHIPPING LIMITED).

Identified as property in which SYMI SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SYMI SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

134. SI HE (3E4703) Products Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9378618; MMSI 352002948 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: LOENGO SHIPPING AND TRADER LIMITED).

Identified as property in which LOENGO SHIPPING AND TRADER LIMITED, a person

whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which LOENGO SHIPPING AND TRADER LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

135. SIRIUS (8P2496) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9422445; MMSI 314988000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

136. SIRIUS 1 (3E5824) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9285847; MMSI 352003720 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SINO SHIP MANAGEMENT COMPANY LIMITED).

Identified as property in which SINO SHIP MANAGEMENT COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SINO SHIP MANAGEMENT COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

137. SIVAS (3E2642) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9419137; MMSI 352002488 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: PROMINENT SHIPMANAGEMENT LIMITED).

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

138. STEPAN MAKAROV (UAOZ) Supply Vessel Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9753727; MMSI

273392530 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

139. SUCCESS (8P2257) Products Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9333436; MMSI 314893000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

140. SURREY QUAYS (3E2363) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9350654; MMSI 352002589 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SURREY QUAYS COMPANY LIMITED).

Identified as property in which SURREY QUAYS COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SURREY QUAYS COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

141. SVYATOY KNYAZ VLADIMIR (UBUP4) Passenger Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9678238; MMSI 273393630 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY ROSNEFTEFLOT).

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

142. SYMPHONY (8P2445) Chemical/Oil Tanker Barbados flag; Secondary sanctions

risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9309588; MMSI 314947000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: FORNAX SHIP MANAGEMENT FZCO).

Identified as property in which FORNAX SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which FORNAX SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

143. TALISMAN (8P2456) Products Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Year of Build 2006; Vessel Registration Identification IMO 9292060; MMSI 314956000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

144. TANGO (8P2442) Products Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Year of Build 2006; Vessel Registration Identification IMO 9292058; MMSI 314944000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

145. TASCA (3E2647) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9313149; MMSI 352002494 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SUNNE CO LIMITED).

Identified as property in which SUNNE CO LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SUNNE CO LIMITED, a person whose property and

interests in property are blocked pursuant to E.O. 14024, has an interest.

146. THALIA III (3E3812) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9259197; MMSI 352002137 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SELENA LIVELY LIMITED).

Identified as property in which SELENA LIVELY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SELENA LIVELY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

147. TIMOFY GUZHENKO (UBQF5) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9372561; MMSI 273330620 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

148. TIS (UBXP4) Tug Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9817779; MMSI 273396740 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: RPK NORD LIMITED LIABILITY COMPANY).

Identified as property in which RPK NORD LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which RPK NORD LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

149. TOPAZ (8P2459) Products Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Year of Build 2004; Vessel Registration Identification IMO 9292034; MMSI 314959000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

150. TRIUMPH (8P2439) Products Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Year of Build 2007; Vessel Registration Identification IMO 9344033; MMSI 314943000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

151. TRUST (8P2453) Products Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Year of Build 2008; Vessel Registration Identification IMO 9382798; MMSI 314953000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

152. TURACO (3E4698) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9247780; MMSI 352002942 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: SINO SHIP MANAGEMENT COMPANY LIMITED).

Identified as property in which SINO SHIP MANAGEMENT COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which SINO SHIP MANAGEMENT COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

153. TYMEN (UBIK8) Chemical/Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9422653; MMSI 273334570 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To:

GAZPROMNEFT MARINE BUNKER LIMITED

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which GAZPROMNEFT MARINE BUNKER LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

154. UMBRA (UEIW) Floating Storage Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9196620; MMSI 273387920 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: RPK NORD LIMITED LIABILITY COMPANY).

Identified as property in which RPK NORD LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which RPK NORD LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

155. UNIVERSAL (8P2454) Chemical/Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Year of Build 2009; Vessel Registration Identification IMO 9384306; MMSI 314954000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

156. VALENTIN PIKUL (UAAA2) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9885879; MMSI 273259920 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY ROSNEFTEFLOT).

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

157. VALOUR (3E6071) Products Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9832559; MMSI 352003207 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: PROMINENT SHIPMANAGEMENT LIMITED).

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

158. VANGUARD (8P2469) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9311622; MMSI 314967000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: STREAM SHIP MANAGEMENT FZCO).

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

159. VASILY DINKOV (UEVN) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9372547; MMSI 273345020 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

160. VELIKIY NOVGOROD (8P2422) LNG Carrier Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9630004; MMSI 314928000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are

blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

161. VENTURE (3E7423) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9832547; MMSI 352003251 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: PROMINENT SHIPMANAGEMENT LIMITED).

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which PROMINENT SHIPMANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

162. VESNA (V3MD7) Crude Oil Tanker Belize flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9233349; MMSI 312242000 (vessel) [UKRAINE-EO13662] [IRAN-EO13902] [RUSSIA-EO14024] (Linked To: SHANGHAI LEGENDARY SHIP MANAGEMENT COMPANY LIMITED; Linked To: DANIKA ROBERT LIMITED).

Identified as property in which DANIKA ROBERT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which DANIKA ROBERT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

163. VICTOR KONETSKY (3E4134) Shuttle Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9301421; MMSI 352002197 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

164. VIKTOR TITOV (3E4141) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO

9301407; MMSI 352002204 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

165. VITUS BERING (UBGJ9) Supply Vessel Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9613549; MMSI 273358680 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

166. VLADIMIR ARSENYEV (3E4140) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9901025; MMSI 352002203 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: STREAM SHIP MANAGEMENT FZCO).

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

167. VLADIMIR MONOMAKH (UBUT6) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9842176; MMSI 273211040 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY ROSNEFTEFLOT).

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

168. VLADIMIR VINOGRADOV (UBTV8) Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9842188; MMSI 273295230 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY ROSNEFTEFLOT).

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

169. VOSTOCHNY PROSPECT (UBEZ2) LNG Carrier Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9866392; MMSI 273611590 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

170. VOYAGER (8P2374) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9843560; MMSI 314906000 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: STREAM SHIP MANAGEMENT FZCO).

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

171. VYACHESLAV TIKHONOV (UBSH6) Research Vessel Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9538115; MMSI 273350140 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are

blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

172. VYAZ (UBXQ5) Tug Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9804057; MMSI 273418480 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: RPK NORD LIMITED LIABILITY COMPANY).

Identified as property in which RPK NORD LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which RPK NORD LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

173. WEI FENG (3E4609) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9388754; MMSI 352002820 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: XINGFU HAI SHIPPING LIMITED).

Identified as property in which XINGFU HAI SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which XINGFU HAI SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

174. YARD NO.131040 ZVEZDA–DSME Crew/Supply Vessel Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9842205 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY ROSNEFTEFLOT).

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

175. YARD NO.131080 ZVEZDA–DSME Crude Oil Tanker Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9908994 (vessel) [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: JOINT STOCK COMPANY ROSNEFTEFLOT).

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY ROSNEFTEFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

176. YEVGENY PRIMAKOV (UAUH) Supply Vessel Russia flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9753741; MMSI 273412440 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

177. YURI SENKEVICH (3E4135) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9301419; MMSI 352002198 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: STREAM SHIP MANAGEMENT FZCO).

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which STREAM SHIP MANAGEMENT FZCO, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

178. ZALIV AMERIKA (3E7520) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9354301; MMSI 352003366 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

179. ZALIV AMURSKIY (3E7519) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order

14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9354313; MMSI 352003364 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

180. ZALIV ANIVA (3E3486) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9418494; MMSI 352002209 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

181. ZALIV BAIKAL (3E4131) Shuttle Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9360128; MMSI 352002194 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

182. ZALIV VOSTOK (3E4133) Crude Oil Tanker Panama flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9360130; MMSI 352002196 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

183. ZENITH (8P2448) Crude Oil Tanker Barbados flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9610781; MMSI 314950000 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY SOVCOMFLOT).

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 13662, has an interest.

Identified as property in which JOINT STOCK COMPANY SOVCOMFLOT, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2025-01433 Filed 1-21-25; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Collection Activities; Requesting Comments for Revenue Procedure 99-50

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning a combined information reporting by a successor business entity.

DATES: Written comments should be received on or before March 24, 2025 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include OMB Control No. 1545-1667 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Jason Schoonmaker, (801)

620–2128, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at jason.m.schoonmaker@irs.gov.

SUPPLEMENTARY INFORMATION: The IRS is currently seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Combined Information Reporting.

OMB Number: 1545–1667.

Regulation Project Number: Revenue Procedure 99–50.

Abstract: Revenue Procedure 99–50 permits combined information reporting by a successor business entity (*i.e.*, a corporation, partnership, or sole proprietorship) in certain situations following a merger or an acquisition. Combined information reporting may be elected by a successor with respect to certain Forms 1042–S and all forms in series 1098, 1099, and 5498. The procedures also apply to Forms 1097, 3921, 3922, and W–2G. The successor must file a statement with the IRS indicating what forms are being filed on a combined basis.

Current Actions: There is no change to the existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and farms.

Estimated Number of Responses: 6,000.

Estimated Time per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the

information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2025.

Jason M. Schoonmaker,

Tax Analyst.

[FR Doc. 2025–01390 Filed 1–21–25; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Collection Activities; Requesting Comments on Form 9779, Form 9783, and Form 14781

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Electronic Federal Tax Payment System (EFTPS).

DATES: Written comments should be received on or before March 24, 2025 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include OMB Control No. 1545–1467 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Jason Schoonmaker, (801) 620–2128, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at jason.m.schoonmaker@irs.gov.

SUPPLEMENTARY INFORMATION: The IRS is currently seeking comments concerning the following information collection

tools, reporting, and record-keeping requirements:

Title: Electronic Federal Tax Payment System (EFTPS).

OMB Number: 1545–1467.

Form Number: Forms 9779, 9783, and 14781.

Abstract: These forms are used by business and individual taxpayers to enroll in the Electronic Federal Tax Payment System (EFTPS). EFTPS is an electronic remittance processing system the Service uses to accept electronically transmitted Federal tax payments. EFTPS (1) establishes and maintains a taxpayer data base which includes entity information from the taxpayers or their banks, (2) initiates the transfer of the tax payment amount from the taxpayer's bank account, (3) validates the entity information and selected elements for each taxpayer, and (4) electronically transmits taxpayer payment data to the IRS.

Current Actions: There are no changes to the burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, and State, local or Tribal governments.

Estimated Number of Responses: 698.

Estimated Time per Responses: 10 minutes.

Estimated Total Annual Burden Hours: 119.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to

minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2025.

Jason M. Schoonmaker,

Tax Analyst.

[FR Doc. 2025-01403 Filed 1-21-25; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0757]

Agency Information Collection Activity Under OMB Review: Supportive Services for Veteran Families (SSVF) Program—Grant Application, Survey and Report

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs (VA), will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent by February 21, 2025.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser: www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments,” then search the list for the information collection by Title or “OMB Control No. 2900-0757.”

FOR FURTHER INFORMATION CONTACT: VA PRA information: Maribel Aponte, 202-461-8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Supportive Services for Veteran Families (SSVF) Program—Grant Application, Survey and Report (VA Forms 10-10072, 10-10072a, 10-10072b and 10-10072c).

OMB Control Number: 2900-0757.
<https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a currently approved collection.

Abstract: Consistent with the Financial Assistance for Supportive Services Act (38 U.S.C. 2044), the purpose of the Supportive Services for Veteran Families (SSVF) Program is to provide supportive services grants to private non-profit organizations and consumer cooperatives who will coordinate or provide supportive services to very low-income veteran families who are residing in permanent housing, are homeless and scheduled to become residents of permanent housing within a specified time period, or after exiting permanent housing, are seeking other housing that is responsive to such very low-income veteran family needs and preferences. The following VA forms are included in this collection: 1. Application for Supportive Services Grants, VA Form 10-10072; 2. Participant Satisfaction Survey, VA Form 10-10072a; 3. Quarterly Grantee Performance Report, VA Form 10-10072b; and 4. Renewal Application, VA Form 10-10072c. This collection has a reduction in the number of responses and burden hours because the SSVF program no longer requires a pre-service survey, but SSVF will continue to administer an exit Participant Satisfaction Survey.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 89717, November 13, 2024.

Total Annual Burden: 22,693 hours.

Total Annual Responses: 13,230.

VA Form 10-10072

Affected Public: Individuals or Households.

Estimated Annual Burden: 14,000 hours.

Estimated Average Burden per Respondent: 2100 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 400.

VA Form 10-10072a

Affected Public: Individuals or Households.

Estimated Annual Burden: 2,813 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 11,250.

VA Form 10-10072b

Affected Public: Individuals or Households.

Estimated Annual Burden: 2,880 hours.

Estimated Average Burden per Respondent: 135 minutes.

Frequency of Response: Four times per year.

Estimated Number of Respondents: 320.

VA Form 10-10072c

Affected Public: Individuals or Households.

Estimated Annual Burden: 3,000 hours.

Estimated Average Burden per Respondent: 600 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 300.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2025-01423 Filed 1-21-25; 8:45 am]

BILLING CODE 8320-01-P



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Part II

Commodity Futures Trading Commission

17 CFR Parts 1, 22, and 30

Investment of Customer Funds by Futures Commission Merchants and
Derivatives Clearing Organizations; Final Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 22, and 30

RIN 3038-AF24

Investment of Customer Funds by Futures Commission Merchants and Derivatives Clearing Organizations

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (“Commission” or “CFTC”) is amending its regulations governing the types of investments that futures commission merchants and derivatives clearing organizations may make with funds held for the benefit of customers engaging in futures, foreign futures, and cleared swaps transactions. The Commission is also revising asset-based and issuer-based concentration limits for the investment of customer funds. The Commission is also specifying market risk capital charges that a futures commission merchant must take on new investments added to the list of permitted investments in computing the firm’s adjusted net capital. The amendments also revise regulations that require each futures commission merchant to report to the Commission, and to the firm’s designated self-regulatory organization, the name, location, and amount of customer funds held by each depository, including any investments of customer funds held by the depository. Lastly, the Commission is eliminating the requirement that each depository holding customer funds must provide the Commission with read-only electronic access to such accounts for the futures commission merchant to treat the funds as customer segregated funds.

DATES:

Effective date: This rule is effective February 21, 2025.

Compliance dates: The compliance dates for the rule amendments are discussed in section VI of

SUPPLEMENTARY INFORMATION in the preamble to this rule.

FOR FURTHER INFORMATION CONTACT:

Amanda L. Olear, Director, (202) 418–5213, aolear@cftc.gov; Thomas J. Smith, Deputy Director, 202–418–5495, tsmith@cftc.gov; Warren Gorlick, Associate Director, 202–418–5195, wgorlick@cftc.gov; Liliya Bozhanova, Associate Director, 202–418–6232, lbozhanova@cftc.gov; Jennifer M. Narvaez, Attorney Advisor, 202–418–5742, jnarvaez@cftc.gov, Market

Participants Division, or Lihong McPhail, Research Economist, (202) 418–5722, lmcpfail@cftc.gov, Office of the Chief Economist, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; Theodore Z. Polley, Associate Director, 312–596–0551, tpolley@cftc.gov; Division of Clearing and Risk, Commodity Futures Trading Commission, 77 West Jackson Boulevard, Suite 800, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION:

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I. Introduction

A. Background and Statutory Authority

1. Segregation of Customer Funds by Futures Commission Merchants and Derivatives Clearing Organizations

The Commodity Exchange Act (“Act” or “CEA”) ¹ and the Commission’s regulations thereunder ² establish a framework to safeguard funds of customers engaged in CFTC-regulated derivative transactions. Core elements of this framework are requirements for a futures commission merchant (“FCM”) or a derivatives clearing organization (“DCO”) to treat customer funds as belonging to customers and not as the property of the FCM or DCO, and for the FCM or DCO to segregate customer funds from its own funds in designated customer accounts maintained at banks, trust companies, FCMs, or DCOs, as applicable.³ The segregation of customer funds from an FCM’s or DCO’s own funds is intended to ensure that customer funds are used only to support customer trading and transactions and to facilitate the return of the funds to customers in the event of the insolvency of the FCM or DCO.

Segregated customer funds are classified as either: (i) “futures customer funds;” (ii) “Cleared Swaps Customer Collateral;” or (iii) “30.7 customer funds.”⁴ The term “futures customer funds” is defined by Commission regulation 1.3 to mean, in relevant part, all money, securities, and property received by an FCM or DCO from, for, or on behalf of “futures customers”⁵ to margin, guarantee, or secure futures and options on futures transactions traded on CFTC-designated contract markets, and all money accruing to futures customers resulting from trading futures and options on futures. Section 4d(a)(2) of the Act requires an FCM to treat and deal with futures customer funds received to margin, guarantee, or secure trades or contracts of any futures customer, or accruing to a futures customer as the result of such trades or contracts, as belonging to the futures

¹ 7 U.S.C. 1 *et seq.*

² The Commission’s regulations are found in chapter I of title 17 of the Code of Federal Regulations, 17 CFR parts 1 through 199.

³ 7 U.S.C. 6d.

⁴ See generally 17 CFR 1.20 (segregation framework for futures customer funds); 17 CFR 22.2 and 22.3 (segregation framework for Cleared Swaps Customer Collateral); and 17 CFR 30.7 (segregation framework for 30.7 customer funds).

⁵ The term “futures customer” is defined by Commission regulation 1.3 to mean, in relevant part, any person who uses an FCM as an agent in connection with trading in any contract for the purchase or sale of a commodity for future delivery or any option on such contract. 17 CFR 1.3.

customer.⁶ Section 4d(a)(2) further provides that an FCM may not commingle futures customer funds with the FCM's own funds, provided, however, that the FCM may commingle the futures customer funds of two or more futures customers and deposit the funds with any bank, trust company, DCO, or other FCM.⁷

Section 4d(b) of the Act establishes obligations for DCOs and other depositories receiving futures customer funds from FCMs pursuant to section 4d(a)(2) of the Act.⁸ Specifically, section 4d(b) provides that it is unlawful for any person, including a DCO, that has received futures customer funds to hold, dispose of, or use the funds as belonging to the depositing FCM or any person other than the futures customers of the FCM.⁹ The Commission adopted Commission regulations 1.20 through 1.30, and Commission regulations 1.32 and 1.49, to implement the segregation requirements for futures customer funds mandated by sections 4d(a)(2) and 4d(b) of the Act.¹⁰

With respect to cleared swap transactions, Commission regulations 1.3 and 22.1¹¹ define the term "Cleared Swaps Customer Collateral" to mean, in relevant part, all money, securities, or other property received by an FCM or DCO from, for, or on behalf of, a "Cleared Swaps Customer" to margin, guarantee, or secure "Cleared Swap" positions.¹² Section 4d(f)(2)(A) of the Act requires an FCM to treat Cleared Swaps Customer Collateral received from a Cleared Swaps Customer, or accruing to a Cleared Swaps Customer as a result of Cleared Swap positions, as belonging to the Cleared Swaps Customer.¹³ Section 4d(f)(2)(B) of the Act further provides that an FCM may not commingle Cleared Swaps Customer Collateral of a Cleared Swaps Customer with the FCM's own funds.¹⁴ The FCM may, however, commingle Cleared Swaps Customer Collateral of two or more Cleared Swaps Customers and deposit the funds in any bank, trust

company, DCO, or other FCM.¹⁵ Additionally, section 4d(f)(6) of the Act provides that it is unlawful for any person, including a DCO and any depository institution, that receives Cleared Swaps Customer Collateral to hold, dispose of, or use the Cleared Swaps Customer Collateral as belonging to the depositing FCM or any person other than the Cleared Swaps Customer of the FCM.¹⁶ The Commission adopted Commission regulations 22.2 through 22.13, and Commission regulations 22.15 through 22.17, to implement the segregation requirements for Cleared Swaps Customer Collateral mandated by section 4d(f) of the Act.¹⁷

Part 30 of the Commission's regulations govern the requirements imposed on FCMs that carry futures positions for customers trading on foreign markets.¹⁸ Commission regulation 30.1 defines the term "30.7 customer funds" to mean any money, securities, or other property received by an FCM from, for, or on behalf of a U.S. person or foreign-domiciled person (a "30.7 customer")¹⁹ to margin, guarantee, or secure futures or options on futures positions executed on foreign boards of trade ("foreign futures").²⁰ Section 4(b)(2)(A) of the Act authorizes the Commission to adopt regulations requiring FCMs to safeguard 30.7 customer funds deposited by 30.7 customers for trading on foreign boards of trade,²¹ which the Commission did by adopting Commission regulation 30.7.²² As part of the safeguarding requirements, Commission regulation 30.7(e)(2) requires an FCM to segregate 30.7 customer funds from the FCM's own funds, and Commission regulation 30.7(b) provides that an FCM may hold 30.7 customer funds only with certain specified depositories, including banks, trust companies, DCOs, foreign brokers, and clearing organizations of foreign boards of trade.²³

In order to simplify the discussion in this preamble, the terms "futures

customer funds," "Cleared Swaps Customer Collateral," and "30.7 customer funds," are used when referring to regulations applicable specifically to futures customers, Cleared Swaps Customers, and 30.7 customers, respectively. In addition, the term "Customer Funds" is used when referring collectively to "futures customer funds," "Cleared Swaps Customer Collateral," and "30.7 customer funds."

2. Authority for Futures Commission Merchants and Derivatives Clearing Organizations To Invest Customer Funds

The Act establishes the authority for FCMs and DCOs to invest Customer Funds. Section 4d(a)(2) of the Act authorizes FCMs to invest futures customer funds in: (i) obligations of the U.S.; (ii) obligations fully guaranteed as to principal and interest by the U.S.; and (iii) general obligations of any State or of any political subdivision of a State.²⁴ The Commission's predecessor agency, the Commodity Exchange Authority of the U.S. Department of Agriculture, adopted Commission regulation 1.25 to implement section 4d(a)(2) of the Act, and authorized FCMs and DCOs to invest futures customer funds in the instruments enumerated in section 4d(a)(2) (the "Permitted Investments").²⁵

The Commission subsequently expanded the Permitted Investments in 2000 to include certificates of deposit, commercial paper, corporate notes, foreign sovereign debt, and interests in money market funds.²⁶ The Commission

²⁴ 7 U.S.C. 6d(a)(2).

²⁵ See generally Title 17—Commodity and Securities Exchanges, 33 FR 14454 (Sept. 26, 1968), amending Commission regulation 1.25 and providing that FCMs and clearing organizations may invest futures customer funds in obligations of the U.S., in general obligations of any State or of any political subdivision of any State, or in obligations fully guaranteed as to principal and interest by the U.S.

²⁶ See generally Rules Relating to Intermediaries of Commodity Interest Transactions, 65 FR 77993 (Dec. 13, 2000) (amending Commission regulation 1.25 to permit FCMs and DCOs to invest customer funds in certificates of deposit, commercial paper, corporate notes, foreign sovereign debt, and interest in money market funds); and Investment of Customer Funds, 65 FR 82270 (Dec. 28, 2000) (making technical corrections and accelerating the effective date of the final rules from February 12, 2001 to December 28, 2000) (collectively, the "2000 Permitted Investments Amendment"). The 2000 Permitted Investments Amendment was adopted pursuant to section 4(c) of the Act, which empowers the Commission to "promote responsible economic or financial innovation and fair competition" by exempting any transaction or class of transactions (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction) from any of the

Continued

⁶ 7 U.S.C. 6d(a)(2).

⁷ *Id.*

⁸ 7 U.S.C. 6d(b).

⁹ *Id.*

¹⁰ 17 CFR 1.20 through 1.30, 17 CFR 1.32, and 17 CFR 1.49, respectively.

¹¹ 17 CFR 22.1.

¹² Commission regulation 22.1 defines the term "Cleared Swaps Customer" to mean, in relevant part, any customer entering into a Cleared Swap. The Act and Commission regulation 22.1 further define the term "Cleared Swap" to mean any swap that is, directly or indirectly, submitted to, and cleared by, a DCO registered with the Commission. 7 U.S.C. 1a(7) and 17 CFR 22.1.

¹³ 7 U.S.C. 6d(f)(2)(A).

¹⁴ 7 U.S.C. 6d(f)(2)(B).

¹⁵ 7 U.S.C. 6d(f)(3)(A)(i).

¹⁶ 7 U.S.C. 6d(f)(6).

¹⁷ 17 CFR 22.2 through 22.13, and 17 CFR 22.15 through 22.17, respectively. Protection of Cleared Swaps Customer Contracts and Collateral; Conforming Amendments to the Commodity Broker Bankruptcy Provisions, 77 FR 6336 (Feb. 7, 2012) ("Protection of Cleared Swaps Customer Contracts and Collateral").

¹⁸ 17 CFR part 30.

¹⁹ Commission regulation 30.1 defines the term "30.7 customer" to mean any person located in the U.S., its territories or possessions, as well as any foreign-domiciled person, who trades in foreign futures or foreign options through an FCM. 17 CFR 30.1.

²⁰ 17 CFR 30.1.

²¹ 7 U.S.C. 6(b)(2)(A).

²² 17 CFR 30.7.

²³ 17 CFR 30.7(b) and 17 CFR 30.7(e)(2).

also authorized FCMs and DCOs to buy the Permitted Investments under agreements to resell the securities (“reverse repurchase agreements”) and to sell the Permitted Investments under agreements to repurchase the securities (“repurchase agreements”).²⁷ To minimize credit risk, market risk, and liquidity risk to the Permitted Investments, the Commission imposed conditions that are required to be met, including a restriction on the dollar-weighted average of the time-to-maturity of the securities held in segregated portfolios, asset-based and issuer-based concentration limits, and prohibitions on certain investments containing embedded derivatives.²⁸ More generally, Commission regulation 1.25 contains an overarching requirement that all Permitted Investments must be “consistent with the objectives of preserving principal and maintaining liquidity.”²⁹ In adopting the 2000 Permitted Investments Amendment, the Commission stated that it was expanding the range of instruments in which FCMs may invest customer funds beyond those listed in section 4d(a)(2) of the Act to enhance the yield available to FCMs, clearing organizations, and their customers without compromising the safety of futures customer funds.³⁰

The list of investments that qualify as Permitted Investments has undergone several revisions following the 2000 Permitted Investments Amendment.³¹ In its current form, Commission regulation 1.25 lists seven categories of investments that qualify as Permitted Investments: (i) obligations of the U.S. and obligations fully guaranteed as to principal and interest by the U.S. (“U.S. government securities”); (ii) general obligations of any State or political subdivision of a State (“municipal securities”); (iii) obligations of any U.S. government corporation or enterprise sponsored by the U.S. (“U.S. agency

provisions of the Act, subject to certain exceptions. The Commission may grant an exemption by rule, regulation, or order, after notice and opportunity for hearing, and may do so on application of any person or on its own initiative. 7 U.S.C. 6(c)(1). A further discussion of section 4(c)(1) of the Act is set forth in section V of this preamble.

²⁷ 2000 Permitted Investments Amendment at 78001–78004. Reverse repurchase agreements and repurchase agreements are collectively referred to as “Repurchase Transactions” in this preamble.

²⁸ 17 CFR 1.25(b).

²⁹ *Id.*

³⁰ 2000 Permitted Investments Amendment at 78007.

³¹ *E.g.*, Investment of Customer Funds and Record of Investments, 70 FR 28190 (May 17, 2005) (“2005 Permitted Investments Amendment”), and Investment of Customer Funds and Funds Held in an Account for Foreign Futures and Foreign Options Transactions, 76 FR 78776 (Dec. 19, 2011) (“2011 Permitted Investments Amendment”).

obligations”); (iv) certificates of deposit issued by a bank; (v) commercial paper fully guaranteed by the U.S. under the Temporary Liquidity Guarantee Program (“TLGP”) as administered by the Federal Deposit Insurance Corporation (“FDIC”) (“commercial paper”); (vi) corporate notes and bonds fully guaranteed as to principal and interest by the U.S. under the TLGP (“corporate notes and bonds”); and (vii) interests in money market mutual funds.³² In addition, Commission regulation 1.25(a)(2) permits FCMs and DCOs to buy and sell the Permitted Investments under Repurchase Transactions.³³

Section 4(b)(2)(A) of the Act grants the Commission authority to adopt rules and regulations regarding an FCM’s safeguarding of 30.7 customer funds.³⁴ Prior to 2011, an FCM was not subject to a specific regulation defining the investments that the firm could enter into with 30.7 customer funds.³⁵ In 2011, the Commission determined that the terms of Commission regulation 1.25 should also apply to an FCM’s investment of 30.7 customer funds, and amended Commission regulation 30.7 to provide that to the extent an FCM invests 30.7 customer funds, the firm must invest such funds subject to, and in compliance with, the terms and conditions of Commission regulation 1.25.³⁶

The Commission also extended the requirements of Commission regulation 1.25 to FCMs and DCOs investing Cleared Swaps Customer Collateral.³⁷ The Commission adopted Commission regulations 22.2 and 22.3 in 2012³⁸ pursuant to its authority under section 4d(f)(4) of the Act, which provides that Cleared Swaps Customer Collateral may be invested by an FCM or DCO in: (i) obligations of the U.S.; (ii) general obligations of any State or of any political subdivision of a State; (iii) obligations fully guaranteed as to principal and interest by the U.S.; and

(iv) any other investment that the Commission may by rule or regulation prescribe.³⁹ Section 4d(f)(4) of the Act further provides that the investments must be made in accordance with the rules and regulations, and subject to any conditions, that the Commission may prescribe.⁴⁰

In addition to enumerating the Permitted Investments that FCMs and DCOs may enter into with Customer Funds, Commission regulation 1.25 also imposes several conditions on the investment of Customer Funds. Commission regulation 1.25(b)(3) contains both asset-based and issuer-based concentration limits applicable to Permitted Investments. The asset-based concentration limits restrict the total amount of Customer Funds that an FCM or DCO may invest in any particular Permitted Investment instrument or asset class to a defined percentage of the total funds held in segregation by the FCM or DCO.⁴¹ The issuer-based concentration limits cap the total amount of Customer Funds that may be invested in Permitted Investment instruments offered, or managed, by a particular issuer to a defined percentage of the total funds held in segregation by the FCM or DCO.⁴²

To limit risk to customers from the investment of Customer Funds, Commission regulations provide that FCMs and DCOs are financially responsible for any losses resulting from Permitted Investments and explicitly prohibit the allocation of investment losses to customers or clearing FCMs, respectively.⁴³

³⁹ 7 U.S.C. 6d(f).

⁴⁰ 7 U.S.C. 6d(f)(4).

⁴¹ 17 CFR 1.25(b)(3)(i).

⁴² 17 CFR 1.25(b)(3)(ii).

⁴³ Commission regulation 1.29 provides that FCMs or DCOs, as applicable, shall bear sole responsibility for any losses resulting from the investment of futures customer funds, and further provides that no investment losses shall be borne or otherwise allocated to FCM customers or to clearing FCMs and their customers. 17 CFR 1.29(b).

Commission regulation 22.2(e)(1) provides that an FCM shall bear sole responsibility for any losses resulting from the investment of Cleared Swaps Customer Collateral and may not allocate investment losses to Cleared Swaps Customers of the FCM. 17 CFR 22.2(e)(1).

Commission regulation 30.7(i) provides that an FCM shall bear sole financial responsibility for any losses resulting from the investment of 30.7 customer funds, and further provides that no investment losses may be allocated to the 30.7 customers of the FCM. 17 CFR 30.7(i).

In addition, Commission regulation 22.3(d) provides that DCOs may invest Cleared Swaps Customer Collateral in Permitted Investments set forth in Commission regulation 1.25. The regulation, however, does not provide that a DCO is responsible for investment losses. The Commission proposed to amend Commission regulation 22.3(d) to explicitly provide that a DCO shall bear sole responsibility for any losses resulting

³² 17 CFR 1.25(a)(1).

³³ 17 CFR 1.25(a)(2).

³⁴ 7 U.S.C. 6(b)(2)(A).

³⁵ 2011 Permitted Investments Amendment at 78777, providing that because Congress did not expressly apply the investment limitations set forth in section 4d of the Act to 30.7 customer funds, the Commission historically has not subjected such funds to the investment limitations applicable to futures customer funds.

³⁶ 17 CFR 30.7. The Commission stated that it was appropriate to align the investment standards of Commission regulation 30.7 with those of Commission regulation 1.25 because many of the same prudential concerns arise with respect to both segregated customer funds and 30.7 customer funds. 2011 Permitted Investment Amendment at 78791.

³⁷ See 17 CFR 22.2(e)(1) and 17 CFR 22.3(d).

³⁸ See generally Protection of Cleared Swaps Customer Contracts and Collateral.

The Commission has previously noted the importance of conducting periodic assessments of Commission regulation 1.25 and, as necessary, revising regulatory policies to strengthen safeguards designed to minimize risk while retaining an appropriate degree of investment flexibility and opportunities for capital efficiency for DCOs and FCMs investing customer segregated funds.⁴⁴ In furtherance of these objectives, and in consideration of the requests for amendments to Commission regulation 1.25 discussed in section II of this preamble, the Commission published a notice of proposed rulemaking to amend the list of Permitted Investments in Commission regulation 1.25 and to adopt several related amendments to its rules governing the investment of Customer Funds by FCMs and DCOs.⁴⁵

II. Requests for Amendments to the List of Permitted Investments

The Futures Industry Association (“FIA”) and CME Group Inc. (“CME”) (collectively, the “Petitioners”) submitted a joint petition requesting that the Commission issue an order under section 4(c) of the Act, or take such other action as the Commission deems appropriate, to expand the list of Permitted Investments that FCMs and DCOs may enter into with Customer Funds.⁴⁶ The Petitioners requested an extension of the Permitted Investments to include the foreign sovereign debt of Canada, France, Germany, Japan, and the United Kingdom (“Specified Foreign Sovereign Debt”), subject to the condition that any investment is limited to balances owed by FCMs and DCOs to customers and FCM clearing members, respectively, denominated in the applicable currency of Canada, France,

Germany, Japan, or the United Kingdom.⁴⁷ The Petitioners further requested that the Commission exempt FCMs and DCOs from the provisions of Commission regulation 1.25(d)(2) to authorize FCMs and DCOs to enter into Repurchase Transactions involving Specified Foreign Sovereign Debt with foreign banks and foreign securities brokers or dealers, and to deposit Specified Foreign Sovereign Debt in safekeeping accounts at foreign banks.⁴⁸

In support of the request, the Petitioners stated that the Commission issued an order in 2018 pursuant to section 4(c) of the Act providing a limited exemption to section 4d of the Act and Commission regulation 1.25 to permit DCOs to invest futures customer funds and Cleared Swaps Customer Collateral in the foreign sovereign debt of France and Germany.⁴⁹ The Petitioners also asserted that the Commission’s stated rationale for issuing the 2018 Order and providing an exemption to DCOs also applies to

⁴⁷ Joint Petition at p. 4. The currencies of Canada, France, Germany, Japan, and the United Kingdom are the Canadian dollar, the euro (France and Germany), the yen (Japan), and the British pound (United Kingdom).

⁴⁸ Joint Petition at p. 5.

Commission regulation 1.25(d)(2) provides that an FCM or DCO may enter into Repurchase Transactions only with the following counterparties: (i) a bank as defined in section 3(a)(6) of the Securities Exchange Act of 1934; (ii) a domestic branch of a foreign bank insured by the FDIC; (iii) an SEC-registered securities broker or dealer; or (iv) an SEC-registered government securities broker or dealer. Section 3(a)(6) of the Securities Exchange Act of 1934 defines the term “bank” to mean: (i) a banking institution organized under the laws of the U.S. or a Federal savings association; (ii) a member bank of the Federal Reserve System; (iii) any other banking institution or savings association doing business under the laws of any State or the U.S., a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency, and which is supervised and examined by a State or Federal authority having supervision over banks or savings associations; and (iv) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (i), (ii), or (iii) above (“Section 3(a)(6) bank”). 15 U.S.C. 78c(a)(6). Foreign-domiciled banks and foreign securities brokers or dealers are not authorized counterparties for Repurchase Transactions under Commission regulation 1.25(d)(2).

In addition, Commission regulation 1.25(d)(7) provides that securities transferred to an FCM or DCO under Repurchase Transactions must be held in safekeeping accounts with certain U.S.-domiciled banks, a Federal Reserve Bank, a DCO, or the Depository Trust Company in an account that complies with the requirements of Commission regulation 1.26.

⁴⁹ Order Granting Exemption from Certain Provisions of the Commodity Exchange Act Regarding Investment of Customer Funds and from Certain Related Commission Regulations, 83 FR 35241 (Jul. 25, 2018) (“2018 Order”). The 2018 Order provides an exemption only to DCOs. FCMs are not subject to the 2018 Order.

investments made by FCMs and extends to the sovereign debt of Canada, Japan, and the United Kingdom, in addition to France and Germany.

The 2018 Order’s section 4(c) exemption for DCOs is subject to conditions, including that: (i) investment in French or German sovereign debt is limited to investments made with euro-denominated balances owed to the futures customers and Cleared Swaps Customers of FCM clearing members; (ii) the dollar-weighted average of the remaining time-to-maturity of a DCO’s portfolio of investments in each of French and German sovereign debt may not exceed 60 days; and (iii) a DCO may not make a direct investment in any sovereign debt instrument of France or Germany that has a remaining time-to-maturity in excess of 180 calendar days.⁵⁰ The 2018 Order also provides that if the two-year credit default spread of the French or German sovereign debt exceeds 45 basis points (“BPS”), the DCO may not make any new direct investments in the relevant sovereign debt using futures customer funds or Cleared Swaps Customer Collateral and must discontinue investing futures customer funds and Cleared Swaps Customer Collateral in the relevant debt through Repurchase Transactions as soon as practicable under the circumstances.⁵¹

The 2018 Order also grants an exemption from Commission regulation 1.25(d)(2) to permit DCOs to enter into Repurchase Transactions involving French or German sovereign debt with foreign banks and foreign securities brokers or dealers as counterparties.⁵² A DCO may enter into Repurchase Transactions with a foreign bank or foreign securities broker or dealer provided that the firm qualifies as a permitted depository under Commission regulation 1.49(d)(3) and is located in a “money center country”⁵³ or in another jurisdiction that has adopted the euro as its currency.⁵⁴ The 2018 Order further grants an exemption from the requirement in Commission regulation 1.25(d)(7) that securities transferred to an FCM or DCO under reverse repurchase agreements must be held in

⁵⁰ Conditions (3)(a), 3(c), and 3(d) of the 2018 Order at 35245.

⁵¹ Condition (3)(b) of the 2018 Order at 35245.

⁵² Condition 2(a) of the 2018 Order at 35245.

⁵³ Commission regulation 1.49(a) defines the term “money center country” as Canada, France, Italy, Germany, Japan, and the United Kingdom.

⁵⁴ Conditions 2(b) and 3(e) of the 2018 Order at 35245. Commission regulation 1.49(d)(3) provides that to qualify as a depository for Customer Funds, a foreign depository must be a bank or trust company that has in excess of \$1 billion in regulatory capital, a registered FCM, or a DCO. 17 CFR 1.49(d)(3).

from the investment of Cleared Swaps Customer Collateral and may not allocate such losses to Cleared Swaps Customers. Investment of Customer Funds by Futures Commission Merchants and Derivatives Clearing Organizations, 88 FR 81236 at 81238–81239, 81259 (Nov. 21, 2023).

⁴⁴ 2011 Permitted Investments Amendment at 78777.

⁴⁵ Investment of Customer Funds by Futures Commission Merchants and Derivatives Clearing Organizations, 88 FR 81236 (Nov. 21, 2023) (“Proposal”).

⁴⁶ Petition for Order under section 4(c) of the Commodity Exchange Act, dated May 24, 2023 (the “Joint Petition”). On September 22, 2023, the Petitioners submitted updated data in support of the Joint Petition and corrected an inadvertent transposition of data items in the Joint Petition. Supplement to Petition for Order under section 4(c) of the Commodity Exchange Act (“Supplement to Joint Petition”). The Joint Petition and the Supplement to Joint Petition are available on the Commission’s website, https://www.cftc.gov/media/9531/FIA_CMEPetition_Regulation125_052423/download and https://www.cftc.gov/media/9536/FIALetterSupplementing_Regulation125_092223/download.

safekeeping accounts with certain U.S.-domiciled banks, a Federal Reserve Bank, a DCO, or the Depository Trust Company, to permit DCOs to hold French or German sovereign debt received under reverse repurchase agreements in a safekeeping account with foreign banks that qualify as depositories for Customer Funds under Commission regulation 1.49(d)(3).⁵⁵

The Petitioners further requested that FCMs and DCOs be permitted to invest Customer Funds in certain exchange-traded funds (“ETFs”) that invest primarily in short-term U.S. Treasury securities (“U.S. Treasury ETFs”).⁵⁶ In support of their request, the Petitioners stated that U.S. Treasury ETFs have characteristics that may be consistent with those of other Permitted Investments and may provide FCMs and DCOs with an opportunity to diversify further their investments of customer funds.⁵⁷

The Commission also received a petition from Invesco Capital Management LLC (“Invesco”), which serves as a sponsor of various ETFs, advocating for the addition of U.S. Treasury ETF securities to the list of Permitted Investments.⁵⁸ Invesco stated that U.S. Treasury ETFs would provide FCMs and DCOs with additional investment choices for Customer Funds, promote operational efficiencies, and offer potentially better investment returns for FCMs, DCOs, and their customers, and facilitate financial market innovation.⁵⁹ Invesco further stated that listing U.S. Treasury ETFs as Permitted Investments would be consistent with the public interest and the customer protection regime under the Act and Commission regulations as U.S. Treasury ETFs may only invest in instruments that are otherwise eligible

as Permitted Investments for Customer Funds.⁶⁰ Invesco further noted that because U.S. Treasury ETFs invest in a sub-set of the same high-quality liquid instruments that are Permitted Investments under Commission regulation 1.25 (*i.e.*, U.S. government securities), the ETFs offer an indirect, possibly simpler, and more cost-efficient way for FCMs and DCOs to invest Customer Funds in U.S. Treasury securities and obligations fully guaranteed as to principal and interest by the U.S. by eliminating the need for FCMs and DCOs to administer direct investments in individual U.S. government securities.⁶¹

Lastly, the Petitioners also requested that the Commission amend its regulations consistent with CFTC Staff Letter 21–02 and CFTC Staff Letter 22–21⁶² to permit FCMs and DCOs to invest Customer Funds in qualifying Permitted Investments that have adjustable rates of interest that correlate closely to SOFR.⁶³

III. Summary of the Proposal

In order to revise Commission regulation 1.25 to address outdated provisions, and in consideration of the Joint Petition and the Invesco Petition, the Commission proposed to amend the list of Permitted Investments to: (i) add two new asset classes (*i.e.*, Specified Foreign Sovereign Debt instruments and U.S. Treasury ETFs), subject to certain conditions; (ii) limit the scope of money market funds (“MMFs”) whose interests qualify as Permitted Investments; and (iii) remove corporate notes, corporate bonds, and commercial paper. The Commission also proposed amendments to FCM financial reporting requirements to reflect the proposed amendments to the list of Permitted Investments. The Commission further proposed changes to the counterparty and depository

requirements of Commission regulation 1.25(d)(2) and (7), and revisions to the concentration limits for Permitted Investments set forth in Commission regulation 1.25(b)(3). The Commission also specified proposed capital charges that FCMs would have to apply to the proposed new Permitted Investment instruments and proposed a clarifying amendment to Commission regulation 22.3(d) to specify that DCOs bear the financial responsibility for losses resulting from investment of Customer Funds in Permitted Investments. The Commission further proposed to replace LIBOR with SOFR as a permitted benchmark for the interest rate of adjustable rate securities that qualify as Permitted Investments. Lastly, the Commission proposed to amend its regulations to eliminate the requirement that a depository holding customer funds must provide the Commission with read-only electronic access to such accounts for the FCM to treat the accounts as customer segregated fund accounts.⁶⁴ Each of these proposed amendments are discussed in section IV. of this preamble.

The comment period for the Proposal closed on January 17, 2024. The Commission received 17 comment letters from various interested parties, including investor advocacy groups, trade associations, and financial services companies.⁶⁵ The majority of commenters expressed support for the Proposal, generally noting that the proposed amendments represent appropriate updates to the list of Permitted Investments. Several commenters specifically supported the inclusion of foreign sovereign debt and U.S. Treasury ETFs as Permitted Investments.⁶⁶ Conversely, two

⁶⁴ See generally Proposal.

⁶⁵ The following entities submitted comments: Alternative Investment Management Association (“AIMA”); Americans for Financial Reform Education Fund, Consumer Federation of America, Food & Water Watch, Institute for Agriculture and Trade Policy, and Public Citizen (collectively, the “Investor Advocacy Group” and the “Investor Advocacy Group Joint Letter”); Better Markets; BlackRock, Inc. (“BlackRock”); Eurex Clearing AG (“Eurex”); Federated Hermes, Inc. (“Federated Hermes”); Futures Industry Association and CME Group Inc. (“FIA/CME Joint Letter”); The Global Association of Central Counterparties (“CCP Global”); Intercontinental Exchange Inc. (“ICE”); Invesco Capital Management LLC (“Invesco”); Investment Company Institute (“ICI”); Managed Funds Association (“MFA”); National Futures Association (“NFA”); Nodal Clear, LLC (“Nodal”); the Asset Management Group of the Securities Industry and Financial Markets Association (“SIFMA AMG”); State Street Global Advisors (“SSGA”); and World Federation of Exchanges (“WFE”). The comment letters are available at <https://comments.cftc.gov/PublicComments/CommentList.aspx?id=7453>.

⁶⁶ Invesco at pp. 2–3; ICI at p. 2; AIMA at pp. 2–3; FIA/CME Joint Letter at pp. 2, 4–15; MFA at pp.

⁵⁵ Condition 2(b) of the 2018 Order at 35245. Commission regulation 1.25(d)(7) provides that securities transferred to an FCM or DCO under a reverse repurchase agreement must be held in a safekeeping account only with the following depositories: (i) a section 3(a)(6) bank; (ii) a domestic branch of a foreign bank insured by the FDIC; (iii) a Federal Reserve Bank; (iv) a DCO; or (v) the Depository Trust Company. 17 CFR 1.25(d)(7). A foreign-domiciled bank is currently not an authorized depository for securities transferred to an FCM or DCO under Commission regulation 1.25(d)(7).

⁵⁶ Joint Petition at pp. 8–9.

⁵⁷ *Id.*

⁵⁸ Letter from Anna Paglia, Chief Executive Officer, Invesco Capital Management LLC, dated September 28, 2023 (“Invesco Petition”), available at https://www.cftc.gov/media/9541/Invesco-CFTCPetition_Regulation125_092823/download. Invesco is registered with the Commission as a commodity pool operator and commodity trading advisor, and is registered with the Securities and Exchange Commission (“SEC”) as an investment adviser.

⁵⁹ Invesco Petition at p. 1.

⁶⁰ *Id.* at p. 9.

⁶¹ *Id.* at p. 2.

⁶² CFTC Staff Letter 21–02, CFTC Regulation 1.25—Investment of Customer Funds—Time-Limited No-Action Position for Investments in Securities with an Adjustable Rate of Interest Benchmarked to the Secured Overnight Financing Rate (Jan. 4, 2021) (“Staff Letter 21–02”) available at the Commission’s website: https://www.cftc.gov/LawRegulation/CFTCStaffLetters/letters.htm?title=21-02&field_csl_letter_year_value=&field_csl_dodd_frunk_exists_value=All; CFTC Staff Letter 22–21, CFTC Regulation 1.25—Investment of Customer Funds in Securities with an Adjustable Rate of Interest Benchmarked to the Secured Overnight Financing Rate—Extension of Time-Limited No-Action Position Concerning Investments by Futures Commission Merchants and No-Action Position Concerning Investments by Derivatives Clearing Organizations (Dec. 23, 2022) (“Staff Letter 22–21”) available at the Commission’s website: www.cftc.gov/LawRegulation/CFTCStaffLetters/letters.htm?title=22-21&field_csl_letter_year_value=&field_csl_dodd_frunk_exists_value=All.

⁶³ Joint Petition at p. 4.

commenters opposed allowing FCMs and DCOs to invest Customer Funds in foreign sovereign debt.⁶⁷ Many commenters also recommended revisions to the proposed conditions underlying the Proposal, including the conditions proposed for investment in certain short-term U.S. Treasury ETFs.⁶⁸

In consideration of the broad public input expressed in the public comments and the Commission's experience administering the rules that govern investments of Customer Funds by FCMs and DCOs, the Commission is adopting the proposed amendments, subject to the changes discussed below.⁶⁹

IV. Final Rule

A. Investment of Customer Funds

1. Interests in Money Market Funds

a. Proposal

Commission regulation 1.25(a)(1)(vii) currently provides that FCMs and DCOs may invest Customer Funds in interests in MMFs, subject to specified terms and conditions.⁷⁰ To qualify as a Permitted Investment, an MMF must: (i) be an investment company registered with the SEC under the Investment Company Act of 1940⁷¹ and hold itself out to investors as an MMF in accordance with SEC Rule 2a-7;⁷² (ii) be sponsored by a federally-regulated financial institution, a section 3(a)(6) bank,⁷³ an investment adviser registered under the Investment Advisers Act of 1940,⁷⁴ or a domestic branch of a foreign bank insured by the FDIC; and (iii) compute, and make available to MMF shareholders, the net asset value ("NAV") of the fund by 9 a.m. of the business day following each business day.⁷⁵

As further described below, the Commission proposed to amend Commission regulation 1.25(a)(1)(vii) to limit the scope of MMFs whose interests qualify as Permitted Investments in response to two sets of rule amendments adopted by the SEC regarding MMFs, which rendered, in the Commission's

view, certain MMFs incompatible with the liquidity requirements of Commission regulation 1.25.⁷⁶ Specifically, the Commission proposed to limit Permitted Investments in MMFs to interests in certain "government money market funds," as defined in SEC Rule 2a-7.⁷⁷ A Government MMF is defined in SEC Rule 2a-7 as a fund that invests 99.5 percent or more of its total assets in cash, "government securities," and/or Repurchase Transactions that are collateralized fully by cash or "government securities."⁷⁸ A "government security" is defined as any security issued or guaranteed as to principal or interest by the United States, or by a person controlled or supervised by and acting as instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States; or any certificate of deposit of any of the foregoing.⁷⁹ Therefore, a "government security" encompasses "U.S. government securities" and "U.S. agency obligations" as defined under Commission regulation 1.25(a)(1)(i) and (iii), respectively.⁸⁰

As noted above, the Commission proposed to amend Commission regulation 1.25 to limit the scope of MMFs that qualify as Permitted Investments in response to SEC revisions to its MMF rules. Specifically, in 2014, the SEC amended SEC Rule 2a-7 to authorize an MMF to impose liquidity fees on participant redemptions, or to temporarily suspend participant redemptions, if the MMF's investment portfolio triggered certain liquidity thresholds.⁸¹ The 2014 SEC MMF Final Rule was adopted to mitigate the adverse effects on fund liquidity resulting from increased participant redemptions during times of financial stress.⁸² The 2014 SEC

Redemption Provisions were mandatory for Prime MMFs, and Government MMFs could voluntarily elect to impose the 2014 SEC Redemption Provisions ("Electing Government MMFs").⁸³

Commission staff subsequently received inquiries from market participants concerning the permissibility of investing Customer Funds in MMF interests under Commission regulation 1.25 in light of the 2014 SEC Redemption Provisions. In response, Commission staff issued CFTC Staff Letter 16-68⁸⁴ and CFTC Staff Letter 16-69⁸⁵ addressing the 2014 SEC Redemption Provisions and the investment of Customer Funds in MMFs by FCMs and DCOs, respectively. Staff Letter 16-68⁸⁶ expresses DSIO's view that the 2014 SEC Redemption Provisions conflict with paragraphs (b)(1)⁸⁷ and (c)(5)(i)⁸⁸ of Commission regulation 1.25, as the Redemption Provisions have the effect of potentially reducing the liquidity of Prime MMFs and Electing Government MMFs through the imposition of fees and suspension of redemptions. Therefore, DSIO stated that FCMs may no longer

the "2014 SEC Redemption Provisions" in this document.

⁸³ 17 CFR 270.2a-7(c)(2)(iii).

⁸⁴ CFTC Letter No. 16-68, No-Action Relief with Respect to CFTC Regulation 1.25 Regarding Money Market Funds (Aug. 8, 2016) ("Staff Letter 16-68") available at the Commission's website: www.cftc.gov/LawRegulation/CFTCStaffLetters/letters.htm?title=16-68&field_csl_letter_year_value=&field_csl_dodd_frank_exists_value=All.

Staff Letter 16-68 was issued by the Commission's Division of Swap Dealer and Intermediary Oversight ("DSIO") (subsequently renamed the Market Participants Division ("MPD")).

⁸⁵ CFTC Letter No. 16-69, Staff Interpretation Regarding CFTC Part 39 In Light Of Revised SEC Rule 2a-7 (Aug. 8, 2016) ("Staff Letter 16-69"). Staff Letter 16-69 was issued by the Commission's Division of Clearing and Risk ("DCR") and is available at the Commission's website: www.cftc.gov/LawRegulation/CFTCStaffLetters/letters.htm?title=16-69&field_csl_letter_year_value=&field_csl_dodd_frank_exists_value=All.

⁸⁶ See also CFTC Staff Advisory No. 16-75, Practical Application of No-Action Letter No. 16-68 Regarding the Investments in Money Market Mutual Funds (Oct. 18, 2016) ("Staff Letter 16-75") (discussing the practical applicability and effect of Staff Letter 16-68) available at the Commission's website: https://www.cftc.gov/LawRegulation/CFTCStaffLetters/letters.htm?title=16-75&field_csl_letter_year_value=&field_csl_dodd_frank_exists_value=All.

⁸⁷ 17 CFR 1.25(b)(1) (investments of customer funds must be highly liquid such that the investments must have the ability to be liquidated and converted into cash within one business day without material discount in value).

⁸⁸ 17 CFR 1.25(c)(5)(i) (to qualify as a Permitted Investment an MMF must be legally obligated to pay a fund investor (including an FCM) by the close of business on the day following a redemption request).

2-6; Nodal at pp. 1-2; SIFMA AMG at pp. 2-8, 12; CCP Global at pp. 2-4 WFE at pp. 3-6.

⁶⁷ Better Markets at pp. 3-7; Investor Advocacy Group Joint Letter at pp. 1-2.

⁶⁸ AIMA at pp. 2-3; MFA at pp. 5-6; FIA/CME Joint Letter at pp. 11-16; CCP Global at pp. 3-4; BlackRock at pp. 2-6; Invesco at pp. 3-5; ICI at pp. 2-6 SIFMA AMG at pp. 4-6; SSGA at pp. 2-3; WFE at pp. 5-6.

⁶⁹ The final rulemaking is referred to as the "Final Rule" in this preamble.

⁷⁰ 17 CFR 1.25(a)(vii).

⁷¹ 15 U.S.C. 80a-1—80a-64.

⁷² 17 CFR 270.2a-7 ("SEC Rule 2a-7").

⁷³ For a definition of section 3(a)(6) bank, see *supra* note 52.

⁷⁴ 15 U.S.C. 80b-1—80b-21.

⁷⁵ 17 CFR 1.25(c).

⁷⁶ Proposal at 81240-81243.

⁷⁷ *Id.* SEC Rule 2a-7 addresses MMFs that primarily invest in securities issued or guaranteed by the U.S. government ("government money market funds" or "Government MMFs"), MMFs that primarily invest in short-term corporate debt securities ("Prime MMFs"), and other types of MMFs that are not relevant to this Proposal, such as tax-exempt funds. 17 CFR 270.2a-7.

⁷⁸ 17 CFR 270.2a-7(a)(14).

⁷⁹ 15 U.S.C. 80a-2(a)(16).

⁸⁰ Commission regulation 1.25(a)(1)(i) and (iii) defines "U.S. government securities" as obligations of the U.S. and obligations fully guaranteed as to principal and interest by the U.S. and "U.S. agency obligations" as obligations of any U.S. government corporation or enterprise sponsored by the U.S. government, respectively.

⁸¹ Money Market Fund Reform; Amendments to Form PF, 79 FR 47736 (Aug. 14, 2014) ("2014 SEC MMF Final Rule"). See 17 CFR 270.2a-7(c)(2).

⁸² 2014 SEC MMF Final Rule at 47747. See also Proposal at 81241-81243. The liquidity fees and suspension of redemptions provisions introduced by the 2014 SEC MMF Final Rule are referred to as

invest Customer Funds in Prime MMFs and Electing Government MMFs.⁸⁹

Staff Letter 16–69 set forth DCR’s interpretation that Commission regulations 39.15(c) and (e)⁹⁰ prohibit a DCO from holding funds belonging to clearing members or their customers in Prime MMFs or Electing Government MMFs. Staff Letter 16–69 also states that the 2014 SEC Redemption Provisions are not consistent with Commission regulation 39.15(c), which requires a DCO to hold funds and assets belonging to clearing members and their customers in a manner that minimizes the risk of loss or of delay in the access by the DCO to such funds and assets. Staff Letter 16–69 further provides that the 2014 SEC Redemption Provisions are inconsistent with Commission regulation 39.15(e), which limits a DCO to investing funds and assets belonging to clearing members and their customer in instruments with minimal credit, market, and liquidity risk. FCMs and DCOs have not invested Customer Funds in Prime MMFs or Electing Government MMFs since the issuance of Staff Letters 16–68 and 16–69 in 2016.⁹¹

In August 2023, the SEC adopted additional amendments to its MMF rules, including amendments revising the 2014 SEC Redemption Provisions discussed above.⁹² The 2023 SEC MMF Reforms address issues observed by the SEC with MMFs in connection with the economic shock from the onset of the COVID–19 pandemic. Specifically, the SEC stated in March 2020, that concerns about the impact of COVID–19 pandemic led investors to reallocate their assets into cash and short-term government securities. Certain Prime MMFs, in particular, experienced significant outflows, contributing to stress on short-term funding markets that resulted in government intervention to enhance the liquidity of such

markets.⁹³ The events of March 2020 led the SEC to re-evaluate certain aspects of the regulatory framework applicable to MMFs. In considering the potential factors that caused the increased redemption activity in March 2020, the SEC noted that, among other concerns, fears about the potential imposition of redemption gates and liquidity fees based on observed declines in some funds’ weekly liquid assets appear to have incentivized investors to redeem from certain MMFs.⁹⁴ Further, according to the SEC, the presence of a liquidity threshold for consideration of fees and gates appears to have affected fund managers’ behavior, encouraging the sale of long-term portfolio assets to maintain weekly liquid assets above the 30 percent threshold.⁹⁵ The SEC also cited evidence suggesting that investors are particularly sensitive to the potential imposition of redemption gates, which restricts MMF share redemption for the duration of the gate.⁹⁶ In the SEC’s view, generally supported by commenters’ feedback, the gates and liquidity fees associated with predictable weekly liquid asset triggers proved counterproductive in stemming heavy redemptions from certain MMFs.⁹⁷ Thus, the SEC concluded that MMFs needed better functioning tools for managing through stress while mitigating harm to shareholders.⁹⁸

Accordingly, in an effort to improve the resilience of MMFs and address the issue of preemptive investor redemption behavior, particularly in times of stress, the SEC adopted changes to the fee and gate provisions in SEC Rule 2a–7. The 2023 SEC MMF Reforms, among other things, amended the 2014 SEC Redemption Provisions by removing a Prime MMF’s ability to temporarily suspend participant redemptions and by removing an Electing Government

MMF’s ability to voluntarily retain authority to suspend participant redemptions.⁹⁹ The 2023 SEC MMF Reforms also require Prime MMFs to impose a liquidity fee when the fund experiences net redemptions that exceed 5 percent of the fund’s net assets, and permit Prime MMFs to impose a discretionary liquidity fee if the fund’s board of directors determines that a fee is in the best interest of the fund.¹⁰⁰ Government MMFs are not required to implement the mandatory liquidity fee but may choose to rely on the ability to impose discretionary liquidity fees.¹⁰¹ Such fees, however, are no longer tied to the weekly liquid asset threshold.¹⁰²

The SEC’s liquidity fee mechanism is designed to address shareholder dilution and the potential for first-mover advantage by allocating liquidity costs to redeeming investors. Although the mechanism may contribute to decreasing outflows from certain MMFs, the Commission preliminarily considered that the potential imposition of a fee would nonetheless potentially reduce the principal of an FCM’s or DCO’s investment in MMF shares, particularly during periods of market stress and high shareholder redemptions. Such potential loss of principal could have an adverse impact on the ability of an FCM or DCO to fully repay customers, who may need liquidity in their accounts to meet trading losses and/or margin calls. Therefore, consistent with the positions taken in Staff Letter 16–68 and Staff Letter 16–69, the Commission proposed to limit the scope of MMFs whose interests qualify as Permitted Investments to funds that are not subject to a liquidity fee (*i.e.*, Government MMFs that are not Electing Government MMFs (referred to in this release as

⁸⁹ Staff Letter 16–68 at p. 2. However, DSIO also states in Staff Letter 16–68 that it would not recommend an enforcement action to the Commission if an FCM invested Customer Funds held in segregation that represents an excess over the firm’s targeted residual interest in Prime and Electing Government MMFs. Staff Letter 16–68 at pp. 3–4.

⁹⁰ 17 CFR 39.15(c) and (e).

⁹¹ While Staff Letter 16–68 provides that DSIO would not recommend an enforcement action against an FCM that invested Customer Funds in Prime and Electing Government MMFs, provided that the amount invested represents an amount held in customer segregated accounts that exceeds the firm’s targeted residual interest amount, staff is not aware of FCMs investing Customer Funds in such MMFs.

⁹² Money Market Fund Reforms; Form PF Reporting Requirements for Large Liquidity Fund Advisers, Technical Amendments to Form N–CSR and Form N–1A, 88 FR 51404 (Aug. 3, 2023) (“2023 SEC MMF Reforms”). The 2023 SEC MMF Reforms became effective on October 2, 2023.

⁹³ As noted in the 2023 SEC MMF Reforms’ adopting release, to support the short-term funding markets, on March 18, 2020, the Federal Reserve, with the approval of the Department of the Treasury, established the Money Market Mutual Fund Liquidity Facility. The facility provided loans to financial institutions on advantageous terms to purchase securities from MMFs that were raising liquidity. 2023 SEC MMF Reforms at 51408.

⁹⁴ 2023 SEC MMF Reforms at 51407. The term “weekly liquid assets” is generally defined as: (i) cash; (ii) direct obligations of the U.S. Government; (iii) U.S. Agency securities that are issued at a discount to the principal amount to be repaid at maturity and have a remaining time to maturity of 60 days or less; (iv) securities that mature, or are subject to a demand feature that is exercisable and payable, within 5 business days; or (v) amounts receivable and due unconditionally within 5 business days on pending sales of portfolio securities. 17 CFR 270–2a–7(c)(a)(28).

⁹⁵ 2023 SEC MMF Reforms at 51407.

⁹⁶ *Id.* at 51409.

⁹⁷ *Id.*

⁹⁸ *Id.* at 51408.

⁹⁹ *Id.* at 51410.

¹⁰⁰ 17 CFR 270.2a–7(c)(2)(i) and (ii) (as amended by the 2023 SEC MMF Reforms). SEC Rule 2a–7(c)(2)(i) provides, in relevant part, that if a Prime MMF’s board of directors, including a majority of the directors who are not interested persons of the fund, determines that a liquidity fee is in the best interest of the fund, the fund must institute a liquidity fee that does not exceed two percent of the value of the shares redeemed. In addition, SEC Rule 2a–7(c)(2)(ii) provides, in relevant part, that a Prime MMF must apply a liquidity fee to all shares that are redeemed if the fund experiences total daily net redemptions that exceed 5 percent of the fund’s net asset value, or such smaller amount of net redemptions as the board of directors of the fund determines.

¹⁰¹ 17 CFR 270.2a–7(c)(2)(i)(B) (as amended by the 2023 SEC MMF Reforms). SEC Rule 2a–7(c)(2)(i)(B) permits Government MMFs to elect to impose the discretionary liquidity fees on shareholder redemptions.

¹⁰² 17 CFR 270.2a–7(c)(2)(i) (as amended by the 2023 SEC MMF Reforms).

“Permitted Government MMFs”)).¹⁰³ As discussed in the Proposal, to qualify as a Permitted Government MMF, at least 99.5 percent of the fund’s investment portfolio must be comprised of cash, government securities (*i.e.*, U.S. Treasury securities, securities fully-guaranteed as to principal and interest by the U.S. Government, and U.S. agency obligations), and/or Repurchase Transactions that are fully collateralized by government securities as set forth in SEC Rule 2a–7.¹⁰⁴ The Commission’s goal in proposing the amendment was to ensure that FCMs and DCOs invest Customer Funds in instruments that are consistent with the objectives of Commission regulation 1.25 of preserving principal and maintaining liquidity of the investments.

To eliminate MMFs whose redemptions may be subject to a liquidity fee from the scope of Permitted Investments under Commission regulation 1.25, the Commission proposed revising Commission regulation 1.25(a)(1)(vii), which would be redesignated as Commission regulation 1.25(a)(1)(iv) to accommodate other amendments to Commission regulation 1.25(a) discussed in the Proposal, by replacing the term “money market mutual fund” with the term “government money market funds as defined in § 270.2a–7 of this title, provided that the funds do not elect to be subject to liquidity fees in accordance with § 270.2a–7 of this title (government money market fund).”¹⁰⁵ The Commission also proposed further conforming changes throughout Commission regulation 1.25, and the appendix to Commission regulation 1.25, by replacing all references to “money market mutual fund” with “government money market fund.”¹⁰⁶ In addition, the appendix to Commission regulation 1.25 was proposed to be redesignated as appendix E to part 1 to address a change in the rules of the Office of the Federal Register regarding the structure of regulatory text to be codified in the Code of Federal Regulations.¹⁰⁷ Further, the Commission proposed conforming amendments to Commission regulations 1.26 and 30.7(d), which require an FCM and/or DCO, as applicable, that invests Customer Funds in Permitted Investments, including qualifying MMFs, to obtain and retain in its files

a written acknowledgement letter from the depository holding the instruments stating that the depository was informed that the instruments belong to customers and are being held in accordance with the provisions of the Act and Commission regulations.¹⁰⁸ The Commission also proposed conforming amendments to the appendices setting forth the template acknowledgment letters.¹⁰⁹ Specifically, the Commission proposed to replace the references to “money market mutual fund” with “government money market fund” in Commission regulation 1.26, appendix A and appendix B to Commission regulation 1.26 (to be redesignated appendix F and appendix G to part 1), Commission regulation 30.7(d), and appendix F to part 30 of the Commission’s regulations.¹¹⁰

The Commission also noted that the proposed amendments removing interests in MMFs whose redemptions may be subject to a liquidity fee from the scope of Permitted Investments would prohibit an FCM from depositing proprietary interests in such MMFs into Customer Funds accounts.¹¹¹ The Commission stated that Commission regulations 1.23(a)(1), 22.2(e)(3)(i), and 30.7(g)(1) permit FCMs to deposit proprietary cash and unencumbered securities into the accounts of futures customers, Cleared Swaps Customers, and 30.7 customers, respectively, to help ensure that at all times the accounts maintain sufficient funds to cover the amounts due to all customers.¹¹² The proprietary securities deposited by FCMs into customer accounts, however, must satisfy the criteria of a Permitted Investment as specified in Commission regulation 1.25.¹¹³ Therefore, with respect to MMFs, FCMs would only be permitted to deposit proprietary interest in Permitted Government MMFs in the accounts of futures customers, Cleared Swaps Customers, and 30.7 customers under the Proposal.

b. Comments

The Commission received six comments on the proposed limit of the scope of MMFs whose interests qualify as Permitted Investments to Permitted

Government MMFs.¹¹⁴ Each of the commenters supported the proposed limitation.¹¹⁵ AIMA noted that the amendments would appropriately update the list of Permitted Investments in line with sound risk management practices.¹¹⁶ ICI stated that the proposed amendments are consistent with the regulatory objective of limiting Permitted Investments to safe, short-term instruments.¹¹⁷ Though supportive of the proposed amendments, BlackRock raised concerns about the Proposal’s rationale, asserting that in discussing investor behavior during the March 2020 events, the Commission failed to acknowledge that there was a broader “dash for cash” occurring across asset classes, not just MMFs, at that time period.¹¹⁸

In addition to supporting the proposed revisions to the scope of the MMFs, FIA and CME recommended an amendment to the template acknowledgment letters for Government MMFs set forth in appendices A and B to Commission regulation 1.26 for direct investments by FCMs and DCOs of futures customer funds and Cleared Swaps Customer Collateral in MMFs, and appendix F to part 30 for direct investments by FCMs of 30.7 customer funds in MMFs.¹¹⁹ Specifically, FIA and CME recommended that each template acknowledgment letter include a representation from the Government MMF that the fund does not elect to impose discretionary liquidity fees.¹²⁰

Finally, in response to the Commission’s request for comment on whether the Commission should revise Commission regulation 1.25(b)(5)(ii) to prohibit FCMs and DCOs from investing Customer Funds in a fund affiliated with the FCM or DCO, commenters asserted that no changes were

¹¹⁴ See AIMA at p. 3; BlackRock at pp. 2, 6; Federated Hermes at pp. 1–2; FIA/CME Joint Letter at p. 21; ICI at p. 2; MFA at p. 6.

¹¹⁵ *Id.*

¹¹⁶ AIMA at p. 3.

¹¹⁷ ICI at p. 2.

¹¹⁸ BlackRock at p. 6.

¹¹⁹ FIA/CME Joint Letter at p. 21. As discussed in the Proposal, Commission regulations 1.26 and 30.7(d) require an FCM or DCO, as applicable, to obtain, and retain in its files, a written acknowledgment from each depository holding Permitted Investments. Proposal at 81263.

¹²⁰ *Id.* The FIA/CME Joint Letter included the following suggested language: “Furthermore, you acknowledge and agree that the Shares are in a fund that holds itself out to investors as a government money market fund, in accordance with 17 CFR 270.2a–7. In addition, the Shares are in a fund that does not choose to rely on the ability to impose discretionary liquidity fees consistent with the requirements of 17 CFR 270.2a–7(c)(2)(i).” FIA/CME Joint Letter at p. 21.

¹⁰³ See Proposal at 81240–81243 and proposed paragraph (a)(1)(v) of Commission regulation 1.25.

¹⁰⁴ See Proposal at 81240–81241.

¹⁰⁵ Proposal at 81240–81243, proposed Commission regulation 1.25(a)(1)(v).

¹⁰⁶ Proposal at 81243.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 81263.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ Proposal at 81242.

¹¹² 17 CFR 1.23(a)(1), 22.2(e)(3)(i), and 30.7(g)(1). A customer account is “undersegregated” if an FCM holds less funds in the account than is necessary to cover the total amount due to the customer at any given point in time.

¹¹³ *Id.*

necessary.¹²¹ These commenters noted that “risk posed by affiliates” is a component of the risk management program that FCMs are required to adopt pursuant to Commission regulation 1.11.¹²² The commenters further asserted that because Permitted Investments involving FCM affiliates are already subject to the policies, procedures, and controls of consolidated risk management programs, as well as existing statutory and regulatory requirements, there is no reason to revisit the Commission’s previous consideration of this issue.¹²³

c. Discussion

The Commission has considered the comments received, and is adopting as proposed the amendments to Commission regulation 1.25 to limit the scope of MMFs that qualify as Permitted Investments for Customer Funds to Permitted Government MMFs. As stated in the Proposal, the Commission’s intent in eliminating Prime MMFs and Electing Government MMFs from the list of Permitted Investments is to ensure that Customer Funds are managed with the objectives of preserving principal of the investments, consistent with the general requirements of Commission regulation 1.25(b).¹²⁴ The SEC requirement for Prime MMFs to impose a liquidity fee on shareholder redemptions when the fund experiences net redemptions that exceed 5 percent of the fund’s net assets and the separate authority granted by the SEC that permits funds to impose discretionary liquidity fees of up to 2 percent on shareholder redemptions if the board of directors determines that such a fee is in the best interest of the fund are not consistent with the obligation imposed under Commission

regulation 1.25(b) on FCMs and DCOs to preserve the principal of Customer Funds invested in Permitted Investments. The imposition of mandatory or discretionary liquidity fees on an FCM’s or DCO’s redemption request from a Prime MMF or an Electing Government MMF may result in an FCM or DCO not realizing the full principal value of its investment upon its redemption request. The inability of the FCM or DCO to receive the full principal value of its investment of Customer Funds presents potential financial risk to the FCM or DCO as it may not have sufficient funds to fully repay the account balances of each customer. Thus, the Commission is revising the list of Permitted Investments to remove Prime MMFs and Electing Government MMFs.

The Commission is also maintaining current Commission regulation 1.25(b)(5)(ii), which provides that an FCM or DCO may invest Customer Funds in a fund affiliated with that FCM or DCO. Consistent with its views expressed in connection with the risk management program mandated by Commission regulation 1.11,¹²⁵ the Commission expects that FCMs will assess the appropriateness of investing Customer Funds in affiliated funds in accordance with this program.¹²⁶ Similarly, because DCO Core Principle F and Commission regulation 39.15(e) require a DCO to hold Customer Funds only in instruments with minimal credit, market, and liquidity risks, the Commission expects that DCOs will assess the risk of investing Customer Funds in affiliated funds before doing so. In addition, investment advisers that act as investment managers of a fund have fiduciary duties to their client, the fund, under the Investment Adviser Act of 1940.¹²⁷ In this context, the investment adviser has a duty to eliminate, or disclose and mitigate, conflicts of interest that may impact the advisory relationship.¹²⁸ Therefore, as investors in a fund that qualifies as a Permitted Investment, FCMs and DCOs should not receive either preferential or disadvantageous treatment compared to other investors in the fund.

Lastly, in response to the comment asserting that the Commission failed to

acknowledge the broader “dash for cash” that occurred across assets classes in March 2020,¹²⁹ the Commission was recounting the SEC’s rationale for adopting the 2023 SEC MMF Reforms. The Commission’s own rationale for revising the scope of MMFs whose interests qualify as Permitted Investments is the potential reduced liquidity of Prime MMFs and Electing Government MMFs resulting from the implementation of liquidity fees by such funds under the SEC’s regulatory framework.

To eliminate MMFs whose redemptions may be subject to a liquidity fee from the scope of Permitted Investments under Commission regulation 1.25, the Commission is revising Commission regulation 1.25(a)(1)(vii), which is redesignated Commission regulation 1.25(a)(1)(iv) to accommodate other amendments to Commission regulation 1.25(a) discussed in this Final Rule, by replacing the term “money market mutual fund” with the term “government money market funds as defined in § 270.2a–7 of this title, provided that the funds do not elect to be subject to liquidity fees in accordance with § 270.2a–7 of this title (government money market fund).” The Commission is also adopting further conforming changes throughout Commission regulation 1.25 and the appendix to Commission regulation 1.25 by replacing all references to “money market mutual fund” with “government money market fund.” In addition, the appendix to Commission regulation 1.25 is redesignated as appendix E to part 1 to address a change in the rules of the Office of the Federal Register regarding the structure of regulatory text to be codified in the Code of Federal Regulations.

To reflect the Final Rule’s amendments to the scope of MMFs that qualify as Permitted Investments, the Commission is also adopting conforming amendments to Commission regulation 1.26, appendices A and B to Commission regulation 1.26, Commission regulation 30.7(d), and appendix F to part 30 of the Commission’s regulations, as proposed. Specifically, the Commission is adopting conforming amendments to paragraphs (a) and (b) of Commission regulation 1.26 to replace the term “money market mutual fund” with the term “government money market fund.” Paragraph (b) of Commission regulation 1.26 is further revised to reflect the redesignation of appendices A and B to Commission regulation 1.26 as

¹²¹ Proposal at 81243, Question 2. Commission regulation 1.25(b)(5)(ii) provides, in relevant part, that an FCM or DCO may not invest Customer Funds in obligations of an affiliated entity, but permits investments by FCMs and DCOs in interest in funds affiliated with the applicable FCM or DCO.

¹²² FIA/CME Joint Letter at p. 19; MFA at p. 6.

¹²³ *Id.* (referencing the Commission’s final rule Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations, 78 FR 68506 at 68520 Nov. 14, 2013) (“2013 Protections of Customer Funds Release”), which notes that an FCM’s risk management policies and procedures under Commission regulation 1.11 must include procedures for assessing the appropriateness of investing customer funds in accordance with Commission regulation 1.25, and “must take into consideration the market, credit, counterparty, operational, and liquidity risks associated with the investments.”)

¹²⁴ Proposal at 81242. Commission regulation 1.25(b) provides, in relevant part, that an FCM or DCO is required to manage its Permitted Investments consistent with the objectives of preserving principal and maintaining liquidity of the Customer Funds. 17 CFR 1.25(b).

¹²⁵ 2013 Protections of Customer Funds Release at 68519–68520.

¹²⁶ Commission regulation 1.11(e)(1)(ii) provides that an FCM’s risk management program must consider risks posed by affiliates, all lines of business of the FCM, and all other trading activity engaged in by the FCM. 17 CFR 1.11(e)(1)(ii).

¹²⁷ See Commission Interpretation Regarding Standard of Conduct for Investment Adviser, SEC, 84 FR 33669 (July 12, 2019) at 33670.

¹²⁸ *Id.* at 33677.

¹²⁹ Blackrock at p. 6.

“appendices F and G to part 1 of the Commission’s regulations” and to reflect the redesignation of appendices A and B to Commission regulation 1.20 as “appendices C and D to part 1.”¹³⁰ The Commission is also amending appendices A and B to Commission regulation 1.26 (redesignated appendices F and G to part 1) to replace the term “Money Market Mutual Fund” with “Government Money Market Fund.”

In addition, the Commission is making conforming changes to Commission regulation 30.7(d)(2) and 30.7(l)(5)(iii)(G) (redesignated Commission regulation 30.7(l)(5)(iii)(F)) to replace the term “money market mutual fund” with “government money market fund.” The Commission is also implementing changes to appendix F to part 30, to replace the term “money market mutual fund” with “government money market fund.”

In response to FIA/CME Joint Letter, the Commission is also adopting additional conforming changes to the template acknowledgement letters set forth in appendices A and B to Commission regulation 1.26 (redesignated as appendices F and G to part 1) and in appendix F to part 30 to reflect the changes to the scope of MMFs that qualify as Permitted Investments.¹³¹ Specifically, the Commission is including a template representation that the Government MMF does not elect to impose discretionary liquidity fees. The Commission understands that including language to memorialize the representation in the template acknowledgement letter may create efficiencies for registrants seeking to ascertain that the MMF meets the eligibility conditions of Commission regulation 1.25. Thus, the Commission is including the following statement after the second full paragraph of the template acknowledgment letters in appendices A and B to Commission regulation 1.26 (redesignated appendices F and G to part 1 for FCMs and DCOs, respectively) and appendix F to part 30: Furthermore, you acknowledge and agree that the Shares are in a fund that holds itself out to investors as a government money market fund, in accordance with 17 CFR

270.2a–7. In addition, you acknowledge and agree that the Shares are in a fund that does not choose to rely on the ability to impose discretionary liquidity fees consistent with the requirements of 17 CFR 270.2a–7(c)(2)(i).

As discussed in section IV.E. of this preamble regarding the removal of read-only electronic access, FCMs do not need to obtain new acknowledgment letters for existing accounts at depositories holding Customer Funds reflecting this new language regarding government money market funds. Instead, revised acknowledgment letters must be obtained only for accounts opened after the effective date of this Final Rule or if the FCM is required to obtain a new acknowledgment letter for reasons unrelated to the addition of the government money market fund language after the effective date of this Final Rule.

2. Foreign Sovereign Debt

a. Proposal

The Commission authorized FCMs and DCOs to invest futures customer funds in foreign sovereign debt as part of the 2000 Permitted Investments Amendment.¹³² The investments were subject to specified conditions, including that investments in the debt of a particular foreign sovereign were limited to balances owed by FCMs or DCOs to customers denominated in the currency of the applicable sovereign debt.¹³³

The Commission subsequently proposed to eliminate foreign sovereign debt as a Permitted Investment in 2010 citing an interest in simplifying the regulation and safeguarding futures customer funds in light of economic crises experienced by a number of foreign sovereigns.¹³⁴ Specifically, the 2010 Proposed Permitted Investments Amendment cited a Division of Clearing and Intermediary Oversight (“DCIO”) 2007 review of the investment of futures customer funds and 30.7 customer funds.¹³⁵ The 2007 Review revealed that only three of the total 87 active FCMs invested futures customer funds in foreign sovereign debt at any time during that year, and that only one FCM

invested 30.7 customer funds in foreign sovereign debt.¹³⁶

The Commission subsequently eliminated foreign sovereign debt as a Permitted Investment in 2011.¹³⁷ In eliminating foreign sovereign debt as a Permitted Investment, the Commission stated that it recognized that the safety of sovereign debt issuances of one country may vary greatly from the sovereign debt issuances of another country and that investments in certain sovereign debt may be consistent with the objective of preserving principal and maintaining liquidity of investments entered into with Customer Funds specified in Commission regulation 1.25.¹³⁸ The Commission expanded on this view by stating that it was amenable to considering requests for section 4(c) exemptions to permit FCMs and DCOs to invest futures customer funds in foreign sovereign debt upon a demonstration that the investment is appropriate in light of the objectives of Commission regulation 1.25, and the issuance of the exemption satisfies the criteria set forth in section 4(c).¹³⁹ Specifically, the Commission stated that it would consider permitting futures customer funds to be invested in the foreign sovereign debt of a country to the extent that: (i) FCMs or DCOs held balances in segregated accounts owed to customers denominated in that country’s currency; and (ii) the foreign sovereign debt serves to preserve principal and maintain liquidity of futures customer funds as required for all other investments of Customer Funds under Commission regulation 1.25.¹⁴⁰

As discussed in section II. of this preamble, the Commission issued an order in 2018 pursuant to section 4(c) granting DCOs a limited exemption from the prohibition on the investment of customer funds in foreign sovereign debt consistent with its views and the criteria expressed in the 2011 Permitted Investments Amendment.¹⁴¹ Specifically, the 2018 Order authorizes DCOs to invest euro-denominated futures customer funds and Cleared Swaps Customer Collateral in euro-denominated sovereign debt issued by France or Germany.¹⁴² The 2018 Order

¹³² 2000 Permitted Investments Amendment at 78003.

¹³³ *Id.*

¹³⁴ Investment of Customer Funds and Funds Held in Account for Foreign Futures and Foreign Options Transactions, 75 FR 67645 (Nov. 3, 2010) at 67645 (“2010 Proposed Permitted Investments Amendment”).

¹³⁵ *Id.* at 67643 (“2007 Review”). MPD is a successor division to DCIO. The 2007 Review was conducted to further staff’s understanding of FCM investment strategies and practices for customer funds and to assess whether any changes to the Commission’s regulations would be appropriate.

¹³⁶ *Id.* at 67645.

¹³⁷ 2011 Permitted Investments Amendment at 78780–78782.

¹³⁸ *Id.* at 78782.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ 2018 Order.

¹⁴² 2018 Order at 35244–35245. The petitioners of the 2018 Order did not request any relief with respect to the investment of 30.7 customer funds, which are held by FCMs for 30.7 customers are trading on foreign contract markets that are not Commission designated contract markets.

¹³⁰ Commission regulation 1.26 currently refers to “appendix A or B to this section” and “appendix A or B to § 1.20.” Appendix A and appendix B to Commission regulation 1.26 are being redesignated appendix F and appendix G to part 1, and appendix A and B to Commission regulation 1.20 are being redesignated appendix C and D to part 1, to address a change in the rules of the Office of the Federal Register regarding the structure of regulatory text to be codified in the Code of Federal Regulations.

¹³¹ FIA/CME Joint Letter at p. 21.

also contains conditions designed to ensure that the investments preserve the principal and maintain the liquidity of customer funds. Specifically, the conditions provide that: (i) investments of futures customer funds and Cleared Swaps Customer Collateral in the sovereign debt of France and Germany is limited to investments made with euro customer cash; (ii) if the two-year credit default spread of France or Germany, as applicable, exceeds 45 BPS, a DCO must not make any new direct investments in the relevant debt using futures customer funds or Cleared Swaps Customer Collateral, and a DCO must discontinue investing futures customer funds and Cleared Swaps Customer Collateral in the relevant debt instruments through Repurchase Transactions as soon as practicable under the circumstances; (iii) the dollar-weighted average of the time-to-maturity of a DCO's portfolio of investments in each of France or Germany's sovereign debt may not exceed 60 days; (iv) a DCO may not make a direct investment in the sovereign debt instruments of France or Germany that have a remaining time-to-maturity of greater than 180 calendar days; (v) a DCO may use futures customer funds or Cleared Swaps Customer Collateral to enter into Repurchase Transactions for French or German sovereign debt with a counterparty that is a foreign bank that qualifies as a permitted depository under Commission regulation 1.49(d)(3) and that is located in a money center country (as defined in Commission regulation 1.49(a)(1)) or in another jurisdiction that has adopted the euro as its currency, a securities dealer located in a money center country as defined in Commission regulation 1.49(a)(1) that is regulated by a national financial regulator, or the European Central Bank, The Deutsche Bundesbank, or the Banque de France; and (vi) a DCO may hold the sovereign debt of France or Germany purchased under Repurchase Transactions with a foreign depository only if the depository meets the location and qualification requirements contained in Commission regulation 1.49(c) and (d) and if the account complies with the requirements of Commission regulation 1.26.¹⁴³

As stated in section II. of this preamble, the FIA and CME submitted a joint petition requesting that the Commission expand the scope of the 2018 Order by permitting both DCOs and FCMs to invest Customer Funds (*i.e.*, futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds, as applicable) in the

sovereign debt of Canada, France, Germany, Japan, and the United Kingdom (*i.e.*, the Specified Foreign Sovereign Debt).¹⁴⁴ In support of the Joint Petition, the Petitioners asserted that the Commission's justification for issuing the 2018 Order to permit DCOs to invest futures customer funds and Cleared Swaps Customer Collateral in French and German sovereign debt is also applicable to FCMs. Specifically, the Petitioners stated that FCMs face the same challenges in assuring the protection of foreign currencies received from customers to margin cleared transactions as DCOs.¹⁴⁵ In this regard, the Petitioners noted that, in issuing the 2018 Order, the Commission stated that cash held in unsecured deposit accounts at commercial banks is exposed to the credit risk of the banks.¹⁴⁶ The Petitioners asserted that this credit risk can be effectively eliminated if an FCM or DCO is permitted to invest Customer Funds denominated in Canadian dollars ("CAD"), euros ("EUR"), Japanese yen ("JPY"), or Great Britain pounds ("GBP") in the sovereign debt of Canada, France, Germany, Japan, or the UK (*i.e.*, Specified Foreign Sovereign Debt).¹⁴⁷ The Petitioners further stated that although investments through Repurchase Transactions involve exposure to a commercial counterparty, an FCM or DCO would receive the additional added benefit of receiving securities as collateral against that counterparty's credit risk.¹⁴⁸

After considering the Joint Petition and assessing changes to the holding of non-U.S. dollar currencies by FCMs and DCOs since the 2007 Review, the Commission proposed to permit both FCMs and DCOs to invest Customer Funds in Specified Foreign Sovereign Debt securities.¹⁴⁹ Specifically, the Commission proposed revising Commission regulation 1.25 to include Specified Foreign Sovereign Debt instruments as Permitted Investments, subject to conditions that are consistent with the conditions specified in the Commission's 2018 Order. As detailed in the Proposal, an FCM or DCO: (i) would be permitted to invest Customer Funds in the sovereign debt of Canada, France, Germany, Japan, and the United

Kingdom (*i.e.*, the Specified Foreign Sovereign Debt);¹⁵⁰ (ii) may only invest Customer Funds in the Specified Foreign Sovereign Debt of a particular country to the extent that the FCM or DCO has balances in accounts owed to customers denominated in such country's currency;¹⁵¹ (iii) would not be permitted to make new investments of Customer Funds in the Specified Foreign Sovereign Debt of a particular country if such country's two-year credit default spread exceeded 45 BPS; and, (iv) would be required to discontinue investing Customer Funds in the Specified Foreign Sovereign Debt of a particular country through Repurchase Transactions as soon as practicable under the circumstances if such country's two-year credit default spread exceeded 45 BPS.¹⁵²

The Commission also proposed to limit the time-to-maturity of investments in Specified Foreign Sovereign Debt.¹⁵³ Specifically, the Commission proposed that an FCM or DCO would be required to ensure that the dollar-weighted average time-to-maturity of its portfolio of investments in the Specified Foreign Sovereign Debt, as the average is computed under SEC Rule 2a-7 under the Investment Company Act of 1940 ("SEC Rule 2a-7")¹⁵⁴ on a country-by-country basis, does not exceed 60 calendar days.¹⁵⁵ The Proposal further provided that if the portfolio includes Specified Foreign Sovereign Debt securities acquired under a reverse repurchase agreement, the FCM or DCO shall use the maturity of the reverse repurchase agreement to compute the dollar-weighted average time-to-maturity of the portfolio as opposed to the remaining time-to-maturity of the securities.¹⁵⁶ This

¹⁵⁰ Proposal at 81244 and proposed Commission regulation 1.25(a)(1)(vii). The proposed condition defining the Specified Foreign Sovereign Debt is consistent with clause (1) of the 2018 Order, which provides that the Commission's order is limited to the sovereign debt of France and Germany.

¹⁵¹ Proposal at 81244–81245 and proposed Commission regulation 1.25(a)(1)(vii)(A) and (B). The proposed condition is consistent with condition 3(a) of the 2018 Order, which limits a DCO's investment in French or German sovereign debt to the extent the DCO owes balances owed to customers denominated in euros.

¹⁵² Proposal at 81245 and proposed Commission regulations 1.25(f)(3). The proposed conditions are consistent with condition 3(b) of the 2018 Order.

¹⁵³ Proposal at 81245–81246.

¹⁵⁴ 17 CFR 270.2a-7.

¹⁵⁵ Proposed Commission regulation 1.25(f)(1). The proposed condition is consistent with condition 3(c) of the 2018 Order.

¹⁵⁶ Consistent with SEC Rule 2a-7(i)(6), the reverse repurchase agreement would be deemed to have a maturity equal to the period remaining until the date on which the resale of the underlying instruments is scheduled to occur, or, where the agreement is subject to demand, the notice period

¹⁴³ Conditions 3(a)–(f) of the 2018 Order at 35245.

¹⁴⁴ See generally Joint Petition.

¹⁴⁵ Joint Petition at p. 2.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.* Consistent with arguments presented in connection with the 2018 Order, the Petitioners further argued that "in the event a securities custodian enters insolvency proceedings, [a DCO or FCM] would have a claim to specific securities rather than a general claim against the assets of the custodian." *Id.* See also 2018 Order at 35242.

¹⁴⁹ Proposal at 81243–81248.

approach takes into account the contractual obligation to resell the securities within one business day or on demand as required by Commission regulation 1.25(d)(6).¹⁵⁷ Conversely, if the FCM or DCO sells Specified Foreign Sovereign Debt securities under a repurchase agreement, the FCM or DCO shall include the debt securities in the calculation of the dollar-weighted average based on the remaining time-to-maturity of each security sold, to account for the contractual obligation to repurchase such securities.¹⁵⁸ In addition, an FCM or DCO would not be permitted to make direct investments in Specified Foreign Sovereign Debt securities with a remaining time-to-maturity greater than 180 calendar days.¹⁵⁹

The Commission also proposed to expand the permissible Repurchase Transaction counterparties and depositories under Commission regulations 1.25(d)(2) and (7) to include certain foreign entities to effectively permit FCMs and DCOs to engage in Repurchase Transactions with Specified Foreign Sovereign Debt securities pursuant to Commission regulation 1.25(a)(2).¹⁶⁰ Currently Commission regulation 1.25(d)(2) limits counterparties with whom an FCM or DCO may enter into Repurchase Transactions involving Customer Funds or Permitted Investments to a section 3(a)(6)¹⁶¹ bank, a domestic branch of a foreign bank insured by the FDIC, a securities broker or dealer, or a government securities dealer registered with the SEC or which has filed a notice

pursuant to section 15C(a) of the Government Securities Act of 1986.¹⁶² Additionally, Commission regulation 1.25(d)(7) further requires an FCM or DCO to hold the securities transferred to the FCM or DCO under a reverse repurchase agreement in a safekeeping account with a bank as referred to in Commission regulation 1.25(d)(2), a Federal Reserve Bank, a DCO, or the Depository Trust Company.¹⁶³

The Commission noted in the Proposal that, absent amendment to the counterparty and depository provisions of Commission regulations 1.25(d)(2) and (7), an FCM's and DCO's ability to buy and sell Specified Foreign Sovereign Debt pursuant to Repurchase Transactions would be restricted given that participants in such markets are predominantly non-U.S. entities.¹⁶⁴ The Commission, therefore, proposed to add foreign banks and foreign securities brokers or dealers meeting certain requirements discussed below, as well as the European Central Bank and the central banks of Canada, France, Germany, Japan, and the United Kingdom, to the list of permitted counterparties for Repurchase Transactions.¹⁶⁵ To be deemed a permitted counterparty, the Proposal provided that a foreign bank would have to qualify as a depository under Commission regulation 1.49(d)(3) by maintaining regulatory capital in excess of \$1 billion, and would also have to be located in a money center country as defined in Commission regulation 1.49(a)(1) (*i.e.*, Canada, France, Italy, Germany, Japan, or the United Kingdom) or in another jurisdiction that adopted the currency of the permitted foreign sovereign debt.¹⁶⁶ Similarly, a foreign securities broker or dealer would have to be located in a money center country and be regulated by a national financial regulator.¹⁶⁷ The proposed provisions were designed to ensure that counterparties would be regulated entities comparable to counterparties currently permitted under Commission regulation 1.25(d)(2) and are consistent with the Repurchase Transaction counterparty conditions specified in the 2018 Order.¹⁶⁸

The Commission also proposed to permit Specified Foreign Sovereign Debt securities transferred to an FCM or DCO under a reverse repurchase agreement to

be held with a foreign bank that qualifies as a permitted depository under Commission regulation 1.49 by maintaining in excess of \$1 billion in regulatory capital.¹⁶⁹ The Commission noted that mandating the safekeeping of foreign securities purchased through reverse repurchase agreements with a U.S. custodian, as required under the current regulation, may be inefficient or impractical.¹⁷⁰ The proposed amendment to permit a foreign bank that satisfies the requirements of current Commission regulation 1.49 was designed to ensure that any additional foreign depositories authorized to hold Specified Foreign Sovereign Debt securities would be comparable to those currently permitted under Commission regulation 1.25(d)(7), and is consistent with the conditions of the 2018 Order.¹⁷¹

Lastly, the Commission proposed to amend Commission regulation 1.25(b)(4)(i), which provides that except for investments in MMFs, the dollar-weighted average time-to-maturity of an FCM's or DCO's portfolio of Permitted Investments, as computed under SEC Rule 2a-7, may not exceed 24 months.¹⁷² The proposed amendment would exclude Specified Foreign Sovereign Debt from the calculation of the dollar-weighted average time-to-maturity of the portfolio specified under Commission regulation 1.25(b)(4)(i).¹⁷³ The Commission proposed to exclude Specified Foreign Sovereign Debt as such debt would be subject to a separate dollar-weighted average time-to-maturity limit of 60 calendar days, which is substantially shorter than the two-year dollar-weighted average time-to-maturity requirement for the overall portfolio required by Commission regulation 1.25(b)(4)(i).

b. Comments

The Commission received 12 comments in response to the proposed addition of Specified Foreign Sovereign Debt to the list of Permitted Investments for Customer Funds. Ten commenters supported the Proposal.¹⁷⁴ Two commenters opposed the Proposal.¹⁷⁵

Several commenters expressing support for the Proposal stated that permitting investment in the Specified Foreign Sovereign Debt provides FCMs

applicable to a demand for the resale of the instruments. See proposed Commission regulation 1.25(f)(1).

¹⁵⁷ 17 CFR 1.25(d)(6).

¹⁵⁸ Proposal at 81245–81246 and proposed Commission regulation 1.25(f)(1). In addition, under the Proposal, the dollar-weighted average of the time-to-maturity of the portfolio would be computed pursuant to SEC Rule 2a-7 (17 CFR 270.2a-7), consistent with the general time-to-maturity provision in Commission regulation 1.25(b)(4)(i). Commission regulation 1.25(b)(4)(i) provides that except for investments in MMFs, the dollar-weighted average time-to-maturity of an FCM's or DCO's portfolio of Permitted Investments, as computed under SEC Rule 2a-7, may not exceed 24 months. 17 CFR 1.25(b)(4)(i). The Commission also proposed to amend Commission regulation 1.25(b)(4)(i) to exclude Specified Foreign Sovereign Debt, which, as discussed, would be subject to its own dollar-weighted average time-to-maturity limit.

¹⁵⁹ Proposed Commission regulation 1.25(f)(2). The proposed condition is consistent with condition 3(d) of the 2018 Order.

¹⁶⁰ Proposal at 81246–81247. Commission regulation 1.25(a)(2)(i) provides that FCMs and DCOs may engage in Repurchase Transactions with Permitted Investments provided the transactions are in accordance with the provisions of Commission regulation 1.25(d). 17 CFR 1.25(a)(2)(i).

¹⁶¹ For a definition of section 3(a)(6) bank, see *supra* note 52.

¹⁶² Public Law 99-571, 100 Stat. 3208 (Oct. 28, 1986).

¹⁶³ 17 CFR 1.25(d)(7).

¹⁶⁴ Proposal at 81246–81247.

¹⁶⁵ *Id.*, and proposed Commission regulation 1.25(d)(2).

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ Condition (e) of the 2018 Order.

¹⁶⁹ Proposed Commission regulation 1.25(d)(7).

¹⁷⁰ Proposal at 81247.

¹⁷¹ *Id.* And Condition (f) of the 2018 Order.

¹⁷² Proposal at 81246.

¹⁷³ Proposed Commission regulation 1.25(b)(4)(i).

¹⁷⁴ AIMA; CCP Global; Eurex; FIA/CME Joint Letter; ICE; MFA; NFA; Nodal; SIMFA AMG; and WFE.

¹⁷⁵ Investor Advocacy Group Joint Letter and Better Markets.

and DCOs with a risk management tool to effectively manage foreign currency risk from holding Customer Funds denominated in non-U.S. dollars.¹⁷⁶ In this regard, MFA stated that Commission regulation 1.25 currently requires an FCM holding excess non-U.S. dollar Customer Funds to first convert such currency to U.S. dollars before investing the funds in Permitted Investments, thereby exposing the FCM and customers to foreign currency risk.¹⁷⁷ MFA further stated that a more prudent risk management approach would be for an FCM to invest excess CAD, EUR, GBP, and JPY in corresponding Specified Foreign Sovereign Debt securities, which eliminates the foreign currency exposure to the FCM and customers.¹⁷⁸ Similarly, AIMA asserted that allowing FCMs and DCOs to invest foreign-denominated Customer Funds in short-term sovereign bonds of the same currency would reduce the currency risk associated with investing those funds in U.S. dollar-denominated investments.¹⁷⁹ FIA and CME echoed these comments, stating that the Proposal expands the risk management tools available to FCMs and DCOs to manage risk associated with holding Customer Funds by mitigating foreign currency risk resulting from converting foreign currencies into U.S. dollars in order to invest in U.S. dollar-denominated Permitted Investments.¹⁸⁰

Several commenters also observed that the ability to invest foreign currency balances owed to customers in Specified Foreign Sovereign Debt securities reduces potential credit risk that FCMs and DCOs would otherwise be exposed to by depositing the foreign currencies in unsecured commercial bank accounts.¹⁸¹ CCP Global stated that, consistent with the Joint Petition, the ability of FCMs and DCOs to invest customer foreign currencies in Specified Foreign Sovereign Debt securities effectively eliminates the credit risk of commercial banks that FCMs and DCOs are exposed to, while holding such funds in unsecured deposit accounts.¹⁸² AIMA noted that investing foreign currencies belonging to customers, particularly non-U.S. clients, in Specified Foreign Sovereign Debt is a more prudent option than depositing

funds with a foreign depository institution that provides less insolvency protection, as such deposits would be at greater risk of being treated as unsecured claims compared to securities held in custody.¹⁸³ FIA and CME stated that in the event of a foreign depository's insolvency, claims to uninsured cash balances are at greater risk of being treated as unsecured claims against the depository estate than claims to specific securities held in custody.¹⁸⁴ FIA and CME further stated that FCMs, DCOs, and customers are in a better risk posture when FCMs and DCOs are able to diversify non-U.S. dollar exposures by leveraging both permitted non-U.S. depositories for cash as well as Permitted Investments in Specified Foreign Sovereign Debt securities.¹⁸⁵

FIA and CME further commented that the significant growth in the holding of foreign currencies, particularly CAD, EUR, JPY, and GBP, which comprise the currencies of the Specified Foreign Sovereign Debt securities, provides compelling evidence demonstrating the risk management rationale for expanding the list of Permitted Investments to include Specified Foreign Sovereign Debt securities.¹⁸⁶ Specifically, FIA and CME referenced the Proposal, where the Commission stated that as of August 15, 2023, FCMs collectively held an aggregate U.S. dollar equivalent of \$51 billion of Customer Funds denominated in the currencies of the Specified Foreign Sovereign Debt, which represented approximately 10 percent of the total \$490 billion of Customer Funds held in segregated accounts on that date.¹⁸⁷ FIA and CME stated that the increase in foreign currency-denominated Customer Funds is attributable primarily to the growth in cleared swaps, which only commenced when the Commission issued the 2011 Permitted Investments Amendment eliminating foreign sovereign debt as a Permitted Investment.¹⁸⁸ In FIA and CME's view,

it would be impractical—and unfair to Cleared Swaps Customers—to continue incentivizing FCMs to manage currency fluctuation risk by refusing margin deposits not denominated in U.S. dollars or requiring customers depositing such balances to assume the foreign currency risk.¹⁸⁹

FIA and CME also observed that as non-U.S. dollar customer funds balances have increased, so has the customer demand for FCM flexibility in servicing multi-currency accounts.¹⁹⁰ The commenters explained that many customers, particularly Cleared Swaps Customers, deposit non-U.S. dollar cash and rely on FCMs to manage those deposits to satisfy margin calls on their behalf denominated in one or more other currencies. They further asserted that since several of the Commission-registered DCOs clearing swaps are located in the United Kingdom and the European Union, the complexity of single-currency margining processes is compounded by the operational complexity of Cleared Swaps Customer Collateral segregation and “residual interest” requirements.¹⁹¹ In particular, FIA and CME stated that to comply with Commission regulation 22.2(f)(4), which requires that an FCM maintain in segregation, at all times, “an amount equal to the sum of any credit balances that the Cleared Swaps Customers of the [FCM] have in their accounts,” FCMs may need to source non-U.S. dollar assets to cover deficits in advance of settlement with DCOs outside of U.S. banking hours.¹⁹² In this regard, FIA and CME asserted that having the ability to convert non-cash balances into Specified Foreign Sovereign Debt and to use Specified Foreign Sovereign Debt instruments to cover deficits incurred outside of U.S. banking hours would assist FCMs to control the higher level of operational risk associated with single-currency margining and Cleared Customer Collateral-specific segregation compliance processes.¹⁹³

¹⁸³ AIMA at p. 2.

¹⁸⁴ FIA/CME Joint Letter at p. 7.

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.* See also Proposal at 81243–81244.

¹⁸⁸ FIA/CME Joint Letter at p. 7. FIA and CME stated that Cleared Swaps Customers deposit initial margin in foreign currency to a much greater extent than do futures customers or 30.7 customers. Specifically, FIA and CME stated that based on a survey of members, the growth of CAD, EUR, GBP and JPY customer balances (measured by the total equity value of accounts holding cash, securities, and positions denominated in those currencies, expressed in U.S. dollar-equivalent basis) between November 30, 2018 and November 30, 2023 has been most pronounced for the Cleared Swaps origin. FIA and CME stated that for members surveyed, CAD/EUR/GBP/JPY Cleared Swaps Customer Collateral balances totaled USD 1.6

billion in 2018 and USD 9.8 billion in 2023, a 600 percent increase. FIA/CME Joint Letter at pp. 7–8, note 37.

¹⁸⁹ FIA/CME Joint Letter at pp. 7–8.

¹⁹⁰ FIA/CME Joint Letter at p. 8.

¹⁹¹ *Id.*

¹⁹² *Id.* and 17 CFR 22.2(f)(4). Commission regulation 22.2(e)(3) further states that an FCM may deposit in the Cleared Swaps Customer Accounts its own money, securities, or other property to ensure that it is always in compliance with the segregation requirements of Commission regulation 22.2(f), provided, that the proprietary funds deposited are cash or unencumbered Permitted Investments. 17 CFR 22.2.

¹⁹³ FIA/CME Joint Letter at p. 8, citing as an example an FCM transferring proprietary funds in the form of Specified Foreign Sovereign Debt instruments to a Cleared Swaps Customer Collateral Account to cover a deficit and ensure compliance

¹⁷⁶ AIMA at p. 2; FIA/CME Joint Letter at p. 2; MFA at pp. 1–2; CCP Global at p. 1; WFE at p. 4.

¹⁷⁷ MFA at pp. 3–4.

¹⁷⁸ *Id.*

¹⁷⁹ AIMA at p. 2.

¹⁸⁰ FIA/CME Joint Letter at pp. 2, 6–7.

¹⁸¹ AIMA at p. 2; Eurex at p. 2; WFE at p. 4; MFA at pp. 2–5; FIA/CME Joint Letter at pp. 2–11; CCP Global at p. 1; Nodal at p. 2; NFA at p. 1.

¹⁸² CCP Global at p. 1.

Commenters also supported the Proposal by noting that the credit, liquidity, and volatility characteristics of Specified Foreign Sovereign Debt securities are comparable to those of U.S. Treasury securities.¹⁹⁴ Specifically, FIA and CME stated that if measuring liquidity by the bid-ask spread, “the short-term Specified Foreign Sovereign Debt instruments in scope of the Proposed Regulation all demonstrate abundant market liquidity; they are comparable to, if not identical with, bid-ask spreads in U.S. government securities of the same tenors.”¹⁹⁵ WFE further emphasized the low risk of default associated with these instruments.¹⁹⁶

Better Markets and the Investor Advocacy Group opposed the proposed addition of Specified Foreign Sovereign Debt to the list of Permitted Investments, stating that such investments could compromise the protection of Customer Funds and put customers at undue financial risk.¹⁹⁷ Specifically, Better Markets stated that investments in foreign sovereign debt can exhibit variable degrees of liquidity, affected by factors such as market conditions, geopolitical stability, and economic policies.¹⁹⁸ Better Markets further stated that in times of financial stress or market volatility, foreign sovereign debt instruments may not be readily convertible to cash without significant loss of value. Better Markets argued that the reduced liquidity could hinder the ability of DCOs and FCMs to promptly meet withdrawal requests or margin calls, potentially compromising their operational efficiency and financial stability.¹⁹⁹ Better Markets further stated that the increased exposure to credit and market risks could lead to situations where losses from investments in foreign sovereign debt impact DCOs’ and FCMs’ financial health to the extent of potentially limiting DCOs’ and FCMs’ ability to return Customer Funds. Better Markets also asserted that the proposed

conditions to investing in Specified Foreign Sovereign Debt, such as the 45 BPS cap on the two-year credit default swap spread and the limits on the time-to-maturity of investments, may not be sufficient to mitigate the underlying liquidity concerns.²⁰⁰ Better Markets also criticized the use of credit default swap spreads as an indicator of the creditworthiness of the issuing sovereign, noting that the reliability of credit default swap spreads depends heavily on the health and liquidity of the credit default swaps market.²⁰¹

Better Markets also asserted that allowing investments of Customer Funds in foreign sovereign debt would constitute a relaxation of regulatory enhancements introduced following the failures of MF Global Inc. (“MF Global”) and Peregrine Financial Group (“Peregrine”).²⁰² Specifically, Better Markets stated that the failures of both MF Global and Peregrine resulted from misuse of customer funds and fraud, which caused significant customer losses.²⁰³ In addition, the Investor Advocacy Group noted that the failure of MF Global resulted, at least in part, due to risky investments in foreign sovereign debt.²⁰⁴

More generally, Better Markets and the Investor Advocacy Group contended that the Commission lacks a compelling, public interest-focused rationale for expanding the list of Permitted Investments to include Specified Foreign Sovereign Debt.²⁰⁵ In particular, these commenters criticized the Commission’s consideration of the potential increase in profits for DCOs and FCMs as a benefit of the proposed expansion of the list of Permitted Investments.²⁰⁶ Better Markets also argued that higher profits for DCOs and FCMs do not inherently guarantee reduced customer charges.²⁰⁷ Instead,

Better Markets stated that the current financial landscape, characterized with high interest rates, has generated substantial additional revenue for FCMs, reportedly amounting to hundreds of millions of dollars, and has led to an expectation of an expansion of the number of FCMs entering the market.²⁰⁸

Separately, four commenters responded to the Commission’s request for comment on whether the Commission should impose a “cooling-off” period, following an exceedance of the 45 BPS limit on the two-year credit default swap spread of the issuing foreign sovereign, during which investments in Specified Foreign Sovereign Debt would remain prohibited.²⁰⁹ FIA and CME stated that a “cooling-off” period was not necessary because, in their view, an exceedance of the 45 BPS limit would most likely be related to broader market volatility conditions, the improvement of which itself constitutes a cooling-off period.²¹⁰ CCP Global agreed with the Commission that there should be a mechanism to exclude a sovereign’s debt in the event of an increased credit risk, but advocated for a phased “cooling-off” period and flexibility in terms of the number of breaches before investments are limited.²¹¹ CCP Global also warned against potential “cliff-edge” effects due to the use of hard limits, which could aggravate volatility in the underlying bond market.²¹² CCP Global further noted that given the limited maturity of investments in reverse repurchase agreements (*i.e.*, reverse repurchase agreements must be limited to an overnight maturity or reversible upon demand), imposing an immediate limitation on new investments would have the effect of requiring a large proportion of all FCM and DCO investments in reverse repurchase agreements collateralized by the relevant debt to be re-allocated within one business day.²¹³ WFE similarly recommended that the Commission consider a minimum period of time or number of times that this limit is breached before investment in the applicable Specified Foreign Sovereign

with its segregation requirements outside of U.S. banking hours.

¹⁹⁴ *E.g.*, Eurex at p. 2; ICE at p. 2. *See also* MFA at p. 3 and FIA/CME Joint Letter at p. 5 (noting that if liquidity is measured by bid-ask spread (*i.e.*, the difference between the lowest ask price and the highest bid price), the short-term Specified Foreign Sovereign Debt instruments referenced in the Proposal are all highly liquid and comparable from a liquidity perspective to U.S. government securities with the same tenors).

¹⁹⁵ FIA/CME Joint Letter at p. 5.

¹⁹⁶ WFE at p. 4 (referencing available credit ratings for the relevant foreign sovereign debt instruments).

¹⁹⁷ Better Markets at p. 3; Investor Advocacy Group Joint Letter at p. 1.

¹⁹⁸ Better Markets at pp. 5–6.

¹⁹⁹ *Id.*

²⁰⁰ *Id.* at p. 6.

²⁰¹ *Id.*

²⁰² *Id.* at p. 2.

²⁰³ *Id.*

²⁰⁴ Investor Advocacy Group Joint Letter at p. 1 (the expansion of Permitted Investments to include foreign debt instruments of France, Germany, Canada, Japan, and the United Kingdom could put customers at undue financial risk and asserting that avoiding such risk was the rationale for prohibiting investments in foreign sovereign debt in 2011 after the MF Global meltdown).

²⁰⁵ Better Markets at p. 6; Investor Advocacy Group Joint Letter at pp. 1–2.

²⁰⁶ Investor Advocacy Group Joint Letter at p. 1.

²⁰⁷ Better Markets at p. 4. Better Markets states that there is substantial historical evidencing that benefits accruing at the higher end of the economic spectrum (*e.g.*, DCOs and FCMs) do not “trickle down” effectively to lower levels (*e.g.*, customers), citing *50 years of tax cuts for the rich failed to trickle down, economics study says*, CBS News Money Watch (December 17, 2020), available at <https://www.cbsnews.com/news/tax-cuts-rich-5-years-no-trickel-down/>.

²⁰⁸ *Id.* Better Markets, citing *Futures Commission Merchants Target Expansion*, Traders Magazine (June 26, 2023), available at <https://www.tradersmagazine.com/departments/clearing/fcms-target-expansion/>.

²⁰⁹ Proposal at 81247, Question 4. Comments in response to Question 4 were submitted by CCP Global at pp. 2–3; FIA/CME Joint Letter at pp. 10–11; ICE at p. 3; and WFE at p. 4.

²¹⁰ FIA/CME Joint Letter at p. 11.

²¹¹ CCP Global at p. 2.

²¹² *Id.*

²¹³ *Id.*

Debt security is prohibited.²¹⁴ ICE stated that requiring DCOs to discontinue investment in Specified Foreign Sovereign Debt securities due to fluctuations in credit default swap spreads could be disruptive.²¹⁵ In ICE's view, this restriction is not necessary given the jurisdictions involved.²¹⁶

FIA and CME also observed that the Commission did not indicate whether the calculation of the 45 BPS credit default spread condition should be based on the bid, offer or mid-level.²¹⁷ FIA and CME proposed that the 45 BPS credit default spread condition be determined using mid-level pricing.²¹⁸ FIA and CME stated that mid-level pricing is a widely accepted pricing convention, including for sovereign debt.²¹⁹

In addition, FIA and CME reiterated their request, originally expressed in the Joint Petition, that the Commission set a six-month dollar-weighted average time-to-maturity limit for the portfolio of Specified Foreign Sovereign Debt, and a maximum two-year remaining time-to-maturity condition for individual instruments.²²⁰ Although FIA and CME agreed with the Commission's observation in the Proposal that the new issuance supply of Specified Foreign Sovereign Debt meeting the proposed restrictions appears "adequate to satisfy the demand for investments of Customer Funds in the relevant instruments," FIA and CME asserted that the time-to-maturity restrictions "may be safely expanded, thereby enhancing liquidity (with the attendant additional benefit of enhanced price stability and diversification across currencies and tenors), without increasing credit risk."²²¹

Commenters also supported the Commission's proposal to revise Commission regulations 1.25(d)(2) and (7) by expanding the eligible counterparties for Repurchase Transactions for Specified Foreign Sovereign Debt securities to include foreign banks, foreign securities brokers and dealers, and the central banks of Canada, France, Germany, Japan, and the United Kingdom, and by including

foreign banks as eligible custodians for securities received by FCMs and DCOs under agreements to resell the securities.²²² ICE stated that the principal custodians for foreign sovereign debt securities are located outside of the U.S., and that custody through a U.S. institution as required under Commission regulation 1.25 would be impractical or involve an indirect custodial relationship through a foreign bank or dealer in the relevant jurisdiction. ICE also requested that the Commission revise Commission regulation 1.25(d)(7) to explicitly include the central banks of Canada, France, Germany, Japan, the United Kingdom, and the European Central Bank as eligible custodians for Specified Foreign Sovereign Debt securities.²²³

Separately, three commenters asserted that the Proposal's goals of increasing investment vehicles for DCOs, while minimizing credit risk, market risk, and liquidity risk could be effectively met if DCOs were allowed to deposit Customer Funds at the Federal Reserve Banks.²²⁴ The commenters thus recommended that the Commission advocate for Federal Reserve deposit access for all DCOs.²²⁵

BlackRock also requested that the Commission amend Commission regulation 1.25(d)(2) to allow FCMs and DCOs to invest Customer Funds pursuant to Repurchase Transactions cleared by a covered clearing agency registered with the SEC under section 17A of the Securities Exchange Act.²²⁶

c. Discussion

The Commission is amending Commission regulation 1.25 to add Specified Foreign Sovereign Debt to the list of Permitted Investments as proposed, subject to certain clarifications and revisions to address comments. The amendments incorporate and expand upon the exemptive relief provided by the Commission in the 2018 Order by authorizing DCOs to invest Customer Funds in the sovereign debt of Canada, Japan, and the United Kingdom in

addition to the sovereign debt of France and Germany. The amendments also expand upon the 2018 Order by authorizing FCMs to invest Customer Funds in the Specified Foreign Sovereign Debt.²²⁷

After considering the public comments, the Commission continues to believe that adding Specified Foreign Sovereign Debt securities as a Permitted Investment provides FCMs and DCOs with an option to manage the potential foreign exchange risk that may arise in their administration and investment of Customer Funds. Specifically, absent the ability to invest Customer Funds in identically-denominated sovereign debt securities, an FCM or DCO seeking to invest customer foreign currency deposits would need to convert the currencies to a U.S. dollar-denominated asset, which would introduce potential foreign currency fluctuation risk to the FCMs and DCOs.²²⁸ If the U.S. dollar decreases in value relative to the particular foreign currency, the FCM or DCO may not receive sufficient foreign currency to cover the full amount owed to its customers upon the conversion of the U.S. dollar-denominated investment back to the applicable foreign currency. This may further impact an FCM's or DCO's obligation under Commission regulation 1.25(b)(1) to preserve the principal of Customer Funds invested in Permitted Investments. Thus, to provide FCMs and DCOs with an investment option that allows them to manage potential foreign exchange risk, while staying consistent with the general objectives set forth in Commission regulation 1.25 of preserving principal and maintaining liquidity of Permitted Investments,²²⁹ the Commission is adopting the conditions discussed above as proposed. These conditions are consistent with the criteria specified in

²²⁷ Final Commission regulation 1.25(a)(1)(vi). The Final Rule thus supersedes the 2018 Order.

²²⁸ In reaching this conclusion, the Commission considered, among other factors, the daily volatility of exchange rates of the relevant currency pairs. Specifically, based on data from the Federal Reserve Bank of St. Louis' FRED database, the Commission noted that for the period from September 2018 to September 2023, the standard deviation of the daily percentage change of exchange rate between the relevant currency pairs was 0.45 percent for the CAD/USD pair, 0.46 percent for the EUR/USD pair, 0.61 percent for the GBP/USD pair, and 0.55 percent for the JPY/USD pair, indicating a currency fluctuation that is an additional risk factor with respect to the return on investment of customer foreign currency deposits in U.S. dollar-denominated assets. The Commission also adopted foreign sovereign debt as a Permitted Investment in 2000 to mitigate the potential foreign currency fluctuation risk facing FCMs and DCOs in converting foreign currencies to U.S. dollars for investment purposes. 2000 Permitted Investments Amendment at 78003.

²²⁹ 17 CFR 1.25(b).

²¹⁴ WFE at p. 4.

²¹⁵ ICE at p. 3.

²¹⁶ ICE at p. 3. FIA and CME also noted that immediate divestment should not be required after a change in credit default spread. See FIA/CME Joint Letter at p. 10.

²¹⁷ FIA/CME Joint Letter at p. 10.

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ FIA/CME Joint Letter at pp. 9–10. Joint Petition at pp. 5–6 (asserting that the new issuance supply of the Specified Foreign Sovereign Debt meeting the restrictions is limited and would be thinly traded/quoted).

²²¹ FIA/CME Joint Letter at pp. 9–10.

²²² ICE at p. 3; FIA/CME Joint Letter at p. 9; WFE at p. 4. See also Proposal at 81246–81247 and proposed Commission regulation 1.25(d)(2) and (7).

²²³ ICE at p. 3.

²²⁴ Eurex at p. 2, CCP Global at p. 2, Nodal at p. 2.

²²⁵ *Id.*

²²⁶ BlackRock at p. 7–8 (referring to the recommendation made by the Global Market Structure Subcommittee of the Commission's Global Markets Advisory Committee on November 6, 2023). See Proposal by FICC to add CCPs as Permitted Repo Counterparties under CFTC Rule 1.25 Recommendation, November 6, 2023, available at <https://www.cftc.gov/PressRoom/Events/opaeventgmac110623>.

the 2011 Permitted Investments Amendment²³⁰ and the conditions set forth in the Commission's 2018 Order.²³¹

First, an FCM or DCO will be permitted to invest in the foreign sovereign debt of only Canada, France, Germany, Japan, and the United Kingdom. The Commission's determination to include the foreign sovereign debt to these five countries is based on various factors. As a preliminary matter, each of these countries, including the U.S., is a member of the Group of 7 ("G7"), which represents the world's largest industrial democracies, and qualifies as a "money center country" as the term is defined in Commission regulation 1.49(a)(1).²³² Additionally, the currencies of the five jurisdictions represent a material portion of the total amount of non-U.S. dollar-denominated obligations that FCMs owe to customers. FCMs collectively held an aggregate of a U.S. dollar equivalent of \$64 billion of Customer Funds denominated in CAD, EUR, JPY, and GBP on August 13, 2024.²³³ The \$64 billion represented approximately 12 percent of the total \$511 billion of Customer Funds held by FCMs in segregated accounts on August 13, 2024.²³⁴

In addition, prior to proposing to allow FCMs and DCOs to invest in the sovereign debt of the enumerated countries, the Commission analyzed the credit, liquidity, and volatility

characteristics of Specified Foreign Sovereign Debt. In particular, the Commission considered data provided by the Petitioners in support of the Joint Petition's statement that the credit default swaps of Canada, France, Germany, Japan, and the United Kingdom have relatively narrow spreads similar to the credit default spread of the U.S.²³⁵ To assess the liquidity of Specified Foreign Sovereign Debt, the Commission also considered the amounts of outstanding marketable Canadian, French, German, Japanese, and United Kingdom debt instruments with time-to-maturity of two years or less.²³⁶

With regard to the volatility characteristics of Specified Foreign Sovereign Debt, the Commission concluded that expanding the list of Permitted Investments to include the sovereign debt of these five G7 countries is warranted based on available data that the price risk of the relevant foreign sovereign debt is comparable to that of U.S. Treasury securities that are already included in the list of Permitted Investments. Specifically, using one-year sovereign debt instruments yield data for the period September 21, 2018 to September 20, 2023, the Commission observed that the standard deviation of daily yield change for one-year U.S. Treasury bills was 9 BPS, whereas the same measure for Canadian, French, German, Japanese, and United Kingdom one-year debt instruments ranged from 1 to 7 BPS.²³⁷ The Commission's

determination that the price risk of Specified Foreign Sovereign Debt instruments is comparable to that of U.S. Treasury securities, and therefore merits inclusion in the list of Permitted Investments, is based on data from an inquiry including the more recent period of September 20, 2023 to September 5, 2024, using the standard deviation of daily yield change for one-year debt instruments.²³⁸ Finally, in proposing to add Specified Foreign Sovereign Debt to the list of Permitted Investments, the Commission surmised that holding high-quality foreign sovereign debt may pose less risk to Customer Funds than the credit risk of commercial banks through unsecured bank demand deposit accounts.²³⁹

Second, an FCM or DCO is permitted to invest in the Specified Foreign Sovereign Debt of a country only to the extent that the FCM or DCO has balances in accounts owed to customers denominated in the country's currency.²⁴⁰ This restriction takes into account both the need to ensure the safety of Customer Funds and the Commission's desire to provide a degree of investment flexibility to FCMs and DCOs.²⁴¹ As noted in the Proposal, an

²³⁸ The Commission reviewed one-year sovereign debt instruments yield data, available through Bloomberg, for the period from September 21, 2018 to September 5, 2024. During this period, the standard deviation of daily yield change for U.S. Treasury bills was approximately 9 BPS, whereas the same measure for Canadian, French, German, Japanese, and United Kingdom one-year debt instruments ranged from approximately 1 to approximately 6 BPS.

²³⁹ The Commission discussed the preferability from a risk management perspective of investing foreign currency in high quality foreign sovereign debt relative to the credit risk posed by unsecured demand deposit accounts at commercial banks in issuing the 2018 Order permitting DCOs to invest futures customer funds and Cleared Swaps Customer Collateral in French and German sovereign debt. 2018 Order at 35245–35246.

²⁴⁰ Final Commission regulation 1.25(a)(1)(vi).

²⁴¹ As discussed above, prior to 2011, the Commission permitted an FCM or DCO to invest Customer Funds in foreign sovereign debt subject to the condition that the FCM or DCO held balances owed to customers denominated in the currency of the foreign country. In the wake of the 2008 financial crisis, the Commission eliminated foreign sovereign debt from the list of permitted investments noting at the time that "in many cases, the potential volatility of foreign sovereign debt in the current economic environment and the varying degrees of financial stability of different issuers make foreign sovereign debt inappropriate for hedging foreign currency risk." 2011 Permitted Investments Amendment at 78781. Yet the Commission recognized that "the safety of sovereign debt issuances of one country may vary greatly from those of another, and that investment in certain sovereign debt might be consistent with the objectives of preserving principal and maintaining liquidity, as required by Regulation 1.25." *Id.* at 78782. For the reasons discussed above, the Commission is reinstating certain foreign sovereign debt consistent with the Commission's

Continued

²³⁰ 2011 Permitted Investments Amendment at 78782 (stating that the Commission would consider permitting foreign sovereign debt investments to the extent that: (i) the petitioner has balances in segregated accounts owed to customers or clearing member FCMs in that country's currency; and (ii) the sovereign debt serves to preserve principal and maintain liquidity of customer funds as required for all other investments of customer funds under Commission regulation 1.25).

²³¹ 2018 Order at 35245.

²³² 17 CFR 1.49(a). In the absence of customer instructions to the contrary, Commission regulation 1.49(c) limits permissible locations of depositories of Customer Funds to the U.S., the country of origin of the currency, and a "money center country." The concept of "money center country" is defined to mean Canada, France, Italy, Germany, Japan, and the United Kingdom, and is intended to correspond, together with the U.S., to the list of G7 countries. *Denomination of Customer Funds and Location of Depositories*, 68 FR 5551 (Feb. 4, 2003) at 5546.

²³³ Based on data provided by CME. The amount has increased compared to the amount the Commission considered in the Proposal (*i.e.*, \$51 billion, representing approximately 10 percent of the Customer Funds held in segregation, on August 15, 2023). Proposal at 81243–81244.

²³⁴ The \$511 billion represents the U.S. dollar equivalent of the total value of margin assets held by FCMs for futures customers, Cleared Swaps Customers, and 30.7 customers as reported to CME as of August 15, 2023. The breakdown by currency was as follows: CAD 17 billion; EUR 19 billion; GBP 7 billion; and JPY 21 billion. Some of these funds may have also been posted by the FCMs to DCOs as customer margin collateral.

²³⁵ Proposal at 81244, note 110 (referencing Joint Petition at pp. 6–7). Data provided in the Joint Petition, subsequently clarified by the Supplement to Joint Petition, indicates that in the period between April 2018 and April 2023, the average 2-year credit default swap spreads of Canada, France, Germany, Japan, and the UK were 13.9 BPS, 9.6 BPS, 5.3 BPS, 7.4 BPS, and 12.2 BPS, respectively, whereas the average 2-year credit default swap spread of the U.S. was 15.1 BPS. Joint Petition at p. 7 and Supplement to Joint Petition at p. 1.

²³⁶ *Id.* note 111 (referencing appendix A to Joint Petition and Supplement to Joint Petition at p. 1, which indicate that the outstanding debt in instruments with time-to-maturity of two years or less issued by Canada, France, Germany, Japan, and the United Kingdom, based on information available on Bloomberg as of July 11, 2023, was equal to the USD equivalence of \$447 billion, \$594 billion, \$557 billion, \$2.6 trillion, and \$534 billion, respectively; Bank of International Settlements' Debt Securities Statistics, available here: https://www.bis.org/statistics/secstats_to180923.htm; and 2021 Survey on Liquidity in Government Bond Secondary Markets, Organization for Economic Co-operation and Development, available here: https://www.oecd-ilibrary.org/governance/oecd-sovereign-borrowing-outlook-2022_3f4e2676-en, which confirms that Specified Foreign Sovereign Debt instruments presented good liquidity characteristics in 2021).

²³⁷ The Commission reviewed yield data available through Bloomberg, a proprietary financial data provider, for 1-year sovereign debt instruments issued by Canada, France, Germany, Japan, the United Kingdom, and the U.S.

FCM or DCO seeking to invest deposits or amounts owed to customers denominated in foreign currencies, absent the ability to invest in identically-denominated sovereign debt securities, would need to convert the foreign currencies to a U.S. dollar-denominated asset, which would increase the FCM's or DCO's exposure to foreign currency fluctuation risk.²⁴² Commenters did not raise concerns regarding this condition, and as such, the Commission is adopting this requirement as proposed.

Third, the Commission proposed to permit FCMs and DCOs to invest in Specified Foreign Sovereign Debt provided that the two-year credit default spread of the issuing sovereign is 45 BPS or less.²⁴³ As discussed in the Proposal, the 45 BPS limit is consistent with the conditions specified in the 2018 Order.²⁴⁴ The Commission set the cap of 45 BPS in the 2018 Order based on a historical analysis of the two-year credit default spread of the U.S. ("U.S. Spread").²⁴⁵ Forty-five BPS was, at the time, approximately two standard deviations above the mean U.S. Spread over the preceding eight years.²⁴⁶ The Commission observed that over that eight-year period of July 3, 2009 to July 3, 2017, the U.S. Spread was 45 BPS or less approximately 95 percent of the time and exceeded 45 BPS approximately 5 percent of the time. During the same period, the two-year German spread exceeded 45 BPS approximately 6 percent of the time and the two-year French spread exceeded 45 BPS approximately 25 percent of the time, with all exceedances occurring between July 2009 and September 2012, in the aftermath of the 2008 financial

crisis and the European sovereign debt crisis.²⁴⁷

During the more recent period of September 21, 2018 to September 20, 2023 preceding the issuance of the Proposal, the U.S. Spread had a mean of approximately 16.4 BPS,²⁴⁸ which was lower than the mean spread of 26.5 BPS for the July 3, 2009 to July 3, 2017 period. In that same time period, the two-year credit default swap spread of the sovereigns issuing the Specified Foreign Sovereign Debt did not exceed 45 BPS. Thus, based on these U.S. Spread and Specified Foreign Sovereign Debt data, the Commission is maintaining the cap of 45 BPS established in the 2018 Order.²⁴⁹

Consistent with the Proposal, if the credit default spread of the issuing sovereign exceeds the 45 BPS cap, FCMs and DCOs will not be permitted to make further investments, but neither will they be required to immediately divest their current investments in Specified Foreign Sovereign Debt. The prohibition on new investments will reduce the exposure to Customer Funds by avoiding the risk of default on the Specified Foreign Sovereign Debt. In situations where the 45 BPS cap is exceeded, FCMs and DCOs will hold Customer Funds denominated in foreign currency in cash or invest the foreign currency in U.S. dollar-denominated Permitted Investments rather than Specified Foreign Sovereign Debt. In addition, the requirement that the dollar-weighted average time-to-maturity of the portfolio of Specified Foreign Sovereign Debt not exceed 60 calendar days helps mitigate price risks to the Customer Funds that might arise from a country's two-year credit default spread exceeding the 45 BPS limit.

In addition, in response to a comment stating that the Commission did not specify how the 45 BPS limit should be calculated, the Commission is clarifying that the 45 BPS credit default spread must be determined using mid-level

pricing, rather than the bid or ask price.²⁵⁰ The mid-price is the average of the bid and ask prices, representing a midpoint between what buyers are willing to pay (bid) and what sellers are asking for (ask). This mid-point price provides a more balanced view of the security's credit risk, without the skew of immediate buy or sell pressures.

The Commission also requested comments as to whether it was appropriate to impose a "cooling-off" period before an FCM or DCO could invest Customer Funds in the Specified Foreign Sovereign Debt of a particular country once the two-year credit default spread of the country exceeded 45 BPS.²⁵¹ As commenters noted, market conditions based on broader volatility will self-resolve and result in a market driven "cooling-off" period.²⁵² Moreover, because FCMs and DCOs will not be able to make new investments in Specified Foreign Sovereign Debt until the credit default spread is back within the required limits, any "cooling-off" period promulgated by the Commission could potentially be arbitrary and inconsistent with the market's assessment that the increased credit risk that resulted in the exceedance of the 45 BPS cap no longer exists. Thus, the Commission is not specifying a "cooling-off" period during which FCMs and DCOs may not engage in investment in the applicable Specified Foreign Sovereign Debt.

However, the Commission has determined to immediately halt the purchase of additional Specified Foreign Sovereign Debt once the 45 BPS cap is exceeded. Specifically, the Commission does not agree with commenters who suggested that there should be "flexibility" with respect to the number of breaches of the 45 BPS cap before investments are limited,²⁵³ because the breach of the 45 BPS cap indicates the market's assessment of an increased likelihood of credit risk. The Commission acknowledges those comments cautioning that there is a potential for unintended consequences such as "cliff-edge effects,"²⁵⁴ but it is for that reason that the Commission is taking a measured and balanced approach to such situations where the 45 BPS limit has been exceeded. Therefore, the Commission is not requiring that FCMs and DCOs sell

statement in the 2011 Permitted Investments Amendment that it would consider permitting such investments provided that the investments: (i) are limited to balances owed to customers denominated in the currency of the applicable foreign sovereign, and (ii) serve to preserve the principal and maintain the liquidity of Customer Funds. *Id.* at 78782. The Final Rule is also consistent with the Commission's approach in the 2018 Order of permitting DCOs to invest in the sovereign debt of France and Germany to the extent such foreign sovereign debt satisfies specific criteria demonstrating consistency with the credit, liquidity, and volatility of short-term U.S. Treasury securities.

²⁴² 2011 Permitted Investments Amendment at 78003.

²⁴³ Proposed Commission regulation 1.25(f)(3).

²⁴⁴ Proposal at 81245.

²⁴⁵ 2018 Order at 35243.

²⁴⁶ In 2018, the Commission reviewed the daily U.S. Spread from July 3, 2009 to July 3, 2017. Over that time period, the U.S. Spread had a mean of approximately 26.5 BPS and a standard deviation of approximately 9.72 BPS. Forty-five BPS were approximately two standard deviations above the 26.5 mean.

²⁴⁷ See 2018 Order at 35243.

²⁴⁸ Based on an assessment conducted by CFTC staff on September 20, 2023.

²⁴⁹ Using the daily U.S. Spread data from July 3, 2009 to July 3, 2017 and assuming the two-year credit default spread follows a normal distribution, the Commission estimated that there was less than 2.5 percent likelihood that the U.S. credit default spread would exceed 45 BPS over a two-year period. In addition, the Commission's estimate, based on the daily U.S. Spread data from September 21, 2018 to September 5, 2024, indicates that there is less than 1 percent likelihood, under both normal and empirical distributions, that the two-year credit default swap spread of the sovereigns issuing Specified Foreign Sovereign Debt would exceed 45 BPS. Therefore, the Commission has determined to adopt a threshold of 45 BPS for countries whose debt may qualify as a Permitted Investment under Commission regulation 1.25.

²⁵⁰ FIA/CME Joint Letter at p. 10 (recommending that the spread be determined using the mid-level and asserting that mid-level pricing is a widely accepted pricing convention for a wide range of asset classes including sovereign debt).

²⁵¹ Proposal at 81247, Question 4.

²⁵² FIA/CME Joint Letter at pp. 10–11.

²⁵³ See CCP Global at p. 2; WFE at p. 4–5.

²⁵⁴ See CCP Global at p. 2.

Specified Foreign Sovereign Debt that has already been purchased because it could increase volatility and the potential for procyclical impacts. The Commission, however, maintains its position that FCMs and DCOs must stop making direct investments in, or engaging in Repurchase Transactions involving, Specified Foreign Sovereign Debt of a country whose credit default swap spread on two-year debt instruments has exceeded 45 BPS.

The Commission is also adopting the 60-calendar-day dollar-weighted average time-to-maturity of investments in Specified Foreign Sovereign Debt, as proposed.²⁵⁵ As discussed in the Proposal, the restrictions on time-to-maturity will ensure that an FCM's or DCO's portfolio of Specified Foreign Sovereign Debt is comprised of sovereign debt instruments that mature within a relatively short period of time.²⁵⁶ The short time-to-maturity requirement is intended to assist FCMs and DCOs in managing and mitigating potential market and/or credit risk by providing FCMs and DCOs with the option of holding the foreign sovereign debt securities to maturity during periods of market stress and price volatility rather than selling the securities at potentially significant discounts. The option to hold the debt securities to maturity may be particularly valuable to FCMs and DCOs from a risk management perspective during periods of significant interest rate movements, which could exacerbate market risk in sovereign debt markets. Thus, the Commission has determined to adopt a 60-calendar-day dollar-weighted average time-to-maturity requirement for Specified Foreign Sovereign Debt securities, computed on a portfolio of securities on a country-by-country basis, and a 180-calendar-day maximum remaining time-to-maturity requirement for each individual Specified Foreign Sovereign Debt security.

In addition, data regarding the new issuances of short-term Specified Foreign Sovereign Debt supports the lower 60-day dollar-weighted average time-to-maturity requirement and the 180-day maximum remaining time-to-maturity requirement proposed.²⁵⁷

Therefore, the proposed time-to-maturity conditions more effectively account for liquidity needs with the market and credit risk management considerations than the six-month dollar-weighted portfolio average and two-year individual remaining time-to-maturity limits recommended by FIA and CME. Furthermore, as discussed in the Proposal, using the maturity of reverse repurchase agreements in calculating the dollar-weighted average of the portfolio of investments in Specified Foreign Sovereign Debt will reduce the average time-to-maturity of the portfolio as a whole. This approach takes into account the expected resale of the instruments, which must be contractually scheduled to occur within one business day or on demand as required by Commission regulation 1.25(d)(6).²⁵⁸ Conversely, if the FCM or DCO sells Specified Foreign Sovereign Debt instruments under a repurchase agreement, the FCM or DCO is required to include the instruments in the calculation of the dollar-weighted average based on the remaining time-to-maturity of each instrument sold, to account for the expected repurchase of such instruments.²⁵⁹

In addition, as discussed in the Proposal, with the adoption of the 60-day dollar-weighted portfolio average time-to-maturity requirement, the Commission is also amending Commission regulation 1.25(b)(4)(i) to exclude Specified Foreign Sovereign Debt from the calculation of the dollar-weighted average time-to-maturity of the FCM's or DCO's full portfolio of investment of Customer Funds.²⁶⁰ This amendment reflects that Specified Foreign Sovereign Debt will be subject to its own dollar-weighted average time-to-maturity limit.

The Commission acknowledges the request of Eurex, CCP Global, and Nodal

in their public comments²⁶¹ that the Commission work with the Federal Reserve Board to permit all DCOs to deposit Customer Funds at the Federal Reserve Banks. The Commission supports DCOs having deposit accounts at Federal Reserve Banks;²⁶² however, granting access to such accounts is not within the jurisdiction of the Commission.

Consistent with the Proposal, the Commission is also amending Commission regulations 1.25(d)(2) and (7) to expand permissible counterparties and depositories that can be used in connection with Repurchase Transactions to include certain foreign entities. Without amendment to these counterparty and depository provisions, an FCM's and DCO's ability to buy and sell Specified Foreign Sovereign Debt securities pursuant to Repurchase Transactions would be restricted because participants in the foreign market are predominantly non-U.S. entities. The Commission is therefore adding foreign banks and foreign brokers or dealers meeting certain requirements, as well as the European Central Bank and the central banks of Canada, France, Germany, Japan, and the United Kingdom, to the list of permitted counterparties.²⁶³ To be deemed a permitted counterparty, a foreign bank must qualify as a depository under Commission regulation 1.49(d)(3) by holding regulatory capital in excess of \$1 billion, and must be located in a money center country as defined in Commission regulation 1.49(a)(1) (*i.e.*, Canada, France, Italy, Germany, Japan, and the United Kingdom) or in another jurisdiction that has adopted the currency of the permitted foreign sovereign debt. Similarly, a foreign broker or dealer must be located in a money center country and be regulated by a foreign financial regulator or a provincial financial regulator with respect to a Canadian securities broker or dealer.²⁶⁴ The newly adopted

France auctioned approximately \$26.2 billion, Germany auctioned approximately \$8.2 billion, Japan auctioned approximately \$12.5 billion, and the United Kingdom auctioned approximately \$41 billion in debt instruments with time-to-maturity of six months or less (*see* Canadian Treasury bills auction results at <https://www.bankofcanada.ca/markets/government-securities-auctions/calls-for-tenders-and-results/regular-treasury-bills/>; French BTF auction history at <https://www.aft.gouv.fr/en/dernieres-adjudications>); German Bubills issuance results at <https://www.deutsche-finanzagentur.de/en/federal-securities/issuances/issuance-results> (refer to reopening of 12-month Bubills with residual maturities between three and six months); Japanese T-bills auction results at https://www.mof.go.jp/english/policy/jgbs/auction/past_auction_results/index.html; and United Kingdom Treasury Bill tender results at <https://www.dmo.gov.uk/data/treasury-bills/tender-results/>).

²⁵⁸ 17 CFR 1.25(d)(6).

²⁵⁹ Final Commission regulation 1.25(f)(1).

²⁶⁰ Proposal at 81246.

²⁶¹ Eurex at p. 2, CCP Global at p. 2, Nodal at p. 2.

²⁶² *See, e.g., Behnam urges wider CCP access to Fed deposit accounts*, Risk.net (Apr. 1, 2022), available at <https://www.risk.net/regulation/7945026/behnam-urges-wider-ccp-access-to-fed-deposit-accounts>.

²⁶³ Final Commission regulation 1.25(d)(2). ICE requested in its comment letter that the Commission explicitly include the central banks of Canada, France, Germany, Japan, the United Kingdom, and the European Central Bank. *See* ICE at p. 3. The Commission is including these recommendations in the terms of the Final Rule.

²⁶⁴ The Commission is revising the Final Rule to provide that Canadian securities brokers or dealers may be subject to applicable provincial financial regulators in recognition of the Canadian regulatory

²⁵⁵ Final Commission regulation 1.25(f)(1) and (2).

²⁵⁶ Proposal at 81245–81246.

²⁵⁷ Data made available by the Bank of Canada, l'Agence France Trésor (the French Finance Agency), the Bundesrepublik Deutschland Finanzagentur (the German Finance Agency), the Japan Ministry of Finance, and the United Kingdom Debt Management Office indicate that the five jurisdictions issue a sizable amount of debt securities with time-to-maturity of less than 180 days on a frequent basis. Specifically, in July 2024, Canada auctioned approximately USD 35 billion,

provisions are designed to ensure that the counterparties to an FCM's or DCO's Repurchase Transactions are regulated entities comparable to those counterparties already permitted under Commission regulation 1.25(d)(2). The final revisions to Commission regulation 1.25(d)(2) are also consistent with the counterparty conditions set forth in the 2018 Order.²⁶⁵

In response to Better Markets' assertion that allowing investments in Specified Foreign Sovereign Debt is relaxing some of the stringent requirements put in place after the collapse of MF Global,²⁶⁶ the Commission notes that the impetus for eliminating foreign sovereign debt from the list of Permitted Investments in 2011 was not the bankruptcy of MF Global. Under the 2000 Permitted Investments Amendment, FCMs and DCOs were permitted to invest in the foreign sovereign debt of any foreign sovereign provided that the FCM or DCO owed balances denominated in that currency to customers. The Commission eliminated foreign sovereign debt in the 2011 Permitted Investments Amendment primarily due to its concerns with the varying degree of financial stability of different issuers as well as because it was not persuaded that foreign sovereign debt was used with sufficient frequency to justify commenters' claims that such debt assisted with the diversification of Customer Funds.²⁶⁷ However, as previously stated, with respect to concerns regarding the economic stability of certain countries, the Commission recognized that the safety of sovereign debt issuances of one country may vary greatly from those of another. In this context, the Commission stated that it was amenable to considering applications for exemptions with respect to investments in certain foreign sovereign debt instruments upon a demonstration that the investment in the sovereign debt of one or more countries is appropriate in light of the objectives of Commission regulation 1.25 and that the issuance of the exemption satisfies the criteria set forth in section 4(c) of the Act.²⁶⁸

The Commission continues to recognize that the safety of sovereign debt issuances of one country may vary greatly from the sovereign debt issuances of another country. Because of

structure vests supervisory authority with provincial regulators. Final Commission regulation 1.25(d)(2).

²⁶⁵ 2018 Order, Condition (e) at 35245.

²⁶⁶ Better Markets at p. 3.

²⁶⁷ 2011 Permitted Investments Amendment at 78781.

²⁶⁸ *Id.* at 78782.

this, the Commission finds that investment in Specified Foreign Sovereign Debt that meets the tightly circumscribed risk characteristics set forth in the 2018 Order and restated in the Final Rule is consistent with the objectives of preserving principal and maintaining liquidity of investments specified in Commission regulation 1.25.²⁶⁹ In light of the varying liquidity and credit risk associated with foreign sovereign debt, the Commission is recognizing jurisdictions whose short-term debt instruments meet the general objectives set forth in Commission regulation 1.25 of preserving principal and maintaining liquidity, subject to the conditions discussed above that are consistent with the conditions specified in the 2018 Order.

In addition, MF Global's trading losses, which Better Markets references in asserting that FCMs' and DCOs' investments in Specified Foreign Sovereign Debt might compromise the protection of Customer Funds,²⁷⁰ were undertaken as speculative proprietary investments and not as investments of Customer Funds. MF Global engaged in, among other speculative investments, proprietary repurchase-to-maturity transactions collateralized with sovereign debt issued by various European countries that were experiencing economic distress.²⁷¹ As the value of the European sovereign debt positions deteriorated in the summer of 2011, and as MF Global's credit ratings were downgraded in the fall of 2011, MF Global was required to pay additional variation and initial margin on its proprietary transactions.²⁷² To satisfy the firm's liquidity needs and, more generally, to support the firm's proprietary transactions and the operations of the firm's affiliates, MF Global unlawfully used Customer Funds.²⁷³ The firm's misuse of Customer Funds violated the Act and Commission regulations and would have been impermissible regardless of the type of investments involved in such malfeasance.²⁷⁴

²⁶⁹ *Id.* at 78782.

²⁷⁰ Better Markets at p. 3.

²⁷¹ Another MF Global affiliate was also involved in the transactions, but MF Global held the economic risk of ownership. First Report of Louis J. Freeh, Chapter 11 Trustee of MF Global Holdings LTD., *et al.*, for the Period of October 31, 2011 through June 4, 2012 ("MF Global Trustee Report") at p. 33, available at <https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/h0711reportoflouisjfreeh060412.pdf>.

²⁷² *Id.* at pp. 36–37.

²⁷³ CFTC Release No. 7508–17, Consent Order: Jon S. Corzine (Jan. 5, 2017) at p. 6.

²⁷⁴ Moreover, MF Global had invested not in the sovereign debt of Canada, France, Germany, Japan

Peregrine's failure was also the result of the misappropriation of Customer Funds and violations of the Commission segregation requirements for Customer Funds.²⁷⁵ Peregrine's owner and Chief Executive Officer plead guilty to the embezzlement of customer funds and making false statements to the Commission.²⁷⁶ These unlawful actions have no bearing on the types of Permitted Investments authorized by the Commission.

Moreover, the Commission adopted major revisions to its rules to enhance the protection of Customer Funds in response to the MF Global and Peregrine bankruptcies. Specifically, the Commission adopted Commission regulation 1.11,²⁷⁷ which requires each FCM carrying customer accounts to establish a risk management program designed to monitor and manage risks associated with the activities of the FCM, including risks associated with the segregation of Customer Funds, FCM operations, and capital resources.²⁷⁸ Commission regulation 1.11 requires an FCM to establish written policies and procedures that are reasonably designed to ensure that Customer Funds are separately accounted for and segregated as belonging to customers as required by the Act and Commission regulations. Furthermore, the written policies and procedures must, at a minimum, include or address: (i) a process for assessing the appropriateness of specific investments of Customer Funds in Permitted Investments, including the consideration of the market, credit, counterparty, operational, and liquidity risks associated with the investments, and an assessment of whether the investments are managed consistent with the objectives of preserving principal and maintaining liquidity of Customer Funds; (ii) a process for the evaluation of depositories of segregated

and the United Kingdom, which meet the liquidity, volatility, and credit characteristics that are consistent with the overall objectives set forth in Commission regulation 1.25 of preserving principal and maintaining liquidity of Customer Funds, but rather, such Customer Funds were ultimately used to support high-risk transactions involving the sovereign debt of Belgium, Ireland, Italy, Portugal, and Spain. None of these jurisdictions are on the list of allowable foreign sovereign debt that is being added to the list of Permitted Investments. See MF Global Trustee Report at p. 40.

²⁷⁵ CFTC Release No. 7116–15.

²⁷⁶ U.S. Attorney's Office Northern District of Iowa, Press Release, Peregrine Financial Group CEO Sentenced To 50 Years For Fraud, Embezzlement, And Lying To Regulators [Court's Sentence Is The Maximum Allowed By Law], January 31, 2013. Available at <https://www.justice.gov/usao-ndia/pr/peregrine-financial-group-ceo-sentenced-50-years-fraud-embezzlement-and-lying>.

²⁷⁷ 17 CFR 1.11.

²⁷⁸ 2013 Protections of Customer Funds Release at 68517–68521. See also 17 CFR 1.11.

funds, including, at a minimum, documented criteria addressing the depository's capitalization, creditworthiness, operational reliability, and access to liquidity; (iii) an account opening process for depositories, including documented authorization requirements, procedures to ensure that customer segregated funds are not deposited with a depository prior to the FCM receiving a written acknowledgment letter, and procedures to ensure that the account is properly titled as a customer segregated account under the Act and Commission regulations; and (iv) a program to monitor an approved depository on an ongoing basis to assess its continued satisfaction of the FCM's established criteria, including a thorough due diligence review of each depository at least annually.²⁷⁹

The Commission also revised Commission regulation 1.10 to require, among other things, an FCM to report and maintain a targeted amount of residual interest (*i.e.*, excess segregated funds above the full balance owed to customers) that the FCM seeks to hold in segregated accounts as a buffer to prevent the accounts from becoming undersegregated.²⁸⁰ Additionally, the Commission amended Commission regulation 1.16 to ensure the high quality of annual audits of the FCM's financial statements by public accountants. The amendments to Commission regulation 1.16 require public accountants to be registered with, and examined by, the Public Company Accounting Oversight Board ("PCAOB"), and further require that the public accountant's audit report state whether the audit was conducted in accordance with auditing standards established or adopted by the PCAOB.²⁸¹

The Commission further revised Commission regulation 1.12 to enhance reporting by FCMs to the Commission. Specifically, Commission regulation 1.12 was amended to define several additional reportable events that require an FCM to file a notice with the Commission and with the FCM's designated self-regulatory organization.²⁸² Among other changes, the revisions included a requirement for FCMs to provide immediate notice whenever the FCM discovers or is informed that it has invested Customer Funds in investments that do not qualify as Permitted Investments, or if

the FCM holds Permitted Investments in a manner that is not in compliance with the provisions of Commission regulation 1.25.²⁸³

The additional Customer Funds safeguards adopted in 2013 are not affected by the amendments adopted in this Final Rule.²⁸⁴ In light of the enhanced safeguards that are now in place with respect to the segregation of Customer Funds,²⁸⁵ and the limitation of investment in foreign sovereign debt to jurisdictions whose debt meets certain liquidity, volatility, and credit characteristics consistent with the overall objectives set forth in Commission regulation 1.25 of preserving principal and maintaining liquidity of Customer Funds, concerns regarding the past failures of MF Global and Peregrine are already addressed.

The Commission is not addressing BlackRock's request for amendments to Commission regulation 1.25(d)(2) to allow FCMs and DCOs to invest Customer Funds pursuant to Repurchase Transactions cleared by a covered clearing agency registered with the SEC because this requested change was not proposed and discussed as part of the Proposal.²⁸⁶ Any potential amendment to effectuate such change would be addressed separately from this Final Rule.

Finally, as discussed previously, some commenters raised concerns about the profits of FCMs and DCOs and whether increased profits were in line with the public interest language in the Act to justify these changes to the list of Permitted Investments.²⁸⁷ In assessing

the public interest as part of its analysis of the conditions of section 4(c) of the Act, the Commission has considered more than just the potential profits of FCMs and DCOs.²⁸⁸ As discussed above, the use of foreign sovereign debt provides FCMs and DCOs with an effective risk management tool for foreign currency exchange risk. By investing customers' foreign currency deposits in the sovereign debt of the applicable foreign currency, an FCM or DCO avoids the need to convert the foreign currency deposits into U.S. dollar-denominated assets and reduces potential foreign currency fluctuation risk associated with such transactions. The ability to manage foreign currency fluctuation risk benefits FCMs, DCOs, customers, and the markets. In addition, as discussed above, holding Customer Funds in foreign sovereign debt securities with custodians may provide enhanced protections to the funds relative to holding the funds as unsecured deposits with commercial banks.

Furthermore, permitting investments in Specified Foreign Sovereign Debt facilitates FCMs' and DCOs' overall risk management in recognition of how the market has evolved since the 2007 Review.²⁸⁹ As previously noted, the 2007 Review revealed that only three of the total 87 active FCMs invested futures customer funds in foreign sovereign debt at any time during that year, and that only one FCM invested 30.7 customer funds in foreign sovereign debt.²⁹⁰ This contrasts sharply to the \$64 billion U.S. dollar equivalent of Customer Funds held in CAD, EUR, GBP, and JPY by FCMs today.

The Commission has also determined that it is in the public interest to allow FCMs and DCOs to invest in foreign sovereign debt because there will be increased resources for financial stability and responsible innovation. Any increase in profits by FCMs and DCOs as a result of these expanded investment options would generate income and potentially increase their presence in the futures market and other relevant markets to support greater competition. This is particularly important because the futures industry has experienced considerable consolidation, with the number of FCMs

competition, and economic realities often complicate the direct correlation between increased profits and reduced costs for customers.").

²⁸⁸ 7 U.S.C. 6(c). With respect to investments of futures customer funds, the Commission is changing the list of Permitted Investments pursuant to authority under section 4(c) of the Act.

²⁸⁹ 2010 Proposed Permitted Investments Amendment at 67643.

²⁹⁰ *Id.* at 67645.

²⁸³ *Id.* at 68522.

²⁸⁴ The Commission acknowledges, as discussed further in section IV.E. of this preamble, that the read-only electronic access to account information provisions are being removed. However, the same information will be accessible through CME and NFA programs that compare the daily balances reported by each of the depositories with balances reported by the FCMs in their daily segregation reports that are filed with CME and/or NFA. This will allow the same information to be accessible to the Commission without the current difficulties involved in the read-only access currently maintained.

²⁸⁵ See generally 2013 *Protections of Customer Funds Release*.

²⁸⁶ BlackRock at p. 7–8 (referring to the recommendation made by the Global Market Structure Subcommittee of the Commission's Global Markets Advisory Committee on November 6, 2023). See generally Proposal by FICC to add CCPs as Permitted Repo Counterparties under CFTC Rule 1.25 Recommendation, November 6, 2023, available at <https://www.cftc.gov/PressRoom/Events/opaeventgmacc110623>.

²⁸⁷ See Investor Advocacy Group Joint Letter at p. 1 (arguing that "[t]he CFTC must not embed revenues and profits of exchanges and brokers into the fabric of its definition of the public interest."); Better Markets at p. 4 (asserting that "[i]n the context of FCMs, higher profits do not inherently guarantee reduced customer charges. The dynamics of profit allocation within businesses, market

²⁷⁹ 17 CFR 1.11(e)(3).

²⁸⁰ 2013 *Protections of Customer Funds Release* at 68513–68516.

²⁸¹ *Id.* at 68577.

²⁸² *Id.* at 68521–68522.

declining from over 400 in the late 1970s,²⁹¹ to 177 FCMs in January 2004,²⁹² to just 64 as of May 2024.²⁹³ Over approximately the same period, however, there has been a dramatic increase in Customer Funds held at FCMs to support derivatives trading, with client margin requirements increasing by about 700 percent in the past 20 years, from approximately \$60 billion to over \$500 billion in 2023.²⁹⁴ Such a significant reduction in the number of FCMs concentrates risk related to Customer Funds in fewer firms, thereby increasing the possibility of systemic risk, particularly as the decline in the number of FCMs creates challenges in porting customer positions to another firm in the event of an FCM failure. Therefore, the changes in this Final Rule that could potentially increase revenue generated by FCMs could serve to increase entrants to the FCM market by making entrance more attractive and mitigate forces that would result in further consolidation of the market, thereby supporting both institutional and retail customers' access to FCMs and reducing concentration and potential systemic risk.²⁹⁵

²⁹¹ See Statement of CFTC Commissioner Giancarlo to the Market Risk Advisory Committee ("MRAC"), June 1, 2015.

²⁹² Selected FCM Financial Data as of January 31, 2004, COMMODITY FUTURES TRADING COMM'N (2004), available at <https://www.cftc.gov/sites/default/files/files/tm/fcm/tmfcmdata0401.pdf>.

²⁹³ Emm, E., Gay, G., Shen, M., *Futures commission merchants, customer funds and capital requirements: An organizational analysis of the futures industry*, Journal of Commodity Markets 18 (2020) 100093; Financial Data on FCMs as of February 29, 2024, available at <https://www.cftc.gov/MarketReports/financialfcmdata/index.htm>.

²⁹⁴ Transcript, MRAC, April 9, 2024, p. 78, available at https://www.cftc.gov/sites/default/files/2024/07/1721936529/mrac_transcript040924.pdf.

²⁹⁵ Better Markets questioned the need for any "regulatory change aimed at further increasing profitability." Better Markets at p. 4. In support of its assertion, Better Markets cited a Traders Magazine article that references a 2023 study by Acuiti asserting that rising interest rates and higher trading volumes could potentially increase the number of FCM registrants. See A. Lyudvig, *Futures Commission Merchants Target Expansion* (June 26, 2023) available at <https://www.tradersmagazine.com/departments/clearing/fcms-target-expansion/> ("Traders Magazine Article"); see also Acuiti, *The Growing Opportunity in Derivatives Clearing*, (2023), available at <https://www.acuiti.io/wp-content/uploads/2023/06/The-Growing-Opportunities-in-Derivatives-Clearing.pdf> ("2023 Acuiti Study"). However, the Acuiti study also found that "[t]he market needs more FCMs," and that for some firms, such as proprietary trading and smaller hedge funds, the "reliance on a smaller number of providers presents a major risk to their operational models." 2023 Acuiti Study at 13. In addition, the Acuiti study was nuanced in its prediction of new entrants, finding that "[o]pinion was more mixed on whether increased interest rates were likely to attract new FCMs to market." *Id.* at 6. In the Commission's view, the Acuiti study

There is no guarantee that the potential for additional profits will benefit customers directly at all times; however, as described above, the increased investment options may potentially reduce concentration in the FCM industry, mitigate foreign currency risk, and facilitate FCMs' ability to answer margin calls in foreign currency, all of which directly benefit FCM customers.

In consideration of comments received, the Commission is amending Commission regulation 1.25(a)(1) to add Specified Foreign Sovereign Debt to the list of Permitted Investments, subject to the conditions as described above. The Commission is adding Commission regulation 1.25(a)(vi), as redesignated to accommodate other amendments to the list of Permitted Investments pursuant to this Final Rule. Paragraph (vi) reflects the addition of general obligations of Canada, France, Germany, Japan, and the United Kingdom as a Permitted Investment.

3. Interests in U.S. Treasury Exchange-Traded Funds

a. Proposal

As part of its periodic reassessment of the list of Permitted Investments of Customer Funds, and as a result of its consideration of industry input provided in the Joint Petition and the Invesco Petition, the Commission proposed to include shares in certain U.S. Treasury ETFs to the list of Permitted Investments under Commission regulation 1.25. ETFs are collective investment vehicles that issue redeemable securities that are also traded at the market price on national securities exchanges.²⁹⁶ Like other investment companies, an ETF pools the assets of multiple investors and invests those assets according to a set investment objective and principal investment strategies. Each share of an ETF represents an undivided fractional interest in the underlying assets of the ETF.²⁹⁷ Similar to indexed mutual funds, many ETFs are designed to passively track a particular market index, investing in all, or a representative sample, of the instruments included in the index, and aiming to achieve the same return as the

shows further support for the Commission's interest in providing additional avenues for FCMs to generate revenue to potentially reduce costs to clients, rather than the alternative perspective articulated by Better Markets that such regulatory changes are not in the public interest.

²⁹⁶ See generally *Exchange-Traded Funds*, 84 FR 57162 (Oct. 24, 2019) ("SEC ETFs Release").

²⁹⁷ *Id.* at 57164.

tracked index.²⁹⁸ Other ETFs are actively managed, with portfolio managers buying and selling securities in accordance with an investment strategy.²⁹⁹

As an open-end investment company,³⁰⁰ similar to a mutual fund,³⁰¹ an ETF continuously offers its shares for sale. Unlike mutual funds, however, ETFs do not sell shares to, or redeem shares from, investors directly. Instead, ETFs issue (and redeem) shares to (and from) "authorized participants"—market intermediaries that have a contractual arrangement with the ETF (or its distributor) and are members or participants of a clearing agency registered with the SEC—in blocks called "creation units."³⁰² Authorized participants play a key role for ETF shares as they are the only investors that are allowed to transact directly with the ETF.³⁰³ An authorized participant must: (i) be an SEC-registered broker or dealer or other securities market participant (such as a bank or other financial institution that is not required to register as a broker or dealer to engage in securities transactions); (ii) be a full participating member of the National Securities Clearing Corporation and the Depository Trust Company; and (iii) have entered into an authorized participant agreement with the ETF (and potentially other parties, such as the ETF's sponsor, distributor, or transfer agent).³⁰⁴

²⁹⁸ See generally "Exchange-Traded Funds," publication by FINRA, available at: <https://www.finra.org/investors/learn-to-invest/types-investments/investment-funds/exchange-traded-fund>.

²⁹⁹ *Id.*

³⁰⁰ An "open-end company" is defined as a "management company which is offering for sale or has outstanding any redeemable security of which it is the issuer." 15 U.S.C. 80a-5. Some ETFs may also be structured as unit-investment trusts (e.g., SPDR® S&P 500® ETF Trust and SPDR® Dow Jones Industrial Average ETF Trust), which have characteristics of both open-end and closed-end companies. 15 U.S.C. 80a-4 (defining unit investment trusts); Unit Investment Trusts (UITs), Glossary, available at <https://www.investor.gov/introduction-investing/investing-basics/glossary/unit-investment-trusts-uits>. The regulatory framework set forth by SEC Rule 6c-11, however, applies only to ETFs that are organized as open-end investment companies. 17 CFR 270.6c-11.

³⁰¹ A "mutual fund" is a type of open-end investment company, meaning that investors can purchase and redeem shares in the fund on a continuous basis at the NAV of the shares. See generally Securities and Exchange Commission, *Mutual Funds and ETFs, A Guide for Investors*, available at <https://www.sec.gov/investor/pubs/sec-guide-to-mutual-funds.pdf>. Mutual funds pool the money of many investors to purchase a range of securities and other assets to meet specified investment objectives. *Id.*

³⁰² See 17 CFR 270.6c-11 (defining "exchange-traded fund").

³⁰³ Invesco Petition at p. 5.

³⁰⁴ *Id.*

An authorized participant may act as a principal for its own account or as an agent for others when purchasing or redeeming creation units.³⁰⁵ Purchases and redemptions of ETF shares by an authorized participant are referred to as “primary market transactions” and occur at the next-calculated NAV. As noted above, ETF shares can also be purchased and sold in the secondary market at market prices that may reflect a discount or premium to the ETF’s NAV.

In assessing the potential expansion of the list of Permitted Investments, the Commission considered statements emphasizing the liquidity of U.S. Treasury ETF shares and the diversification opportunity that such ETFs provide for Customer Funds.³⁰⁶ In particular, as discussed in the Proposal, the Petitioners stated that U.S. Treasury ETFs have characteristics that they believe are consistent with those of current Permitted Investments and may provide FCMs and DCOs with an opportunity to diversify their investments of Customer Funds.³⁰⁷ Similarly, the Invesco Petition focused on the fact that U.S. Treasury ETFs invest in a sub-set of the same high-quality liquid instruments that are Permitted Investments under Commission regulation 1.25 (*i.e.*, U.S. government securities).³⁰⁸ Invesco also noted that ETFs, as registered investment companies whose shares are registered under the Securities Act and Exchange Act, must comply with a number of SEC financial reporting requirements and liquidity risk management program requirements.³⁰⁹ Finally, Invesco asserted that the design and characteristics, such as price and investment transparency, and intra-day

trading and liquidity, are additional features that help make interests in U.S. Treasury ETFs a safe and efficient vehicle for investment of Customer Funds.³¹⁰

The Commission also conducted an independent preliminary analysis of the risk profile and volatility of ETFs investing primarily in short-term U.S. Treasury securities and observed that during the period covered by the analysis, the relevant ETFs presented characteristics that were comparable to that of the underlying U.S. Treasury security investments.³¹¹ Specifically, using data available on Bloomberg, the Commission observed that for the period June 2020–September 2023, the Invesco Collateral Treasury ETF, as well as four other short-term U.S. Treasury ETFs that CME accepts as performance bond—SPDR® Bloomberg 1–3 Month T-Bill ETF, Goldman Sachs Access Treasury 0–1 Year ETF, iShares 0–3 Month Treasury Bond ETF, and iShares Short Treasury Bond ETF—had a standard deviation for a two-day period of risk of approximately 6 BPS, whereas one-year U.S. Treasury securities had a standard deviation of 8 BPS for the same period.

Further, the Commission considered the limited types of investments that meet the requirements of Commission regulation 1.25. As a result of various regulatory reforms discussed in the Proposal, several asset classes included in Commission regulation 1.25 no longer qualify as Permitted Investments.³¹² In particular, as discussed in section III.A.1. of the Proposal, the range of MMFs whose securities qualify as Permitted Investments has contracted, as only interests in Permitted Government MMFs currently meet the eligibility criteria of Commission regulation 1.25.³¹³ In addition, as discussed in section III.A.4. of the Proposal, commercial paper and corporate notes and bonds no longer qualify as Permitted Investments with the expiration of the TLGP.³¹⁴

The Commission also noted the increased demand for high quality collateral, including for assets that currently qualify as Permitted Investments under Commission regulation 1.25, resulting from certain regulatory reforms.³¹⁵ As an example, the Commission discussed the regulatory framework for swaps,

adopted in the aftermath of the 2008 financial crisis through the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Commission remarked that the framework requires, among other things, the clearing of certain swaps or the margining of certain uncleared swaps, thus requiring market participants dealing in swaps to post margin to clearinghouses, or post and collect margin with swap counterparties, in specified forms of liquid collateral.³¹⁶ The Commission inferred that these margining requirements might be driving an increased demand for assets that currently qualify as Permitted Investments.³¹⁷

In the Proposal, the Commission expressed its preliminary belief that expanding the range of available Permitted Investments to include interests in ETFs that meet specified conditions would provide FCMs and DCOs with greater flexibility and opportunities for capital efficiency in the investment of Customer Funds, without unacceptably increasing risk to customers.³¹⁸ The Commission also expressed its belief that the proposed addition of interests in ETFs as Permitted Investments under Commission regulation 1.25(a) would foster innovation and promote competition in the ETF market and the financial services industry more generally.³¹⁹ The Commission also considered that CME accepts shares of short-term U.S. Treasury ETFs as performance bond for clearing members to margin customer and proprietary trades, noting that interests in U.S. Treasury ETFs that qualify as Permitted Investments could ultimately be pledged by FCMs as margin collateral.³²⁰ Consistent with existing regulatory limitations on customer risk associated with the investment of Customer Funds by FCMs and DCOs, under the terms of the Proposal, FCMs and DCOs would be financially responsible for bearing any loss on an investment of Customer Funds in a U.S.

³⁰⁵ SEC ETFs Release at 57164; *see also* David Abner, *The ETF Handbook: How to Value and Trade Exchange-Traded Funds*, 2nd ed. (2016).

³⁰⁶ Proposal at 81248.

³⁰⁷ *Id.* and Joint Petition at pp. 8–9.

³⁰⁸ Proposal at 81248 and Invesco Petition at p. 2.

³⁰⁹ Proposal at 81248 and Invesco Petition at pp. 6–7. Financial requirements include: (i) annual shareholder report, including audited financial statements (17 CFR 270.30e–1); (ii) semi-annual shareholder report, including unaudited financial statements (17 CFR 270.30e–1); (iii) monthly portfolio statistics and holdings filed quarterly (17 CFR 270.30b1–9); (iv) annual census report containing financial-related information (17 CFR 270.30a–1); and (v) periodic reports with respect to portfolio liquidity and derivatives use (17 CFR 270.30b1–10). With respect to liquidity risk management, SEC regulations require open-end investment companies, including ETFs, to adopt and implement a liquidity risk management program that is reasonably designed to assess and manage liquidity risk, which is defined to mean the risk that the fund could not meet requests to redeem shares issued by the fund without significant dilution of remaining investors’ interests in the fund (17 CFR 270.22e–4).

³¹⁰ Invesco Petition at p. 2.

³¹¹ Proposal at 81250.

³¹² Proposal at 81248.

³¹³ Proposal at 81241–81242.

³¹⁴ Proposal at 81253.

³¹⁵ Proposal at 81248.

³¹⁶ *Id.*

³¹⁷ *Id.*

³¹⁸ *Id.*

³¹⁹ *Id.*

³²⁰ Proposal at 81249 and CME Advisory Notice, Modifications to Schedule of Acceptable Performance Bond—Addition of Short-Term U.S. Treasury ETFs (Aug. 2, 2022) (“2022 CME Advisory Notice”), available at <https://www.cmegroup.com/notices/clearing/2022/08/Chadv22-293.pdf> (acceptable ETFs must track a U.S. Treasury index and must have a minimum 80 percent investment in U.S. Treasury securities with a time to maturity of 1 year or less).

Treasury ETF.³²¹ Thus, to ensure compliance with the requirements applicable to other Permitted Investments as well as the general objectives of Commission regulation 1.25 to preserve principal and maintain liquidity of Permitted Investments, the Commission proposed to impose certain conditions on ETFs³²² for their interests to qualify as Permitted Investments (“Qualified ETF”), as discussed below.

Given the similarities between ETFs investing primarily in short-term U.S. Treasury securities and MMFs whose interests already qualify as Permitted Investments,³²³ the Commission preliminarily determined to impose all pertinent requirements applicable to MMFs under Commission regulation 1.25(a) to such ETFs, subject to certain modifications to address the unique characteristics of the ETFs.³²⁴ In particular, consistent with Commission regulation 1.25(c), which sets forth provisions for MMFs whose interests qualify as Permitted Investments, the Proposal would require that a Qualified ETF be an investment company that is registered under the Investment Company Act of 1940 with the SEC and holds itself out to investors as an ETF under SEC Rule 6c–11.³²⁵ Additionally, the ETF would be required to be sponsored by a federally regulated financial institution, a section 3(a)(6) bank,³²⁶ an investment adviser registered under the Investment Advisers Act of 1940, or a domestic branch of a foreign bank insured by the FDIC.³²⁷

In addition, the Commission proposed to limit Qualified ETFs to funds that are passively managed and that seek to replicate the performance of a published short-term U.S. Treasury security index composed of bonds, notes, and bills

with a remaining time-to-maturity of 12 months or less, issued by, or unconditionally guaranteed as to timely payment of principal and interest by, the U.S. Department of the Treasury.³²⁸ The Commission further proposed to require that the securities comprising the short-term U.S. Treasury index represent at least 95 percent of the ETF’s investment portfolio.³²⁹ In that regard, the Commission noted that pursuant to SEC requirements, certain registered investment companies, including ETFs, must adopt a policy to invest at least 80 percent of the value of their assets in accordance with the investment focus suggested by the fund’s name.³³⁰ The Commission, however, preliminarily concluded that a stricter standard of 95 percent should to help ensure that FCMs and DCOs invest Customer Funds in accordance with Commission regulation 1.25’s general objectives of preserving principal and maintaining liquidity.³³¹

The Commission further proposed, consistent with the current requirements applicable to interests in MMFs, to prohibit the agreement governing an FCM’s or DCO’s acquisition and holding of interests in Qualified ETFs from containing provisions that would prevent the pledging of the Qualified ETF’s shares.³³² The proposed amendments would also require FCMs and DCOs to maintain confirmations relating to their purchase of interests in a Qualified ETF in their records in accordance with Commission regulation 1.31, and document the ownership of the interests (by book-entry or otherwise) in the FCMs’ and DCOs’ custody accounts in accordance with Commission regulation 1.26.³³³ FCMs and DCOs would additionally be required to obtain the acknowledgment letter required by Commission regulation 1.26 from an entity that has substantial control over the ETF interests purchased with Customer Funds and that has the knowledge and authority to facilitate redemption and payment or transfer of the Customer Funds.³³⁴

Also, under the terms of the Proposal, a Qualified ETF would be required to compute the NAV by 9 a.m. of the business day following each business day and make it available to FCMs or DCOs, as applicable, by that time.³³⁵ In addition, the Qualified ETF would be legally obligated to redeem its interests and make payment in satisfaction of the interests by the business day following a redemption request.³³⁶ The Proposal also provided that FCMs or DCOs, as applicable, would be required to retain documentation demonstrating compliance with this requirement.³³⁷ Because Commission regulation 1.25(c)(5)(ii) currently provides an exception to the next-day redemption obligation for MMFs for defined extraordinary circumstances, such as the non-routine closures of the Fedwire or applicable Federal Reserve Banks, and any period during which the SEC by order restricts redemptions for the protection of security holders in the fund, the Commission sought comments on whether these redemption exceptions should be extended to Qualified ETFs.³³⁸

The Commission also proposed several conditions specific to Qualified ETFs. Specifically, articulating concerns related to compliance with the Customer Funds segregation requirements and Commission regulation 1.25(b)(1) liquidity standards, the Commission proposed to require an FCM or DCO that invests Customer Funds in the shares of a Qualified ETF to be an authorized participant of the ETF.³³⁹ The Commission reasoned that if an FCM or DCO had to purchase or redeem Qualified ETF shares through an intermediated transaction involving a third-party authorized participant, the FCM or DCO would have to transfer Customer Funds out of a segregated account maintained in compliance with section 4d of the Act or part 30 of Commission’s regulations, which would

³²¹ Commission regulation 1.29(b) (an FCM or DCO, as applicable, shall bear sole responsibility for any losses resulting from the investment of futures customer funds in Permitted Investments) and Commission regulations 22.2(e)(1) and 30.7(i) (an FCM shall bear sole responsibility for any losses resulting from the investment of Cleared Swaps Customer Collateral and 30.7 funds, respectively, in Permitted Investments). As further discussed in section IV.C. of this preamble, the Commission is also adopting an amendment to Commission regulation 22.3(d) to clarify that DCOs are financially responsible for investments of Cleared Swaps Customer Collateral in Permitted Investments.

³²² Proposal at 81249–81253.

³²³ Proposal at 81249.

³²⁴ Proposal at 81249.

³²⁵ Proposal at 81249 and proposed Commission regulation 1.25(c)(1).

³²⁶ For a definition of section 3(a)(6) bank, *see supra* note 52.

³²⁷ Proposal at 81249 and proposed Commission regulation 1.25(c)(2), as applying to Qualified ETFs per proposed introductory text of paragraph (c) of Commission regulation 1.25.

³²⁸ Proposed Commission regulation 1.25(a)(1)(vi).

³²⁹ Proposal at 81294 and proposed Commission regulation 1.25(c)(8)(ii).

³³⁰ Proposal at 81249.

³³¹ *Id.*

³³² Proposal at 81250 and paragraph (c)(6) of Commission regulation 1.25 as applying to Qualified ETFs per proposed revised introductory text of paragraph (c) of Commission regulation 1.25.

³³³ Paragraph (c)(3) of Commission regulation 1.25 as applying to Qualified ETFs per proposed revised introductory text of paragraph (c) of Commission regulation 1.25.

³³⁴ Proposal at 81250.

³³⁵ Paragraph (c)(4) of Commission regulation 1.25 as applying to Qualified ETFs per proposed revised introductory text of paragraph (c) of Commission regulation 1.25. The proposed requirement was intended to allow for the valuation of the Qualified ETF’s investment portfolio to be available by 9 a.m. of the business day following an investment in the ETF, so that the valuation is available in time for FCMs to perform their daily segregation calculations, which are required to be completed by noon each business day, reflecting balances as of the close of business on the previous business day. 2000 Permitted Investments Amendment at 78003.

³³⁶ Paragraph (c)(5)(i) of Commission regulation 1.25 as applying to Qualified ETFs per proposed revised introductory text of paragraph (c) of Commission regulation 1.25.

³³⁷ *Id.*

³³⁸ Proposal at 81253, Question 11.

³³⁹ Proposal at 81251 and proposed paragraph (c)(8) of Commission regulation 1.25.

introduce risk that the account could be undersegregated.³⁴⁰ The Commission also expressed concern that the transfer of Customer Funds to the authorized participant might be in contravention of Commission regulations that provide that Customer Funds may only be deposited with a bank or trust company, a DCO, or another FCM.³⁴¹ The Commission was further concerned that relying on a third-party authorized participant could protract redemptions, thus violating the requirement in Commission regulation 1.25(b)(1) that Permitted Investments have the ability to be converted into cash within one business day without material discount in value.³⁴² The Commission requested comment on whether there were alternative approaches to requiring FCMs or DCOs to be authorized participants that could address or mitigate the Commission's concerns regarding the segregation of Customer Funds during the purchase and redemption process.³⁴³

Given the time limits for the redemption and liquidation of Permitted Investments in Commission regulation 1.25, the Commission also proposed that Qualified ETFs be required to redeem their shares in cash because in-cash redemptions could allow for a more expeditious liquidation of the shares as compared to in-kind redemptions.³⁴⁴ The Commission also proposed to require, as a condition for qualification as a Permitted Investment, that Qualified ETFs be acceptable by a DCO as performance bond from clearing members to margin customer trades.³⁴⁵

b. Comments

The Commission received ten comments in support of the addition of Qualified ETFs to the list of Permitted

Investments.³⁴⁶ No commenters opposed the addition of Qualified ETFs.

Some commenters expressed their belief that investments in Qualified ETFs are generally safe, short-term investments consistent with the objectives of Commission regulation 1.25 regarding preserving principal and maintaining liquidity of Customer Funds.³⁴⁷ Commenters also stated that the inclusion of U.S. Treasury ETFs would provide FCMs and DCOs the opportunity to diversify their investments.³⁴⁸ SIFMA AMG asserted that at the time of the Commission's last review of Permitted Investments in 2011, the U.S. Treasury ETF market was not well developed, but that at present, it "provides several options" that would meet the standards for Permitted Investments under Commission regulation 1.25.³⁴⁹ Commenters also highlighted the similarity in characteristics between U.S. Treasury ETF securities and other instruments that currently qualify as Permitted Investments.³⁵⁰ In particular, Invesco noted that "customers will continue to be safeguarded because Treasury ETFs' underlying holdings are comprised of a sub-set of the same high-quality liquid instruments that are otherwise permitted under the Commodity Exchange Act and Regulation 1.25."³⁵¹ Consistent with statements made in the Invesco Petition,³⁵² commenters also asserted that investments by FCMs and DCOs in Qualified ETFs would be operationally efficient and cost-effective, because FCMs and DCOs would have the opportunity to invest in an ETF holding a portfolio of U.S. Treasury securities instead of investing directly in the individual U.S. Treasury securities.³⁵³ Several commenters also stated that the design and characteristics of ETFs, such as price and investment holdings transparency, as well as intra-

day trading and liquidity, present additional features that make short-term U.S. Treasury ETFs efficient vehicles for investment of Customer Funds.³⁵⁴

On the other hand, commenters expressed concerns regarding some of the proposed conditions for investing in ETFs and urged the Commission to reconsider them. Several commenters expressed reservations or opposed the proposed requirement that FCMs and DCOs be authorized participants.³⁵⁵ Some commenters stated that this requirement deviates from existing ETF market structure and would unnecessarily limit the FCMs and DCOs that could invest in Qualified ETFs.³⁵⁶ In particular, WFE posited that the requirement "would severely limit the parties that could invest in [Qualified] ETFs to" entities that are registered as broker-dealers and authorized participants, criteria that DCOs do not satisfy.³⁵⁷ Similarly, ICI questioned whether DCOs could even become authorized participants,³⁵⁸ and raised potential operational challenges associated with FCMs and DCOs becoming authorized participants.³⁵⁹ ICI explained that although many FCMs are authorized participants, some FCMs may take the view that becoming an authorized participant is not consistent with their business model, or they may otherwise not want to take on the additional regulatory, compliance, and operational costs associated with becoming an authorized participant.³⁶⁰

Commenters further asserted that the Commission's concerns regarding compliance with the Customer Funds segregation requirements and the prompt liquidation of the Qualified ETF shares could be effectively addressed through existing market practices.³⁶¹ Commenters had several suggestions for alternative arrangements. The majority of commenters opposing the requirement that FCMs and DCOs be authorized participants advocated for the Commission to allow for transactions to occur on a delivery-versus-payment ("DVP") basis via an authorized participant acting as an agent for the FCM or DCO ("Authorized

³⁴⁰ Proposal at 81250–81251. As a result of the transfer of Customer Funds to the authorized participant, the customer segregated account might not be fully funded, potentially violating Commission regulations that require FCMs to maintain, at all times, in the segregated account, money, securities and property in an amount that is at least sufficient in the aggregate to cover their total obligations to all customers. *Id.* at 81251 and 17 CFR 1.20(a), 17 CFR 22.2(f), and 17 CFR 30.7(a).

³⁴¹ Proposal at 81251 and 17 CFR 1.20(b), 17 CFR 22.2(b), and 17 CFR 30.7(b). The Commission noted that with respect to 30.7 customer funds, Commission regulation 30.7(b) also permits funds to be deposited with the clearing organization of any foreign board of trade, a member of any foreign board of trade, or such member's or clearing organization's designated depositories. 17 CFR 30.7(b).

³⁴² Proposal at 81251.

³⁴³ Proposal at 81252, Question 9.

³⁴⁴ Proposal at 81251 and proposed Commission regulation 1.25(c)(8)(i).

³⁴⁵ Proposal at 81251 and proposed Commission regulation 1.25(c)(8)(iii).

³⁴⁶ AIMA at p. 2; BlackRock at p. 2; CCP Global at p. 3; FIA/CME Joint Letter at p. 11; ICI at p. 2; Invesco at p. 2; MFA at p. 5; Nodal at p. 2; SIFMA AMG at p. 3; SSGA at p. 2.

³⁴⁷ CCP Global at pp. 3–4; ICI at pp. 2–6; Invesco at pp. 2–3.

³⁴⁸ AIMA at p. 2; BlackRock at p. 2; CCP Global at p. 3; FIA/CME Joint Letter at p. 2; ICI at p. 2; SIFMA AMG at pp. 3–4; SSGA at p. 2; WFE at p. 5.

³⁴⁹ SIFMA AMG at pp. 3–4.

³⁵⁰ Invesco at p. 2; SIFMA AMG at p. 3; SSGA at p. 2; WFE at p. 5.

³⁵¹ Invesco at p. 2.

³⁵² *Id.* at p. 11. The Invesco Petition asserts that U.S. Treasury ETFs eliminate operational challenges and certain expenses that FCMs and DCOs would experience by directly investing in U.S. Treasury securities, including managing and reinvesting interest payments, periodically rolling positions, and maintaining multiple CUSIPs, requiring professionals to manage the duration, yield, and liquidity of portfolio securities.

³⁵³ SIFMA AMG at p. 4; Invesco at p. 2 (n. 4).

³⁵⁴ BlackRock at p. 3; CCP Global at p. 3; Invesco at p. 2; SIFMA AMG at p. 5; SSGA at p. 2.

³⁵⁵ AIMA at p. 2; BlackRock at p. 2 and pp. 4–5; CCP Global at p. 3; FIA/CME Joint Letter at pp. 11–13; ICI at pp. 3–4; Invesco at pp. 3–5; SIFMA AMG at pp. 5–7; SSGA at p. 2; WFE at p. 5.

³⁵⁶ BlackRock at p. 2; CCP Global at p. 3; FIA/CME Joint Letter at pp. 14–15; ICI at p. 3; Invesco at p. 3; SSGA at p. 2; WFE at p. 5.

³⁵⁷ WFE at p. 5.

³⁵⁸ ICI at p. 3.

³⁵⁹ *Id.*

³⁶⁰ *Id.*

³⁶¹ SIFMA AMG at p. 6.

Participant Agency Model’’).³⁶² Through the Authorized Participant Agency Model, the FCMs and DCOs would have access to the primary market, without being an authorized participant themselves, pursuant to an agreement with other authorized participants that would transact as agents on their behalf.³⁶³ According to the commenters, the Authorized Participant Agency Model would allow FCMs and DCOs to access an ETF’s primary market on the same terms as if they were authorized participants themselves and receive the benefits associated therewith (e.g., same day or next-day settlement and transacting at NAV).³⁶⁴ As explained in the Invesco comment letter, when operating on a DVP basis through the Authorized Participant Agency Model, the FCM or DCO would not, in the case of a redemption, transfer Qualified ETF shares to the Qualified ETF (through the authorized participant) until cash is received by such FCM or DCO.³⁶⁵ In the case of a creation transaction, cash would not be transferred by the FCM or DCO to the Qualified ETF (through the authorized participant) until the Qualified ETF shares are received.³⁶⁶ Invesco further stated that at no time would Customer Funds (either cash or Qualified ETF shares) be in the custody of any entity outside of the applicable FCM’s or DCO’s segregated Customer Funds depository.³⁶⁷ Further, under the Authorized Participant Agency Model, the redemption or creation would occur at NAV and settle within a day.³⁶⁸ Several commenters also noted that this DVP process would be similar to what is applicable to repurchase agreements currently allowed under CFTC regulations.³⁶⁹ Finally, AIMA suggested allowing the DCOs to provide a letter of credit to an ETF and the ETF would agree to pay a penalty for late redemptions.³⁷⁰ ICI also stated that market-based solutions, such as providing letters of credit to the authorized participant could resolve potential exposure concerns that an authorized participant could have if it

engages in redemption transactions before receiving the ETF shares.³⁷¹ Another alternative commenters suggested was to allow FCMs and DCOs to transact on the secondary market, again on a DVP basis.³⁷² SIFMA AMG stated that recent changes in SEC regulations, effective in May 2024, shorten the standard settlement cycle for most institutional securities transactions from two business days after the trade date (T+2) to one (T+1).³⁷³ Thus, SIFMA AMG asserted that as long as transactions are done on a DVP basis, secondary market transactions to sell Qualified ETF shares should be permitted.³⁷⁴

With regard to the proposed requirement that Qualified ETFs be required to redeem their shares in cash, commenters largely advocated that the Commission allow Qualified ETFs to redeem in kind as well as in cash.³⁷⁵ Specifically, BlackRock recommended that the Commission revise the condition to allow for redemptions in cash or in kind with a same day settlement (T+0) option.³⁷⁶ BlackRock argued that in-kind redemptions are standard for many ETFs as they provide an efficient way for portfolio managers to execute changes in an ETF’s portfolio.³⁷⁷ ICI echoed BlackRock’s recommendation and stated that in-kind redemptions can offer investors more efficient tax treatment.³⁷⁸ ICI explained that an ETF’s ability to redeem in kind permits it to defer tax realization for remaining shareholders in the ETF, thus reducing capital gains payments and related distributions, as compared to redeeming shares for cash.³⁷⁹ ICI argued that requiring ETFs to redeem in cash would not only potentially reduce the benefits of deferred tax treatment to a Treasury ETF’s shareholders, but may limit the potential universe of Qualified

ETFs, thus reducing diversification opportunities for FCMs and DCOs.³⁸⁰ ICI further asserted that several ETFs, including several Treasury ETFs, have a T+0 redemption cycle, which allows for delivery of in-kind securities on the day of the trade so that securities can be sold the next business day.³⁸¹ ICI asserted that the ability to redeem at a T+0 settlement cycle would satisfy the Commission’s concerns regarding next day liquidation of the underlying U.S. Treasury securities.³⁸² Further, FIA and CME stated that allowing in-kind redemptions is at times more advantageous given that U.S. Treasury securities themselves are a highly liquid investment.³⁸³ Additionally, FIA and CME noted that requiring cash redemptions “could potentially cause an inequitable first-mover advantage; liquidation of a significant portion of the fund to meet a redemption could cause a drop in the value of the underlying assets and in turn of the shares of the fund.”³⁸⁴

Asserting that in-kind redemptions are a key feature of a U.S. Treasury ETF’s pricing mechanism, SIFMA AMG raised concerns that an in-cash redemption mandate could potentially distort the price of a Qualified ETF.³⁸⁵ SIFMA AMG argued that, as a result, an FCM or DCO may be subject to a settlement price that is not at the fund’s NAV (i.e., not its fair value).³⁸⁶ SIFMA AMG also noted that some DCOs accept U.S. Treasury securities as margin and an FCM might want to have the option to redeem shares in kind to post such securities with the clearinghouse or to return U.S. Treasury collateral to customers.³⁸⁷ Further, according to SIFMA AMG’s understanding, when an authorized participant makes an in-kind redemption request, whether for itself or on behalf of another market participant with whom it has an agency arrangement, a Qualified ETF is able to complete settlement within one business day.³⁸⁸ Finally, SIFMA AMG asserted that in-kind redemptions also avoid certain transaction fees, keeping cost lower for investors.³⁸⁹

Several commenters also criticized the condition that DCOs accept the interest in the Qualified ETF as

³⁷¹ ICI at p. 4.

³⁷² BlackRock at pp. 4–5; CCP Global at p. 3; FIA/CME Joint Letter at pp. 14–15; SIFMA AMG at pp. 2–3, 5–6; SSGA at p. 2.

³⁷³ SIFMA AMG at p. 6; *see also* Shortening the Securities Transaction Settlement Cycle, 88 FR 13872 (March 6, 2023).

³⁷⁴ SIFMA AMG at p. 6.

³⁷⁵ BlackRock at pp. 2, 5; FIA/CME Joint Letter at pp. 12–13; ICI at pp. 4–5; MFA at pp. 5–6; SIFMA AMG at pp. 7–8; SSGA at p. 3.

³⁷⁶ BlackRock at pp. 2, 5. BlackRock further noted that the SEC recognized the benefits of in-kind redemptions in SEC Rule 6c–11, stating “ETFs that meet redemptions in cash may maintain larger cash positions to meet redemption obligations, potentially resulting in cash drag on the ETF’s performance. The use of cash baskets also may be less tax-efficient than using in-kind baskets to satisfy redemptions, and may result in additional transaction costs for the purchase and sale of portfolio holdings.” *Id.* at p. 5.

³⁷⁷ *Id.*

³⁷⁸ ICI at pp. 4–5.

³⁷⁹ *Id.* at p. 4.

³⁸⁰ *Id.*

³⁸¹ *Id.* *See also* AIMA at p. 2; BlackRock at p. 2.

³⁸² ICI at p. 4.

³⁸³ FIA/CME Joint Letter at pp. 12–13. *See also* WFE at p. 6.

³⁸⁴ *Id.*

³⁸⁵ SIFMA AMG at pp. 7–8.

³⁸⁶ *Id.* at p. 8.

³⁸⁷ SIFMA AMG at pp. 7–8.

³⁸⁸ *Id.*

³⁸⁹ *Id.* at p. 8.

³⁶² CCP Global at p. 3; Invesco at p. 4; FIA/CME Joint Letter at pp. 13–15; BlackRock at p. 4; ICI at pp. 3–4; SIFMA AMG at pp. 2, 5–7; SSGA at p. 2.

³⁶³ Invesco at p. 4.

³⁶⁴ *Id.*

³⁶⁵ *Id.*

³⁶⁶ *Id.*

³⁶⁷ *Id.*

³⁶⁸ *Id.*

³⁶⁹ Invesco at p. 4; SIFMA AMG at p. 6 (noting that pursuant to Commission regulation 1.25(d)(9), a repurchase agreement that is a Permitted Investment must provide for the transfer of securities or cash on a DVP basis to a customer segregated account.).

³⁷⁰ AIMA at p. 2.

performance bond.³⁹⁰ Among them, FIA and CME observed that CME is the only DCO that currently accepts U.S. Treasury ETFs as collateral, and that if CME were to modify or cease its acceptance of such ETFs, the change would be disruptive to FCMs.³⁹¹ FIA and CME cautioned that the Commission should not conflate the standards governing collateral acceptability at DCOs with the requirements for Permitted Investments.³⁹² Consistent with these concerns, other commenters argued that DCOs and FCMs have their own risk management policies, which consider the institution's unique characteristics and specific risk management needs.³⁹³ SIFMA AMG further asserted that using a DCO's initial margin standards as a proxy for determining whether a U.S. Treasury ETF is a safe investment instrument for Customer Funds is not appropriate.³⁹⁴ In this regard, SIFMA AMG argued that the Commission should rely instead on factors that address the preservation of principal and liquidity already specified in Commission regulation 1.25. They further asserted that using a DCO's performance bond criteria as a gatekeeper unnecessarily constrains the diversification determination that should be made by each FCM or DCO using factors set out in Commission regulation 1.25.³⁹⁵

Commenters also generally opposed the proposed condition that Qualified ETFs invest at least 95 percent of their portfolio in securities comprising the short-term U.S. Treasury index that the fund is designed to track, suggesting instead that the Commission adopt an 80 percent threshold requirement, which is consistent with current market conventions.³⁹⁶ ICI pointed out that many ETFs, including certain Treasury ETFs, have adopted an 80 percent investment policy pursuant to SEC Rule 35d-1 under the Investment Company

Act of 1940 ("SEC Rule 35d-1"), which requires a fund to have adopted a "policy to invest, under normal circumstances, at least 80% of the value of its assets in investments in accordance with the investment focus that the fund's name suggests."³⁹⁷ CCP Global and WFE stated that the proposed condition was unnecessarily punitive.³⁹⁸ WFE added that the proposed 95 percent threshold could cause funds to deviate from their index.³⁹⁹ Conversely, although they did not oppose the Commission's 95 percent portfolio threshold requirement, BlackRock and ICI requested clarification on the impacts of this increased threshold on the ETF's stated investment policies and associated documentation.⁴⁰⁰ BlackRock and ICI asked if the Commission were to adopt the proposed 95 percent portfolio threshold, that the Commission clarify that an investment requirement would be satisfied by funds that maintain investments meeting the specified threshold, even if the fund's prospectus permits the fund to hold securities outside of the threshold.⁴⁰¹ ICI stated that if the 95 percent threshold was adopted as a fundamental investment policy, changing the investment policy would require a shareholder proxy vote, which is costly and burdensome to obtain.⁴⁰² Therefore, ICI recommended that the Commission confirm that it is establishing a portfolio test for a Qualified ETF, which would not require the Treasury ETFs to change any existing investment policies or associated disclosures.⁴⁰³ ICI also requested that cash be allowed to satisfy the threshold requirement set in addition to eligible U.S. Treasury securities.⁴⁰⁴ FIA and CME noted, however, that FCMs and DCOs rely on the composition thresholds stated in funds' prospectus terms in conducting due diligence of investments and expressed concerns that there may not be industry-wide amendments to prospectus terms in response to the 95 percent threshold requirement.⁴⁰⁵ WFE also recommended that the Commission clarify the steps that would be taken in the situation where a percentage threshold requirement is breached and

an FCM or DCO is expected to divest from the fund.⁴⁰⁶

In addition, five commenters requested that the Commission revise the portfolio composition requirements to allow for additional investments.⁴⁰⁷ Specifically, commenters recommended that in addition to short-term U.S. Treasury securities, the Commission allow Qualified ETFs to invest in certain repurchase agreements, cash, and "cash equivalents," including MMFs.⁴⁰⁸ Three commenters asserted that the revision would provide appropriate flexibility, while preserving the high quality and liquid nature of the ETF.⁴⁰⁹ Arguing that the Commission should align the Qualified ETF's portfolio requirements with the requirements applicable to Permitted Government MMFs, a few commenters also requested that the Commission allow Qualified ETFs to invest in short-term securities issued by U.S. government agencies that are fully guaranteed as to principal and interest by the U.S. government.⁴¹⁰

In connection with the proposed requirement that FCMs and DCOs obtain the acknowledgement letter required by Commission regulation 1.26 from an "entity with substantial control over the

³⁹⁰ WFE at p. 6.

³⁹¹ BlackRock at pp. 2–3; CCP Global at p. 3; FIA/CME Joint Letter at pp. 11–12; MFA at p. 5; WFE at p. 6.

³⁹² BlackRock at p. 3 (arguing that the Commission should expand the eligible underlying investments to align them with those allowed for Permitted Government MMFs, *i.e.*, cash, government securities, and/or repurchase agreements that are fully collateralized); CCP Global at p. 3 (arguing that the Commission should allow Qualified ETFs to invest in U.S. Treasury securities, cash, Repurchase Transactions collateralized in U.S. Treasury securities, and U.S. Treasury MMFs); FIA/CME Joint Letter at p. 12 (recommending that the Commission allow a Qualified ETF to invest in securities with a maximum remaining maturity of 12 months or less issued or guaranteed by the U.S. Treasury, including securities issued by U.S. government agencies that are backed by the full faith and credit of the U.S. government, as well as government MMFs, and/or Repurchase Transactions with a remaining term to final maturity of 12 months or less collateralized by U.S. Treasury securities or other government securities (as defined under SEC Rule 2a-7) with a remaining term to final maturity of 12 months or less); MFA at p. 5 (arguing that the Commission should allow Qualified ETFs to invest in securities with a maximum remaining maturity of less than 12 months issued or guaranteed by the U.S. Treasury, including short-term securities issued by U.S. government agencies that are backed by the full faith and credit of the U.S. government, government MMFs, and/or Repurchase Transactions with a remaining term to final maturity of 12 months or less collateralized by U.S. Treasury securities or other government securities with a remaining term to final maturity of 12 months or less).

³⁹³ BlackRock at p. 3; FIA/CME Joint Letter at p. 12; WFE at p. 6.

³⁹⁴ BlackRock at p. 3; FIA/CME Joint Letter at p. 11; MFA at p. 5.

³⁹⁰ BlackRock at p. 6; WFE at p. 6; FIA/CME at p. 13; SIFMA AMG at p. 7; CCP Global at p. 3–4.

³⁹¹ FIA/CME Joint Letter at p. 13.

³⁹² FIA/CME Joint Letter at p. 13 (referencing Commission regulation 39.13(g)(10), which provides that DCOs must limit the assets they accept as initial margin to those that have minimal credit, market, liquidity risk, and Commission regulation 39.33, which provides that DCOs' financial resources may include highly marketable collateral, including high quality, liquid, general obligations of a sovereign nation provided that these assets are readily available and convertible into cash pursuant to prearranged and highly reliable funding arrangements under extreme but plausible market conditions); CCP Global at p. 4.

³⁹³ CCP Global at p. 4; SIFMA AMG at p. 7.

³⁹⁴ SIFMA AMG at p. 7.

³⁹⁵ *Id.*

³⁹⁶ AIMA at p. 3; CCP Global at p. 3; MFA at p. 5; FIA/CME Joint Letter at p. 12; WFE at p. 6.

³⁹⁷ ICI at p. 5; *see also* 17 CFR 270.35d-1.

³⁹⁸ CCP Global at p. 3; WFE at p. 6.

³⁹⁹ WFE at p. 6.

⁴⁰⁰ BlackRock at p. 3; ICI at p. 5.

⁴⁰¹ BlackRock at p. 3; *see also* ICI at p. 6.

⁴⁰² ICI at p. 5.

⁴⁰³ ICI at p. 6.

⁴⁰⁴ ICI at p. 5; *see also* BlackRock at p. 2; CCP Global at p. 3; FIA/CME Joint Letter at p. 12 (note 58); WFE at p. 6.

⁴⁰⁵ FIA/CME Joint Letter at p. 12.

ETF interests,”⁴¹¹ FIA and CME requested clarification regarding the appropriate signatory to the letter. FIA and CME noted that the entity with substantial control over the ETF interests may differ depending on whether the Final Rule requires FCMs and DCOs to be authorized participants.⁴¹² Specifically, FIA and CME noted that if, in referring to the “depository acting as custodian for the ETF interests,” the Commission intends to refer to the custodian of the Qualified ETF, such depository is likely not the entity with substantial control over the Qualified ETF interests given that it will not have a record of the FCM’s or DCO’s interests in the Qualified ETF and the “depository’s role, including in effecting purchase/redemption/transfer transactions, will be at the direction of the Qualified ETF.”⁴¹³

Finally, in response to the Commission’s question whether there are any extraordinary circumstances, similar to the events listed in Commission regulation 1.25(c)(5)(ii) with respect to MMFs, that may justify an exception to the proposed next-day redemption requirement with regard to Qualified ETFs, three commenters recommended that the redemption exceptions for MMFs be made available for Treasury ETFs.⁴¹⁴ FIA and CME argued that Qualified ETFs and Permitted Government MMFs have comparable credit, market, and liquidity risk and therefore should be subject to the same regulatory treatment of extraordinary circumstances in which redemptions could be postponed.⁴¹⁵ ICI also supported exceptions to the next-day redemption requirement for ETFs and noted that many ETFs include disclosure in their registration statements regarding the ability to suspend redemption and payment consistent with section 22(e) of the Investment Company Act of 1940.⁴¹⁶

⁴¹¹ Proposal at 81250 and proposed Commission regulation 1.25(c)(3).

⁴¹² FIA/CME Joint Letter at p. 15.

⁴¹³ *Id.* at pp. 15–16.

⁴¹⁴ ICI at p. 6 (focusing on the circumstances specified in section 22(e) of the Investment Company Act of 1940); FIA/CME Joint Letter at p. 18; SSGA at p. 3.

⁴¹⁵ FIA/CME Joint Letter at p. 18.

⁴¹⁶ ICI at p. 6. ICI further stated that since section 22(e) of the Investment Company Act of 1940 applies to ETFs as well as MMFs, the redemption exemptions under Commission regulation 1.25(c)(5)(ii), which are consistent with, and expand upon, the exceptions listed in section 22(e), should also apply to ETFs. *Id.*; see also section 22(e) of the Investment Company Act of 1940, 15 U.S.C. 80a–22(e) (restricting investment companies from suspending the right of redemption or postponing the date of payment or satisfaction upon redemption of any redeemable security, for more than seven days, except in certain enumerated

c. Discussion

After considering the comments received, the Commission is adopting the proposed addition of interests in Qualified ETFs to the list of Permitted Investments, subject to certain modifications discussed below. The Commission reiterates that the inclusion of Qualified ETFs as a Permitted Investment should foster innovation and promote competition in the ETF market and the financial services industry more generally. Further, the addition of Qualified ETFs should also foster diversification in the investment of Customer Funds through a new type of financial instrument that allows FCMs and DCOs to purchase a type of collateral (*i.e.*, U.S. Treasury securities) that is already a Permitted Investment without having to acquire the securities directly or through an MMF. That is, the Commission agrees with commenters that by allowing FCMs and DCOs to invest Customer Funds in Qualified ETFs, the Commission would provide FCMs and DCOs with an efficient means for investing indirectly in Permitted Investments, specifically U.S. Treasury securities, while allowing FCMs and DCOs to reduce the expenses and resources required to manage individual, direct investments in such instruments.⁴¹⁷ Further, because Qualified ETFs would be required to meet the conditions discussed below, Qualified ETFs would be comparable to Permitted Government MMFs whose interests currently qualify as Permitted Investments under Commission regulation 1.25(a).⁴¹⁸

In response to the comments received, the Commission has determined to revise the requirement that an FCM or DCO be an authorized participant in order to invest Customer Funds in

circumstances including New York Stock Exchange closures outside of customary week-end and holiday closings or periods when trading on the New York Stock Exchange is restricted).

⁴¹⁷ Invesco at p. 2; SIFMA AMG at p. 4.

⁴¹⁸ SEC Rule 2a–7, which applies to MMFs, restricts the types of investments in which MMFs can invest their assets, limits the terms of the investments, and imposes liquidity requirements with respect to the investments, among other things. 17 CFR 270.2a–7(d)(2) (providing that MMFs must limit their portfolio investments to U.S. dollar-dominated securities that at the time of acquisition are eligible securities), 17 CFR 270.2a–7(d)(1) (limiting the terms of maturity of MMFs’ investments), and 17 CFR 270.2a–7(d)(4) (providing that MMFs must hold securities that are sufficiently liquid to meet reasonably foreseeable shareholder redemptions and setting forth other liquidity requirements). Although SEC Rule 2a–7 does not apply to ETFs, as described below, this Final Rule admits as a Permitted Investment only ETFs providing investors with substantial protections that are comparable, though not identical, to those afforded to MMF investors.

Qualified ETFs.⁴¹⁹ Instead, under the terms of the Final Rule, an FCM or DCO would be able to invest Customer Funds in interests of a Qualified ETF either as an authorized participant of the Qualified ETF or by entering into an agency agreement with an authorized participant, whereby the authorized participant would transact with the ETF on behalf of the FCM or DCO. In both instances, the transactions must take place on a DVP basis, such that no Customer Funds are transferred out of the segregated customer accounts maintained in compliance with section 4d of the Act and/or part 30 of the Commission’s regulations until property of equal or greater value is deposited in the customer segregated accounts.

The Commission understands that generally the process of transacting on a DVP basis through an authorized participant acting on behalf of an FCM or DCO would function as follows. In the case of a creation transaction, the authorized participant would use its proprietary funds to acquire a creation basket of U.S. Treasury securities before placing an order with the Qualified ETFs for the purchase of creation units. Upon receipt of the Qualified ETF shares, the authorized participant would transfer such shares to the FCM’s or DCO’s customer segregated accounts and receive payment from the FCM or DCO customer segregated account on a DVP basis. Under no circumstances would the authorized participant receive payment of Customer Funds from the FCM or DCO until the authorized participant has transferred the Qualified ETF interests to the FCM’s or DCO’s customer segregated accounts.

In the case of a redemption transaction, the authorized participant would either pre-fund the redemption with the FCM or DCO (*i.e.*, transfer proprietary cash funds to the FCM’s or DCO’s customer segregated accounts prior to the transfer of the Qualified ETF shares from the customer segregated accounts to the authorized participant) or post cash collateral with the fund to obtain U.S. Treasury securities prior to receiving the Qualified ETF shares from the FCM or DCO and then transferring the shares to the fund. The authorized participant would receive a fee from the FCM or DCO for the service. For the process to comply with the Commission’s segregation requirements, the fee may not be paid with Customer Funds. In addition, although the authorized participant would be acting as an agent of the FCM or DCO, the ETF would not hold the FCM or DCO

⁴¹⁹ Proposal at 81252 and proposed Commission regulation 1.25(c)(8).

accountable for any failure of the authorized participant to perform its obligations to the ETF.⁴²⁰ The Commission has addressed the concern of commenters who requested an alternative to the proposed requirement that the FCM or DCO be an authorized participant in the revisions from the Proposal discussed above that enable an FCM or DCO to invest Customer Funds in interests of a Qualified ETF through an agency agreement with an authorized participant.

Moreover, regardless of the exact process used by FCMs and DCOs to transact with an authorized participant, for the transaction to be compliant with Commission regulations, the FCM or DCO must ensure that: (i) all Commission segregation requirements are met throughout the process; (ii) the transaction occurs on a DVP basis; (iii) no fees and/or other costs associated with the transaction are charged to the customer segregated accounts; and (iv) no person, including, but not limited to, the ETF or the authorized participant has any claim over Customer Funds held by the FCM or DCO.

Eliminating the requirement that FCMs and DCOs be authorized participants from the Final Rule should expand the opportunity to invest Customer Funds in Qualified ETFs beyond those FCMs and DCOs that have the resources to become authorized participants. This change addresses concerns raised by commenters that requiring FCMs and DCOs to be authorized participants would unfairly favor the limited number of FCMs that are already authorized participants and disadvantage DCOs that may not meet the criteria of an authorized participant.⁴²¹ Further, as noted by commenters, some FCMs may not want to incur the regulatory, compliance, and operational costs associated with becoming an authorized participant.⁴²² In addition to these costs, which some FCMs may find excessive, commenters

asserted that there are “potential operational burdens and registration requirements for becoming an authorized participant [that] may outweigh the potential benefits of investing customer funds in ETFs.”⁴²³ The Commission is persuaded by commenters that the stated challenges to becoming an authorized participant may burden FCMs and DCOs so substantially that they are unable to take advantage of Qualified ETFs as an investment option. Thus, removing the requirement that FCMs and DCOs be authorized participants should provide an opportunity for all FCMs and DCOs, regardless of their size or specific business model, to invest Customer Funds in Qualified ETFs if the FCMs and DCOs determine that such investment is consistent with their risk-management policies.

As noted above, several commenters requested that the Commission also allow FCMs and DCOs to invest Customer Funds in shares of Qualified ETFs via secondary market transactions on a DVP basis.⁴²⁴ The Commission understands that the changes to the standard settlement cycle of certain broker-dealer transactions, including transactions in ETFs, that became effective in May 2024,⁴²⁵ may allow liquidation of Qualified ETF shares to occur on the secondary market in compliance with Commission regulation 1.25’s general liquidity requirement, which provides that Permitted Investments must have the ability to be converted into cash within one business day without material discount in value.⁴²⁶ Commenters also noted that there has been substantial growth in the secondary ETF market, which has made pricing differences from the primary market minimal.⁴²⁷ The Commission has also observed that individual Treasury bills, when purchased on the secondary market, may have a wider bid-ask spread when compared to Treasury ETF shares.⁴²⁸ Therefore, the Commission has determined not to restrict FCMs and DCOs from investing Customer Funds in shares of Qualified

ETFs by buying and selling such shares on the secondary market, provided such transactions are transacted in compliance with the Commission’s segregation requirements, and consistent with Commission regulation 1.25’s liquidity requirements, as well as all other applicable provisions.⁴²⁹ The Commission also notes, as further discussed in section IV.C. of this preamble, that the Final Rule provides that FCMs would be subject to a 6 percent capital charge on investments in Qualified ETF shares that do not comprise a full creation unit.⁴³⁰

In adopting the Final Rule, the Commission has also determined to modify the proposed requirement that FCMs and DCOs redeem Qualified ETFs in cash. The Commission understands that ETFs typically redeem interests in kind, although they may also redeem in cash or both in kind and in cash. As discussed above, the Commission proposed to require that Qualified ETFs redeem their shares within one business day following the submission of the redemption request to help ensure a more expeditious liquidation of the Qualified ETF shares, consistent with the time limit for redemptions applicable to MMFs under Commission regulation 1.25(c)(5) and the general liquidity requirement in Commission regulation 1.25(b)(1).⁴³¹ The

⁴²⁹ An FCM or DCO is required to manage the purchase and sale of Qualified ETF shares on the secondary market consistent with the Commission’s segregation requirements, particularly the requirement to ensure that the firm is not undersegregated at any point in time. In this respect, an FCM or DCO may elect to use proprietary funds to purchase Qualified ETF shares and subsequently transfer the shares to a customer segregated account. Alternatively, to the extent that an FCM or DCO holds funds in customer segregated accounts in excess of the total amount owed to customers (including any applicable residual interest requirements), the FCM or DCO may withdraw such funds and use such funds to purchase shares of Qualified ETFs. Furthermore, an FCM or DCO liquidating Qualified ETF shares that are held in customer segregated accounts must ensure that the removal of such shares does not result in the customer accounts becoming undersegregated (including any applicable residual interest requirements). Alternatively, the FCM or DCO must transfer proprietary cash or other Permitted Investments into customer segregated accounts in an amount equal or greater than the fair market value of the Qualified ETF Shares prior to the removal of the shares from the customer segregated accounts.

⁴³⁰ See Letter titled *Net Capital Treatment of Certain U.S. Treasury Exchange-Traded Funds*, issued by the Division of Trading and Markets to Ms. Kris Dailey, Vice President, Risk Oversight & Operational Regulations, Financial Industry Regulatory Authority, June 2, 2022 (“SEC ETF Letter”). The SEC ETF Letter is available at the SEC’s website: <https://www.sec.gov/divisions/marketreg/mr-noaction/2022/finra-060222-15c3-1.pdf>.

⁴³¹ Proposal at 81251.

⁴²⁰ The Commission’s understanding on this matter is based on representations made by ICI and Invesco during a conversation with Commission staff on August 5, 2024, during which ICI and Invesco further explained the statements in their comment letters. In its comment letter, ICI noted that market-based solutions, such as submitting letters of credit to the authorized participant “could resolve potential exposure concerns that an [authorized participant] could have if engaging in redemption transactions before receiving the ETF shares.” ICI at p.3. Additionally, one other commenter, AIMA, suggested permitting a DCO to submit a letter of credit to the ETF in lieu of requiring a DCO to become an authorized participant. AIMA at p. 2. During a conversation with Commission staff on August 5, 2024, however, ICI represented that the submission of letters of credit is not a common business practice.

⁴²¹ WFE at p. 5; ICI at p. 3.

⁴²² ICI at p. 3 (n. 8).

⁴²³ BlackRock at p. 5.

⁴²⁴ BlackRock at pp. 4–5; CCP Global at p. 3; SSGA at p. 2; SIFMA AMG at pp. 2–3, 5–6; FIA/CME Joint Letter at pp. 14–15.

⁴²⁵ Shortening the Securities Transaction Settlement Cycle, 88 FR 13872 (March 6, 2023).

⁴²⁶ 17 CFR 1.25(b)(1).

⁴²⁷ FIA/CME Joint Letter at p. 15; CCP Global at p. 3.

⁴²⁸ The Commission reviewed Bloomberg data from five ETFs: iShares Short Treasury Bond ETF (SHV); SPDR Bloomberg 1–3 Month T-Bill ETF (BILL); iShares 0–3 Month Treasury Bond ETF (SGOV); Goldman Sachs Access Treasury 0–1 Year ETF (GBILL); and Invesco Short Term Treasury ETF (TBLL).

Commission has considered the comments asserting that redemptions in kind can satisfy the liquidity requirements imposed by Commission regulation 1.25.⁴³² Specifically, the Commission has considered arguments that short-term U.S. Treasury ETFs may commit to redeem shares on the same business day of the redemption request, thus allowing FCMs and DCOs to liquidate the underlying U.S. Treasury securities within one business day, as required by Commission regulation 1.25.⁴³³ The Commission, however, understands that such redemption timeframe may be conditioned upon the fund receiving the redemption request before a certain cut-off time during the business day.⁴³⁴ In addition, liquidation of the underlying U.S. Treasury securities may be delayed during periods of market turmoil. Such delay may, in particular, hinder the FCM's ability to return Customer Funds to customers or to post variation margin to the clearing house. To ensure that FCMs and DCOs are able to liquidate an investment in a Qualified ETF within the timeframe mandated by Commission regulation 1.25, the Commission has determined to require FCMs and DCOs that are not authorized participants to redeem Qualified ETF shares in cash within one business day of the redemption request. To that effect, an FCM DCO conducting the redemption through an authorized participant acting as the FCM's or DCO's agent must ensure that its contractual agreement with the authorized participant requires the authorized participant to transfer cash to the customer segregated account of the FCM or DCO, on a DVP basis, within one business day of the redemption request. For FCMs that are authorized participants of the Qualified ETF, the Commission has determined to allow such FCMs to redeem Qualified ETF shares in kind, provided that the FCM has the operational ability to convert the instruments received pursuant to the redemption into cash within one business day of the redemption request. The Commission is making this determination based on the understanding that FCMs that qualify as

authorized participants are securities brokers or dealers that have the operational capacity and arrangements in place to convert the U.S. Treasury securities received upon redemption into cash in a timely manner. The Commission believes that such policy, where the FCM or DCO is obligated to have the necessary contractual agreements in place to redeem Qualified ETF shares in cash or to swiftly convert U.S. Treasury securities into cash, as applicable, but the Qualified ETFs preserve the possibility to redeem in kind, should resolve commenters' concerns that applying an in-cash redemption condition to the ETF would limit the potential universe of ETFs that qualify as a Permitted Investment.⁴³⁵ It should also resolve other commenters' concerns discussed above that requiring an ETF to redeem in cash might cause an inequitable first-mover advantage.⁴³⁶

Further, following consideration of comments received, the Commission has determined not to adopt, as a condition for qualification as a Permitted Investment, the proposed requirement that Qualified ETFs be acceptable by a DCO as performance bond from clearing members to margin customer trades. In making this determination, the Commission acknowledges the views of various commenters that the standards for DCO collateral acceptability and the standards for Permitted Investments should not be conflated.⁴³⁷ Specifically, Commission regulation 1.25(b) requires that an FCM or DCO "manage the permitted investments consistent with the objectives of preserving principal and maintaining liquidity."⁴³⁸ By comparison, Commission regulation 39.13(g)(10) requires DCOs to "limit the assets it accept as initial margin to those that have minimal credit, market, and liquidity risk."⁴³⁹ Although there are similarities between these requirements, the Commission confirms that an FCM's or DCO's investment choices for Permitted Investments of Customer Funds should be governed by the standards set forth in Commission regulation 1.25. The Commission also recognizes the potential unintended consequences for FCMs if CME—

currently the only DCO that accepts short-term U.S. Treasury ETFs as a performance bond—changes its collateral acceptability policy and stops accepting such ETFs, particularly if the change in policy is unrelated to the safety and liquidity of the collateral instrument.⁴⁴⁰

The Commission is also adopting with some changes the requirement that the Qualified ETF invest at least 95 percent of its assets in eligible securities comprising the short-term U.S. Treasury index whose performance the fund seeks to replicate and cash. In the Final Rule, eligible short-term securities are defined as bonds, notes, and bills with a remaining maturity of 12 months or less, issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of the Treasury. In response to comments, the Commission did not intend to limit the amount of cash that Qualified ETFs hold and is therefore adjusting the requirement to clarify that cash is an eligible underlying asset for purposes of the 95 percent threshold.⁴⁴¹ The Commission understands that many ETFs, including certain U.S. Treasury ETFs, have adopted an investment policy consistent with SEC Rule 35d-1,⁴⁴² which requires that certain registered investment companies, including ETFs, adopt a policy to invest at least 80 percent of the value of their assets in accordance with the investment focus suggested by the fund's name.⁴⁴³ The Commission, however, has determined to maintain a stricter standard than an 80 percent minimum in order to help ensure that FCMs and DCOs invest Customer Funds in accordance with Commission regulation 1.25's general objectives of preserving principal and maintaining liquidity.

The Commission acknowledges commenters' concerns regarding the potential burdens and costs associated with changing the fund's fundamental investment policy to reflect the adoption of a 95 percent portfolio

⁴⁴⁰ FIA/CME Joint Letter at p. 13.

⁴⁴¹ ICI at p. 5; FIA/CME Joint Letter at p. 12 (note 58); CCP Global at p. 3; WFE at p. 6; BlackRock at p. 2.

⁴⁴² AIMA at p. 3; MFA at p. 5; FIA/CME Joint Letter at p. 12; CCP Global at p. 3; ICI at p. 5.

⁴⁴³ SEC Rule 35d-1 under the Investment Company Act of 1940 (indicating that a fund name suggesting that the fund focuses its investments in a particular type of investments or in investments in a particular industry would be a materially deceptive and misleading name unless the fund has adopted a policy to invest, under normal circumstances, at least 80 percent of the value of its assets in the particular type of investments or in investments in the particular industry suggested by the fund's name). 17 CFR 270.35d-1.

⁴³² BlackRock at pp. 2,5; ICI at pp. 4-5; MFA at pp. 5-6; SSGA at p. 3; SIFMA AMG at pp. 7-8; FIA/CME Joint Letter at pp. 12-13.

⁴³³ ICI at p. 4; AIMA at p. 2; BlackRock at p. 5; Invesco at p. 4; *see also* Invesco Petition at p. 6.

⁴³⁴ Invesco Petition at p. 6 (noting that an U.S. Treasury ETF generally offers and redeems shares with settlement on the same day (if creation or redemption orders are received before 12:00 p.m. Eastern time) or the next business day (if creation or redemption orders are received on or after 12:00 p.m. Eastern time) at the NAV next calculated in creation units in exchange for the deposit or delivery of a basket of securities).

⁴³⁵ ICI at p. 4.

⁴³⁶ FIA/CME Joint Letter at pp. 12-13.

⁴³⁷ CCP Global at p. 4; FIA/CME Joint Letter at p. 13; SIFMA AMG at p. 7.

⁴³⁸ 17 CFR 1.25(b).

⁴³⁹ 17 CFR 39.13(g)(10). Further, 17 CFR 39.33(c)(3)(E) allows DCO's financial resources to include highly marketable collateral, including high quality, liquid, general obligations of a sovereign nation that must be readily available and convertible into cash pursuant to prearranged and highly reliable funding arrangements, even in extreme but plausible market conditions.

threshold.⁴⁴⁴ Therefore, the Commission is clarifying that a U.S. Treasury ETF meets the 95 percent portfolio threshold requirement if the fund effectively invests 95 percent or more of its assets in eligible securities and cash, even if the fund's registration statement sets a lower threshold. However, to ensure that a U.S. Treasury ETF meets the conditions for qualification as a Permitted Investment, FCMs and DCOs must verify that the fund satisfies the 95 percent threshold requirement. Thus, FCMs and DCOs are required to monitor the Qualified ETF's portfolio and should do so on a monthly basis, consistent with existing regulations applicable to FCMs to submit monthly financial reports within 17 business days after the end of each month,⁴⁴⁵ particularly in the absence of registration statement language reflecting the fund's commitment to adhere to the 95 percent threshold requirement.

Further, the Commission confirms that, under the Final Rule, if the aggregate of the ETF's cash holdings and assets invested in eligible securities comprising the short-term U.S. Treasury index falls below 95 percent of the fund's total assets, the FCM or DCO is not permitted to make additional investments of Customer Funds in the Qualified ETF. Rather, as the Commission stated in the Proposal, the FCM or DCO should take reasonable actions to divest interests in the fund, while managing Customer Funds in a manner consistent with Commission regulation 1.25's general objectives of preserving principal and maintaining liquidity.⁴⁴⁶ In response to a comment requesting further clarification on the actions to be taken should a threshold breach by the fund occur,⁴⁴⁷ the Commission confirms, as discussed in the Proposal, that depending on the market conditions, such actions may include taking steps to progressively reduce the amount of Customer Funds invested in Qualified ETFs rather than immediately divesting the full amount of the investments in a potentially volatile market.⁴⁴⁸

In addition, the Commission has determined to maintain the scope of eligible underlying instruments to be included in the 95 percent threshold to bonds, notes, and bills with a remaining maturity of 12 months or less, issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of the Treasury,

and cash. In response to comments advocating that the scope of Qualified ETFs be expanded to funds that invest in certain short-term U.S. agency obligations,⁴⁴⁹ the Commission acknowledges that the universe of short-term U.S. agency obligations that are fully and unconditionally guaranteed as to the timely payment of principal and interest by the U.S. Department of the Treasury is limited and that securities issued by U.S. government-sponsored enterprises do not fall into this category. The Commission, however, declines to expand the scope of eligible underlying instruments included in the 95 percent threshold to U.S. agency obligations that are not unconditionally guaranteed by the U.S. Department of the Treasury, because such obligations present different liquidity characteristics than U.S. Treasury securities. Given that many U.S. agency obligations are also mortgage-backed securities, they have structural features that produce less predictable cashflow and additional risks than U.S. Treasury securities.⁴⁵⁰ The Commission is adopting the 95 percent threshold requirement as proposed.⁴⁵¹

⁴⁴⁹ BlackRock at p. 3 (arguing that the Commission should expand the eligible underlying investments to align them with those allowed for Permitted Government MMFs, *i.e.*, cash, government securities, and/or repurchase agreements that are fully collateralized); CCP Global at p. 3 (arguing that the Commission should allow Qualified ETFs to invest in U.S. Treasury securities, cash, Repurchase Transactions collateralized in U.S. Treasury securities, and U.S. Treasury MMFs); FIA/CME Joint Letter at p. 12 (recommending that the Commission allow a Qualified ETF to invest in securities with a maximum remaining maturity of 12 months or less issued or guaranteed by the U.S. Treasury, including securities issued by U.S. government agencies that are backed by the full faith and credit of the U.S. government, as well as government MMFs, and/or Repurchase Transactions with a remaining term to final maturity of 12 months or less collateralized by U.S. Treasury securities or other government securities (as defined under SEC Rule 2a-7) with a remaining term to final maturity of 12 months or less); MFA at p. 5 (arguing that the Commission should allow Qualified ETFs to invest in securities with a maximum remaining maturity of less than 12 months issued or guaranteed by the U.S. Treasury, including short-term securities issued by U.S. government agencies that are backed by the full faith and credit of the U.S. government, government MMFs, and/or Repurchase Transactions with a remaining term to final maturity of 12 months or less collateralized by U.S. Treasury securities or other government securities with a remaining term to final maturity of 12 months or less).

⁴⁵⁰ Federal Reserve Bank of New York, Staff Report: Mortgage Backed Securities, No. 1001 February 2022 available at https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr1001.pdf.

⁴⁵¹ Also, as discussed in section IV.C. of this preamble, FCMs will be required to determine capital charges for Qualified ETF shares based on SEC staff guidance. The SEC ETF Letter only applies to certain ETFs, specifically those that invest "solely in cash and government securities that are eligible securities under paragraph (a)(11)

In consideration of comments received,⁴⁵² the Commission is not adopting the proposed revision to Commission regulation 1.25(c)(5)(ii) that would have precluded Qualified ETFs from postponing redemption and payment under the circumstances enumerated in that paragraph. As a result of this modification, Qualified ETFs will also be able to rely on Commission regulation 1.25(c)(5)(ii), as applicable. Specifically, the exception provided under Commission regulation 1.25(c)(5)(ii)(A) relates to a non-routine closure of the Fedwire or applicable Federal Reserve Banks and, under the Final Rule, will be extended to Qualified ETFs in addition to Government MMFs. Next-day redemption exceptions detailed at Commission regulation 1.25(c)(5)(ii)(B)–(D) correspond to exceptions provided in section 22(e) of the Investment Company Act and therefore apply to registered investment companies generally. As a result, because Qualified ETFs will be required to be investment companies registered under the Investment Company Act of 1940, these exceptions will also apply to Qualified ETFs. The exception in Commission regulation 1.25(c)(5)(ii)(E) refers to periods during which the SEC has by rule or regulation deemed that trading should be restricted or that an emergency exists. This exception could potentially apply to all registered investment companies and will apply to Qualified ETFs. Finally, the exception in Commission regulation 1.25(c)(5)(ii)(F) refers to the condition of SEC Rule 22e-3,⁴⁵³ which is only

of SEC Rule 2a-7, limited to U.S. Treasury floating and fixed rate bills, notes, and bonds with a remaining term to final maturity of 12 months or less, government money market funds as defined in Rule 2a-7, and/or Repurchase Transactions with a remaining term to final maturity of 12 months or less collateralized by U.S. Treasury securities or other government securities with a remaining term to final maturity of 12 months or less." SEC ETF Letter, available at: <https://www.sec.gov/divisions/marketreg/mr-noaction/2022/finra-060222-15c3-1.pdf>. The portfolio composition of an ETF that invests a portion of its assets in short-term U.S. agency obligations that are unconditionally guaranteed as to the timely payment of principal and interest by the U.S. Department of the Treasury should not differ materially from that of an ETF that invests solely in U.S. Treasury securities and cash. Therefore, the Commission requires that FCMs determine capital charges for Qualified ETFs whose portfolio includes U.S. agency obligations that are unconditionally guaranteed as to the timely payment of principal and interest by the U.S. Department of the Treasury based on the SEC ETF Letter.

⁴⁵² FIA/CME Joint Letter at p. 18; ICI at p. 6; SSGA at p. 3.

⁴⁵³ Section 22(e) of the Investment Company Act of 1940, codified at 15 U.S.C. 80a-22(e), restricts investment companies from suspending the right of redemption or postponing the date of payment or

Continued

⁴⁴⁴ BlackRock at p. 3; ICI at p. 5.

⁴⁴⁵ 17 CFR 1.10(b)(1).

⁴⁴⁶ Proposal at 81249–81250.

⁴⁴⁷ WFE at p. 6.

⁴⁴⁸ Proposal at 81249–81250.

applicable to MMFs, and will not apply to Qualified ETFs.

The Commission has determined not to adopt the proposed requirement that FCMs and DCOs obtain the acknowledgment letter required by Commission regulation 1.26 from an entity that has substantial control over the ETF interests purchased with Customer Funds and that has knowledge and authority to facilitate redemption and payment or transfer of the Customer Funds. Under the terms of the Final Rule, FCMs and DCOs will instead be required to obtain the acknowledgement letter mandated by Commission regulation 1.20, as required for any investment of Customer Funds in Permitted Investments except Permitted Government MMFs. This change from the Proposal is based on the Commission's understanding that, unlike MMF shares that may be held directly with the fund or its affiliate, Qualified ETFs shares will be held with a depository.⁴⁵⁴ The deletion of this proposed requirement also addresses FIA's and CME's comment about the lack of clarity with respect to the "entity that has substantial control" over the Qualified ETF, from which the acknowledgement letter would have to be obtained.⁴⁵⁵

The Commission is adopting the remaining conditions for Qualified ETF eligibility set forth in the Proposal as proposed without change. That is, under the terms of the Final Rule, an FCM or DCO that acquires and holds interests in Qualified ETFs may not enter into an agreement that would prevent it from pledging the Qualified ETF's shares. FCMs and DCOs must also maintain confirmations relating to their purchase of interests in a Qualified ETF in their records.

Additionally, the NAV for the Qualified ETF must be computed by 9 a.m. of the business day following each business day and made available to

satisfaction upon redemption of any redeemable security, for more than seven days, except in certain enumerated circumstances including New York Stock Exchange closures outside of customary week-end and holiday closings or periods when trading on the New York Stock Exchange is restricted. Section 22(e)(3) allows the SEC to define, by order, additional circumstances, during which redemptions may be restricted "for the protection of security holders of the company." 15 U.S.C. 80a-22(e)(3).

⁴⁵⁴ The Commission's understanding on this matter is based on an email from Kevin Ercoline, Associate General Counsel, ICI, to Commission staff, dated August 15, 2024, ICI Email 20240913, available at <https://comments.cftc.gov/PublicComments/ViewExParte.aspx?id=1826&SearchText=>. As explained in the August 15, 2024 email, it is common practice that an FCM or DCO purchases ETF shares and custodies them with the FCM's or DCO's custodian.

⁴⁵⁵ FIA/CME Joint Letter at p. 15.

FCMs or DCOs, as applicable, by that time.⁴⁵⁶ This requirement is intended to allow for the valuation of the Qualified ETF's investment portfolio to be available by 9 a.m. the business day following an investment in the ETF, so that the valuation is available in time for FCMs to perform their daily segregation calculations, which are required to be completed by noon each business day, reflecting balances as of the close of business on the previous business day.⁴⁵⁷

Further, the Qualified ETF must be legally obligated to redeem its interests and make payment in satisfaction of the interests by the business day following a redemption request.⁴⁵⁸ As discussed above, limiting Qualified ETFs to funds that track the performance of a published short-term U.S. Treasury security index should facilitate redemptions of Qualified ETFs' shares being completed within one business day, consistent with Commission regulations 1.25(c)(5)(i) and 1.25(b)(1).⁴⁵⁹

The Commission is adding paragraph (v) to Commission regulation 1.25(a)(1), as redesignated to accommodate other amendments to the list of Permitted Investments pursuant to the Final Rule, to add the interests of Qualified ETFs (U.S. Treasury exchange-traded funds) to the list of Permitted Investments under Commission regulation 1.25. The Commission is adopting further conforming changes throughout Commission regulation 1.25. As discussed above, the Final Rule provides for the replacement of "money market mutual fund" or "money market mutual funds" with "government money market fund" or "government money market funds" throughout Commission regulation 1.25. The Commission is inserting next to the term "government money market fund" or "government money market funds," the term "U.S. Treasury exchange-traded fund" or "U.S. Treasury exchange-traded funds," as appropriate, preceded

⁴⁵⁶ Paragraph (c)(4) of Commission regulation 1.25 as applying to Qualified ETFs per proposed revised introductory text of paragraph (c) of Commission regulation 1.25.

⁴⁵⁷ 2000 Permitted Investments Amendment at 78003.

⁴⁵⁸ Paragraph (c)(5)(i) of Commission regulation 1.25 as applying to Qualified ETFs per proposed revised introductory text of paragraph (c) of Commission regulation 1.25.

⁴⁵⁹ See 17 CFR 1.25(c)(5) (MMFs must be legally obligated to redeem their interests and to make payment in satisfaction of the interests by the business day following a redemption request) and 17 CFR 1.25(b)(1) (Permitted Investments must be "highly liquid" such that the investments have the ability to be converted into cash within one business day without material discount in value).

by an appropriate conjunction (*i.e.*, "or" or "and"), as necessary.

The Commission is revising Commission regulation 1.25(c)(1) to incorporate the condition as set forth in the Proposal that a Qualified ETF must be an investment company that is registered under the Investment Company Act of 1940 with the SEC and holds itself out to investors as an ETF under SEC Rule 6c-11.⁴⁶⁰

Consistent with the Proposal, the Commission is also adding a new paragraph (8) to Commission regulation 1.25(c) to incorporate the requirement that investments of Customer Funds in Qualified ETFs occur on a DVP basis. In a modification from the Proposal, however, new Commission regulation 1.25(c)(8) does not specify that Qualified ETF interests must be redeemable by the FCM or DCO "in its capacity of an authorized participant." The Commission is also not specifying the ETF's interests must be "redeemable in cash" but rather that the FCM or DCO must have the necessary contractual arrangements in place to liquidate the ETF shares in cash in compliance with Commission regulation 1.25's liquidity requirements. New Commission regulation 1.25(c)(8) provides that an FCM or DCO transacting with a Qualified ETF through an authorized participant must redeem interests in the Qualified ETF in cash, whereas an FCM that is an authorized participant of the Qualified ETF may redeem interests in the Qualified ETF in kind, provided the FCM is able to convert the U.S. Treasury securities received pursuant to the redemption in cash within one business day of the redemption request.

To account for the possibility that, as part of their investment strategy and within the limits of applicable SEC rules, Qualified ETFs may engage in derivatives transactions, the Commission is adopting the revision set forth in the Proposal to amend Commission regulation 1.25(b)(2)(i) to indicate that the prohibition of investments containing embedded derivatives does not apply to Qualified ETFs.

The Commission is also adopting the revision set forth in the Proposal to amend Commission regulation 1.25(b)(4)(i), which provides that, except for investments in MMFs, the dollar-weighted average time-to-maturity of an FCM's or DCO's portfolio of Permitted Investments, as computed under SEC Rule 2a-7, may not exceed 24 months. The amendment revises Commission regulation 1.25(b)(4)(i) to exclude Qualified ETFs from the

⁴⁶⁰ Proposed Commission regulation 1.25(c)(1).

calculation of the dollar-weighted average time-to-maturity of the portfolio of Permitted Investments.⁴⁶¹ The Commission is implementing this change because interests in Qualified ETFs do not have maturity dates as the Qualified ETF manages the rolling of maturing U.S. Treasury securities into new investments.

4. Investments in Commercial Paper and Corporate Notes or Corporate Bonds

Commission regulation 1.25(b) currently provides that FCMs and DCOs may invest Customer Funds in commercial paper, corporate notes, and corporate bonds that are guaranteed under the TLGP administered by the FDIC. The TLGP program, however, expired in 2012.⁴⁶² Therefore, commercial paper, corporate notes, and corporate bonds have not been Permitted Investments for more than a decade. To address the termination of the TLGP, the Commission proposed to remove commercial paper, corporate notes, and corporate bonds from the list of Permitted Investments in Commission regulation 1.25.⁴⁶³

The Commission received three comments supporting the removal of commercial paper, corporate notes, and corporate bonds as Permitted Investments.⁴⁶⁴ No commenters opposed the proposed revisions. FIA, CME, and MFA, expressed general support for the removal of commercial paper, corporate notes, and corporate bonds from the list of Permitted Investments.⁴⁶⁵ AIMA commented that the removal of commercial paper, corporate notes, and corporate bonds from the list of Permitted Investments, along with the other proposed changes, would “appropriately update the list of permitted investments in line with sound risk management practices, allow DCOs and FCMs greater flexibility to manage risks and reduce currency and concentration risk.”⁴⁶⁶

The Commission has considered the comments received and has determined to amend the list of Permitted

Investments by revising Commission regulation 1.25(a)(1) to eliminate commercial paper, corporate notes, and corporate bonds as proposed, because these instruments have not been Permitted Investments since the expiration of the TLGP in 2012.⁴⁶⁷

5. Investments in Permitted Investments With Adjustable Rates of Interest

Commission regulation 1.25(b)(2)(iv)(A) currently provides that Permitted Investments may contain variable or floating interest rates provided, among other things, that: (i) the interest payments on variable rate securities correlate closely, on an unleveraged basis, to a benchmark of either the Federal Funds target or effective rate, the prime rate, the three-month Treasury Bill rate, the one-month or three-month LIBOR, or the interest rate of any fixed rate instrument that is a listed Permitted Investment under Commission regulation 1.25(a);⁴⁶⁸ and (ii) the interest rate, in any period, on floating rate securities is determined solely by reference, on an unleveraged basis, to a benchmark of either the Federal Funds target or effective rate, the prime rate, the three-month Treasury Bill rate, the one-month or three-month LIBOR,⁴⁶⁹ or the interest rate of any fixed rate instrument that is a listed Permitted Investment under Commission regulation 1.25(a).⁴⁷⁰

LIBOR had commonly been used as a reference rate in various commercial and financial contracts, including corporate and municipal bonds, commercial loans, floating rate mortgages, asset-backed securities, consumer loans, and interest rate swaps and other derivatives.⁴⁷¹ After a loss of confidence in LIBOR as a reliable benchmark following a number of

enforcement actions concerning attempts to manipulate the benchmark,⁴⁷² the U.K. Financial Conduct Authority (“UK FCA”) announced on March 5, 2021 that LIBOR would cease to be published and would effectively be discontinued.⁴⁷³

Prior to the UK FCA announcement, the Federal Reserve Bank of New York had convened the Alternative Reference Rate Committee (“ARRC”) in 2014 to identify best practices for U.S. alternative reference rates as well as best practices for contract robustness, to develop an adoption plan, and to create an implementation plan with metrics of success and a timeline.⁴⁷⁴ In June 2017, the ARRC identified SOFR, a broad Treasury repurchase agreements financing rate, as the preferred alternative benchmark to U.S. dollar LIBOR for certain new U.S. dollar derivatives and financial contracts.⁴⁷⁵ SOFR is a broad measure of the cost of borrowing cash overnight collateralized by U.S. Treasury securities in the Repurchase Transaction market used by financial institutions, governments, and corporations.⁴⁷⁶ SOFR is calculated as a volume-weighted median of transaction-level triparty repo data collected from the Bank of New York Mellon as well as data on bilateral U.S. Treasury Repurchase Transactions cleared through the Fixed Income Clearing Corporation.⁴⁷⁷ The Federal Reserve Bank of New York (“FRBNY”), in cooperation with the U.S. Office of Financial Research, publishes SOFR by 8:00 a.m. each business day.⁴⁷⁸

In response to the anticipated termination of the publication of LIBOR

⁴⁷² See e.g., *In re Barclays PLC*, CFTC Docket No. 12–25 (June 27, 2012); *In re UBS AG*, CFTC Docket No. 13–09 (Dec. 19, 2012).

⁴⁷³ See generally CFTC Staff Letter No. 21–26, *Revised No-Action Positions to Facilitate an Orderly Transition of Swaps from Inter-Bank Offered Rates to Alternative Benchmarks* (Dec. 20, 2021) (“Staff Letter 21–26”) available at the Commission’s website: . The UK FCA, which regulates ICE Benchmark Administration Limited, the administrator of ICE LIBOR, confirmed that LIBOR would either cease to be provided by any administrator or would no longer be representative for the 1-week and 2-month U.S. dollar LIBOR settings, immediately after December 31, 2021, and for all other U.S. dollar LIBOR settings immediately after June 30, 2023).

⁴⁷⁴ Staff Letter 21–26 at p. 3.

⁴⁷⁵ ARRC, “The ARRC Selects a Broad Repo Rate as its Preferred Alternative Reference Rate,” June 22, 2017, available at <https://www.newyorkfed.org/medialibrary/microsites/arrc/files/2017/ARRC-press-release-Jun-22-2017.pdf>.

⁴⁷⁶ See Secured Overnight Financing Rate Data, published by the Federal Reserve Bank of New York (“FRBNY”) and available at <https://apps.newyorkfed.org/markets/autorates/sof>.

⁴⁷⁷ *Id.*

⁴⁷⁸ See Additional Information about the Treasury Repo Reference Rates, published by the FRBNY and available at <https://www.newyorkfed.org/markets/treasury-repo-reference-rates-information>.

⁴⁶¹ Revised Commission regulation 1.25(b)(4)(i).

⁴⁶² *Temporary Liquidity Guarantee Program*, available at <https://www.fdic.gov/Regulations/resources/tlgp/index.html> (“Under the [Debt Guarantee Program], the FDIC guaranteed in full, through maturity or June 30, 2012, whichever came first, the senior unsecured debt issued by a participating entity between October 14, 2008, and June 30, 2009. In 2009, the issuance period was extended through October 31, 2009. The FDIC’s guarantee on each debt instrument was also extended in 2009 to the earlier of the stated maturity date of the debt or December 31, 2012.”).

⁴⁶³ Proposal at 81253.

⁴⁶⁴ AIMA at p. 2; FIA/CME Joint Letter at p. 20; MFA at p. 7.

⁴⁶⁵ FIA/CME Joint Letter at p. 20; MFA at p. 7.

⁴⁶⁶ AIMA at p. 2.

⁴⁶⁷ In light of the Proposal’s proposed elimination of commercial paper, corporate notes, and corporate bonds from the list of Permitted Investments, the FIA/CME Joint Letter suggested a technical amendment to remove paragraph (b)(2)(vi) from Commission regulation 1.25, which sets forth conditions that commercial paper, corporate notes, and corporate bonds must satisfy to be Permitted Investments. FIA/CME Joint Letter at p. 21. The Proposal included the deletion of current Commission regulation 1.25(b)(2)(vi), and the Commission is deleting current paragraph (b)(2)(vi) as proposed. Proposal at 81273.

⁴⁶⁸ 17 CFR 1.25(b)(2)(iv)(A)(1).

⁴⁶⁹ For simplicity, subsequent references to “one-month or three-month LIBOR rate” will be referred to as “LIBOR” unless otherwise required by the context of the discussion.

⁴⁷⁰ 17 CFR 1.25(b)(2)(iv)(A)(2).

⁴⁷¹ Proposal at 81253–81254. See also, *Staff Statement on LIBOR Transition*, SEC Division of Corporation Finance, Division of Investment Management, Division of Trading and Markets, and Office of the Chief Accountant (July 12, 2019), available at <https://www.sec.gov/news/public-statement/libor-transition>.

and the increasing acceptance and use of SOFR as a benchmark interest rate, MPD issued Staff Letter 21–02 on January 4, 2021.⁴⁷⁹ Staff Letter 21–02 provides that MPD would not recommend enforcement action to the Commission if an FCM invested Customer Funds in Permitted Investments that contain adjustable interest rates benchmarked to SOFR. Staff Letter 21–02 was a time-limited no-action position that was to expire on December 31, 2022. MPD and DCR, however, issued a joint letter on December 23, 2022, Staff Letter 22–21, extending the effective date of the no-action position to December 31, 2024, and expanding the scope of the no-action position to include Permitted Investments made by DCOs.⁴⁸⁰ Due to the transition from LIBOR to SOFR, the Commission proposed to amend Commission regulation 1.25(b)(2)(iv)(A) by replacing LIBOR with SOFR as a permitted benchmark for Permitted Investments that contain an adjustable rate of interest. The Commission also requested comment on whether it should consider other additional interest rates beyond SOFR as permitted benchmarks for adjustable rate securities under Commission Regulation 1.25.⁴⁸¹

The Commission received three comments regarding the proposed transition to SOFR, and all three comments supported the proposed amendment to replace LIBOR with SOFR as a permitted benchmark for adjustable rate securities under Commission regulation 1.25(b)(2)(iv)(A).⁴⁸² In addition to supporting the addition of SOFR, FIA, CME, and MFA also recommended that the Commission amend Commission regulation 1.25 to permit FCMs and DCOs to invest Customer Funds in adjustable rate securities that reference SONIA, €STR, TONAR, and COBRA, to the extent that an FCM or DCO has balances owed to customers denominated in GBP, EUR, JPY, or CAD, respectively.⁴⁸³ In support of its recommendation, the FIA/CME Joint Letter states that these additional alternative reference rates have been selected by public/private-sector working groups, similar to the ARRC, formed by the Bank of England (SONIA), the European Central Bank (€STR), the Bank of Japan (TONAR), and the Bank of Canada (COBRA), in

connection with the transition away from LIBOR rates in these currencies.⁴⁸⁴

The Commission has considered the comments received and upon further consideration is adopting the proposed revision to Commission regulation 1.25(b)(2)(iv)(A)(1) and (2) subject to a clarification regarding the SOFR rates that qualify as acceptable benchmarks. The Final Rule specifies that adjustable rate securities may reference the overnight, 1-month, 3-month, and 6-month SOFR rate published by the FRBNY. The Final Rule also permits adjustable rate securities to be benchmarked to the CME Term SOFR Rate published by the CME Group Benchmark Administration Limited.⁴⁸⁵ The CME Term SOFR Rate is computed by the CME Group Benchmark Administration Limited based on SOFR futures contracts traded on the CME. The FRBNY and CME Group Benchmark Administration Limited published SOFR rates are reliable reference rates as they are calculated in a transparent manner based on actual trading activity in the overnight or futures markets and subject to regulatory oversight. The replacement of LIBOR with SOFR advances the objective of Commission regulation 1.25 of preserving principal and maintaining liquidity by requiring the use of reliable benchmarks in the qualification of adjustable rate securities as Permitted Investments.

The Commission has decided not to adopt the additional alternative rates suggested by the commenters. At this time, the Commission has not observed any investment instruments that would qualify as Permitted Investments using these alternative reference rates. Furthermore, as discussed above and in the Proposal, the Commission has performed an extensive review of SOFR and has followed the work of the ARRC in developing SOFR. It has not, however, engaged in a similar review of the additional alternative reference rates at this time.

To give effect to the adoption of SOFR as a permitted benchmark for Permitted Investments with an adjustable rate of interest, paragraphs (b)(2)(iv)(A)(1) and (2) of Commission regulation 1.25 are amended by replacing the phrase “one-month or three-month LIBOR rate” with the phrase “Secured Overnight

Financing Rate.”⁴⁸⁶ These amendments are consistent with the Commission’s intent of providing FCMs and DCOs with a certain degree of flexibility in selecting Permitted Investments with adjustable rates of interest, and align with the evolution of the market.⁴⁸⁷

6. Investments in Certificates of Deposit Issued by Banks

Commission regulation 1.25(a)(1)(iv) currently permits, subject to certain conditions, FCMs and DCOs to invest Customer Funds in certificates of deposit (“CDs”) issued by a section 3(a)(6) bank or a domestic branch of a foreign bank that carries deposits insured by the FDIC (“bank CDs”). To qualify as a Permitted Investment under Commission regulation 1.25, a bank CD must be redeemable at the issuing bank within one business day, with any penalty for early withdrawal limited to accrued interest earned according to the terms of the bank CD agreement.⁴⁸⁸

As stated in the Proposal, the Commission’s experience has been that FCMs and DCOs have not elected bank CDs as an investment option for Customer Funds.⁴⁸⁹ In connection with the Proposal, Commission staff reviewed SIDR Reports filed by FCMs for the period September 15, 2022 through February 15, 2023 and noted no FCMs reporting investments of Customer Funds in bank CDs.⁴⁹⁰

⁴⁸⁶ Final Commission regulation 1.25(b)(2)(iv)(A)(1) and (2).

⁴⁸⁷ 2005 Permitted Investments Amendment at 28192 (it is appropriate to afford latitude in establishing benchmarks for Permitted Investments to enable FCMs and DCOs to more readily respond to changes in the market).

⁴⁸⁸ Commission regulation 1.25(b)(2)(v); 17 CFR 1.25(b)(2)(v).

⁴⁸⁹ Proposal at 81254–81255. Although FCMs have not communicated a specific reason for the lack of investments in bank CDs, the Commission understands that few, if any, bank CDs meet the requirements in Commission regulation 1.25(b)(v) that the CD is redeemable at the issuing bank within one business day, with any penalty for early withdrawal limited to any accrued interest earned according to its written terms. 17 CFR 1.25(b)(v).

⁴⁹⁰ Proposal at 81254–81255. Commission regulations 1.32(f), 22.2(g)(5), and 30.7(l)(5) require each FCM to submit a SIDR Report to the Commission and the FCM’s designated self-regulatory organization (“DSRO”) listing the names of all banks, trust companies, FCMs, DCOs, and any other depositories or custodians holding futures customer funds, Cleared Swaps Customer Collateral, or 30.7 customer funds, respectively. FCMs are further required to include the total amount invested in each of the Permitted Investments in the SIDR Report. FCMs are required to submit the SIDR Report as of the 15th day of each month (or the next business day if the 15th day of the month is not a business day) and the last business day of the month. 17 CFR 1.32(f), 17 CFR 22.2(g)(5), and 17 CFR 30.7(l)(5). The Commission is also revising the SIDR Report to reflect the revisions to the list of Permitted Investments adopted by the Commission under this rulemaking. See section IV.D. for a discussion of the final amendments to the SIDR Report.

⁴⁷⁹ CFTC Staff Letter 21–02.

⁴⁸⁰ CFTC Staff Letter 22–21.

⁴⁸¹ Proposal at p. 81254, Question 15.

⁴⁸² MFA at pp. 2, 7; FIA/CME Joint Letter at p. 20; SIFMA AMG at p. 12.

⁴⁸³ MFA at p. 7; FIA/CME Joint Letter at p. 20.

⁴⁸⁴ FIA/CME Joint Letter at p. 20.

⁴⁸⁵ CME Group Benchmark Administration Limited is registered benchmark administrator, authorized and supervised by the UK FCA. CME Term SOFR Rates provide an indication of the forward-looking measurement of overnight SOFR, based on market expectations implied from derivatives markets. See generally CME’s web page on CME Term SOFR Rates available at <https://www.cmegroup.com/market-data/cme-group-benchmark-administration/term-sofr.html>.

In the Proposal, the Commission requested comment on whether Commission regulation 1.25 should be amended by removing bank CDs from the list of Permitted Investments given the historical lack of usage by FCMs and DCOs.⁴⁹¹ Specifically, the Commission requested comment on whether the elimination of bank CDs as a Permitted Investment would have a material adverse impact on FCMs' and DCOs' ability to invest Customer Funds.⁴⁹² The Commission also requested comment regarding whether there were provisions of Commission regulation 1.25, or other legal or operational issues, that hinder or prevent FCMs and DCOs from investing Customer Funds in bank CDs.⁴⁹³ The Commission also requested comment on whether FCMs and DCOs may elect to invest Customer Funds in bank CDs with the current rising interest rate environment for bank deposits and bank CDs.⁴⁹⁴ In addition, the Commission requested comment on what factors it should consider before removing bank CDs from the list of Permitted Investments.⁴⁹⁵ Lastly, the Commission stated that based on the comments received, and the Commission's further consideration of this issue, it may determine to revise the list of Permitted Investments by removing bank CDs in the final rulemaking.⁴⁹⁶

Three comments responded to the Commission's request for comment on this subject.⁴⁹⁷ Two commenters supported the removal of bank CDs as Permitted Investments. FIA and CME stated in their joint letter that bank CDs should be removed from the list of Permitted Investments as they are not aware of the recent use of bank CDs as a Permitted Investment, nor has any FIA member stated that it foresees investing Customer Funds in bank CDs.⁴⁹⁸ Nodal also supported the removal of bank CDs from the list of Permitted Investments,

noting that from a risk perspective, bank CDs replace, but do not materially mitigate, counterparty risk faced by FCMs and DCOs with respect to direct bank deposits.⁴⁹⁹ ICE stated, however, that it did not believe that it would be beneficial to remove bank CDs as Permitted Investments even if the use of such investments by FCMs and DCOs is currently limited.⁵⁰⁰

The Commission has considered the comments received and is removing bank CDs from the list of Permitted Investments in Commission regulation 1.25(a)(1) as proposed. The Commission adopted bank CDs as a Permitted Investment in 2000.⁵⁰¹ Since its adoption, the Commission has not observed any material use of bank CDs as an investment instrument for Customer Funds. Although ICE stated that it did not believe that it was beneficial to remove bank CDs, the lack of use of bank CDs suggests that FCMs and DCOs do not view bank CDs as viable investments for Customer Funds. Furthermore, the FIA/CME Joint Letter states that no FIA member has indicated that it foresees investing Customer Funds in bank CDs.⁵⁰²

The Commission is therefore deleting paragraph (a)(1)(iv) of Commission regulation 1.25 and redesignating paragraphs (i) through (vii) of Commission regulation 1.25(a)(1) to reflect the removal of bank CDs from the revised list of Permitted Investments. In addition, the Commission is deleting paragraph (b)(2)(v) of Commission regulation 1.25, which sets forth restrictions on the features of permitted bank CDs, and is revising and/or deleting, as appropriate in light of other amendments, paragraphs (b)(3)(i)(C) and (b)(3)(ii)(B) of Commission regulation 1.25, which set forth asset-based and issuer-based concentration limits for certain instruments currently included in the list of Permitted Investments, to reflect the elimination of bank CDs from that list. The Commission is also making conforming amendments to Commission regulations 1.32(f)(3), 22.2(g)(5), and 30.7(l)(5), which define the content of the SIDR Reports described in section IV.D. of this preamble, to reflect the removal of bank CDs from the list of Permitted Investments in Commission regulation 1.25. Finally, the Commission has deleted the requirement for an FCM to report the balances invested in bank CDs in the SIDR Report.

B. Asset-Based and Issuer-Based Concentration Limits for Permitted Investments

a. Proposal

Commission regulation 1.25(b)(3) establishes asset-based and issuer-based concentration limits for an FCM's or DCO's investment of Customer Funds in Permitted Investments.⁵⁰³ The asset-based and issuer-based concentration limits are set at the same levels for investments of futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds.⁵⁰⁴ An FCM or DCO is also required to calculate the asset-based and issuer-based concentration limits separately for futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds based on the total amount of funds held by the FCM or DCO in each respective segregation classification.⁵⁰⁵

As explained in the Proposal, an FCM or DCO is currently permitted to directly invest futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds in each of the Permitted Investments up to the following asset-based limits: (i) U.S. government securities—100 percent; (ii) U.S. agency obligations—50 percent; (iii) for each investment asset class of bank CDs, commercial paper, and corporate notes and bonds—25 percent; and (iv) municipal securities—10 percent.⁵⁰⁶

With respect to MMFs, an FCM or DCO may currently invest up to 100 percent of the total futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds that it holds in MMFs that invest only in U.S. government securities, provided

⁵⁰³ 17 CFR 1.25(b)(3).

⁵⁰⁴ The asset-based and issuer-based concentration limits for futures customer funds are set forth in Commission regulation 1.25(b)(3). With respect to 30.7 customer funds, Commission regulation 30.7(h)(1) provides that an FCM may invest 30.7 customer funds subject to, and in compliance with, the terms and conditions of Commission regulation 1.25, which includes the asset-based and issuer-based concentration limits. 17 CFR 30.7(h)(1). With respect to Cleared Swaps Customer Collateral, Commission regulations 22.2(e)(1) and 22.3(d) provide that an FCM or DCO, respectively, may invest Cleared Swaps Customer Collateral in accordance with Commission regulation 1.25, which includes the asset-based and issuer-based concentration limits. 17 CFR 22.2(e)(1) and 17 CFR 22.3(d).

⁵⁰⁵ 2011 Permitted Investments Amendment at 78787 (concentration limits are to be calculated on a customer-segregation origin basis, *i.e.*, based on separate segregation account classes).

⁵⁰⁶ Proposal at 81255–81259; Commission regulation 1.25(b)(3)(i)(A)–(D); 17 CFR 1.25(b)(3)(i)(A)–(D). The term “U.S. government securities” refers to general obligations of the U.S. and obligations fully guaranteed as to principal and interest by the U.S. See 17 CFR 1.25(a)(1)(i).

With respect to an FCM, a DSRO is the self-regulatory organization that has been delegated the responsibility under a formal plan approved by the Commission pursuant to Commission Regulation 1.52 to monitor and examine the FCM for compliance with Commission and self-regulatory organization minimum financial and related financial reporting requirements. 17 CFR 1.52.

⁴⁹¹ *Id.*

⁴⁹² Proposal at 81255, Question 17.

⁴⁹³ *Id.*, Questions 18 and 19.

⁴⁹⁴ *Id.*, Question 20.

⁴⁹⁵ *Id.*, Question 21.

⁴⁹⁶ *Id.* In the Proposal, the Commission also detailed the additional conforming amendments that it would make to Commission regulations to reflect the potential elimination of bank CDs from Commission regulation 1.25(a)(1). Proposal at 81255.

⁴⁹⁷ FIA/CME Joint Letter at p. 20; Nodal pp. 3–4; ICE at p. 4.

⁴⁹⁸ FIA/CME Joint Letter at p. 20.

⁴⁹⁹ FIA/CME Joint Letter at p. 20; Nodal at pp. 3–4.

⁵⁰⁰ ICE at p. 4.

⁵⁰¹ Proposal at 81237.

⁵⁰² FIA/CME Joint Letter at p. 20.

that the size of the funds' portfolio is at least \$1 billion and the funds' management company has at least \$25 billion of assets under management.⁵⁰⁷ If a fund has less than \$1 billion of assets under management, or if the manager of the fund has less than \$25 billion of assets under management, the FCM or DCO may invest up to 10 percent of its total futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds in the fund.⁵⁰⁸ For Prime MMFs, an FCM or DCO may invest up to 50 percent of the total futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds in such MMFs; however, the asset-based concentration is limited to 10 percent if a fund has less than \$1 billion in assets under management or if the fund's manager has less than \$25 billion of assets under management.⁵⁰⁹

With respect to issuer-based concentration limits, an FCM or DCO is permitted to invest up to 100 percent of the total futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds that it holds in U.S. government securities.⁵¹⁰ An FCM or DCO also may invest futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds directly in qualifying Permitted Investments, other than U.S. government securities, subject to the following issuer-based concentration limits: (i) obligations of any single issuer of U.S. agency obligations—25 percent; (ii) obligations of any single issuer of municipal securities, bank CDs, commercial paper, or corporate notes or bonds—5 percent.⁵¹¹

With respect to MMFs, an FCM or DCO may invest up to 100 percent of the total futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds in a single MMF that invests only in U.S. government securities.⁵¹² With respect to MMFs that maintain investment portfolios that hold instruments other than U.S. government securities, an FCM or DCO is subject to the following issuer-based concentration limits: (i) interest in any single MMF family may not exceed 25 percent of customer funds held; and (ii) interest in

any individual MMF may not exceed 10 percent of customer funds held.⁵¹³

The Commission proposed to amend the asset-based and issuer-based concentration limits in Commission regulation 1.25(b)(3) to reflect the proposed revisions to the list of Permitted Investments discussed in the Proposal and to adjust the limits based on the Commission's experience administering Commission regulation 1.25.⁵¹⁴ As discussed in section IV.A.1. of this preamble, the Commission proposed to limit the scope of MMFs whose interests qualify as Permitted Investments to Permitted Government MMFs. Under the Proposal, a Permitted Government MMF would be defined by reference to SEC Rule 2a-7 as an MMF that invests at least 99.5 percent or more of its total assets in cash, government securities, and/or Repurchase Transactions that are fully collateralized.⁵¹⁵ The scope of underlying instruments in which a Permitted Government MMF would be allowed to invest is broader than that of the MMFs currently excluded from the concentration limits of Commission regulation 1.25(c) (*i.e.*, MMFs investing solely in U.S. government securities). To account for the potential increase in risk associated with such broader scope, and in the interest of imposing a simple and consistent approach to concentration limits, the Commission proposed to establish a single concentration limit of 50 percent for all Permitted Government MMFs of a certain size, without distinguishing between funds investing solely in U.S. government securities and those whose portfolio may also include U.S. agency obligations and/or other instruments within the limits of SEC Rule 2a-7. More precisely, under the Proposal, an FCM's or DCO's investment of Customer Funds in interests in Permitted Government MMFs with at least \$1 billion in assets and whose management company manages at least \$25 billion in assets would be limited to no more than 50 percent of the total Customer Funds computed separately for each of the segregated funds account classes of futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds.⁵¹⁶ The proposed asset-based concentration limits are consistent with the concentration limits applicable to U.S. agency obligations, which along with U.S. Treasury securities, are a permitted underlying

instrument for Permitted Government MMFs.⁵¹⁷

The Commission also proposed to maintain the current 10 percent asset-based concentration limit on investments in MMFs that hold less than \$1 billion in assets or have a management company with less than \$25 billion in assets under management.⁵¹⁸ For purposes of clarity, the Commission proposed to delete the conjunction "and" in that provision to indicate that the fund size threshold and the management company size threshold are to be construed as alternative prongs triggering the 10 percent limit.

In addition, to mitigate the potential risks arising from concentration in any particular fund or family of funds, the Commission proposed issuer-based concentration limits for investments in Permitted Government MMFs. Specifically, the Commission proposed to limit investments of Customer Funds in any single family of Permitted Government MMFs to 25 percent and investments of Customer Funds in any individual Permitted Government MMFs to 5 percent of the total assets held in each of the segregated account classes of futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds.⁵¹⁹

Further, as part of the proposed amendments to the concentration limits in Commission regulation 1.25,⁵²⁰ the Commission proposed to revise the asset-based and issuer-based concentration limits set forth in paragraphs (b)(3)(i)(F) and (b)(3)(ii)(C) and (D), respectively, to reflect the removal of Prime MMFs from the list of Permitted Investments.

As discussed in section IV.A.3. of this preamble, the Commission is adding Qualified ETFs to the list of Permitted Investments.⁵²¹ The Commission proposed to impose conditions on Qualified ETFs that are substantially similar to the conditions that are imposed on Permitted Government MMFs whose interests qualify as Permitted Investments.⁵²² Given the similarity of the terms that would apply to Permitted Government MMFs and Qualified ETFs under the Proposal, and the comparable credit, market, and liquidity risk associated with these

⁵⁰⁷ 17 CFR 1.25(b)(3)(i)(E).

⁵⁰⁸ 17 CFR 1.25(b)(3)(i)(G).

⁵⁰⁹ 17 CFR 1.25(b)(3)(i)(F) and (G).

⁵¹⁰ See 17 CFR 1.25(b)(3)(ii), which excludes U.S. government securities from the issuer-based concentration limits. See also 2011 Permitted Investments Amendment at 78788.

⁵¹¹ 17 CFR 1.25(b)(3)(ii)(A) and (B).

⁵¹² See 17 CFR 1.25(b)(3)(ii), which excludes MMFs that invest only in U.S. government securities from the issuer-based concentration limits.

⁵¹³ 17 CFR 1.25(b)(3)(ii)(C) and (D).

⁵¹⁴ Proposal at 81255–81259.

⁵¹⁵ Proposal at 81241 and 81256.

⁵¹⁶ Proposed Commission regulation 1.25(b)(3)(i)(E).

⁵¹⁷ 17 CFR 1.25(b)(3)(i)(B).

⁵¹⁸ Proposed Commission regulation 1.25(b)(3)(i)(F).

⁵¹⁹ Proposed Commission regulations 1.25(b)(3)(ii)(C) and (D), respectively.

⁵²⁰ See discussion in section IV.B. of this preamble.

⁵²¹ Proposed Commission regulation 1.25(a)(1)(vi).

⁵²² See section IV.A.3. of this preamble.

types of funds, the Commission preliminarily determined that it would be appropriate for Qualified ETFs to have the same asset-based and issuer-based concentration limits as those proposed for Permitted Government MMFs.

Under the Proposal, an FCM's or DCO's investment of Customer Funds in Qualified ETFs with at least \$1 billion in assets and whose management company manages at least \$25 billion in assets would be limited to an asset-based concentration limit of 50 percent of total funds held in each of the segregated account classes of futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds.⁵²³ The Commission also proposed to extend the current 10 percent asset-based concentration limit for investments in MMFs that hold less than \$1 billion in assets or whose management company manages less than \$25 billion in assets under management to Qualified ETFs. In addition, to mitigate the potential risks arising from concentration in any particular fund or family of funds, the Commission proposed to limit investments of Customer Funds in any single family of Qualified ETFs to 25 percent and investments of Customer Funds in any individual Qualified ETF to 5 percent of the total assets held in each of the segregated account classes of futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds.⁵²⁴ Because there may be at least five U.S. Treasury ETFs that could potentially qualify as Permitted Investments, the Commission preliminarily believed that the proposed issuer-based concentration limits would not be overly restrictive.⁵²⁵

The Commission also proposed revisions to the asset-based and issuer-based concentration limits to remove limits on commercial paper, and corporate notes and bonds, given that the Commission proposed to eliminate these instruments from the list of Permitted Investments.⁵²⁶ The

Commission stated that if bank CDs were removed from the list of Permitted Investments based on public feedback, the Commission would eliminate the asset-based and issuer-based concentration limits for these instruments as well.⁵²⁷

Finally, the Commission proposed to expand the types of investments that would qualify as Permitted Investments to include Specified Foreign Sovereign Debt. However, the Commission did not propose asset-based or issuer-based concentration limits on an FCM's or DCO's investments in Specified Foreign Sovereign Debt. Among other considerations, the Commission noted, in the Proposal, that proposed Commission regulation 1.25(a)(1)(vii), which permits an FCM or DCO to invest Customer Funds in Specified Foreign Sovereign Debt only to the extent that the FCM or DCO has balances owed to customers denominated in the currency of the applicable country, is expected to effectively limit the amount of Customer Funds that an FCM or DCO may invest in Specified Foreign Sovereign Debt.

The concentration limits in Commission regulation 1.25 are minimum requirements.⁵²⁸ As discussed in the Proposal, pursuant to Commission regulation 1.11, an FCM is required to monitor and manage market, credit, liquidity, foreign currency, legal, operational, settlement, segregation, capital, and any other applicable risks associated with its activity, as part of the FCM's risk management program.⁵²⁹ If, based on its independent risk assessment, an FCM determines that stricter concentration limits with respect to Permitted Investments of Customer Funds are appropriate, the FCM is required to implement such stricter limits, in accordance with Commission regulation 1.11. Similarly, Commission regulation 39.13(g)(10) requires a DCO to limit the assets it

accepts as initial margin to those that have minimal credit, market, and liquidity risks, whereas Commission regulation 39.13(g)(13) requires the DCO to apply appropriate limitations or charges on the concentration of assets posted as initial margin, as necessary, to ensure its ability to liquidate such assets quickly with minimal adverse price effects.

In addition, if as a result of market events or extraneous circumstances, such as a change in an MMF's size, the FCM or DCO inadvertently breaches the concentration thresholds, the FCM or DCO would be expected to undertake prompt actions to restore compliance with the concentration limits, while managing the investments of Customer Funds in a manner consistent with the general objectives of preserving principal and maintaining liquidity. Depending on the market conditions, such actions may include taking steps to progressively reduce the amount of Customer Funds invested in a particular asset class instead of immediately divesting the full portfolio of investments in a potentially volatile market.

b. Comments

The Commission requested comment on all aspects of its Proposal relating to concentration limits, including the proposed asset-based and issuer-based concentration limits for Permitted Government MMFs and Qualified ETFs. The Commission received nine comments addressing concentration limits.⁵³⁰ Eurex and WFE supported the Commission's decision not to impose asset-based or issuer-based concentration limits on Specified Foreign Sovereign Debt, citing consistency with the 2018 Order.⁵³¹ A number of other commenters, however, recommended changes to the asset-based and issuer-based concentration limits for Permitted Government MMFs and Qualified ETFs proposed by the Commission as discussed below.⁵³²

Regarding the proposed change of imposing a 50 percent asset-based concentration limit for all Permitted Government MMFs with at least \$1 billion in assets and whose management company manages at least \$25 billion in assets, FIA and CME did not support the

⁵²³ Proposed Commission regulation 1.25(b)(3)(i)(E).

⁵²⁴ Proposed Commission regulations 1.25(b)(3)(ii)(C) and (D). These limits are the same for both Permitted Government MMFs and Qualified ETFs.

⁵²⁵ 2022 CME Advisory Notice, *supra* note 320 (announcing that CME has added five Short-Term U.S. Treasury ETFs to the list of accepted margin collateral). The five ETFs added by the CME would meet the proposed condition of being accepted as performance bond by a DCO. For purposes of clarity, FCMs and DCOs would need to assess ETFs' eligibility in light of all applicable conditions.

⁵²⁶ Proposed Commission regulation 1.25(b)(3)(i)(C) (removing commercial paper and corporate notes and bonds from the 25 percent asset-based concentration limit); proposed

Commission regulation 1.25(b)(3)(ii)(B) (removing commercial paper and corporate notes and bonds from the 5 percent issuer-based concentration limit).

⁵²⁷ Proposal at 81257–81258.

⁵²⁸ Proposal at 81258. The Commission has stated in prior rulemakings that FCMs are expected to carefully evaluate the appropriateness of each permitted investment in terms of its investment objectives and compliance with the time-to-maturity, concentration limits, and other requirements of Rule 1.25. 2005 Permitted Investments Amendment at 28192. As noted in other parts of this preamble, the Commission has adopted Commission regulation 1.11 to require FCMs to establish a risk management program that considers risks posed by affiliates, all lines of business of the FCM, and all other trading activity engaged in by the FCM. *See supra* note 126, section IV.A.2.c, and section IV.B.a. DCOs are subject to similar risk management requirements as laid out in Commission regulation 39.13.

⁵²⁹ 17 CFR 1.11.

⁵³⁰ AIMA at pp. 2–3; BlackRock at p. 7; Eurex at pp. 2–3; Federated Hermes at pp. 1–3; ICI at pp. 2, 6–10; Nodal at pp. 2–3; SIFMA AMG at pp. 2, 8–12; FIA/CME Joint Letter at pp. 16–18; WFE at p. 4.

⁵³¹ Eurex at p. 2; WFE at p. 5.

⁵³² AIMA at pp. 2–3; BlackRock at p. 7; Federated Hermes at pp. 1–3; ICI at pp. 2, 6–10; Nodal at pp. 2–3; SIFMA AMG at pp. 2, 8–12; FIA/CME Joint Letter at pp. 16–18.

Commission's proposed changes and urged the Commission to keep the current asset-based limits.⁵³³ FIA and CME argued that the Commission should continue to allow investments in "Treasury-only" MMFs without imposing asset-based concentration limits.⁵³⁴ These commenters contended that large Government MMFs invest in high-quality securities, have stable market value NAVs, have robust liquidity profiles, have implemented significant cybersecurity safeguards, and operate in a manner that is consistent with the Commission's customer asset protection regime.⁵³⁵ Thus, FIA and CME asserted that the Commission's statement in the 2011 Permitted Investments Amendment that "[i]ndirect investments in Treasuries via a Treasury-only MMMF is essentially the risk equivalent of a direct investment in Treasuries, while allowing an FCM or DCO the administrative ease of delegating the management of its portfolio to a MMMF" is no less true today than it was in 2011.⁵³⁶ Further, FIA and CME asserted that Government MMFs "arguably present greater diversification and more resiliency for investors than government securities themselves in rare instances of volatility or stress in the government securities market."⁵³⁷ FIA and CME also argued that although financial institutions, including FCMs and DCOs, like all commercial entities, could be targets for cyber-attacks that may adversely impact normal operating capabilities and impair an FCM's or DCO's ability to redeem, promptly on demand, interests in Permitted Government MMFs or Qualified ETFs, FCMs and DCOs are already "subject to comprehensive regulatory requirements to implement policies, procedures, and controls to detect, prevent, monitor, and mitigate operational risk, including

cybersecurity risk."⁵³⁸ FIA and CME further noted that the Commission has proposed to augment and reinforce these required policies, procedures, and controls with a new requirement for FCMs to establish an "operational resilience framework."⁵³⁹ As a result of the existing protections, FIA and CME believe that the proposed concentration limits are not well-tailored to the regulatory objectives that the Commission articulated in the Proposal.⁵⁴⁰ BlackRock also suggested that the Commission keep the existing asset-based concentration limit framework because, in their view, the framework is operating as intended.⁵⁴¹ ICI did not object to the changes to the asset-based concentration limits proposed for Permitted Government MMFs given their relative risk and liquidity profiles.⁵⁴²

Regarding the proposed changes to issuer-based concentration limits, AIMA, Federated Hermes, ICI, and Nodal recommended a 25 percent single fund concentration limit for both Permitted Government MMFs and Qualified ETFs, a limit that they asserted would be more consistent with market practices.⁵⁴³ Federated Hermes argued that the proposed 5 percent issuer-based concentration limit per fund for Permitted Government MMFs was "unnecessarily restrictive and [an] arbitrary number."⁵⁴⁴ This commenter objected to the proposed limit because, from their perspective, the proposed limit is not based on meaningful data and the risks the Commission raises as concerns are already addressed by SEC Rule 38a-1,⁵⁴⁵ which Federated Hermes

summarizes as requiring registered investment companies, including Permitted Government MMFs, to adopt and implement written compliance policies and procedures reasonably designed to prevent violation of the Federal securities laws. In addition, Federated Hermes, and other commenters, pointed to the SEC's proposed rule that would require funds to adopt and implement compliance policies and procedures, and cybersecurity programs, to detect, respond to, and recover from a cybersecurity incident, and that are reasonably designed to ensure that a fund can continue to operate during a cybersecurity event.⁵⁴⁶

FIA, CME, BlackRock, and SIFMA AMG expressed support for keeping the current issuer-based concentration limit thresholds of 10 percent for individual funds, and 25 percent for fund families.⁵⁴⁷ FIA, CME, and BlackRock contended that these limits are better aligned with current market structure given that there are few, if any, families of Permitted Government MMFs and Qualified ETFs that include more than two individual eligible funds.⁵⁴⁸ Relatedly, Nodal, which was one of the commenters that supported a 25 percent limit for individual funds, stated that many fund families only have one Government MMF, which would result in an effective limit of 5 percent per fund family instead of the proposed 25 percent.⁵⁴⁹ AIMA echoed this point by noting that the proposed limits are "not consistent with market practice given that there are very few families of eligible MMFs or ETFs that offer more than two eligible individual funds."⁵⁵⁰

SIFMA AMG also criticized the proposed 5 percent issuer concentration limit and advocated for keeping the current 10 percent concentration limit.⁵⁵¹ SIFMA AMG expressed a general concern about the use of cybersecurity risk as a justification for a Commission rulemaking in areas unrelated to cybersecurity, which, in SIFMA AMG's opinion, could provide

⁵³⁸ *Id.* at 16 (referencing Commission Regulations 1.11, 39.13, 39.18(b), 160.30, and 162.21).

⁵³⁹ *Id.* (referencing Operational Resilience Framework for Futures Commission Merchants, Swap Dealers, and Major Swap Participants, 89 FR 4706 (Jan. 24, 2024)).

⁵⁴⁰ *Id.* at 17.

⁵⁴¹ BlackRock at p. 7.

⁵⁴² ICI at p. 8.

⁵⁴³ AIMA at p. 3; Federated Hermes at p. 1; ICI at pp. 6-7 (arguing that a failure to appropriately calibrate the proposed concentration limits will result in the reduced utility of Permitted Government MMFs and Treasury ETFs for many FCMs and DCOs, especially smaller firms); Nodal at p. 3 (calling for a "flat limit of 25%" for both individual and any single family of funds).

⁵⁴⁴ Federated Hermes at p. 1.

⁵⁴⁵ SEC Rule 38a-1 requires registered investment companies to adopt and implement written policies and procedures reasonably designed to prevent Federal securities laws violations; obtain approval by the registered investment company's board of the policies and procedures of the registered investment company and the policies and procedures of certain service providers; review the adequacy of those policies and procedures at least annually; and designate a chief compliance officer responsible for the administration of the registered investment company's policies and procedures. 17 CFR 270.38a-1.

⁵⁴⁶ Federated Hermes at pp. 2-3 (referencing a **Federal Register** release, 88 FR 16921 (March 21, 2023), reopening the comment period for an SEC proposal, Cybersecurity Risk Management for Investment Advisers, Registered Investment Companies, and Business Development Companies, 87 FR 13524 (March 9, 2022) ("SEC Investment Management Cybersecurity Release").

⁵⁴⁷ FIA/CME Joint Letter at p. 18; BlackRock at p. 7; SIFMA AMG at p. 10 (n. 35) (referencing the SEC Investment Management Cybersecurity Release).

⁵⁴⁸ FIA/CME Joint Letter at p. 18.

⁵⁴⁹ Nodal at p. 2.

⁵⁵⁰ AIMA at p. 3. As an alternative, AIMA supports an individual fund limit of 25 percent. *Id.*

⁵⁵¹ SIFMA AMG at p. 10.

⁵³³ FIA/CME Joint Letter at p. 17.

⁵³⁴ *Id.* Commission regulation 1.25(c) currently excludes from the concentration limits MMFs investing solely in U.S. government securities as this term is currently used in Commission regulation 1.25. Because the Commission proposed to defined Permitted Government MMF by reference to SEC Rule 2a-7 as an MMF that invests 99.5 percent or more of its assets in cash, government securities (defined in 15 U.S.C. 80a-2(a)(16) to broadly include U.S. Treasury securities and U.S. agency obligations), and/or Repurchase Transactions that must be collateralized fully, the scope of underlying instruments in which a Permitted Government MMF would be allowed to invest is broader than that of MMFs currently excluded from the concentration limits. Proposal at 81256.

⁵³⁵ FIA/CME Joint Letter at p. 17.

⁵³⁶ *Id.*; 2011 Permitted Investments Amendment at 78796.

⁵³⁷ FIA/CME Joint Letter at p. 17.

“an unfounded, unquantifiable precedent for future rulemakings.”⁵⁵²

SIFMA AMG further noted that “MMFs and U.S. Treasury ETFs are sponsored by SEC-registered investment advisers that are subject to their own cyber safeguards and regulatory obligations.”⁵⁵³ In particular, SIFMA AMG cited SEC Regulation S-P,⁵⁵⁴ which requires registered broker-dealers, investment companies, and investment advisers to “develop, implement, and maintain written policies and procedures that address administrative, technical, and physical safeguards for the protection of customer information,”⁵⁵⁵ as well as the SEC Investment Management Cybersecurity Release that was also cited by other commenters.⁵⁵⁶

SIFMA AMG also asserted that the Proposal had not adequately explained why the proposed 5 percent limit more appropriately addressed the Commission’s concerns over redemption and liquidity risks.⁵⁵⁷ This commenter also asserted that a low issuer-based concentration limit would require more monitoring by FCMs and DCOs and potentially increase transaction fees.⁵⁵⁸ Finally, SIFMA AMG noted that only five Qualified ETFs are currently accepted as performance bond by a DCO which would mean that only 25 percent of the Customer Funds held by the FCM or DCO may be invested in a Qualified ETF even though the concentration limit

overall is 50 percent for Qualified ETFs.⁵⁵⁹ SIFMA AMG opined that the Commission should instead allow FCMs and DCOs to allocate based upon their own risk assessments of the Permitted Investments in which they choose to invest Customer Funds, subject to “more appropriate guardrails like the current 10% limit.”⁵⁶⁰

c. Discussion

After consideration of the comments received, coupled with the Commission’s concerns regarding the safety of Customer Funds, the Commission has decided to adopt, with one exception described below, the proposed concentration limits as set forth in the Proposal. Specifically, the Commission is adopting a single asset-based concentration limit of 50 percent for all Permitted Government MMFs of at least \$1 billion in assets and whose management company manages at least \$25 billion in assets. For MMFs that hold less than \$1 billion in assets or have a management company with less than \$25 billion in assets under management, the Commission is maintaining the current 10 percent asset-based concentration limit.⁵⁶¹

Regarding issuer-based concentration limits for Permitted Government MMFs, the Commission is limiting investments of Customer Funds in any single family of Permitted Government MMFs to 25 percent, as set forth in the Proposal. With respect to investments of Customer Funds in any individual Permitted

Government MMF, however, the Commission is increasing the permissible concentration to 10 percent of the total assets held in each of the segregated account classes of futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds. This is a change from the 5 percent that was set forth in the Proposal.

For Qualified ETFs, the asset-based concentration limits will be the same as those set forth in this Final Rule for Permitted Government MMFs. For Qualified ETFs with at least \$1 billion in assets and whose management company manages at least \$25 billion in assets, the asset-based concentration limit will be 50 percent of total funds held in each of the three categories of Customer Funds. For Qualified ETFs that hold less than \$1 billion in assets or whose management company manages less than \$25 billion in assets under management, the asset-based concentration limit will be 10 percent. The issuer-based concentration limit for Qualified ETFs will be 25 percent for a single family of Qualified ETFs, which is unchanged from the Proposal. With respect to any individual Qualified ETF, however, consistent with the upward revision for Permitted Government MMFs, the concentration limit will be 10 percent, rather than 5 percent as set forth in the Proposal.

The new concentration limits are summarized below:

Instrument	Size	Current concentration limits		New concentration limits	
		Asset-based	Issuer-based	Asset-based	Issuer-based
U.S. government securities.	N/A	No limit	No limit	No limit	No limit.
Municipal Securities ...	N/A	10%	5%	10%	5%.
U.S. agency obligations.	N/A	50%	25%	50%	25%.
Bank CDs	N/A	25%	5%	N/A	N/A.
Government MMFs investing solely in U.S. government securities (<i>i.e.</i> , securities issued or fully guaranteed by the U.S. government).	>\$1B assets and management company with >25B in assets.	No limit	No limit	50%	25% per family 10% per fund.
	<\$1B assets or management company with <\$25B in assets.	10%	10% (<i>de facto</i> limit based on asset-based limit).	10%	

⁵⁵² *Id.*

⁵⁵³ *Id.*

⁵⁵⁴ 17 CFR 248.30.

⁵⁵⁵ 17 CFR 248.30 sets forth regulatory obligations for the protection of customer information, response programs for unauthorized access to customer information, and requirements relating to the disposal of customer information.

⁵⁵⁶ SIFMA AMG at p. 10 (referencing SEC Investment Management Cybersecurity Release).

⁵⁵⁷ *Id.*

⁵⁵⁸ *Id.*

⁵⁵⁹ *Id.*

⁵⁶⁰ *Id.*

⁵⁶¹ As proposed, the Commission is also deleting the conjunction “and” in Commission regulation 1.25(b)(i)(G), redesignated as Commission regulation 1.25(b)(i)(E) and revised to reflect other amendments adopted in this Final Rule, to clarify that the fund size threshold and the management company size threshold are to be construed as alternative prongs triggering the 10 percent limit.

Instrument	Size	Current concentration limits		New concentration limits	
		Asset-based	Issuer-based	Asset-based	Issuer-based
Government MMFs as defined in SEC Rule 2a-7 (including MMFs whose portfolio includes U.S. agency obligations and other instruments).	>\$1B assets and management company with >25B in assets.	50%	25% per family 10% per fund..	50%	
	<\$1B assets or management company with <\$25B in assets.	10% .....	.....	10%	
Qualified ETFs	>\$1B assets and management company with >25B in assets.	N/A	N/A	50%	25% per family 10% per fund
	<\$1B assets or management company with <\$25B in assets.	N/A	N/A	10%	

As in the Proposal, Specified Foreign Sovereign Debt will be excluded from the concentration limits.⁵⁶² This is consistent with the current exclusion of U.S. government securities from the asset-based and issuer-based concentration limits. The Commission reiterates that the relative strength of the economies and limited default risk of Canada, France, Germany, Japan, and the United Kingdom are demonstrated by such countries being ranked among the seven largest economies in the International Monetary Fund's classification of advanced economies,⁵⁶³ and by the countries being members of the G7, which represents the world's largest industrial democracies. In addition, the Commission has determined that the two-year debt instruments that would qualify as Specified Foreign Sovereign Debt have credit, liquidity, and volatility characteristics that are consistent with two-year U.S. Treasury securities.

Furthermore, the new condition that would permit an FCM or DCO to invest Customer Funds in Specified Foreign Sovereign Debt only to the extent that the FCM or DCO has balances owed to customers denominated in the currency of the applicable country should limit the amount of Customer Funds that an FCM or DCO may invest in the Specified Foreign Sovereign debt.⁵⁶⁴ Additionally, the condition that an FCM or DCO must stop making direct

investments, or engaging in reverse repurchase agreements, involving the Specified Foreign Sovereign Debt of a country whose credit default spread on two-year debt instruments exceeds 45 BPS would further preserve the principal of customers' foreign currency deposits held by FCMs and DCOs.⁵⁶⁵ Lastly, not imposing asset-based or issuer-based concentration limits on an FCM's or DCO's investments in Specified Foreign Sovereign Debt is consistent with the Commission's 2018 Order, which did not impose concentration limits on a DCO's investment of futures customer funds or Cleared Swaps Customer Collateral in the sovereign debt of France or Germany. Accordingly, the Commission will not adopt asset-based and issuer-based concentration limits for investments in Specified Foreign Sovereign Debt.

As discussed above, the Commission received a substantial number of comments with respect to the issue of asset-based and issuer-based concentration limits pertaining to the proposed limits for Permitted Government MMFs and Qualified ETFs.⁵⁶⁶ These include the comments previously discussed from FIA, CME, and BlackRock that advocated for no asset-based concentration limit for Permitted Government MMFs and Qualified ETFs, emphasizing the greater diversification and resiliency such funds provide in times of market stress.⁵⁶⁷

The Commission has considered these comments but continues to believe that the asset-based concentration limits set forth in the Proposal are an effective tool in ensuring that Customer Funds are invested in a manner that limits risks arising from a high concentration in any particular Permitted Investment asset class. Based on its experience administering its customer protection rules, the Commission declines to allow FCMs and DCOs to invest up to 100 percent of segregated Customer Funds in any category of Permitted Government MMFs and Qualified ETFs.

That the new Permitted Government MMF category is broader in scope than MMFs investing solely in U.S. government securities is particularly relevant here. This new Permitted Government MMF category is defined by reference to SEC Rule 2a-7 as an MMF that invests at least 99.5 percent or more of its total assets in cash, government securities, and/or Repurchase Transactions that are collateralized fully.⁵⁶⁸ The scope of underlying instruments in which a Permitted Government MMF would be allowed to invest is therefore broader than that of the MMFs currently excluded from the concentration limits of Commission regulation 1.25(c) (*i.e.*, MMFs investing solely in U.S. government securities). To account for the potential increase in risk associated with such broader scope, and in the

⁵⁶² Proposal at 81258.

⁵⁶³ *Id.* See also Statistical Appendix to the World Economic Outlook, April 2023, International Monetary Fund, available here: <https://www.imf.org/en/Publications/WEO/Issues/2023/04/11/world-economic-outlook-april-2023>.

⁵⁶⁴ Proposed Commission regulation 1.25(a)(1)(vii).

⁵⁶⁵ Proposed Commission regulation 1.25(f)(3).

⁵⁶⁶ See generally section IV.B.b.

⁵⁶⁷ FIA/CME Joint Letter at p. 17; BlackRock at pp. 2, 7.

⁵⁶⁸ 2000 Permitted Investments Amendment at 78010. The 2000 Permitted Investments Amendment provided in paragraph (a)(1)(vii) of Commission regulation 1.25 that an FCM or DCO could invest in debt of a foreign sovereign subject to certain conditions, including that the FCM or DCO had balances owed to customers denominated in that country's currency.

interest of imposing a simple and consistent approach to concentration limits, the Commission proposed, and the Commission is now adopting, a single concentration limit of 50 percent for all Permitted Government MMFs of a certain size, without distinguishing between funds investing solely in U.S. government securities and those whose portfolio may also include U.S. agency obligations and/or other instruments within the limits of SEC Rule 2a–7. More precisely, under the Proposal, an FCM's or DCO's investment of Customer Funds in interests in Permitted Government MMFs with at least \$1 billion in assets and whose management company manages at least \$25 billion in assets would be limited to no more than 50 percent of the total Customer Funds computed separately for each of the segregated account classes of futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds.⁵⁶⁹ This asset-based concentration limit that the Commission is adopting is consistent with the concentration limits applicable to U.S. agency obligations, which, along with U.S. Treasury securities, are a permitted underlying instrument for Permitted Government MMFs.

The new Permitted Investment category of Qualified ETFs provides additional flexibility to FCMs and DCOs with respect to the investment of Customer Funds, as FCMs and DCOs could invest 50 percent in Permitted Government MMFs, and the other 50 percent in Qualified ETFs under the Final Rule, which lessens any practical impact of an overall asset-based concentration limit of 50 percent for each type of fund.

Moreover, Commission staff reviewed SIDR Reports filed by FCMs for the period between January 16, 2024 and June 28, 2024. The available data from the reports indicate that FCMs are investing a relatively low proportion of the Customer Funds they hold in MMFs in comparison to direct purchases of U.S. Government Securities, and that such firms' investments in MMFs are sufficiently small that they are unlikely to rise to levels that would breach the asset-based concentration limits that the Commission is adopting in this Final Rule.⁵⁷⁰

With respect to issuer-based concentration limits for Permitted Government MMFs and Qualified ETFs,

as discussed above, no commenter on this issue supported the proposed 5 percent limit on any individual Permitted Government MMF or Qualified ETF. The commenters differed, however, as to whether the applicable limit for any individual Permitted Government MMF or Qualified ETF should be the 10 percent limit that is the existing limit for certain MMFs, or a higher limit of 25 percent that is applicable to fund families.⁵⁷¹

In light of these comments, the Commission is adopting issuer-based concentration limits for MMFs and ETFs that differ from those in the Proposal. With respect to the issuer-based concentration limits on Permitted Government MMFs, the Commission proposed to limit investments of Customer Funds in any single family of Government MMFs to 25 percent, consistent with the existing requirements applicable to MMFs, but to reduce the existing 10 percent limit for investments of Customer Funds in any individual Government MMF, to just 5 percent. The Commission proposed the same limits for Qualified ETFs. In proposing stricter concentration limits, the Commission intended to facilitate the preservation of principal and maintenance of liquidity of Customer Funds through sound diversification standards and to mitigate the potential risk that a large portion of Customer Funds could become inaccessible due to cybersecurity or operational incidents, among other events.⁵⁷²

In light of comments received, however, the Commission has determined to raise the proposed 5 percent individual fund concentration limit for both Permitted Government MMFs and Qualified ETFs to 10 percent. In proposing to reduce the individual fund threshold to just 5 percent, the Commission's concerns with respect to the risk to principal and potential lack of sufficient liquidity for both Permitted Government MMFs and Qualified ETFs were illustrated by the 2008 "breaking the buck" by the Reserve Primary Fund as described in the Proposal.⁵⁷³ But as ICI pointed out, this example involved a Prime MMF that held privately issued debt in its portfolio, which will no longer be a Permitted Investment under the Final

Rule.⁵⁷⁴ Other commenters pointed out other practical challenges with regard to the 5 percent limit relating to the requirement that FCMs and DCOs monitor for compliance with concentration limits across a greater number of funds.⁵⁷⁵ Regarding the potential for cyber-attacks, the Commission acknowledges comments highlighting that both Permitted Government MMFs and Qualified ETFs are subject to comprehensive SEC regulatory requirements, which include cyber safeguards.⁵⁷⁶ After considering these comments, the Commission has determined that concentration limits of 10 percent for any individual Permitted Government MMF or Qualified ETF, along with the adoption of the Proposal's 25 percent limit for any signed family of Permitted Government MMFs or Qualified ETFs, should address the Commission's concerns regarding risk to Customer Funds and cybersecurity risks.

The concentration limits set forth in this Final Rule, including increasing the limit for any individual Permitted Government MMF or Qualified ETF from 5 percent to 10 percent (but not 25 percent, as some commenters recommended as discussed above), should promote both the preservation of principal and maintenance of liquidity of Customer Funds through sound diversification standards, while ensuring that the limit is not set so low that the application of the requirement might not be practical. Even with the higher threshold of 10 percent for individual Permitted Government MMFs and Qualified ETFs, this restriction should mitigate the potential risk that FCMs and DCOs may be unable to access a large portion of Customer Funds due to cybersecurity or operational incidents, among other events.

Although commenters generally criticized any issuer-based concentration limit for Permitted Government MMFs and Qualified ETFs as arbitrary,⁵⁷⁷ the Commission has chosen to maintain the existing 10 percent limitation on any individual fund based on its prior experience with this standard. In the Commission's experience, this limit has not proven to be a problem as it applies to current Permitted Investments, and this will not change for Permitted Government MMFs and Qualified ETFs.

⁵⁶⁹ Proposed Commission regulation 1.25(c)(3)(i)(D).

⁵⁷⁰ The Commission acknowledges the possibility that FCMs may make greater use of MMFs going forward and may reconsider the asset-based concentration levels for such funds, as appropriate, if that were to occur.

⁵⁷¹ As discussed previously, FIA and CME in their Joint Letter, as well as BlackRock and SIFMA AMG, expressed support for setting the individual fund concentration limit at 10 percent. By contrast, AIMA, Federated Hermes, ICI, and Nodal advocated for a 25 percent limit for any individual fund.

⁵⁷² Proposal at 81257.

⁵⁷³ *Id.*

⁵⁷⁴ ICI at p. 9.

⁵⁷⁵ SIFMA AMG at p. 10.

⁵⁷⁶ *Id.*

⁵⁷⁷ Federated Hermes at p. 2; ICI at pp. 7–8; SIFMA AMG at p. 11.

Although the foregoing discussion is applicable to both Permitted Government MMFs and Qualified ETFs, a few issues are of particular relevance to Qualified ETFs. As discussed above, for Qualified ETFs, the asset-based and issuer-based concentration limits will be the same as those for Permitted Government MMFs. In addition to raising similar objections to the issuer-based concentration limits for Qualified ETFs as for Permitted Government MMFs, commenters specifically noted that few families of ETFs offer more than two eligible funds, making the proposed 5 percent per fund concentration limit overly restrictive.⁵⁷⁸ The Commission recognizes that the small number of funds may limit the ability of FCMs and DCOs to fully utilize the Qualified ETFs allocation, but prior to this Final Rule, ETFs were not Permitted Investments at all. Moreover, even if there is only a small number of Qualified ETFs currently, more such ETFs may be created to meet the interest of FCMs and DCOs following the Commission's inclusion of Qualified ETFs in Commission regulation 1.25. Even if additional Qualified ETFs are not created in response to industry demand, however, because there is a relatively high 50 percent asset-based concentration limit on Permitted Government MMFs that are economically similar to Qualified ETFs, an FCM or DCO should have sufficient flexibility to invest Customer Funds in a combination of Permitted Government MMFs and Qualified ETFs to gain their desired exposure, provided the FCM or DCO determines that such investments are appropriate.

C. Futures Commission Merchant Capital Charges on Permitted Investments

The Commission discussed in the Proposal that Commission regulations 1.29, 22.2(e)(1), and 30.7(i) provide that FCMs and DCOs, as applicable, are financially responsible for any losses resulting from the investment of futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds, respectively.⁵⁷⁹ To reserve

liquidity for potential losses resulting from the investments of Customer Funds, Commission regulation 1.17(c)(5)(v) requires an FCM to take prescribed capital charges (or "haircuts") on such investments in computing the firm's regulatory capital.⁵⁸⁰ The capital charges are designed to address potential market risk associated with the FCM's holding of Permitted Investments, and to ensure that the firm has sufficient liquid financial resources to cover potential realized and unrealized losses associated with the Permitted Investments, while also retaining sufficient funds in segregation to fully meet its financial obligation to customers. Commission regulation 1.17(c)(5)(v) further provides that an FCM must apply the prescribed capital charges specified in Rule 15c3-1⁵⁸¹ under the Securities Exchange Act ("SEC Rule 15c3-1")⁵⁸² and appendix A to SEC Rule 15c3-1⁵⁸³ to the Permitted Investments.

As discussed in section IV.A.2. of this preamble, the Commission is amending the Permitted Investments under Commission regulation 1.25 to include Specified Foreign Sovereign Debt instruments (*i.e.*, the sovereign debt of Canada, France, Germany, Japan, and the United Kingdom).⁵⁸⁴ Under the Final Rule, the total dollar-weighted average time-to-maturity of each of the portfolios of Canadian, French, German,

Swaps Customers of the FCM; and Commission regulation 30.7(i), 17 CFR 30.7(i), provides that FCMs shall bear sole financial responsibility for any losses resulting from the investment of 30.7 customer funds, and further provides that no investment losses may be allocated to the 30.7 customers of the FCM.

⁵⁸⁰ 17 CFR 1.17(c)(5)(v). Although capital charges do not also apply to DCOs, a DCO is required under Commission regulation 39.11(a)(2) to maintain financial resources sufficient to enable it to cover its operating costs for a period of at least one year, calculated on a rolling basis. Potential investment losses would be included in the DCO's operating costs.

⁵⁸¹ Commission regulation 1.17(c)(5)(v) provides that an FCM that invests Customer Funds in Permitted Investments must take a charge (or deduction) in the amount specified in SEC Rule 15c3-1(c)(2)(vi) or (vii). 17 CFR 240.15c3-1(c)(2)(vi) and (vii).

⁵⁸² SEC Rule 15c3-1 sets forth minimum capital requirements for broker-dealers and specifies standardized haircuts to be applied on the market value of assets held by the broker-dealer for purposes of calculating the minimum capital requirements. SEC Rule 15c3-1(c)(2)(vi) details market risk capital charges for securities, including U.S. Treasury securities, municipal securities, and equity securities. SEC Rule 15c3-1(c)(2)(vii) imposes a capital charge of 100 percent of the carrying value of any securities that are not readily marketable.

⁵⁸³ 17 CFR 240.15c3-1a. SEC Rule 15c3-1a provides standardized haircuts for equity options and related positions.

⁵⁸⁴ Final Commission regulation 1.25(a)(1)(vi).

Japanese, and United Kingdom debt may not exceed 60 calendar days, and the total remaining time-to-maturity for any individual debt instrument may not exceed 180 calendar days.⁵⁸⁵

Pursuant to SEC Rule 15c3-1(c)(2)(vi), an FCM investing Customer Funds in qualifying sovereign debt of Canada would have no capital charge for debt instruments with a remaining time-to-maturity of less than 3 months, and a capital charge of 0.5 percent of the market value for debt instruments with a remaining time-to-maturity of 3 to 6 months.⁵⁸⁶ The capital charges for the sovereign debt of France, Germany, Japan, and the United Kingdom are determined under SEC rules by reference to nonconvertible debt securities with a fixed interest rate, fixed maturity date, and minimal credit risk.⁵⁸⁷ Nonconvertible debt securities with a remaining time-to-maturity of one year or less are subject to a capital charge of 2 percent of the market value of the security under SEC Rule 15c3-1(c)(2)(F)(1).⁵⁸⁸ The Commission, therefore, proposed capital charges consistent with the above percentages for FCM investments in Specified Foreign Sovereign Debt instruments.⁵⁸⁹

As discussed in section IV.A.3. of this preamble, the Commission is also amending the Permitted Investments under Commission regulation 1.25 to include interests in Qualified ETFs.⁵⁹⁰ Neither SEC Rule 15c3-1 nor appendix A to SEC Rule 15c3-1 explicitly address capital charges for Qualified ETFs. SEC Rule 15c3-1(c)(2)(vi)(D)(1) does, however, specify a 2 percent capital charge for a broker-dealer's net position in redeemable securities of a Prime MMF or a Permitted Government MMF. SEC staff has also provided guidance to registered securities brokers or dealers stating that staff would not recommend an enforcement action to its

⁵⁸⁵ Final Commission regulation 1.25(f)(1) and (2).

⁵⁸⁶ SEC Rule 15c3-1(c)(2)(vi)(C) provides that the capital charges on the sovereign debt of Canada is the same as the capital charges set forth in SEC Rule 15c3-1(c)(2)(vi)(A) for debt obligations of the U.S., debt obligations fully guaranteed as to principal and interest by the U.S., or debt obligations of U.S. agencies. SEC Rule 15c3-1(c)(2)(vi)(A) provides that a broker or dealer must take a 0.5 percent capital charge on U.S. Treasury and U.S. agency debt instruments that have a remaining time-to-maturity of between 3 months and 6 months, and no capital charge on U.S. Treasury and U.S. agency debt instruments having a remaining time-to-maturity of less than 3 months.

⁵⁸⁷ SEC Rule 15c3-1(c)(2)(F)(1) specifies the capital charges for nonconvertible debt securities with a fixed interest rate, fixed maturity date, and minimal credit risk, which includes the sovereign debt of France, Germany, Japan, and the United Kingdom.

⁵⁸⁸ *Id.*

⁵⁸⁹ Proposal at 81259–81260.

⁵⁹⁰ Final Commission regulation 1.25(a)(1)(v).

⁵⁷⁸ AIMA at p. 3. FIA/CME Joint Letter at p. 18.

⁵⁷⁹ Proposal at 81259–81260. Specifically, the Commission stated that: (i) Commission regulation 1.29, 17 CFR 1.29(b), provides that FCMs or DCOs, as applicable, bear sole responsibility for any losses resulting from the investment of futures customer funds and further provides that no investment losses shall be borne or otherwise allocated to FCM customers or to FCMs clearing customer accounts at DCOs; (ii) Commission regulation 22.2(e)(1), 17 CFR 22.2(e)(1), provides that FCMs shall bear sole responsibility for any losses resulting from the investment of Cleared Swaps Customer Collateral and may not allocate investment losses to Cleared

Commission if a broker or dealer applied a capital charge of 2 percent of the market value of a creation unit of ETF shares, and a capital charge of 6 percent of the market value of ETF shares that do not comprise a full creation unit.⁵⁹¹

The SEC staff's guidance is applicable to a U.S. Treasury ETF that: (i) is an open-end investment company registered with the SEC under the Investment Company Act of 1940 that issues securities redeemable at the fund's NAV; and (ii) invests solely in cash and government securities that are eligible securities under paragraph (a)(11) of SEC Rule 2a-7, which are limited to U.S. Treasury floating and fixed rate bills, notes, and bonds with a remaining term to final maturity of 12 months or less, government money market funds as defined in SEC Rule 2a-7, and/or Repurchase Transactions with a remaining term to final maturity of 12 months or less collateralized by U.S. Treasury securities or other government securities with a remaining term to final maturity of 12 months or less. The SEC staff position is subject to the following conditions: (i) the broker or dealer is not aware of any substantial operational problem that the U.S. Treasury ETF may be experiencing; (ii) the U.S. Treasury ETF shares can be redeemed by a broker or dealer through an authorized participant, the redemption of the U.S. Treasury ETF's shares can be settled in exchange for a basket of the ETF's underlying securities and/or cash by T + 1, and the U.S. Treasury ETF has committed in its registration statement to permit shareholders, except in extraordinary circumstances, to settle transactions within that timeframe; and (iii) the U.S. Treasury ETF's shares are listed for trading on a national securities exchange and trades of such shares are settled in accordance with the standard cycle prescribed by SEC Rule 15c6-1⁵⁹² under the Securities Exchange Act of 1934. Based on the SEC's guidance regarding the capital charges for U.S. Treasury ETFs, and the Commission's general incorporation of the SEC capital charges for Permitted Investments as set forth in Commission regulation 1.25(c)(5)(v), the Commission proposed that FCMs investing Customer Funds in redeemable shares (*i.e.*, creation units) of a Qualified ETF must apply a capital charge equal to 2 percent of the fair

market value of the shares in computing the firm's regulatory capital.⁵⁹³

The Commission received two comments on the capital charges for Specified Foreign Sovereign Debt and Qualified ETFs. BlackRock expressed support for the 2 percent FCM capital charge on the shares of Qualified ETFs held as Permitted Investments.⁵⁹⁴ FIA and CME requested that the Commission simplify and clarify the definition of a Qualified ETF to better align the eligibility conditions for Qualified ETFs with the SEC's guidance on capital charges.⁵⁹⁵ The Commission is adopting the FCM capital charges for Specified Foreign Sovereign Debt and Qualified ETF shares held as Permitted Investments shares as proposed. In addition, in a modification from the Proposal, the Commission is not restricting FCMs and DCOs from buying and selling Qualified ETF shares through secondary market transactions, provided that such transactions otherwise comply with the Commission's segregation regulations and liquidity requirements. Therefore, consistent with the capital charge specified in the SEC ETF Letter, the applicable capital charge for Qualified ETF shares that do not comprise a full creation unit is 6 percent.⁵⁹⁶ The Commission intends to keep these capital charges consistent with the SEC to ensure that FCMs, many of whom are also broker-dealers, will only have to comply with a single set of capital charges. Consistency in requirements between the SEC and the Commission, which has long been a defining characteristic of the Commission's regulatory approach to FCM capital, should foster a more level playing field, ultimately promoting trust and integrity within the market.

D. Segregation Investment Detail Report

Commission regulations 1.32(f), 22.2(g)(5), and 30.7(l)(5) require each FCM to submit a SIDR Report twice each month to the Commission and the firm's DSRO listing the names of all banks, trust companies, FCMs, DCOs, and other depositories or custodians holding futures customer funds, Cleared Swaps Customer Collateral, and 30.7

customer funds, respectively.⁵⁹⁷ The SIDR Report also identifies the amount of futures customer funds, Cleared Swaps Customer Collateral, or 30.7 customer funds invested in each category of Permitted Investments: (i) U.S. Treasury securities; (ii) municipal securities; (iii) government sponsored enterprise securities (*i.e.*, U.S. agency obligations); (iv) bank CDs; (v) commercial paper; (vi) corporate notes or bonds; and (vii) interests in MMFs.

The Commission proposed to amend the content of the SIDR Report to reflect the proposed amendments to the list of Permitted Investments detailed in the Proposal. Specifically, the Commission proposed to amend the content of the SIDR Report by: (i) limiting the reporting of MMFs to Permitted Government MMFs; (ii) deleting the reporting of balances invested in commercial paper, corporate notes and bonds, and bank CDs;⁵⁹⁸ (iii) adding the reporting of balances invested in the Specified Foreign Sovereign Debt of each particular foreign jurisdiction (*i.e.*, individual reporting for Canada, France, Germany, Japan, and the United Kingdom); and, (iv) adding balances invested in Qualified ETFs.⁵⁹⁹

The Commission did not receive any comments on the proposed amendments to the SIDR Report. Therefore, the Commission is amending the content of the SIDR Report specified in Commission regulations 1.32(f), 22.2(g)(5), and 30.7(l)(5) as proposed, to reflect the amendments to the list of Permitted Investments adopted in this Final Rule and reflected in Final Commission regulation 1.25(a)(1).

E. Read-Only Electronic Access to Customer Funds Accounts Maintained by Futures Commission Merchants

Commission regulations currently provide that an FCM may deposit Customer Funds only with depositories and custodians that agree to provide the Commission with direct, read-only electronic access to the Customer Fund accounts ("Read-only Access Provisions").⁶⁰⁰ The Commission

⁵⁹⁷ Proposal at 81260–81261.

⁵⁹⁸ In the Proposal, the Commission stated that if the Commission eliminated bank CDs as a Permitted Investment in the final rulemaking, the Commission would also amend Commission regulations 1.32(f), 22.2(g)(5), and 30.7(l)(5) to remove references to bank CDs from the SIDR Report template. Proposal at 81261 (n. 264).

⁵⁹⁹ Proposal at 81260–81261.

⁶⁰⁰ The Read-only Access Provisions are set forth in Commission regulation 1.20, appendix A to Commission regulation 1.20, and appendix A to Commission regulation 1.26, for futures customer funds; Commission regulation 22.5 for Cleared Swaps Customer Collateral; and Commission regulation 30.7 and appendices E and F to part 30

⁵⁹¹ See generally SEC ETF Letter, available at the SEC's website: <https://www.sec.gov/divisions/marketreg/mr-noaction/2022/finra-060222-15c3-1.pdf>.

⁵⁹² 17 CFR 240.15c6-1.

⁵⁹³ Proposal at 81260. The Commission proposed to permit Qualified ETFs as a Permitted Investment provided the FCM or DCO transacted with the Qualified ETF for the purchase or sale of full creation or redemption units (*i.e.*, redeemable securities). As the Proposal did not permit the investment of Customer Funds in Qualified ETFs in non-creation unit sizes, the Commission did not explicitly address the 6 percent capital requirement specified in the SEC ETF Letter.

⁵⁹⁴ BlackRock at pp. 2, 6–7.

⁵⁹⁵ FIA/CME Joint Letter at p. 11.

⁵⁹⁶ See generally SEC ETF Letter.

adopted the Read-only Access Provisions in 2013 as part of its regulatory reforms to enhance the Commission's customer protection regime in response to the failure of two FCMs that violated customer fund segregation statutory and regulatory requirements, which resulted in shortfalls in Customer Funds balances.⁶⁰¹ Along with other regulatory measures, the Read-only Access Provisions were designed to address concerns regarding the efficacy of the Commission's oversight program to monitor FCM activities, verify Customer Funds balances, and detect fraud.⁶⁰²

By adopting the Read-only Access Provisions, the Commission established a mechanism to enable Commission staff to review and identify discrepancies between an FCM's daily segregation reports⁶⁰³ and customer fund balances on deposit at various depositories.⁶⁰⁴ The Commission also adopted template acknowledgment letters in appendix A to Commission regulation 1.20 and appendix E to part 30 of the Commission's regulations requiring, among other things,⁶⁰⁵ that a depository acknowledge and agree, pursuant to authorization granted by the FCM, to provide the appropriate Commission staff with the technological connectivity, which may include provision of hardware, software, and related technology and protocol support, to facilitate direct, read-only electronic access to transaction and account balance information.⁶⁰⁶ The template acknowledgment letters in appendix A to Commission regulation 1.26 and appendix F to part 30 contain similar provisions with respect to MMF accounts in which FCMs hold customer segregated funds.⁶⁰⁷

of the Commission's regulations for 30.7 customer funds.

⁶⁰¹ 2013 Protections of Customer Funds Release at 68509.

⁶⁰² *Id.* at 68510.

⁶⁰³ Commission regulations 1.32 (for futures customer funds), 22.2(g) (for Cleared Swaps Customer Collateral), and 30.7(l) (for 30.7 customer funds) require an FCM to prepare, among other records, a daily record as of the close of each business detailing the total amount of funds on deposit in customer segregated accounts and the total amount of funds owed to customers. The purpose of the daily record is to demonstrate the FCM's compliance with its obligation to hold a sufficient amount of funds in segregated accounts to pay the full account balance of each customer.

⁶⁰⁴ 2013 Protections of Customer Funds Release at 68537 and 68580.

⁶⁰⁵ These appendices are intended to be used by depositories that accept Customer Funds from FCMs to acknowledge that the funds belong to the FCM customer and cannot be used to offset obligations of the FCM.

⁶⁰⁶ 17 CFR 1.20, appendix A; 17 CFR part 30, appendix E.

⁶⁰⁷ 17 CFR 1.26, appendix A; 17 CFR part 30, appendix F.

When adopting the Read-only Access Provisions, the Commission did not anticipate that staff would access FCM accounts on a regular basis to monitor account activity, but, rather, that staff would make use of the Read-only Access Provisions only to obtain account balances and other information that staff could not obtain via the CME and NFA automated daily segregation confirmation system, or otherwise directly from the depositories.⁶⁰⁸ The Commission explained that CME and NFA had adopted rules requiring FCMs to instruct each depository holding Customer Funds to report balances on a daily basis to CME or NFA, respectively.⁶⁰⁹

In practice, CME and NFA receive account information from all depositories holding Customer Funds on a daily basis pursuant to CME Rule 971.C. and NFA Financial Requirements section 4. CME and NFA have developed programs that compare the daily balances reported by each of the depositories with balances reported by the FCMs in their daily segregation reports that are filed with CME and/or NFA.⁶¹⁰ These programs generate alerts for discrepancies that exceed defined thresholds. When such alerts occur, CME/NFA staff conduct analysis and follow-up actions, which include engaging with an FCM to clarify or remedy the situation and documenting the outcome.

⁶⁰⁸ 2013 Protections of Customer Funds Release at 68537 and 68592 (noting in footnote 662 that the Commission generally expected that it would seek to obtain account information from the CME and NFA automated daily segregation confirmation system and/or from depositories directly prior to requesting a depository to activate electronic access).

⁶⁰⁹ *Id.* at 68512. CME Rule 971.C. provides that in order for an FCM clearing member's account held at a depository to qualify as a segregated account for Customer Funds, the FCM clearing member must provide CME with access to account information, in a form and manner prescribed by CME, and the depository must allow the FCM clearing member to provide CME with access to the account information, in a form and manner prescribed by CME. NFA Financial Requirements section 4, paragraph (b), provides that each member FCM must instruct each depository, as required by NFA, holding segregated Customer Funds to report balances in the FCM's customer segregated accounts to NFA or a third party designated by NFA in the form and manner prescribed by NFA. CME and NFA Rules are available at the following websites: <https://www.cmegroup.com>, and <https://www.nfa.futures.org>.

⁶¹⁰ At the time the Commission issued the 2013 Protections of Customer Funds Release, CME and NFA had just recently launched their programs. 2013 Protections of Customer Funds Release at 68512. The verification programs have developed further in the years that followed. FCMs report on the daily segregation records total funds held in segregation with banks, clearing organizations, and net equities with other FCMs in addition to other balances.

The Commission's experience with overseeing the administration of the CME and NFA daily segregation confirmation and verification processes for several years has demonstrated that the system provides adequate access to relevant information and is capable of detecting discrepancies in account balances in a timely manner. Moreover, the establishment of an efficient method for obtaining and verifying FCM balances of Customer Funds at each depository supports the Commission's initial expectation that the direct, read-only electronic access would not be the Commission's principal tool for obtaining account information at depositories.⁶¹¹ The Commission is retaining the current requirement that FCMs deposit Customer Funds only with depositories that agree that accounts may be examined by Commission or DRSO staff at any reasonable time, and that further agree to reply promptly and directly to any request from Commission or DRSO staff for confirmation of account balances or for provision of any other information regarding or related to an account, to ensure that staff have timely access to information concerning Customer Funds from depositories.⁶¹²

The Commission has encountered various practical challenges in implementing the Read-only Access Provisions. Due to the number of depositories utilized by FCMs, as well

⁶¹¹ 2013 Protections of Customer Funds Release at 68537 (the Commission anticipated that the combination of receipt of daily account balances reported by depositories to CME and NFA and the Commission's ability to confirm account balances and transactions directly with depositories via direct communications would reduce the need to rely upon direct electronic access to account information at depositories).

⁶¹² Commission regulations 1.20(d)(5) and (6), 1.26(b), 22.5(a) and (b), and 30.7(d)(5) and (6). 17 CFR 1.20(d), 1.26(b), 22.5, and 30.7(d). For example, Commission regulation 1.20(d)(5) provides that an FCM must deposit futures customer funds only with a depository that agrees that accounts may be examined at any reasonable time by specified Commission or DRSO staff. Commission regulation 1.20(d)(6) provides that an FCM must deposit futures customer funds only with a depository that agrees to reply promptly and directly to any request from specified Commission staff or DRSO staff for confirmation of account balances or provision of any other information regarding or related to the FCM's account. Commission regulation 1.20(d)(5) and (6) further provide that the written acknowledgment required from the depository must contain the FCM's authorization to the depository to reply promptly and directly to the Commission or DRSO without further notice to or consent from the FCM. Commission regulation 22.5 provides that an FCM must obtain a written acknowledgment letter in accordance with Commission regulation 1.20 and Commission regulation 1.26 from each depository holding Cleared Swaps Customer Collateral, except an acknowledgment letter is not required of a DCO that has adopted rules providing for the segregation of Cleared Swaps Customer Collateral.

as the total number of accounts that FCMs maintain with various depository institutions, the Commission must obtain and keep a current log of credentials, and, in some instances, must obtain and store physical devices required as part of a multi-factor authentication process, for thousands of different depository accounts.⁶¹³ Frequently, Commission staff must be trained to navigate the various account access systems and work regularly with depositories' technology staff to ensure that the systems' security features do not prevent the Commission's access to the accounts.⁶¹⁴ Furthermore, due to lack of infrastructure, some foreign depository institutions are unable to provide direct electronic access to the customer segregated accounts, offering instead to provide end-of-day account statements by email. These operational challenges put an undue burden on the Commission's resources, particularly considering that the Commission contemplated that the use of real-time access would be limited, and prevent Commission staff from using the Read-only Access Provisions as intended.⁶¹⁵ Thus, in light of the practical challenges of maintaining direct read-only access to depository accounts and the availability of efficient alternative methods for verifying customer segregated account balances, the Commission proposed to eliminate the Read-only Access Provisions in Commission regulations 1.20 and 30.7, and appendix A to Commission regulation 1.20, appendix A to Commission regulation 1.26, and appendices E and F to part 30 of the Commission's regulations.

The Commission received two comments regarding the proposed elimination of the Read-only Access Provisions.⁶¹⁶ NFA supported the Commission's Proposal, stating that NFA and CME, collectively, receive account balance information each business day directly from all depositories holding Customer Funds for FCMs.⁶¹⁷ Furthermore, NFA stated that it and CME have programs that

compare daily balances reported by depositories holding Customer Funds to balances reported by FCMs in their daily segregation schedules.⁶¹⁸ NFA also stated that when there is a discrepancy in reported balances that exceed defined thresholds, alerts are generated and staff conduct appropriate analysis and prompt follow up with an impacted FCM to clarify and remedy the situation, if necessary, and document this work.⁶¹⁹ In light of its program, NFA stated that it does not believe that the Commission's Read-only Access Provisions provide any meaningful additional customer protection.⁶²⁰

Eurex also supported the Commission's proposal to eliminate the Read-only Access Provisions, stating that it fully agrees with the Proposal's rationale regarding the effectiveness of the CME and NFA daily segregation confirmation and verification process.⁶²¹ Eurex further stated that the Read-only Access Provisions posed substantial challenges, which Eurex believes do not bring any corresponding benefits given the existing CME and NFA confirmation and verification processes.⁶²²

The Commission has considered the comments and is eliminating the Read-only Access Provisions as proposed for the reasons stated in the Proposal. Therefore, the Commission is eliminating the Read-only Access Provisions in Commission regulations 1.20(d)(3) and 30.7(d)(3), and appendix A to Commission regulation 1.20 (redesignated as appendix C to part 1), appendix A to Commission regulation 1.26 (redesignated as appendix F to part 1), and appendices E and F to part 30 of the Commission's regulations.⁶²³

Consistent with the position stated in the Proposal, FCMs will not need to obtain new acknowledgment letters for existing accounts at depositories

holding Customer Funds reflecting the elimination of the Read-only Access Provisions.⁶²⁴ Instead, revised acknowledgment letters must be obtained only for accounts opened following the effective date of the rule amendments, or in the event that the FCM is required to obtain a new acknowledgment letter for reasons unrelated to the elimination of the Read-only Access Provisions after the effective date of the rule amendments.

F. Revisions to the Customer Risk Disclosure Statement

Commission regulation 1.55(a) currently requires an FCM, or an introducing broker ("IB") in the case of an introduced account, to provide each customer that is not an "eligible contract participant" a written risk disclosure statement prior to opening the customer's account ("Risk Disclosure Statement").⁶²⁵ Commission regulation 1.55(a) further requires the FCM or IB to receive a signed and dated statement from the customer acknowledging the receipt and understanding of the Risk Disclosure Statement.⁶²⁶ The Commission has specified standardized language for the disclosures that are required to be included in the Risk Disclosure Statement. The disclosures address risks associated with transaction in cleared derivatives, customer segregation, and bankruptcy. Furthermore, Commission regulation 1.55(b)(6) requires the Risk Disclosure Statement to include the following disclosure: The funds you deposit with a futures commission merchant may be invested by the futures commission merchant in certain types of financial instruments that have been approved by the Commission for the purpose of such investments. Permitted investments are listed in Commission regulation 1.25 and include: U.S. government securities; municipal securities; money market mutual funds; and certain corporate notes and bonds. The futures commission merchant may

⁶¹³ Based on information provided by CME, as of March 7, 2023, FCM registrants maintained over 3,600 active accounts with approximately 200 banks, other registered FCMs, foreign broker-dealers, foreign exchanges, and DCOs.

⁶¹⁴ Depositories often require Commission staff to update user-IDs and passwords on a regular basis; otherwise, the access is interrupted and must be reset by the depositories. Some depositories also require the use of additional security devices beyond user-IDs and passwords, including key fobs or other forms of multi-factor authentication.

⁶¹⁵ Commission staff has not had a regulatory need to attempt to use read-only access for any FCM's depository accounts since it was implemented over 10 years ago.

⁶¹⁶ Eurex at p. 3; NFA at p. 2.

⁶¹⁷ NFA at p. 2.

⁶¹⁸ *Id.*

⁶¹⁹ *Id.*

⁶²⁰ *Id.*

⁶²¹ Eurex at p. 3.

⁶²² *Id.*

⁶²³ These amendments also apply to Commission regulation 22.5, which requires FCMs to obtain an acknowledgment letter from depositories before depositing Cleared Swaps Customer Collateral with a depository, in accordance with Commission regulations 1.20 and 1.26. 17 CFR 22.5(a). Commission regulation 22.5(b) further requires FCMs to adhere to all requirements specified in Commission regulations 1.20 and 1.26 regarding retaining, permitting access to filing, or amending the written acknowledgment letters. 17 CFR 22.5.

Separately, the Commission is redesignating appendices A and B to Commission regulation 1.20 as appendices C and D to part 1, and appendices A and B to Commission regulation 1.26 as appendices F and G to part 1, to address a change in the rules of the Office of the Federal Register regarding the structure of regulatory text to be codified in the Code of Federal Regulations.

⁶²⁴ Proposal at 81262.

⁶²⁵ 17 CFR 1.55(a). The term "eligible contract participant" is defined in section 1a(18) of the CEA and Commission regulation 1.3. 7 U.S.C. 1a(18) and 17 CFR 1.3. The definition covers various CFTC-regulated entities meeting specified conditions, including swap dealers, FCMs, and commodity pools with over \$5 million in assets under management, as well as various types of other federally-regulated financial institutions such as certain banks, broker-dealers, insurance companies, pension plans, as well as corporations and other forms of corporate entities with over \$10 million in assets, and individuals with \$10 million invested on a discretionary basis or \$5 million invested on a hedging basis. Certain other exclusions and conditions apply with respect to these various types of designated entities and individuals.

⁶²⁶ *Id.*

retain the interest and other earnings realized from its investment of customer funds. You should be familiar with the types of financial instruments that a futures commission may invest customer funds in.

Although certain conforming amendments to Commission regulation 1.55 are necessary to reflect the changes to the list of Permitted Investments in Commission regulation 1.25, the Commission omitted to include a discussion of potential amendments to Commission regulation 1.55(b)(6) in the Proposal. The Commission is now adopting technical, conforming amendments to Commission regulation 1.55(b)(6) to: (i) delete the reference in the Risk Disclosure Statement to investments in corporate notes and bonds; (ii) clarify that only certain MMFs may be Permitted Investments, and (iii) add investments in Specified Foreign Sovereign Debt and Qualified ETFs, which reflect the revised list of Permitted Investments that are being adopted under this Final Rule. As amended, the disclosure will state: The funds you deposit with a futures commission merchant may be invested by the futures commission merchant in certain types of financial instruments that have been approved by the Commission for the purpose of such investments. Permitted investments are listed in Commission regulation 1.25 and include: U.S. government securities; municipal securities; certain money market funds; certain foreign sovereign debt, and U.S. Treasury exchange-traded funds. The futures commission merchant may retain the interest and other earnings realized from its investment of customer funds. You should be familiar with the types of financial instruments that a futures commission merchant may invest customer funds in.⁶²⁷

The Commission is not requiring FCMs and IBs to obtain acknowledgment of revised Risk Disclosure Statements from existing customers due to the technical amendment. FCMs and IBs are required to use the amended Risk Disclosure Statement for any customers onboarded on or after the compliance date of March 31, 2025. The Commission is setting an extended compliance date to provide FCMs and IBs with sufficient time to make any necessary system changes to reflect the revised Risk Disclosure Statement, which is generally prepared as an electronic document. The extended compliance period also addresses the fact that the Proposal did not include a discussion of proposed

conforming amendments to Commission regulation 1.55.

V. Section 4(c) of the Act

With respect to an FCM's or DCO's investment of futures customer funds, the amendments to Commission regulation 1.25 are being promulgated under section 4d(a)(2) of the Act.⁶²⁸ Section 4d(a)(2) provides that an FCM or DCO may invest futures customer funds in U.S. government securities and municipal securities. Section 4d(a)(2) further provides that such investments must be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.

Pursuant to its authority under section 4(c)⁶²⁹ of the Act, the Commission proposed to expand the range of instruments in which FCMs and DCOs may invest futures customer funds beyond those listed in section 4d(a)(2) of the Act to enhance the yield available to FCMs, DCOs, and their customers, without compromising the safety of futures customer funds. Section 4(c)(1) of the Act empowers the Commission to "promote responsible economic or financial innovation and fair competition" by exempting any transaction or class of transactions (including any person or class of persons offering, entering into, rendering advice, or rendering other services with respect to, the agreement, contract, or transaction), from any of the provisions of the Act, subject to certain exceptions.⁶³⁰ The Commission's authority under section 4(c) extends to transactions covered by section 4d(a)(2) and to FCMs and DCOs that offer, enter into, render advice, or render other services with respect to such transactions. In enacting section 4(c), Congress' goal was to give the Commission a means of providing certainty and stability to existing and emerging markets so that financial innovation and market development can

proceed in an effective and competitive manner.⁶³¹ The Commission may grant such an exemption by rule, regulation, or order, after notice and opportunity for hearing, and may do so on application of any person or on its own initiative.⁶³²

Section 4(c)(2) of the Act provides that the Commission may grant exemptions under section 4(c)(1) only when it determines that the requirements for which an exemption is being provided should not be applied to the agreements, contracts, or transactions at issue; that the exemption is consistent with the public interest and the purposes of the Act; that the agreements, contracts, or transactions will be entered into solely between appropriate persons; and that the exemption will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory responsibilities under the Act.⁶³³ When section 4(c) was enacted, the Conference Report accompanying the Futures Trading Practices Act of 1992 stated that the "public interest" in this context would "include the national public interests noted in the Act, the prevention of fraud and the preservation of the financial integrity of the markets, as well as the promotion of responsible economic or financial innovation and fair competition."⁶³⁴ The definition of "public interest" in this context is consistent with the purposes of the Act as described in section 3(b) of the Act.⁶³⁵

In the Proposal, the Commission detailed its preliminary analysis on how the proposed expansion of the list of Permitted Investments meets the conditions in section 4(c)(2)(A) as they apply to an exemption with respect to an FCM or DCO. The discussion in the Proposal focused on how the proposed

⁶³¹ House Conf. Report No. 102-978, 1992 U.S.C.C.A.N. 3179, 3213.

⁶³² 7 U.S.C. 6(c)(1).

⁶³³ 7 U.S.C. 6(c)(2).

⁶³⁴ Public Law 102-546, 106 Stat. 3590 (1992) and H.R. Conf. Rep. No. 102-978 (1992). The Conference Report also states that the reference in section 4(c) to the "purposes of the Act" is intended to "underscore [the Conferees'] expectation that the Commission will assess the impact of a proposed exemption on the maintenance of the integrity and soundness of markets and market participants."

⁶³⁵ 7 U.S.C. 5(b) (providing that it is further the purpose of the Act to deter and prevent price manipulation or any other disruptions to market integrity; to ensure the financial integrity of all transactions subject to the Act and the avoidance of systemic risk; to protect all market participants from fraudulent or other abusive sales practices and misuses of customer assets; and to promote responsible innovation and fair competition among boards of trade, other markets and market participants.)

⁶²⁸ 7 U.S.C. 6d(a)(2).

⁶²⁹ 7 U.S.C. 6(c). With respect to investments of Cleared Swaps Customer Collateral and 30.7 customer funds, the Commission would be acting pursuant to its plenary authority under sections 4d(f) and 4(b) of the Act, respectively, rather than section 4(c). 7 U.S.C. 6d(f)(4) (providing that Cleared Swaps Customer Collateral may be invested in certain specified investments and in any other investment that the Commission may by rule or regulation prescribe, and such investments shall be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.) and 7 U.S.C. 6(b)(2)(A) (providing that the Commission may adopt rules and regulations requiring, among other things, the safeguarding of customer's funds, by any person located in the U.S. who engages in foreign futures trading).

⁶³⁰ 7 U.S.C. 6(c)(1).

⁶²⁷ Final Commission regulation 1.55(b)(6).

expansion is, in the Commission's view, consistent with the public interest and the purposes of the Act.⁶³⁶

The Commission solicited public comment on whether the Proposal satisfies the requirements for exemption under section 4(c) of the Act. Commenters criticizing the expansion of Permitted Investments to Specified Foreign Sovereign Debt asserted that this expansion could put customers at undue financial risk⁶³⁷ and "might compromise the protection of customer funds in favor of expanding the financial industry's quest for wider investment options."⁶³⁸ Better Markets further stated that the Commission has not provided an adequate public benefit-oriented justification for adding this new type of investment to Commission regulation 1.25.⁶³⁹ The Investor Advocacy Group also argued that the Commission should not "embed" the goal of profits into the "fabric" of its definition of the public interest by including potential revenue and profits for FCMs as a public interest purpose.⁶⁴⁰ Better Markets also asserted that higher profits "do not inherently guarantee reduced customer charges."⁶⁴¹ Finally, the Investor Advocacy Group argued that the public interest language in the Act is not intended to promote the financial interests of the exchanges or dealers, but to protect the public and markets from fraud.⁶⁴²

The Commission acknowledges the concerns raised by commenters but after consideration it maintains that the expansion to the list of Permitted Investments adopted in the Final Rule is consistent with the conditions in section 4(c) of the Act as they apply to an exemption with respect to an FCM or DCO. The discussion below describes why the Commission has determined that the exemption granted and the expansion adopted in the Final Rule is consistent with the public interest and the purposes of the Act as required pursuant to section 4(c)(2)(A) of the Act.⁶⁴³ The amendments to the

Permitted Investments adopted in this Final Rule should provide FCMs and DCOs with an opportunity to diversify their investments of futures customer funds, mitigating the risks that can arise from concentrating futures customer funds in a smaller set of Permitted Investments, without compromising the safety of such investments. To qualify as Permitted Investments, the instruments subject to this Final Rule must meet strict conditions to ensure that investments of futures customer funds are consistent with the objective of preserving principal and maintaining liquidity, as required by Commission regulation 1.25. The additional Permitted Investments that the Commission is adding to Commission regulation 1.25 present credit and volatility characteristics that are comparable to instruments that already qualify as Permitted Investments.

The Final Rule permits FCMs and DCOs to invest futures customer funds only in the sovereign debt of Canada, France, Germany, Japan, and the United Kingdom and only to the extent that the FCMs' and DCOs' hold balances owed to customers denominated in the applicable currency. As noted in section IV.2.b. of this preamble, FCMs held collectively a U.S. dollar equivalent of \$64 billion of Customer Funds denominated in CAD, EUR, JPY, and GBP in August 2024. The ability for FCMs and DCOs to invest such Customer Funds in the applicable Specified Foreign Sovereign Debt instruments reduces potential currency risk that DCOs, FCMs, and customers would otherwise be exposed to as a result of investing such foreign currencies in U.S.-dollar denominated assets.

The Final Rule further conditions an FCM's or DCO's investment in Specified Foreign Sovereign Debt to mitigate potential credit and liquidity risk. The Final Rule provides that an FCM's or DCO's portfolio of investments must have a dollar-weighted average time-to-maturity of 60 calendar days or less, which will mitigate price risk and liquidity risk of the debt securities by providing an FCM with an option of holding the securities to maturity and not liquidating the securities at a loss. The Final Rule also mitigates credit risk by prohibiting an FCM or DCO from purchasing new debt securities if the two-year credit default spread of the

applicable foreign sovereign exceeds 45 BPS.

In addition, permitting investments in Qualified ETFs, subject to the adopted conditions, including that the ETF is passively managed with the investment objective of replicating the performance of a published short-term U.S. Treasury security index composed of U.S. Treasury bonds, notes, and bills with a remaining maturity of 12 months or less, provides an opportunity for greater diversification of the types of investment options that FCMs and DCOs may use to manage the risk of holding futures customer funds. Qualified ETFs also provide potential benefits to FCMs, particularly smaller FCMs, that may lack the internal operations and resources to effectively manage direct investments in other Permitted Investments, such as U.S. government securities, U.S. agency obligations, and municipal securities. Both Specified Foreign Sovereign Debt and Qualified ETFs have the potential to reduce costs to FCMs, DCOs, and customers, while remaining consistent with the requirement in Commission regulation 1.25 for the preservation of principal and liquidity of Permitted Investments.

Although higher profits for FCMs do not "guarantee" lower costs to customers,⁶⁴⁴ one can reasonably infer that if FCMs and DCOs obtain an additional source of income, they may be less likely to increase the cost of their services, even if such a result cannot be guaranteed. In turn, lower costs for customers may lead to greater market participation and increased market liquidity.

An expanded list of Permitted Investments should thus increase the likelihood that FCMs and DCOs will continue as viable businesses and remain available for customers at a time when the overall number of FCMs continues to decrease. Without the ability to generate revenue and operate at a profit sufficient to remain a going concern, FCMs, which are central to a well-functioning commodity interest market, may continue to exit the business, which would disrupt the ability of farmers, financial service providers, and other commercial enterprises to effectively manage the commodity risk associated with their businesses. A smaller number of FCMs would also concentrate risk associated with Customer Funds in fewer firms, increasing the potential for systemic risk due to the potential for significant disruption should one of the remaining FCMs fail. This is particularly an issue

⁶³⁶ Proposal at 81264. The analysis did not include a discussion of section 4(c)(2)(B)'s conditions because the exemption in this instance does not implicate or affect a futures agreement, contract, or transaction.

⁶³⁷ Investor Advocacy Group Joint Letter at p. 1; Better Markets at p. 3.

⁶³⁸ Better Markets at p. 3.

⁶³⁹ *Id.*

⁶⁴⁰ Investor Advocacy Group Joint Letter at pp. 1–2.

⁶⁴¹ Better Markets at 4.

⁶⁴² Investor Advocacy Groups Joint Letter at p. 2.

⁶⁴³ Consistent with the Proposal, the analysis does not include a discussion of section 4(c)(2)(B)'s conditions (*i.e.*, that the agreement, contract, or transaction will be entered solely between

"appropriate persons" and will not have a material adverse effect on the ability of the Commission or any contract market or derivatives transaction execution facility to discharge its regulatory or self-regulatory duties under the Act) because the exemption in this instance does not implicate or affect a futures agreement, contract, or transaction.

⁶⁴⁴ Better Markets at p. 4.

in situations where an FCM is required to liquidate under a bankruptcy proceeding and port Customer Funds and positions to other FCMs. To efficiently and effectively manage such a process, the market needs other financially sound FCMs that are willing to receive the positions and funds of the customers of the failing FCM. Without the available capacity, customers may be required to liquidate positions that hedge cash market or other exposures. Therefore, promoting the continued participation of FCMs and DCOs in the market is a public benefit to customers, the efficient operation of the commodity interest markets, and the public in general.

Moreover, additional investment options may also motivate FCMs or DCOs to increase their presence in the commodity interest markets, or encourage new entrants to the industry, thereby increasing competition, which could result in reduced costs to customers and an increase in trading activity and liquidity, which supports efficient price discovery.

Based on the considerations discussed above, the Commission finds that the amendments to the list of Permitted Investments promote responsible economic and financial innovation and fair competition. By providing opportunities for investment diversification and risk management, promoting the continued participation of FCMs and DCOs in the market, and encouraging new entrants to the industry, the expansion of the list of Permitted Investments is consistent with the “public interest” and the purposes of the Act. Thus, the Commission has determined that the Final Rule meets the conditions in section 4(c) of the Act.

VI. Compliance Dates

The compliance date for the Final Rule is the effective date of this release, except for the amendments to the SIDR Report, which are specified in Commission regulations 1.32, 22.2(g)(5), and 30.7(l)(5), and the amendments to the customer Risk Disclosure Statement required under Commission regulation 1.55.

As discussed in section IV.D. of this preamble, the Commission is amending the SIDR Report required under Commission regulations 1.32, 22.2(g)(5), and 30.7(l)(5) to align with the revisions to the list of Permitted Investments adopted herein. Specifically, the Commission is amending the content of the SIDR Report by: (i) revising the reporting of MMFs to include balances invested only in Permitted Government MMFs; (ii) deleting the reporting of

balances invested in commercial paper, corporate notes and bonds, and bank CDs; (iii) adding the reporting of balances invested in the Specified Foreign Sovereign Debt of each particular foreign jurisdiction (*i.e.*, individual reporting for Canada, France, Germany, Japan, and the United Kingdom); and, (iv) adding balances invested in Qualified ETFs.

In addition, as discussed in section IV.F. of this preamble, the Commission is revising the Risk Disclosure Statement that an FCM or IB is required to provide to a customer prior to the opening of an account. The Final Rule amends Commission regulation 1.55(b)(6) by removing corporate notes and bonds from, and by adding Specified Foreign Sovereign Debt and Qualified ETFs to, the list of Permitted Investments that an FCM is authorized to enter into with Customer Funds.

The Commission is setting a compliance date of March 31, 2025 for the amendments to the SIDR Report and Risk Disclosure Statement. The compliance period is intended to provide FCMs with an opportunity to make any necessary updates to their policies, procedures, systems, and practices resulting from the amendment to the SIDR Report. The compliance period will also allow the Commission, NFA, and CME to make necessary updates to the electronic filing systems that are currently used to receive and process the SIDR Reports submitted by FCMs. The compliance period also provides FCMs and IBs with time to update their Risk Disclosure Statements and to make necessary revisions to any electronic account opening documents and processes.

VII. Administrative Compliance

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (“RFA”) requires Federal agencies to consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis respecting the impact.⁶⁴⁵ 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,⁶⁴⁶ a regulatory flexibility analysis or certification typically is required.⁶⁴⁷ As discussed in the Proposal, the amendments being adopted herein affect FCMs and DCOs. The Commission has

previously determined that registered FCMs and DCOs are not small entities for purposes of the RFA.⁶⁴⁸ Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the Proposal will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (“PRA”) ⁶⁴⁹ imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by the PRA. Under the PRA, 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 from the Office of Management and Budget (“OMB”).⁶⁵⁰ The PRA is intended, in part, to minimize the paperwork burden created for individuals, businesses, and other persons as a result of the collection of information by Federal agencies, and to ensure the greatest possible benefit and utility of information created, collected, maintained, used, shared, and disseminated by or for the Federal Government.⁶⁵¹ The PRA applies to all information, regardless of form or format, whenever the Federal Government is obtaining, causing to be obtained, or soliciting information, and includes required disclosure to third parties or the public, of facts or opinions, when the information collection calls for answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons.⁶⁵²

This final rulemaking amends regulations that contain collections of information for which the Commission has previously received control numbers from OMB. The titles for these collections of information are OMB Control No. 3038–0024, Regulations and Forms Pertaining to Financial Integrity of the Market Place; Margin Requirements for SDs/MSPs and OMB Control No. 3038–0091, Disclosure and Retention of Certain Information Relating to Cleared Swaps Customer Collateral.⁶⁵³

⁶⁴⁸ See 47 FR 18618, 18619 (Apr. 30, 1982) and 66 FR 45604, 45609 (Aug. 29, 2001).

⁶⁴⁹ 44 U.S.C. 3501 *et seq.*

⁶⁵⁰ See 44 U.S.C. 3507(a)(3); 5 CFR 1320.5(a)(3).

⁶⁵¹ See 44 U.S.C. 3501.

⁶⁵² See 44 U.S.C. 3502(3).

⁶⁵³ For the previously approved PRA estimates under OMB Control No. 3038–0024, see ICR Reference No. 202101–3038–001, at <https://>

⁶⁴⁵ 5 U.S.C. 601 *et seq.*

⁶⁴⁶ 5 U.S.C. 553. The Administrative Procedure Act is found at 5 U.S.C. 500 *et seq.*

⁶⁴⁷ See 5 U.S.C. 601(2), 603, 604, and 605.

The Commission requested public comment on all aspects of its burden analysis under the PRA in the Proposal. No comments were received addressing the PRA analysis. As further discussed below, however, based on public comments received and conversations with industry representatives, the Commission has concluded that it is not necessary to provide a new template acknowledgment letter for investments in Qualified ETFs. Accordingly, as described below, the Commission has concluded that the amendments introduced by this Final Rule do not contain any new collections of information and will not increase the burden associated with the information collections contained in the affected regulations.

As discussed in section IV.D. of this preamble, among other reporting items, FCMs are required to report in the SIDR Reports the amount of futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds invested in each of the current categories of Permitted Investments. The Commission is amending Commission regulations 1.32(f), 22.2(g)(5), and 30.7(l)(5), which define the content of the SIDR Report, by: (i) deleting the requirement for an FCM to report the balances invested in commercial paper, corporate notes and bonds, and bank CDs as such investments would no longer be Permitted Investments under the Final Rule; (ii) requiring each FCM to report the total amount of futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds invested in Specified Foreign Sovereign Debt of each country that is included within the Specified Foreign Sovereign Debt; and (iii) requiring an FCM to include in the SIDR Report the total amount of futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds invested in Qualified ETFs as such investments are now Permitted Investments. As such, the changes to the content of the SIDR Reports would reflect the revisions to the list of Permitted Investments discussed in section IV.A. of this preamble. The Commission does not expect these changes to result in an increase in the number of burden hours required for the completion of the reports. Accordingly, the Commission is retaining its existing burden estimates

associated with this collection of information.⁶⁵⁴

In addition, the Commission is revising Commission regulation 1.26, which requires each FCM or DCO investing futures customer funds in MMFs that are Permitted Investments to obtain and retain in its files a written acknowledgment from the depository holding the funds stating that the depository was informed that the funds belong to customers and are being held in accordance with the provisions of the Act and Commission regulations. Commission regulation 1.26 also specifies the form of the written acknowledgment letter that each FCM or DCO must obtain from an MMF, in the event futures customer funds are held directly with the MMF. Commission regulations 22.5 and 30.7(d) set forth similar requirements with respect to Cleared Swaps Customer Collateral and 30.7 customer funds. The amendments to Commission regulation 1.26 require FCMs and DCOs investing Customer Funds in a Permitted Government MMF to obtain and maintain in their files an acknowledgment letter from the fund in which Customer Funds are held and to file such acknowledgment letter electronically with the Commission. The Commission is adopting an analogous amendment to Commission regulation 30.7(d)(2) with respect to investments of 30.7 customer funds by FCMs.⁶⁵⁵ The revisions to Commission regulations 1.26 and 30.7(d) should reduce the number of MMFs from which FCMs and DCOs, as applicable, will be required to obtain an acknowledgment letter by limiting the requirement to Permitted Government MMFs, a smaller set of MMFs. The addition of Qualified ETFs to the list of Permitted Investments is not expected to create a new acknowledgment letter requirement, as Qualified ETF shares will be held in the customer segregated accounts maintained by the FCM's or DCO's custodian, from which the FCM or DCO had to obtain an acknowledgment letter pursuant to Commission regulations 1.20, 22.5, and 30.7(d).⁶⁵⁶ This is consistent with the

Commission's understanding of current practices.⁶⁵⁷

As discussed in section IV.F. of this preamble, FCMs and IBs are required to provide each customer that is not an "eligible contract participant" a Risk Disclosure Statement prior to opening the customer's account.⁶⁵⁸ The Commission is adopting technical amendments to Commission regulation 1.55(b) to account for changes in the list of Permitted Investments in Commission regulation 1.25 by: (i) deleting the reference in the Risk Disclosure Statement to investments in corporate notes and bonds; (ii) clarifying that only certain MMFs may be Permitted Investments, and (iii) adding investments in Specified Foreign Sovereign Debt and Qualified ETFs. The Commission is not requiring FCMs and IBs to obtain acknowledgment of revised Risk Disclosure Statements from existing customers due to the technical amendments. FCMs and IBs are required to use the amended Risk Disclosure Statement for any customers onboarded on or after the compliance date of March 31, 2025. Accordingly, the Commission is retaining its existing burden estimates associated with this collection of information.⁶⁵⁹ Additionally, the Commission does not expect the technical, conforming amendments to result in an increase in the number of burden hours required for customers to review and acknowledge the amended Risk Disclosure Statement.

Also, in connection with the revisions related to the elimination of the Read-

and DCOs are required to obtain an acknowledgment letter pursuant to Commission regulations 1.20, 22.5, and 30.7(d). 17 CFR 1.20, 22.5, and 30.7(d).

⁶⁵⁷ The Commission had proposed to add new template acknowledgment letters modeled on the acknowledgment letter under Commission regulation 1.26 for MMFs but addressing investments in Qualified ETFs (proposed appendices H and I to part 1 and proposed appendix G to part 30). Based on public comments received and communications with industry representatives, the Commission has concluded that it is not necessary to provide such new template acknowledgment letters. Instead, FCMs and DCOs will be able to follow the process for Permitted Investments other than Permitted Government MMFs and obtain an acknowledgment letter pursuant to Commission regulations 1.20, 22.5, and 30.7(d), using the template under Commission regulation 1.20 (redesignated as appendix C to part 1).

⁶⁵⁸ For the definition of "eligible contract participant," see *supra* note 625.

⁶⁵⁹ The Commission has previously estimated that 59 respondents will incur an annual burden of 20 hours per statement. Supporting Statement for Revised Information Collections for Regulations and Forms Pertaining to Financial Integrity of the Market Place; Margin Requirements for SDs/MSPs (OMB Control 3038-0024) and Disclosure and Retention of Certain Information Relating to Cleared Swaps Customer Collateral (OMB Control Number 3038-0091).

⁶⁵⁴ The Commission has previously estimated that compliance with the requirements under Commission regulations 1.32(f) and 1.32(g) to file SIDR reports requires 59 covered FCMs to expend 2,832 burden hours annually. The Commission has estimated that each FCM will file 24 reports per year requiring approximately 48 burden hours per respondent. This yields a total of 2,832 burden hours annually (59 FCM respondents × 48 burden hours annually = 2,832 hours).

⁶⁵⁵ An amendment to Commission regulation 22.5 is not necessary because Commission regulation 22.5 cross-references Commission regulation 1.26.

⁶⁵⁶ For any Permitted Investment, other than investment in Permitted Government MMFs, FCMs

only Access Provisions, an FCM will need to obtain the revised acknowledgment letter only for accounts opened following the effective date of the revisions, or if the FCM is required to obtain a new acknowledgment letter for reasons unrelated to the elimination of the Read-only Access Provisions. The opening of a new depository account triggers a requirement to obtain an acknowledgment letter in all circumstances, regardless of the revisions related to the elimination of the Read-only Access Provisions. For these reasons, the Commission is retaining its existing estimate of the burden that covered FCMs and DCOs incur to obtain, maintain, and electronically file the acknowledgment letters with the Commission, as currently provided in the approved collection of information.⁶⁶⁰

C. Cost-Benefit Considerations

Section 15(a) of the Act requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the Act.⁶⁶¹ Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (i) protection of market participants and the public; (ii) efficiency, competitiveness and financial integrity of futures markets; (iii) price discovery; (iv) sound risk management practices; and (v) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) considerations.

As described in more detail in section IV.A. of this preamble, the Commission

is revising the list of Permitted Investments in Commission regulation 1.25(a) to: (i) add Specified Foreign Sovereign Debt and interests in Qualified ETFs; (ii) limit the scope of MMFs whose interests qualify as Permitted Investments to Permitted Government MMFs; and (iii) eliminate commercial paper, corporate notes or bonds, and bank CDs. The Commission is amending the Risk Disclosure Statement specified in Commission regulation 1.55 that FCMs are required to provide to certain customers to reflect the revisions to the list of Permitted Investments. The Commission is further amending the asset-based and issuer-based concentration limits for Permitted Investments to reflect the revisions to the investments that FCMs and DCOs may make with Customer Funds. The Commission is further specifying the capital charges that FCMs, in computing their regulatory capital, are required to take on investments of Customer Funds in Specified Foreign Sovereign Debt and Qualified ETFs. The Commission is also amending Commission regulation 1.25(b)(2)(iv)(A)(1) and (2) by replacing LIBOR with SOFR as a permitted benchmark for Permitted Investments with an adjustable interest rate. The Commission is also revising relevant provisions in parts 1 and 30 of the Commission's regulations to eliminate the requirement for FCMs to ensure that each depository that it uses to hold Customer Funds provides the Commission with read-only electronic access to the account. Finally, the Commission is adopting certain conforming and technical revisions to its regulations to reflect or incorporate the amendments above.

The Commission recognizes that the Final Rule may impose costs. The consideration of costs and benefits below is based on the understanding that the markets function internationally, with many transactions involving U.S. firms taking place across international boundaries; with some Commission registrants being organized outside of the United States; with leading industry members typically conducting operations both within and outside the United States; and with industry members commonly following substantially similar business practices wherever located. Where the Commission does not specifically refer to matters of location, the below discussion of costs and benefits refers to the effects of the amendments on all activity subject to the amended regulations, whether by virtue of the activity's physical location in the United States or by virtue of the

activity's connection with activities in, or its effect on, U.S. commerce under section 2(i) of the Act.⁶⁶²

The Commission has endeavored to assess the expected costs and benefits of the Final Rule in quantitative terms, including PRA-related costs, where possible. In situations where the Commission is unable to quantify the costs and benefits, the Commission identifies and considers the costs and benefits of the applicable rules in qualitative terms. The lack of data and information to estimate those costs is attributable in part to the nature of the Final Rule. Additionally, any initial and recurring compliance costs for any particular FCM or DCO will depend on its size, existing infrastructure, practices, and cost structure.

To further inform the Commission's consideration of the costs and benefits imposed by the Proposal, the Commission invited comments from the public on all aspects of its cost-benefit considerations, including the identification and assessment of any costs and benefits not discussed by the Commission; data and any other information to assist or otherwise inform the Commission's ability to quantify or qualitatively describe the costs and benefits of the proposed amendments; and any other information to support positions posited by commenters with respect to the Commission's discussion. The Commission did not receive comments specific to the benefits and costs of the Proposal. To the extent that the Commission received comments that indirectly address the costs and benefits of the Proposal, those comments are discussed below.

The baseline for the Commission's consideration of the costs and benefits associated with this Final Rule are the costs and benefits that FCMs, DCOs, and the public would realize if the Commission did not proceed with the proposed amendments, or in other words, the status quo.

The Commission requested comment on any such incremental costs, especially by DCOs and FCMs, who may be better able to provide quantitative costs data or estimates, based on their respective experiences relating to Commissions regulations governing the investment of Customer Funds and related requirements. Commenters generally supported the proposed amendments to Commission regulation 1.25, with two commenters opposed to the proposed addition of Specified Foreign Sovereign Debt to the list of Permitted Investments. The commenters

⁶⁶⁰ The Commission has estimated that 36 covered FCMs incur an estimated 216 burden hours annually to file required acknowledgment letters pursuant to Commission regulation 1.20(d). The Commission has estimated that each respondent will file 3 reports per year requiring an estimated 2 burden hours per report, for a total of 6 burden hours per respondent. This yields a total of 216 burden hours annually (36 respondents $\times$ 6 burden hours annually = 216 burden hours). Under Commission regulation 1.26, the Commission has estimated that 74 covered respondents incur an estimated 111 burden hours annually to obtain and maintain required acknowledgement forms (74 respondents $\times$ 1.5 hours annually = 111 burden hours). Under Commission regulation 30.7, the Commission has estimated that 42 covered respondents incur an estimated 252 burden hours annually (42 respondents $\times$ 6 burden hours annually = 252 burden hours) and under Commission regulation 22.5, the Commission has estimated that 78 covered respondents incur an estimated 390 burden hours annually (78 respondents $\times$ 5 burden hours annually = 390 burden hours) to obtain and maintain the required acknowledgment letters.

⁶⁶¹ 7 U.S.C. 19(a).

⁶⁶² 7 U.S.C. 2(i).

supporting the Proposal also recommended or requested revisions to several proposed amendments and proposed conditions specified in the Proposal; however, no specific costs were identified by these commenters that would affect DCOs and FCMs as a result of the changes.

1. Specified Foreign Sovereign Debt, Interests in Qualified Exchange-Traded Funds, and Associated Capital Charges

The Final Rule expands the list of Permitted Investments that an FCM and DCO may enter into with Customer Funds by adding Specified Foreign Sovereign Debt (*i.e.*, the sovereign debt of Canada, France, Germany, Japan, and the United Kingdom).⁶⁶³ The Final Rule provides that an FCM or DCO may invest Customer Funds in Specified Foreign Sovereign Debt subject to the following conditions: (i) the investment by an FCM or DCO in the debt securities of Canada, France, Germany, Japan, and the United Kingdom is limited to balances owed to customers denominated in CAD, EUR, JPY, and GBP, respectively; (ii) the dollar-weighted average of the remaining time-to-maturity of the portfolio of investments in Specified Foreign Sovereign Debt, computed on a country-by-country basis, may not exceed 60 calendar days; (iii) the remaining time-to-maturity in any Specified Foreign Sovereign Debt security may not exceed 180 calendar days; and (iv) the FCM or DCO does not make any new investments, and discontinues investing Customer Funds through Repurchase Transactions as soon as possible, if the two-year credit default spread of the relevant foreign sovereign exceeds 45 BPS.⁶⁶⁴

The Final Rule also permits FCMs and DCOs to engage in Repurchase Transactions involving Specified Foreign Sovereign Debt with a broader group of counterparties than otherwise permitted⁶⁶⁵ by authorizing transactions with: (i) a foreign bank that maintains in excess of \$1 billion in regulatory capital and is located in a money center country⁶⁶⁶ or in a

jurisdiction that has adopted the currency in which the Specified Foreign Sovereign Debt is denominated as its currency; (ii) a securities broker or dealer located in a money center country and regulated by a national financial regulator (or a provincial financial regulator with respect to a Canadian securities broker or dealer), and (iii) the Bank of England, the Banque de France, the Bank of Japan, the Deutsche Bundesbank, or the European Central Bank.⁶⁶⁷

The Final Rule also expands the type and number of custodians that FCMs and DCOs may use to hold securities received under Repurchase Transactions. In addition to current permitted custodians,⁶⁶⁸ Final Commission regulation 1.25(d)(7) provides that an FCM or DCO may hold Specified Foreign Sovereign Debt securities received under an agreement to resell the securities in a safekeeping account at a foreign bank that maintains regulatory capital in excess of \$1 billion and is located in a money center country.⁶⁶⁹ The Final Rule also adds the Bank of England, the Banque de France, the Bank of Japan, the Deutsche Bundesbank, and the European Central Bank as permitted custodians for securities received under agreements to resell the securities.⁶⁷⁰

The Final Rule also expands the list of Permitted Investments by adding Qualified ETFs.⁶⁷¹ To be eligible as a Permitted Investment, a Qualified ETF must be an investment company that is registered under the Investment Company Act of 1940, and must hold itself out to investors as an exchange-traded fund in accordance with SEC Rule 270.2a-7.⁶⁷² A Qualified ETF also must engage in an investment program that seeks to replicate the performance of a published short-term U.S. Treasury security index composed of bonds, notes, and bills with a remaining time-to-maturity of 12 months or less, issued by, or unconditionally guaranteed as to timely payment of principal and interest by, the U.S. Department of the Treasury.⁶⁷³ Specifically, the Qualified ETF must invest at least 95 percent of

its assets in securities comprising the short-term U.S. Treasury index whose performance the fund seeks to replicate, and cash. In addition, the FCM or DCO must be able to redeem or liquidate, as applicable depending on whether the transaction is intermediated by a third-party authorized participant, the Qualified ETF interests in cash within one business day of a redemption request.⁶⁷⁴ As discussed in section IV.A.3. of this preamble, the Commission understands that an FCM or DCO should be able to arrange for the timely redemption or liquidation of Qualified ETF interests in cash either through an agreement with an authorized participant or by being an authorized participant itself with the necessary arrangements in place to convert U.S. Treasury securities into cash within one business day of the redemption request. Under the Final Rule, however, Qualified ETFs will be able to rely on Commission regulation 1.25(c)(5)(ii), as applicable, and provide for the postponement of redemption and payment due to certain enumerated emergency situations.⁶⁷⁵ The Commission also specified the capital charges that an FCM is required to take on any investment of Customer Funds in Specified Foreign Sovereign Debt and Qualified ETFs in computing its regulatory capital to meet its minimum requirement under Commission regulation 1.17. Specifically, the Final Rule provides that there is no capital charge for Canadian sovereign debt instruments with a remaining time-to-maturity of less than 3 months, and a capital charge of 0.5 percent of the market value of Canadian sovereign debt instruments with a remaining time-to-maturity of 3 to 6 months. Under the Final Rule, the capital charge for the sovereign debt of France, Germany, Japan, and the United Kingdom is 2 percent of the market value of the debt security.⁶⁷⁶ The Final Rule further requires an FCM to take a 2 percent capital charge on the market value of Qualified ETF shares that comprise a full creation or redemption unit, and a 6 percent capital charge on Qualified ETF shares that do not comprise a full creation or redemption unit. The capital charges adopted herein are consistent with market risk capital charges imposed by the SEC on brokers and

⁶⁶³ Final Commission regulation 1.25(a)(1)(vi).

⁶⁶⁴ Final Commission regulation 1.25(a)(1)(vi)(A) and (B), and final Commission regulation 1.25(f).

⁶⁶⁵ Commission regulation 1.25(d)(2) currently permits an FCM and DCO to engage in Repurchase Transactions involving Customer Funds with counterparties that are: (i) section 3(a)(6) banks; (ii) a domestic branch of a foreign bank insured by the FDIC; or (iii) a securities broker or dealer, or a government securities broker or government securities dealer that is registered with the SEC or that has filed a notice pursuant to section 15C(a) of the Government Securities Act of 1986.

⁶⁶⁶ Commission regulation 1.49(a)(1) defines “money center country” as Canada, France, Italy, Germany, Japan, or the United Kingdom.

⁶⁶⁷ Final Commission regulation 1.25(d)(2).

⁶⁶⁸ Commission regulation 1.25(d)(7) currently permits an FCM or DCO to hold securities received under Repurchase Transactions in safekeeping accounts with a section 3(a)(6) bank, a domestic branch of a foreign bank insured by the Federal Deposit Insurance Corporation, a Federal Reserve Bank, a DCO, or the Depository Trust Company in account that complies with Commission regulation 1.26.

⁶⁶⁹ Final Commission regulation 1.25(d)(7).

⁶⁷⁰ *Id.*

⁶⁷¹ Final Commission regulation 1.25(a)(1)(v).

⁶⁷² Final Commission regulation 1.25(c)(1).

⁶⁷³ Final Commission regulation 1.25(a)(1)(v).

⁶⁷⁴ Final Commission regulation 1.25(c)(8).

⁶⁷⁵ 17 CFR 1.25(c)(5)(ii). The Commission has determined not to adopt the proposed revision to Commission regulation 1.25(c)(5)(ii), which would have limited the ability to provide for the postponement of redemption and payment due to any of the circumstances listed in that subsection to Government MMFs.

⁶⁷⁶ *Id.*

dealers holding proprietary positions in Specified Foreign Sovereign Debt instruments and Qualified ETF shares.⁶⁷⁷ The FCM capital charges are intended to ensure that the firm's calculation of its adjusted net capital reflects that the firm's obligation to internalize financial losses associated with the investment of Customer Funds in Specified Foreign Sovereign Debt and Qualified ETFs.⁶⁷⁸

The Final Rule also imposes the same asset-based and issuer-based concentration limits to Qualified ETFs as it imposes on Permitted Government MMFs previously described in the preamble and further discussed below. A 50 percent concentration limit will apply to Qualified ETFs with at least \$1 billion in assets and whose management companies have more than \$25 billion in assets under management. The Final Rule further allows for a 10 percent concentration limit for Qualified ETFs with less than \$1 billion in assets or which have a management company managing less than \$25 billion in assets. The Commission is limiting investments of Customer Funds in any single family of Qualified ETFs to 25 percent and investments of Customer Funds in interests in an individual Qualified ETF to 10 percent of the total assets held in each of the segregated account classes of futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds.

a. Benefits

Expanding the list of Permitted Investments to include Specified Foreign Sovereign Debt should benefit FCMs, DCOs, and market participants (including customers) by facilitating the management of risk associated with the acceptance of certain foreign currency deposits from customers to margin their trades, and should enable FCMs and DCOs to avoid certain risks and practical challenges in the handling of foreign currencies. Specifically, permitting FCMs and DCOs to invest foreign currencies deposited or owed to customers in identically denominated sovereign debt securities mitigates the risk that FCMs and DCOs face when converting foreign currencies to U.S. dollars to invest in Permitted Investments. The foreign currency risk arises from the FCMs' and DCOs' obligation to convert the Customer Funds from U.S. dollars back to the applicable foreign currencies when the

margin deposits are returned to the customers.

The investment of non-U.S. dollar-denominated Customer Funds in Specified Foreign Sovereign Debt further benefits FCMs, DCOs, and market participants by providing an option that may assist with the mitigation of potential risks associated with FCMs and DCOs holding Customer Funds in unsecured deposit accounts with domestic or foreign commercial banks. If the depository or custodian becomes insolvent, claims related to uninsured cash balances are at greater risk of being treated as unsecured claims against the depository estate as compared to claims to specific securities held in custody. As a result, FCMs and DCOs may face less counterparty exposure by maintaining Customer Funds in the form of securities as opposed to cash, which would benefit market participants (including customers) by providing greater security to the timely, full payment of Customer Funds held by an insolvent depository or custodian.

Also, for reasons such as capital requirements and balance sheet management, banks may not accept foreign currencies at all or may place limits on the accepted amount. Banks may also charge higher rates for holding foreign currencies. As such, FCM customers depositing foreign currencies might potentially absorb those costs.

Permitting investments in Specified Foreign Sovereign Debt also benefits FCMs that post customer margin collateral with non-U.S. clearing organizations that impose strict cut-off times for cash withdrawals and more lenient cut-off times for non-cash collateral withdrawals.⁶⁷⁹ In such situations, FCMs have broader access to the deposits of Customer Funds held in the form of Specified Foreign Sovereign Debt securities than they do when such deposits are in the form of cash.

Further, expanding Permitted Investments to include Qualified ETFs should also benefit FCMs, DCOs, and market participants. As discussed in section IV.A.3. of this preamble, Qualified ETFs are passively managed

funds that seek to replicate the performance of published short-term U.S. Treasury security indices. Qualified ETFs provide FCMs and DCOs with the ability to invest Customer Funds in funds that are primarily comprised of U.S. Treasury securities and avoid the costs associated with direct investments, which involves managing interest payments and the maturity of securities.

The ability to invest in Specified Foreign Sovereign Debt and interests in Qualified ETFs will provide FCMs and DCOs with a wider range of alternatives in which to invest Customer Funds. As a result, FCMs and DCOs will have more investment options, some of which may be more economical than the existing Permitted Investments, such that FCMs and DCOs may be able to generate higher returns. In addition to allowing FCMs and DCOs to continue as viable businesses, this may motivate FCMs and DCOs to increase their presence in the commodity interest markets, thereby increasing competition, which might lead to a reduction in charges to customers and an increase trading activity and liquidity.

Expanding the list of Permitted Investments to instruments that meet the overall regulatory goals of preserving principal and maintaining liquidity, while also providing the potential for greater diversification or higher returns for FCMs, DCOs and customers, will give FCMs and DCOs more flexibility in the management of Customer Funds. This might be particularly important given the more limited categories of assets that currently qualify as Permitted Investments under Commission regulation 1.25.

Revising the Risk Disclosure Statement required by Commission regulation 1.55 to be provided to non-institutional or non-eligible contract participants customers to accurately reflect the types of instruments approved as Permitted Investments should benefit customers and potential customers. The final amendments to the Risk Disclosure Statement alert potential customers that, among other things, an FCM is permitted to invest Customer Funds in Permitted Investments detailed in Commission regulation 1.25, an FCM may retain earnings on such investments, and customers may obtain further detail regarding the FCM's policies for the investment of Customer Funds from the firm if needed.

Also, requiring an FCM to apply capital charges on investments of Customer Funds in Specified Foreign Sovereign Debt and Qualified ETFs

⁶⁷⁷ SEC ETF Letter.

⁶⁷⁸ See generally section IV.C. of this preamble for a discussion of the capital charges on Specified Foreign Sovereign Debt securities and shares of Qualified ETFs.

⁶⁷⁹ Joint Petition at p. 3 (citing, as an example of regulatory requirements, Article 45 of the regulatory technical standards on requirements for central counterparties (Commission Delegated Regulation (EU) No. 153/2013) ("CCP RTS"), which supplements provisions in the EU Market Infrastructure Regulation (Regulation (EU) No 648/2012) ("EMIR") governing the investment policies of EU central counterparties. Per Article 45(2) of the CCP RTS, not less than 95 percent of cash deposited other than with a central bank and maintained overnight must be deposited through arrangements that ensure its collateralization with highly liquid financial instruments).

should help to ensure that the FCM maintains a sufficient level of readily available liquid funds that could be transferred into the FCM's futures customer accounts, Cleared Swaps Customer Accounts, and/or 30.7 customer accounts to cover decreases in value of the investments, which would support the FCM's continued compliance with Customer Funds segregation requirements.⁶⁸⁰ Requiring an FCM to maintain regulatory capital to cover potential decreases in the value of the Permitted Investments benefits the FCM by helping to ensure that the firm has sufficient, liquid financial resources to meet 100 percent of its obligations to futures customers, Cleared Swaps Customers, and 30.7 customers at all times as required by Commission regulations 1.20, 22.2, and 30.7. Capital charges on Permitted Investments also benefit FCM customers as the charges help ensure an FCM maintains capital in an amount sufficient to cover investment losses and to prevent such losses from being passed on to customers in violation of Commission regulations 1.29(b), 22.2(e)(1), and 30.7(i).

The Commission is also adopting new concentration limits for Qualified ETFs. The new concentration limits adopted by this Final Rule promote investments of Customer Funds in Qualified ETFs of different sizes subject to different concentration limits, leading to diversification in FCMs' and DCOs' portfolios, while encouraging investments in larger, presumably safer Qualified ETFs. The Commission is adopting different concentration limits depending on the size of the fund because larger Qualified ETFs may be more resilient during times of significant financial stress and better equipped to manage high levels of redemptions. The Final Rule's concentration limits may also reduce the potential concentration in certain Qualified ETFs, in turn fostering competition across the funds, which may lead to better terms and reduced costs for FCMs and DCOs.

Finally, the amendment to Commission regulation 22.3(d), clarifying that DCOs are responsible for losses resulting from their investments of Customer Funds, provides legal certainty with respect to the Commission's customer protection regulations. Specifically, in situations where an investment made by either an FCM or DCO experiences a realized or

unrealized loss in market value, the amended regulations make clear that the FCM or DCO, not the customer, is responsible for bearing the loss.

b. Costs

Although the Final Rule increases the range of permissible investments in which DCOs and FCMs may invest Customer Funds, facilitating their management of investments and capital, the Final Rule may result in Customer Funds being invested in instruments that may be less liquid and have increased exposure to credit and market risks than those currently permitted under Commission regulation 1.25. Such risks could result in an increased exposure for FCMs and DCOs, who, pursuant to Commission regulations 1.29(b), 22.2(e)(1), 22.3(d), and 30.7(i), as applicable, are responsible for losses resulting from investments of Customer Funds. A heightened risk exposure may also indirectly impact customers if the losses compromise the FCM's or DCO's ability to return Customer Funds.

To account for these potential risks and ensure that the new Permitted Investments are consistent with the general objectives of Commission regulation 1.25 of preserving principal and maintaining liquidity, the Commission is adopting several conditions for foreign sovereign debt and interests in U.S. Treasury ETFs to qualify as Permitted Investments. Specifically, for Specified Foreign Sovereign Debt, the conditions include: (i) investments may be made only in the sovereign debt of Canada, France, Germany, Japan, and the United Kingdom, which are members of the G7 and represent the world's largest industrial democracies; (ii) investments may only be made in the sovereign debt of a particular country to the extent an FCM or DCO holds balances owed to customers denominated in the currency of the particular country; (iii) the credit default spread of the two-year debt instruments of the relevant foreign sovereign jurisdiction may not exceed 45 BPS; (iv) the dollar-weighted average of the time-to-maturity of the FCM's or DCO's portfolio of investments in each type of Specified Foreign Sovereign Debt may not exceed 60 calendar days; and (v) the remaining time-to-maturity of any individual Specified Foreign Sovereign Debt instrument may not exceed 180 calendar days.⁶⁸¹ For interests in Qualified ETFs to be deemed Permitted Investments, the Commission is requiring, among other conditions, that the ETF is passively managed and seeks to replicate the

performance of a published short-term U.S. Treasury security index composed of bonds, notes, and bills with a remaining time-to-maturity of 12 months or less, issued by, or unconditionally guaranteed as to timely payment of principal and interest by, the U.S. Department of the Treasury.⁶⁸² The eligible securities and cash must also represent at least 95 percent of the Qualified ETF's investment portfolio.⁶⁸³ Moreover, as discussed above, the Final Rule would require FCMs to take capital charges based on the current market value of the Specified Foreign Sovereign Debt and Qualified ETFs to address the potential market risk of such investments. The capital charges are intended to ensure that an FCM has sufficient financial resources in the form of cash and other readily marketable collateral to adequately cover potential market risk of the investments, consistent with the FCM's obligation to bear any losses resulting from such investments.

Requiring an FCM to apply capital charges in connection with the new categories of Permitted Investments will result in costs associated with reserving capital. The FCM may not be able to use funds reserved for capital to otherwise support its business operations, thus potentially making the operation of the FCM less economical. Capital requirements are nevertheless an essential risk-management feature of the FCM's regulatory regime, and the amounts reserved as capital are necessary and expected costs associated with operating an FCM.

In addition, the clarifying amendment to Commission regulation 22.3(d) should not result in increased costs for DCOs. The amendment expressly states a regulatory obligation that is consistent with the Commission's original intent to permit DCOs to invest Cleared Swaps Customer Collateral within the parameters applicable to investments of futures customer funds.⁶⁸⁴ DCOs already reserve or otherwise take into consideration financial resources to account for their responsibility to absorb losses for such investments.

Finally, as discussed earlier in this preamble, the Commission has retained its existing burden estimates associated with the approved collection of information for the reasons explained in section VII.B. of this preamble. FCMs and DCOs should not incur material costs relating to the collection of information as a result of the Final Rule.

⁶⁸⁰ The terms "futures account," "Cleared Swaps Customer Account," and "30.7 account" are defined in Commission Regulations 1.3, 22.1, and 30.1, respectively. 17 CFR 1.3, 17 CFR 22.1, and 17 CFR 30.1.

⁶⁸¹ Final Commission regulation 1.25(f).

⁶⁸² Final Commission regulation 1.25(a)(1)(v).

⁶⁸³ Final Commission regulation 1.25(c)(8)(ii).

⁶⁸⁴ See *supra* note 43.

c. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the Final Rule pursuant to the five considerations identified in section 15(a) of the Act as follows: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Final Rule should have a beneficial effect on sound risk management practices and on the protection of market participants and the public.

i. Protection of Market Participants and the Public

The expansion of Permitted Investments to include Specified Foreign Sovereign Debt securities should enhance the protection of market participants and the public by providing FCMs and DCOs with the ability to manage risks associated with the receipt and holding of foreign currencies deposited as margin by customers. As discussed in section IV.2. of this preamble, FCMs hold approximately \$64 billion of Customer Funds denominated in non-U.S. dollars, which represents approximately 12 percent of the total \$511 billion of Customer Funds held by FCMs. Investing these foreign currencies in foreign sovereign debt instruments meeting specified conditions provides FCMs and DCOs with a risk management tool to mitigate foreign currency exchange rate fluctuation risk that they would otherwise be exposed to if the foreign currency deposits had to be converted to U.S. dollars and then invested in U.S. dollar-denominated Permitted Investments. This risk mitigation protects market participants and the public by reducing exposures that FCMs and DCOs would otherwise face from investing foreign currency in U.S. dollar-denominated assets, and by reducing risk to customers of FCMs that would share pro rata in any shortfall in Customer Funds in the event of an insolvency. Providing FCMs and DCOs with efficient risk management tools also protects market participants and the public by supporting FCMs' and DCOs' ongoing ability to continue to provide access to the commodity interest markets.

As discussed in section IV.2. of this preamble, to limit the potential risks associated with investing in foreign sovereign debt, the Commission is adding to the list of Permitted Investments only certain foreign

sovereign debt instruments that meet strict conditions designed to ensure the instruments' liquidity. The Commission's analysis indicates that instruments meeting the specified conditions present credit and volatility characteristics that are comparable to those of instruments that already qualify as Permitted Investments.⁶⁸⁵ Thus, the current level of protection provided to Customer Funds will be maintained under the terms of this Final Rule.

ii. Efficiency, Competitiveness, and Financial Integrity of Markets

As discussed in the Proposal and in section IV.A. of this preamble, expanding the list of Permitted Investments may provide FCMs and DCOs with the ability to generate additional income for themselves and their customers from their investment of Customer Funds. This may motivate FCMs or DCOs to increase their presence in the futures and cleared swaps markets increasing competition, which might lead to lower commission charges and fees for customers. The increase in revenue for FCMs and DCOs may also increase earnings to customers as DCOs and FCMs often pay a return on customer deposited funds, and FCMs may otherwise share some or all of the income with customers.

The increased range of Permitted Investments should provide investment flexibility to FCMs and DCOs and an opportunity to realize cost savings. More specifically, by being able to invest in Specified Foreign Sovereign Debt, FCMs and DCOs may be able to avoid practical challenges, such as having to meet clearing organizations' strict cut-off times for cash withdrawal, or the additional fees for holding foreign currencies, imposed by some institutions. In addition, investing in Specified Foreign Sovereign Debt could be a safer alternative than holding cash at a commercial bank. It may also help avoid the foreign currency risk to which FCMs and DCOs may be exposed absent the ability to invest customer foreign currencies in identically denominated assets.

In addition, Qualified ETFs may provide a simpler and cost-efficient way

⁶⁸⁵ See *supra* note 238 (using one-year sovereign debt instruments yield data to demonstrate that the price risk of the Specified Foreign Sovereign Debt instruments is comparable to that of U.S. government securities), section IV.A.2 (using credit default swap data to demonstrate that the Specified Foreign Sovereign Debt instruments have a risk profile comparable to that of U.S. government securities) and Proposal at 81250 (using yield data to demonstrate that five ETFs currently available on the market, which invest in short-term U.S. Treasury securities, are at least as stable as one-year U.S. Treasury securities).

of investing in U.S. Treasury securities, saving the resources that would otherwise be required to roll over such securities at their maturity.

iii. Price Discovery

The Final Rule expands upon the types of investments that FCMs and DCOs may make with Customer Funds by including Specified Foreign Sovereign Debt securities and Qualified ETFs. The ability of FCMs and DCOs to invest Customer Funds in additional investments may generate additional income for FCMs and DCOs, which may lead to an increased participation in the commodity interest markets and thus enhance price discovery. Specifically, FCMs' main sources of revenue from engaging in the futures markets are commission income and income from the investment of Customer Funds. Therefore, an increase in income from the investment of Customer Funds may benefit market participants by indirectly offsetting or reducing commissions charged to customers. In addition, FCMs, pursuant to customer agreements, may provide customers with interest on their margin deposits, and therefore, an increase in revenue from the investment of Customer Funds may directly benefit customers via increased interest income on their deposits. DCOs also pay interest to FCMs on deposits held at the DCO, and greater interest income from such deposits may benefit an FCM and its customers. Increases in revenue may also encourage greater participation in the commodity interest markets by customers and by firms willing to take on the responsibilities of an FCM. Such greater participation in the commodity interest markets may increase liquidity in the market and enhance the process of price discovery.

iv. Sound Risk Management

Increasing the range of Permitted Investments provides FCMs and DCOs with a broader selection of investment options to invest Customer Funds, enabling FCMs and DCOs to have more diversified portfolios and reduce the potential concentration in a few instruments. Providing safe alternative investment options may be particularly beneficial for FCMs and DCOs considering the limited range of instruments that meet the eligibility criteria of current Commission regulation 1.25 and the competing demand for high quality forms of collateral driven by the regulatory reforms implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

By making available Specified Foreign Sovereign Debt as a Permitted Investment, the Commission is providing FCMs and DCOs with an opportunity to better manage risks associated with holding foreign currencies deposited by customers. As noted above, investing Customer Funds in Specified Foreign Sovereign Debt provides an alternative to taking on the exposure of holding cash at a commercial bank. Also, absent the ability to invest Customer Funds in identically denominated sovereign debt securities, an FCM or DCO seeking to invest customer foreign currency deposits would need to convert the currencies to a U.S. dollar-denominated asset, which would increase the potential foreign currency risk. In addition, by limiting the investment of foreign currency to foreign sovereign debt that meets certain requirements, the Final Rule should further promote sound risk management. Lastly, requiring an FCM to reserve capital to cover potential decreases in the value of the Specified Foreign Sovereign Debt and Qualified ETFs helps ensure that an FCM has the financial resources to meet its regulatory obligations of bearing 100 percent of the losses on the investment of Customer Funds.

v. Other Public Interest Considerations

Although the four factors mentioned above are the primary cost-benefit considerations, other public interest considerations may also be relevant. For instance, in addition to the potential benefits that may accrue to FCMs, DCOs, and customers, benefits associated with the addition of Qualified ETFs to the list of Permitted Investments may also accrue to the general public, in that allowing FCMs and DCOs to invest Customer Funds in such instruments may contribute to a more robust market for U.S. Treasury ETFs. In addition, the expansion of Permitted Investments to include Specified Foreign Sovereign Debt may ease access to futures and cleared swaps markets for entities domiciled in non-U.S. jurisdictions that can now more easily transact in foreign currency with potentially lower costs and risk. This may provide additional hedging opportunities for entities and enhance market liquidity.

2. Government Money Market Funds, Commercial Paper and Corporate Notes or Bonds, and Certificates of Deposit Issued by Banks

The Final Rule limits the scope of MMFs whose interests qualify as Permitted Investments to certain Government MMFs as defined by SEC

Rule 2a–7, revises the asset-based concentration limits applicable to Government MMFs, and adds issuer-based concentration limits for such funds.⁶⁸⁶ The Final Rule also removes from the list of Permitted Investments commercial paper and corporate notes or bonds guaranteed as to principal and interest by the United States under the TLGP. Finally, bank CDs are removed from the list of Permitted Investments due to a lack of use by FCMs and DCOs.⁶⁸⁷

a. Benefits

The Final Rule removes interests in Prime MMFs and Electing Government MMFs from the list of Permitted Investments currently set forth in Commission regulation 1.25. Pursuant to the Final Rule, FCMs and DCOs are permitted to invest Customer Funds in interests of Permitted Government MMFs. As discussed in section IV.A.1. of this preamble, interests in Prime MMFs and Electing Government MMFs should not be Permitted Investments under Commission regulation 1.25 because such MMFs are subject to the SEC MMF Reforms, which include the ability of the fund to impose liquidity fees to stem redemptions, which could hinder the liquidity of the MMFs and adversely impact customers' access to their funds, which may be needed to meet margin calls on open positions or cash market transactions. The Final Rule, therefore, prevents investments of Customer Funds in MMFs that may pose unacceptable levels of liquidity risk.

The Final Rule imposes asset-based concentration limits corresponding to the size of the Permitted Government MMFs and their management companies. A 50 percent concentration limit will apply to Government MMFs with at least \$1 billion in assets and whose management companies have more than \$25 billion in assets under management. The Final Rule retains the current 10 percent concentration limit for MMFs with less than \$1 billion in assets or which have a management company managing less than \$25 billion

⁶⁸⁶ Separately, as discussed in section VII.C.1. of this preamble, the Final Rule adds Qualified ETFs to the list of Permitted Investments and adopts concentration limits for such Qualified ETFs.

⁶⁸⁷ Although commenters did not provide a specific reason for the lack of use of bank CDs, the Commission understands that few, if any, bank CDs meet the requirements in Commission regulation 1.25(b)(v) that the CD is redeemable at the issuing bank within one business day, with any penalty for early withdrawal limited to any accrued interest earned according to its written terms. 17 CFR 1.25(b)(v). Thus, eliminating this investment option also aligns with the decision to eliminate certain government MMFs that elect to impose liquidity fees to stem redemptions.

in assets.⁶⁸⁸ These concentration limits recognize that larger Government MMFs may be more resilient during times of significant financial stress and better equipped to manage high levels of redemptions. As such, these concentration limits should help to ensure that FCMs' and DCOs' investments in Permitted Government MMFs account for the level of liquidity, market, and credit risk posed by a fund in light of its capital base, portfolio holdings, and capacity to handle market stress.

The new concentration limits adopted by this Final Rule promote investments of Customer Funds in Permitted Government MMFs of different sizes subject to different concentration limits, leading to diversification in FCMs' and DCOs' portfolios, while encouraging investments in larger, presumably safer Government MMFs. The Final Rule's concentration limits may also reduce the potential concentration in certain Permitted Government MMFs, in turn fostering competition across the funds, which may lead to better terms and reduced costs for FCMs and DCOs. In addition, the Commission is adopting issuer-based limits with the goal of mitigating potential risks associated with concentrating investments of Customer Funds in any single fund or family of Government MMFs such as the risk that access to Customer Funds may become restricted due to a cybersecurity or other operational incident affecting the fund. Specifically, the Commission is limiting investments of Customer Funds in any single family of Government MMFs to 25 percent and investments of Customer Funds in interests in an individual Government MMF to 10 percent of the total assets held in each of the segregated account classes of futures customer funds, Cleared Swaps Customer Collateral, and 30.7 customer funds. There are no precise concentration limits that can guarantee absolute protection against market volatility. The Commission's assessment is, however, that these limits represent a practical approach that takes the need to support the viability of FCMs' and DCOs' business model into account, while safeguarding the principal and liquidity of the Customer Funds.

⁶⁸⁸ As discussed in section IV.B. of this preamble, the Commission is deleting the conjunction "and" in Commission regulation 1.25(b)(3)(i)(G), redesignated as Commission regulation 1.25(b)(3)(i)(E) and revised to reflect other amendments adopted in this Final Rule, to clarify that the fund size threshold and the management company size threshold are to be construed as alternative prongs triggering the 10 percent limit.

The Final Rule also revises the list of Permitted Investments in Commission regulation 1.25 to remove commercial paper and corporate notes or bonds guaranteed under the TLGP, to reflect that the TLGP expired in 2012 and, therefore, FCMs and DCOs have not been permitted to invest in such instruments since 2012. This amendment streamlines the Commission's rules, facilitating their implementation and administration, and is consistent with the Commission's earlier determination that commercial paper and corporate notes or bonds are rarely used and pose unacceptable levels of credit, liquidity, and market risk.⁶⁸⁹

The Final Rule also removes bank CDs from the list of Permitted Investments. The Commission's experience administering Commission regulation 1.25 indicates that FCMs and DCOs have not invested Customer Funds in bank CDs. The Commission requested comment on the proposed elimination of bank CDs from the list of Permitted Investments. One commenter generally opposed the removal of bank CDs from the list of Permitted Investments, stating that the removal "would not be beneficial," but other commenters supported the removal, including the FIA which stated that its member FCMs did not foresee investing Customer Funds in bank CDs.⁶⁹⁰ The Commission is removing bank CDs from the list of Permitted Investments in the Final Rule. Similar to the removal of commercial paper and corporate notes and bonds, the amendment will streamline the Commission's regulations and avoid potential confusion regarding the eligibility of bank CDs as Permitted Investments.

b. Costs

This Final Rule limits the scope of MMFs whose interests qualify as Permitted Investments to Permitted Government MMFs and could lead to less diversification in the investment of Customer Funds by FCMs and DCOs. FCMs' and DCOs' portfolios may be concentrated in the Permitted Government MMFs, increasing exposure to risks associated with the funds, which might heighten the risk of loss of Customer Funds. Also, because fewer MMFs would be available as Permitted

Investments, FCMs and DCOs might have less flexibility in investing Customer Funds. FCMs and DCOs might thus generate lower returns and could pass on additional operational costs to customers by increasing their fees.

The potential risk of concentration of investments in Permitted Government MMFs is nonetheless mitigated by the asset-based and issuer-based concentration limits, which are designed to promote diversification among different categories of Permitted Investments and among different individual Permitted Government MMFs. Additionally, the potential risk of concentration of investments is mitigated by the addition of Qualified ETFs to the list of Permitted Investments, a viable alternative to Permitted Government MMFs allowing FCMs and DCOs to diversify their investment holdings.

To meet the concentration limits adopted herein, FCMs and DCOs may be required to liquidate Government MMFs held in their portfolios and might incur losses. The risk of loss is likely to be mitigated because the Government MMFs permitted under Staff Letter 16–68 and Staff Letter 16–69 are presumably highly liquid.⁶⁹¹

The elimination of commercial paper and corporate notes or bonds guaranteed under the TLGP does not result in any costs as the instruments have not been available as Permitted Investments since 2012 when the TLGP expired. Similarly, removing bank CDs does not result in an immediate potential cost because, in the Commission's experience, FCMs and DCOs do not currently invest Customer Funds in this type of instrument. Eliminating this investment option, however, may lead to potential long-term costs should this option become more economical for FCMs and DCOs.

c. Section 15(a) Considerations

In light of the foregoing, the Commission has evaluated the costs and benefits of this Final Rule pursuant to the five considerations identified in section 15(a) of the Act as follows:

i. Protection of Market Participants and the Public

The Final Rule removes interests in MMFs whose redemptions may be subject to liquidity fees, including Prime MMFs and Electing Government MMFs, from the list of Permitted Investments. The imposition of a liquidity fee conflicts with provisions in Commission regulation 1.25 that are designed to reduce Customer Funds' exposure to liquidity risk and to

preserve the principal of investments purchased with Customer Funds. As a result, by preventing investments in instruments that pose unacceptable levels of liquidity risk, the Final Rule provides greater protection to Customer Funds and promotes the efficient and safe investment of Customer Funds by FCMs and DCOs.

The Final Rule also limits the scope of MMFs whose interests qualify as Permitted Investments to Government MMFs as defined by SEC Rule 2a–7. These types of funds are less susceptible to runs and have seen inflows during periods of market instability.⁶⁹² Thus, limiting the scope of eligible MMFs to Government MMFs should reduce the possibility that funds in which Customer Funds are invested may be adversely affected by run risk and other associated risks. However, because there will be fewer MMFs that will qualify as Permitted Investments under the Final Rule, FCMs' and DCOs' investments may be concentrated in fewer MMFs and the investments may be more susceptible to concentration risk.

The asset-based concentration limits for Government MMFs and Qualified ETFs assign limits according to the size of the funds, with larger funds being subject to a 50 percent limit and smaller funds to a 10 percent limit. These limits reflect that larger funds have capital bases better capable of handling a high volume of redemptions in times of stress. Accordingly, the concentration limits promote investments in larger funds, which by virtue of their size tend to be more resilient, while providing for diversification by permitting investments in smaller Government MMFs and Qualified ETFs subject to concentration limits intended to ensure the safety of Customer Funds. In addition, the issuer-based concentration limits promote diversification among different individual Government MMFs and Qualified ETFs, thus mitigating the potential risks associated with concentrating investments of Customer Funds with a single fund or family of funds.

The implementation of these newly adopted concentration limits may

⁶⁸⁹ 2010 Proposed Permitted Investments Amendment at 67644.

⁶⁹⁰ ICE at p. 4; FIA/CME Joint Letter at pp. 20; Nodal at pp. 3–4. In addition to the Commission's general experience in overseeing DCOs and FCMs, Commission staff also reviewed how FCMs invested customer funds as reported in the SIDR Report for the period September 15, 2022 to February 15, 2023 and observed that no FCMs reported investing customer funds in bank CDs.

⁶⁹¹ See 17 CFR 1.25(b)(1).

⁶⁹² SEC 2023 MMF Reforms at 51417 (investors typically view government MMFs, in contrast to Prime MMFs, as a relatively safe investment during times of market turmoil). See also Money Market Fund Reforms, 87 FR 7248 (Feb. 8, 2022) ("SEC 2023 MMF Reforms Proposing Release") at 7250. During the 2008 financial crisis there was a run primarily on institutional Prime MMFs after an MMF "broke the buck" and suspended redemptions, which motivated many fund sponsors to step in and provide financial support to their funds. The events led to general turbulence in the financial markets and contributed to severe dislocations in short-term credit markets. *Id.*

require FCMs and DCOs to liquidate their fund holdings, which could lead to losses. The potential for losses would be mitigated because since the issuance of Staff Letter 16–68 and Staff Letter 16–69 in 2016, FCMs and DCOs have been allowed to invest only in Government MMFs meeting the liquidity standards of Commission regulation 1.25.

By removing commercial paper and corporate notes or bonds guaranteed under the TLGP from the list of Permitted Investments under Commission regulation 1.25, the Final Rule eliminates instruments that are no longer available as a result of the expiration of the TLGP in 2012. Deleting these investments from the list streamlines the Commission's rules and removes a potential source of confusion for the public and market participants. Because they are no longer Permitted Investments, maintaining these instruments in the list of Permitted Investments could cause misunderstanding among the public and market participants about the eligibility of these instruments as permissible investments of Customer Funds. By removing bank CDs, a type of instrument that is not used by FCMs and DCOs as an investment instrument, the Commission is also contributing to the ongoing effort to streamline the Commission's regulations and reduce the possibility of confusion.

ii. Efficiency, Competitiveness, and Financial Integrity of Markets

By eliminating interests in Prime MMFs and Electing Government MMFs from the list of Permitted Investments, the Final Rule prevents investments of Customer Funds in instruments that may be less liquid due to the SEC MMF Reforms. The changes imposed by the SEC MMF Reforms may not allow FCMs and DCOs to redeem interests in Prime MMFs and Electing Government MMFs without a material discount in value. The exclusion of these types of investments will improve efficiency in the markets, especially at times of stress when liquidity fees may be imposed, and ensure that Permitted Investments are always consistent with Commission regulation 1.25's objectives of preserving principal and maintaining liquidity.

As discussed above, the deletion of commercial paper and corporate notes or bonds guaranteed under the TLGP and bank CDs from the list of Permitted Investments removes investment instruments that are either no longer available or not used as an investment of Customer Funds, streamlining the Commission's regulations and

contributing to their efficient implementation by market participants.

iii. Price Discovery

The Final Rule, by reducing the range of products that qualify as Permitted Investments, results in fewer investment options available to FCMs and DCOs. This could cause FCMs and DCOs to generate less income from their investment of Customer Funds and pass the costs of operations onto customers by increasing commissions and other fees. Facing increased costs, customers may reduce trading, thereby reducing liquidity, which may hinder price discovery.

The elimination of commercial paper and corporate notes or bonds guaranteed under the TLGP and bank CDs as Permitted Investments will not have an impact of this factor, because FCMs and DCOs have not invested Customer Funds in these instruments for several years.

iv. Sound Risk Management

By deleting interests in Prime MMFs and Electing Government MMFs from the list of Permitted Investments, the Final Rule prohibits investment of Customer Funds in such MMFs, which should reduce liquidity risk in light of the SEC MMF Reforms, thus promoting sound risk management. Also, the concentration limits that will apply to the Permitted Government MMFs and Qualified ETFs should foster diversification in FCMs' and DCOs' portfolios by encouraging investments of Customer Funds in larger funds that the Commission anticipates would have the capacity to withstand significant market stress and increasing redemptions, while making available smaller funds subject to specified concentration limits.

The elimination of commercial paper and corporate notes or bonds guaranteed under the TLGP and bank CDs as Permitted Investments will not have an impact of this factor.

v. Other Public Interest Considerations

The relevant cost-benefit considerations are captured in the four factors above.

3. SOFR as a Permitted Benchmark

In March 2021, the U.K. FCA announced that LIBOR would be effectively discontinued.⁶⁹³ As a result of the transition from LIBOR to SOFR, the Commission is replacing LIBOR with SOFR as a permitted benchmark for variable and floating rate securities that qualify as Permitted Investments

under Commission regulation 1.25. Under the terms of the Final Rule, adjustable rate securities would qualify as a Permitted Investment if, among other conditions, they reference a SOFR Rate published by the FRBNY or a CME Term SOFR Rate published by the CME Group Benchmark Administration Limited.

a. Benefits

Currently under Commission regulation 1.25(b)(2)(iv)(A), Permitted Investments may have a variable or floating rate of interest, provided that the interest rate correlates to specified benchmarks, including LIBOR.⁶⁹⁴ As discussed in section IV.A.5. of this preamble, a number of enforcement actions concerning attempts to manipulate the LIBOR benchmark led to a loss of confidence in the reliability and robustness of LIBOR and to the benchmark's discontinuation. The Commission therefore is amending Commission regulation 1.25 to remove LIBOR as a permitted benchmark and to replace it with SOFR. Accordingly, the replacement of LIBOR with SOFR, which has been identified as a preferred benchmark alternative by the ARRC,⁶⁹⁵ should help to ensure that Customer Funds invested in Permitted Investments with adjustable rates of interest reference a reliable and robust benchmark providing greater protection to Customer Funds.

b. Costs

Given the widespread use of LIBOR as a benchmark, FCMs and DCOs that invest Customer Funds in Permitted Investments with variable and fixed rate securities might incur costs associated with the transition to SOFR. To the extent that FCMs and DCOs already invest in Permitted Investments with variable and fixed rate securities benchmarked to LIBOR, they would need to amend the terms of their agreements to incorporate the new benchmark. If they have not done so already, FCMs and DCOs may also need to adjust their systems and processes to implement and recognize SOFR as a benchmark.

c. Section 15(a) Considerations

In light of the foregoing, the Commission has evaluated the costs and benefits of the Final Rule pursuant to the five considerations identified in section 15(a) of the Act as follows:

⁶⁹⁴ 17 CFR 1.25(b)(2)(iv)(A).

⁶⁹⁵ See Staff Letter 21–26 at p. 3.

⁶⁹³ Staff Letter 21–26 at p. 1.

i. Protection of Market Participants and the Public

LIBOR is no longer a reliable and robust benchmark. By eliminating LIBOR as a permitted benchmark, the Final Rule prevents investments of Customer Funds in securities referencing an unreliable benchmark and promotes the use of a safer, more accurate benchmark alternative.

ii. Efficiency, Competitiveness, and Financial Integrity of Markets

By codifying the use of SOFR as a permitted benchmark for Permitted Investments in which Customer Funds may be invested, the Final Rule conforms to current market developments, facilitates the transition to SOFR and reflects the phasing out of LIBOR, which is no longer published and deemed unreliable, removing a potential source of risk to the financial system.⁶⁹⁶

In addition, SOFR is now an essential benchmark that helps to ensure the stability and integrity of financial markets. Thus, codifying SOFR as a permitted benchmark for permitted investments may enhance the financial integrity of markets.

iii. Price Discovery

The replacement of LIBOR with SOFR as a permitted benchmark may have a positive impact on price discovery. By replacing an obsolete benchmark, LIBOR, with the now widely accepted benchmark, SOFR, FCMs and DCOs should have a greater opportunity to invest in variable or floating rate instruments that reference SOFR. The opportunity to invest in instruments referencing SOFR may encourage greater participation in the commodity interest markets, thereby increasing liquidity in the markets and enhancing the process of price discovery.

iv. Sound Risk Management

By eliminating LIBOR as a permitted benchmark and replacing it with SOFR, the Final Rule ensures that to the extent FCMs and DCOs select variable and floating rate securities as Permitted

Investments to invest Customer Funds, these instruments reference benchmarks that are, in the Commission's view, sound and reliable, thus fostering sound risk management.

v. Other Public Interest Considerations

The relevant cost-benefit considerations are captured in the four factors above.

4. Revision of the Read-Only Access Provisions

The Final Rule eliminates the Read-only Access Provisions in parts 1 and 30 of the Commission's regulations,⁶⁹⁷ which currently require FCMs to ensure that depositories holding Customer Funds provide the Commission with direct, read-only electronic access to such accounts.

a. Benefits

Eliminating the Read-only Access Provisions streamlines the CFTC rules, facilitating their implementation and administration, and is consistent with the Commission's expectation that the existence of alternative methods for obtaining and verifying account balance information will diminish the need to rely on the direct read-only access to accounts. By relying on CME's and NFA's daily segregation confirmation and verification process, the Commission can allocate resources to more immediate regulatory concerns within its jurisdictional purview. As discussed in section IV.E. of this preamble, the Commission has encountered numerous practical challenges in the administration of direct access to depository accounts. These challenges unduly burden the Commission's resources, particularly when one considers that the Commission contemplated that the use of real-time access would be limited. That is, the practical challenges prevent Commission staff from using the Read-only Access Provisions as intended.

In addition, eliminating the requirement to provide the Commission with direct, read-only access to accounts

maintained by FCMs, reduces costs for depositories, which may motivate these institutions to more readily take FCM Customer Funds on deposit, thereby lowering the bar to entry for new FCMs. The Final Rule may thus foster competition in the futures market and ultimately reduce costs for FCMs and their customers.

Furthermore, the deletion of the Read-only Access Provisions eliminates the need for the Commission to keep a log of access credentials and physical authentication devices, thereby reducing the potential cybersecurity risk associated with the maintenance of such credentials and devices.

b. Costs

Withdrawing the requirement that depositories provide the Commission with direct, read-only electronic access to depository accounts holding Customer Funds deprives the Commission from ongoing, instantaneous access to the accounts for purposes of identifying potential discrepancies between the account balance information reported by the FCMs and the account balance information available directly from the depositories.

More efficient means for identifying discrepancies in the account balance information exist: obtaining account balance and transaction information through CME's and NFA's automated daily segregation confirmation system or by requesting the information directly from the depositories.

c. Section 15(a) Considerations

In light of the foregoing, the Commission has evaluated the costs and benefits of the Final Rule pursuant to the five considerations identified in section 15(a) of the Act as follows:

i. Protection of Market Participants and the Public

The Final Rule removes the requirement to provide the Commission with direct, read-only access to depository accounts. This change eliminates the potential cybersecurity risk associated with the maintenance of access credentials and authentication devices, thus limiting risk for market participants and the public.

CME's and NFA's automated daily segregation confirmation system provides an efficient and effective method for verifying customer account balances, which, in conjunction with the Commission's right to request information from the depositories, protects market participants and the public.

⁶⁹⁶ The replacement of LIBOR as a benchmark for Permitted Investments represents another step in the Commission's efforts to facilitate the transition away from LIBOR, as illustrated by a recent amendment to the clearing requirements. *See generally* Clearing Requirement Determination Under Section 2(h) of the Commodity Exchange Act for Interest Rate Swaps to Account for the Transition from LIBOR and Other IBORs to Alternative Reference Rates, 87 FR 52182 (Aug. 24, 2022) (replacing the requirement to clear interest rate swaps referencing LIBOR and certain other interbank offered rates with the requirement to clear interest rate swaps referencing overnight, nearly risk-free reference rates).

⁶⁹⁷ The relevant provisions appear in Commission regulation 1.20, appendix A to Commission regulation 1.20, appendix A to Commission regulation 1.26, Commission regulation 30.7 and appendices E and F to part 30 of CFTC's regulations. The amendments also extend to Commission regulation 22.5, which requires FCMs and DCOs, before depositing Cleared Swaps Customer Collateral with a depository, to obtain an acknowledgment letter from each depository in accordance with Commission regulations 1.20 and 1.26. 17 CFR 22.5(a). Commission regulation 22.5 further requires FCMs and DCOs to adhere to all requirements specified in Commission regulation 1.20 and 1.26 regarding retaining, permitting access to filing, or amending the written acknowledgment letters. 17 CFR 22.5(a).

ii. Efficiency, Competitiveness, and Financial Integrity of Markets

By eliminating the Read-only Access Provisions, the Commission has dispensed with a method for verifying account balance information that imposes technological challenges in its implementation and administration, permitting Commission staff to direct its efforts to more effective alternative means for verifying the information.

In addition, depositories holding Customer Funds will no longer have to provide and continuously update the login information necessary for Commission staff's access to the accounts or to train Commission staff on how to access their systems. This will reduce the burden on depository service providers and make the Commission's surveillance of accounts more efficient. Streamlining these processes may motivate depositories to more readily hold FCM Customer Funds, potentially fostering competition with respect to depository services provided to FCMs and ultimately reducing costs for such FCMs.

iii. Price Discovery

The Final Rule, by eliminating the requirement for depositories to provide the Commission with read-only access to accounts maintained by FCMs, may reduce operational costs for depositories, which may ultimately lead to cost reductions that benefit both depositories and FCMs. The FCMs may, in turn, pass those benefits to customers via reduced charges.

iv. Sound Risk Management

As previously noted, CME and NFA have developed a sophisticated system—the automated daily segregation confirmation system—which provides DSROs and the Commission with an efficient tool for detection of potential discrepancies between FCMs' daily segregation statements and the balances reported by the various depositories holding Customer Funds. Although the Commission is eliminating the Read-only Access Provisions, the Commission will continue to rely on CME's and NFA's automated system for oversight purposes. Thus, the amendment should not be detrimental to sound risk management practices.

Furthermore, as noted above, the deletion of the Read-only Access Provisions eliminates a potential cybersecurity risk associated with the maintenance by the Commission of periodically updated access credentials and physical authentication devices, thus promoting sound risk management.

v. Other Public Interest Considerations

The relevant cost-benefit considerations are captured in the four factors above.

The Commission requested public comment on its cost-benefit considerations, including the section 15(a) factors described above. The Commission received no specific comments on this part of the Proposal in response to this request.

D. Antitrust Considerations

Section 15(b) of the Act requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the purposes of the Act, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 4(c) or 4c(b)), or in requiring or approving any bylaw, rule or regulation of a contract market or registered futures association established pursuant to section 17 of the Act.⁶⁹⁸

The Commission believes that the public interest to be protected by the antitrust laws is generally to protect competition. In the Proposal, the Commission requested comment on whether: (i) the Proposal implicates any other specific public interest to be protected by the antitrust laws; (ii) the Proposal is anticompetitive and, if it is, what the anticompetitive effects are; (iii) whether there are less anticompetitive means of achieving the relevant purposes of the Act that would otherwise be served by adopting the Proposal.⁶⁹⁹ The Commission did not receive comments on the anticompetitive effects of the Proposal.

The Commission has considered the Final Rule to determine whether it is anticompetitive and has identified no anticompetitive effects. Because the Commission has determined that the Final Rule is not anticompetitive and has no anticompetitive effects, the Commission has not identified any less anticompetitive means of achieving the purposes of the Act.

List of Subjects

17 CFR Part 1

Brokers, Commodity futures, Consumer protection, Reporting and recordkeeping requirements.

17 CFR Part 22

Brokers, Clearing, Consumer protection, Reporting and recordkeeping, Swaps.

17 CFR Part 30

Consumer protection.

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR chapter I as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6l, 6m, 6n, 6o, 6p, 6r, 6s, 7, 7a–1, 7a–2, 7b, 7b–3, 8, 9, 10a, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23 and 24 (2012).

§ 1.20 [Amended]

■ 2. Amend § 1.20 by:

- a. Removing the cross-reference to “Appendix A to § 1.20” and adding in its place “appendix C to this part” in paragraph (d)(2);
- b. Removing and reserving paragraph (d)(3); and
- c. Removing the cross-reference to “Appendix B to § 1.20” and adding in its place “appendix D to this part” in paragraph (g)(4)(ii);

Appendices C and D to Part 1

■ 3. Further amend § 1.20 by redesignating appendices A and B to § 1.20 as appendices C and D to part 1, respectively.

■ 4. Amend § 1.25 by:

- a. Revising and republishing the paragraph (a) heading and paragraph (a)(1) introductory text;
- b. Removing paragraphs (a)(1)(iv) through (vi);
- c. Redesignating paragraph (a)(1)(vii) as new paragraph (a)(1)(iv) and revising it;
- d. Adding new paragraphs (a)(1)(v) and (a)(1)(vi);
- e. Revising and republishing paragraph (b) introductory text and the paragraph (b)(2) heading;
- f. Revising paragraph (b)(2)(i) introductory text;
- g. Revising and republishing paragraph (b)(2)(iv)(A) introductory text;
- h. Revising paragraphs (b)(2)(iv)(A)(1) and (2);
- i. Removing paragraphs (b)(2)(v) and (vi);
- j. Republishing the paragraph (b)(3) heading;
- k. Removing paragraph (b)(3)(i)(C);
- l. Redesignating paragraphs (b)(3)(i)(D) and (E) as paragraphs (b)(3)(i)(C) and (D);
- m. Revising newly redesignated paragraph (b)(3)(i)(D);
- n. Removing paragraph (b)(3)(i)(F);

⁶⁹⁸ 7 U.S.C. 19(b).

⁶⁹⁹ Proposal at 81273.

- o. Redesignating paragraph (b)(3)(i)(G) as (b)(3)(i)(E);
 - p. Revising newly redesignated paragraph (b)(3)(i)(E) and paragraphs (b)(3)(ii)(B) through (E), (b)(4)(i), (c) introductory text, and (c)(1);
 - q. Removing “The appendix to this section” and adding in its place “Appendix E to this part” in paragraph (c)(7);
 - r. Adding paragraph (c)(8);
 - s. Republishing paragraph (d) introductory text;
 - t. Revising paragraphs (d)(2) and (7); and
 - u. Adding paragraph (f).
- The republications, revisions, and additions read as follows:

§ 1.25 Investment of customer funds.

(a) *Permitted investments.* (1) Subject to the terms and conditions set forth in this section, a futures commission merchant or a derivatives clearing organization may invest customer money in the following instruments (permitted investments):

* * * * *

(iv) Interests in government money market funds as defined in § 270.2a–7 of this title, provided that the government money market funds do not choose to rely on the ability to impose discretionary liquidity fees consistent with the requirements of 17 CFR 270.2a–7(c)(2)(i)(government money market fund);

(v) Interests in exchange-traded funds, as defined in 17 CFR 270.6c–11, which seek to replicate the performance of a published short-term U.S. Treasury security index composed of bonds, notes, and bills with a remaining maturity of 12 months or less, issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of the Treasury (U.S. Treasury exchange-traded fund); and

(vi) General obligations of Canada, France, Germany, Japan, and the United Kingdom (permitted foreign sovereign debt), subject to the following:

(A) A futures commission merchant may invest in the permitted foreign sovereign debt of a country to the extent the futures commission merchant has balances in segregated accounts owed to its customers denominated in that country’s currency; and

(B) A derivatives clearing organization may invest in the permitted foreign sovereign debt of a country to the extent the derivatives clearing organization has balances in segregated accounts owed to its clearing members that are futures commission merchants denominated in that country’s currency.

* * * * *

(b) *General terms and conditions.* A futures commission merchant or a derivatives clearing organization is required to manage the permitted investments consistent with the objectives of preserving principal and maintaining liquidity and according to the following specific requirements:

* * * * *

(2) *Restrictions on instrument features.* (i) With the exception of government money market funds and U.S. Treasury exchange-traded funds, no permitted investment may contain an embedded derivative of any kind, except as follows:

* * * * *

(iv)(A) Adjustable rate securities are permitted, subject to the following requirements:

(1) The interest payments on variable rate securities must correlate closely and on an unleveraged basis to a benchmark of either the Federal Funds target or effective rate, the prime rate, the three-month Treasury Bill rate, a Secured Overnight Financing Rate published by the Federal Reserve Bank of New York or a CME Term SOFR Rate published by the CME Group Benchmark Administration Limited, or the interest rate of any fixed rate instrument that is a permitted investment listed in paragraph (a)(1) of this section;

(2) The interest payment, in any period, on floating rate securities must be determined solely by reference, on an unleveraged basis, to a benchmark of either the Federal Funds target or effective rate, the prime rate, the three-month Treasury Bill rate, a Secured Overnight Financing Rate published by the Federal Reserve Bank of New York or a CME Term SOFR Rate published by the CME Group Benchmark Administration Limited, or the interest rate of any fixed rate instrument that is a permitted investment listed in paragraph (a)(1) of this section;

* * * * *

(3) *Concentration—*

(i) * * *

(D) Investments in government money market funds or U.S. Treasury exchange-traded funds with \$1 billion or more in assets and whose management company manages \$25 billion or more in assets may not exceed 50 percent of the total assets held in segregation by the futures commission merchant or derivatives clearing organization.

(E) Investments in government money market funds or U.S. Treasury exchange-traded funds with less than \$1 billion in assets or which have a management company managing less

than \$25 billion in assets, may not exceed 10 percent of the total assets held in segregation by the futures commission merchant or derivatives clearing organization.

(ii) * * *

(B) Securities of any single issuer of municipal securities held by a futures commission merchant or derivatives clearing organization may not exceed 5 percent of the total assets held in segregation by the futures commission merchant or derivatives clearing organization.

(C) Interests in any single family of government money market funds or U.S. Treasury exchange-traded funds may not exceed 25 percent of the total assets held in segregation by the futures commission merchant or derivatives clearing organization.

(D) Interests in any individual government money market fund or U.S. Treasury exchange-traded fund may not exceed 10 percent of the total assets held in segregation by the futures commission merchant or derivatives clearing organization.

(E) For purposes of determining compliance with the issuer-based concentration limits set forth in this section, securities issued by entities that are affiliated, as defined in paragraph (b)(5) of this section, shall be aggregated and deemed the securities of a single issuer. An interest in a permitted government money market fund or U.S. Treasury exchange-traded fund is not deemed to be a security issued by its sponsoring entity.

* * * * *

(4) *Time-to-maturity.* (i) Except for investments in government money market funds, U.S. Treasury exchange-traded funds, and permitted foreign sovereign debt subject to the requirements of paragraph (f) of this section, the dollar-weighted average of the time-to-maturity of the portfolio, as that average is computed pursuant to 17 CFR 270.2a–7, may not exceed 24 months.

* * * * *

(c) *Government money market funds and U.S. Treasury exchange-traded funds.* The following provisions will apply to the investment of customer funds in government money market funds or U.S. Treasury exchange-traded funds (the fund).

(1) The fund must be an investment company that is registered under the Investment Company Act of 1940 with the Securities and Exchange Commission and that holds itself out to investors as a government money market fund, in accordance with 17 CFR

270.2a–7, or an exchange-traded fund, in accordance with 17 CFR 270.6c–11.

* * * * *

(8) A futures commission merchant or derivatives clearing organization may invest in interests in U.S. Treasury exchange-traded funds if:

(i) The U.S. Treasury exchange-traded fund invests at least 95 percent of its assets in securities comprising the short-term U.S. Treasury index whose performance the fund seeks to replicate and cash; and

(ii) The purchase and liquidation of interests in the fund conform to the following requirements:

(A) *Primary market transactions.* The futures commission merchant or derivatives clearing organization purchases or redeems interests in the fund on a delivery versus payment basis at a price based on the net asset value computed in accordance with the Investment Company Act of 1940 and regulations thereunder. A futures commission merchant or derivatives clearing organization that is an authorized participant of the fund may redeem interests in the fund in kind, provided that the futures commission merchant or derivatives clearing organization is able to convert the securities received pursuant to the in-kind redemption into cash within one business day of the redemption request. A futures commission merchant or derivatives clearing organization that transacts with the fund through an authorized participant acting as an agent for the futures commission merchant or derivatives clearing organization must have a contractual agreement obligating the authorized participant to pay the futures commission merchant's or derivatives clearing organization's redemption of interests in the fund in cash within one business day of the redemption request.

(B) *Secondary market transactions.* The futures commission merchant or derivatives clearing organization acquires or sells interests in the fund on a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934.

(d) *Repurchase and reverse repurchase agreements.* A futures commission merchant or derivatives clearing organization may buy and sell the permitted investments listed in paragraphs (a)(1)(i) through (vii) of this section pursuant to agreements for resale or repurchase of the securities (agreements to repurchase or resell),

provided the agreements to repurchase or resell conform to the following requirements:

* * * * *

(2) Permitted counterparties are limited to a bank as defined in section 3(a)(6) of the Securities Exchange Act of 1934, a domestic branch of a foreign bank insured by the Federal Deposit Insurance Corporation, a securities broker or dealer, or a government securities dealer registered with the Securities and Exchange Commission or which has filed notice pursuant to section 15C(a) of the Government Securities Act of 1986. In addition, with respect to agreements to repurchase or resell permitted foreign sovereign debt, the following entities are also permitted counterparties: a foreign bank that qualifies as a depository under § 1.49(d)(3) and that is located in a money center country as the term is defined in § 1.49(a)(1) or in another jurisdiction that has adopted the currency in which the permitted foreign sovereign debt is denominated as its currency; a securities broker or dealer located in a money center country as the term is defined in § 1.49(a)(1) and that is regulated by a national financial regulator or a provincial financial regulator with respect to a Canadian securities broker or dealer; and the Bank of Canada, the Bank of England, the Banque de France, the Bank of Japan, the Deutsche Bundesbank, or the European Central Bank.

* * * * *

(7) Securities transferred to the futures commission merchant or derivatives clearing organization under the agreement are held in a safekeeping account with a bank as referred to in paragraph (d)(2) of this section, a Federal Reserve Bank, a derivatives clearing organization, or the Depository Trust Company in an account that complies with the requirements of § 1.26. Securities transferred to the futures commission merchant or derivatives clearing organization under an agreement related to permitted foreign sovereign debt may also be held in a safekeeping account that complies with the requirements of § 1.26 at a foreign bank that meets the location and qualification requirements in § 1.49(c) and (d), or with the Bank of Canada, the Bank of England, the Banque de France, the Bank of Japan, the Deutsche Bundesbank, or the European Central Bank.

* * * * *

(f) *Permitted foreign sovereign debt.* The following provisions will apply to investments of customer funds in permitted foreign sovereign debt.

(1) The dollar-weighted average of the remaining time-to-maturity of the portfolio of investments in permitted foreign sovereign debt, as that average is computed pursuant to 17 CFR 270.2a–7 on a country-by-country basis, may not exceed 60 calendar days. Permitted foreign sovereign debt instruments acquired under an agreement to resell shall be deemed to have a maturity equal to the period remaining until the date on which the resale of the underlying instruments is scheduled to occur, or, where the agreement is subject to demand, the notice period applicable to a demand for the resale of the securities. Permitted foreign sovereign debt instruments sold under an agreement to repurchase shall be included in the calculation of the dollar-weighted average based on the remaining time-to-maturity of each instrument sold.

(2) A futures commission merchant or a derivatives clearing organization may not invest customer funds in any permitted foreign sovereign debt that has a remaining maturity greater than 180 calendar days.

(3) If the two-year credit default spread, computed as the average of the bid and ask prices between willing buyers and sellers, of an issuing sovereign of permitted foreign sovereign debt is greater than 45 basis points:

(i) The futures commission merchant or derivatives clearing organization shall not make any new investments in that sovereign's debt using customer funds.

(ii) The futures commission merchant or derivatives clearing organization must discontinue investing customer funds in that sovereign's debt through agreements to resell as soon as practicable under the circumstances.

Appendix E to Part 1

■ 5. Section 1.25 is further amended by redesignating the appendix to § 1.25 as appendix E to part 1.

§ 1.26 [Amended]

■ 6. Amend § 1.26 in the paragraphs designated in the left column of the following table by removing the words indicated in the middle column from wherever they appear in the paragraph and adding in their place the words indicated in the right column.

Paragraph	Remove	Add
(a)	“money market mutual funds”	“government money market funds.”
(b)	“money market mutual fund”	“government money market fund.”
(b)	“appendix A or B to this section”	“appendix F or G to this part.”
(b)	“appendix A or B to § 1.20”	“appendix C or D to this part.”

Appendices F and G to Part 1

■ 7. Section 1.26 is further amended by redesignating appendix A to § 1.26 as appendix F to part 1 and appendix B to § 1.26 as appendix G to part 1.

■ 8. Amend § 1.32 by:

■ a. Removing paragraph (f)(3)(iv);

■ b. Redesignating paragraphs (f)(3)(v) through (vi) as paragraphs (f)(3)(iv) through (vi); and

■ c. Revising newly redesignated paragraphs (f)(3)(iv) through (vi).

The revisions read as follows:

§ 1.32 Reporting of segregated account computation and details regarding the holding of futures customer funds.

* * * * *

(f) * * *

(3) * * *

(iv) Permitted foreign sovereign debt by country:

(A) Canada;

(B) France;

(C) Germany;

(D) Japan;

(E) United Kingdom;

(v) Interests in U.S. Treasury exchange-traded funds; and

(vi) Interests in government money market funds.

* * * * *

■ 9. Amend § 1.55 by revising paragraph (b)(6) to read as follows:

§ 1.55 Public disclosures by futures commission merchants.

* * * * *

(b) * * *

(6) The funds you deposit with a futures commission merchant may be invested by the futures commission merchant in certain types of financial instruments that have been approved by the Commission for the purpose of such investments. Permitted investments are listed in Commission Regulation 1.25 (17 CFR 1.25) and include: U.S. government securities; municipal securities; certain money market funds; certain foreign sovereign debt; and U.S. Treasury exchange-traded funds. The futures commission merchant may retain the interest and other earnings realized from its investment of customer funds. You should be familiar with the types of financial instruments that a futures commission merchant may invest customer funds in.

* * * * *

■ 10. Revise newly redesignated appendix C to part 1 to read as follows:

Appendix C to Part 1—Futures Commission Merchant Acknowledgment Letter for CFTC Regulation 1.20 Customer Segregated Account

[Date]

[Name and Address of Bank, Trust Company, Derivatives Clearing Organization or Futures Commission Merchant]

We refer to the Segregated Account(s) which [Name of Futures Commission Merchant] (“we” or “our”) have opened or will open with [Name of Bank, Trust Company, Derivatives Clearing Organization or Futures Commission Merchant] (“you” or “your”) entitled:

[Name of Futures Commission Merchant] [if applicable, add “FCM Customer Omnibus Account”] CFTC Regulation 1.20 Customer Segregated Account under sections 4d(a) and 4d(b) of the Commodity Exchange Act [and, if applicable, “, Abbreviated as [short title reflected in the depository’s electronic system]”]

Account Number(s): []
(collectively, the “Account(s)”).

You acknowledge that we have opened or will open the above-referenced Account(s) for the purpose of depositing, as applicable, money, securities and other property (collectively the “Funds”) of customers who trade commodities, options, swaps, and other products, as required by Commodity Futures Trading Commission (“CFTC”) Regulations, including Regulation 1.20, as amended; that the Funds held by you, hereafter deposited in the Account(s) or accruing to the credit of the Account(s), will be separately accounted for and segregated on your books from our own funds and from any other funds or accounts held by us in accordance with the provisions of the Commodity Exchange Act, as amended (the “Act”), and part 1 of the CFTC’s regulations, as amended; and that the Funds must otherwise be treated in accordance with the provisions of section 4d of the Act and CFTC regulations thereunder.

Furthermore, you acknowledge and agree that such Funds may not be used by you or by us to secure or guarantee any obligations that we might owe to you, and they may not be used by us to secure or obtain credit from you. You further acknowledge and agree that the Funds in the Account(s) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities we may now or in the future have owing to you. This prohibition does not affect your right to recover funds advanced in the form of cash transfers, lines of credit, repurchase agreements or other similar liquidity arrangements you make in lieu of liquidating non-cash assets held in the

Account(s) or in lieu of converting cash held in the Account(s) to cash in a different currency.

In addition, you agree that the Account(s) may be examined at any reasonable time by the Director of the Market Participants Division of the CFTC or the Director of the Division of Clearing and Risk of the CFTC, or any successor divisions, or such Directors’ designees, or an appropriate officer, agent or employee of our designated self-regulatory organization (“DSRO”), [Name of DSRO], and this letter constitutes the authorization and direction of the undersigned on our behalf to permit any such examination to take place without further notice to or consent from us.

You agree to reply promptly and directly to any request for confirmation of account balances or provision of any other information regarding or related to the Account(s) from the Director of the Market Participants Division of the CFTC or the Director of the Division of Clearing and Risk of the CFTC, or any successor divisions, or such Directors’ designees, or an appropriate officer, agent, or employee of [Name of DSRO], acting in its capacity as our DSRO, and this letter constitutes the authorization and direction of the undersigned on our behalf to release the requested information without further notice to or consent from us.

The parties agree that all actions on your part to respond to the above information request will be made in accordance with, and subject to, such usual and customary authorization verification and authentication policies and procedures as may be employed by you to verify the authority of, and authenticate the identity of, the individual making any such information request, in order to provide for the secure transmission and delivery of the requested information to the appropriate recipient(s). We will not hold you responsible for acting pursuant to any information request from the Director of the Market Participants Division of the CFTC or the Director of the Division of Clearing and Risk of the CFTC, or any successor divisions, or such Directors’ designees, or an appropriate officer, agent, or employee of [Name of DSRO], acting in its capacity as our DSRO, upon which you have relied after having taken measures in accordance with your applicable policies and procedures to assure that such request was provided to you by an individual authorized to make such a request.

In the event that we become subject to either a voluntary or involuntary petition for relief under the U.S. Bankruptcy Code, we acknowledge that you will have no obligation to release the Funds held in the Account(s), except upon instruction of the Trustee in Bankruptcy or pursuant to the Order of the respective U.S. Bankruptcy Court.

Notwithstanding anything in the foregoing to the contrary, nothing contained herein

shall be construed as limiting your right to assert any right of offset or lien on assets that are not Funds maintained in the Account(s), or to impose such charges against us or any proprietary account maintained by us with you. Further, it is understood that amounts represented by checks, drafts or other items shall not be considered to be part of the Account(s) until finally collected. Accordingly, checks, drafts and other items credited to the Account(s) and subsequently dishonored or otherwise returned to you or reversed, for any reason, and any claims relating thereto, including but not limited to claims of alteration or forgery, may be charged back to the Account(s), and we shall be responsible to you as a general endorser of all such items whether or not actually so endorsed.

You may conclusively presume that any withdrawal from the Account(s) and the balances maintained therein are in conformity with the Act and CFTC regulations without any further inquiry, provided that, in the ordinary course of your business as a depository, you have no notice of or actual knowledge of a potential violation by us of any provision of the Act or the CFTC regulations that relates to the segregation of customer funds; and you shall not in any manner not expressly agreed to herein be responsible to us for ensuring compliance by us with such provisions of the Act and CFTC regulations; however, the aforementioned presumption does not affect any obligation you may otherwise have under the Act or CFTC regulations.

You may, and are hereby authorized to, obey the order, judgment, decree or levy of any court of competent jurisdiction or any governmental agency with jurisdiction, which order, judgment, decree or levy relates in whole or in part to the Account(s). In any event, you shall not be liable by reason of any action or omission to act pursuant to any such order, judgment, decree or levy, to us or to any other person, firm, association or corporation even if thereafter any such order, decree, judgment or levy shall be reversed, modified, set aside or vacated.

The terms of this letter agreement shall remain binding upon the parties, their successors and assigns and, for the avoidance of doubt, regardless of a change in the name of either party. This letter agreement supersedes and replaces any prior agreement between the parties in connection with the Account(s), including but not limited to any prior acknowledgment letter agreement, to the extent that such prior agreement is inconsistent with the terms hereof. In the event of any conflict between this letter agreement and any other agreement between the parties in connection with the Account(s), this letter agreement shall govern with respect to matters specific to section 4d of the Act and the CFTC's regulations thereunder, as amended.

This letter agreement shall be governed by and construed in accordance with the laws of [Insert governing law] without regard to the principles of choice of law.

Please acknowledge that you agree to abide by the requirements and conditions set forth above by signing and returning to us the enclosed copy of this letter agreement, and

that you further agree to provide a copy of this fully executed letter agreement directly to the CFTC (via electronic means in a format and manner determined by the CFTC) and to [Name of DSRO], acting in its capacity as our DSRO. We hereby authorize and direct you to provide such copies without further notice to or consent from us, no later than three business days after opening the Account(s) or revising this letter agreement, as applicable.

[Name of Futures Commission Merchant]

By:

Print Name:

Title:

ACKNOWLEDGED AND AGREED:

[Name of Bank, Trust Company, Derivatives Clearing Organization or Futures Commission Merchant]

By:

Print Name:

Title:

Contact Information: [Insert phone number and email address]

DATE:

■ 11. Revise the heading of newly redesignated appendix E to part 1 to read as follows:

Appendix E to Part 1—Government Money Market Fund Prospectus Provisions Acceptable for Compliance with § 1.25(c)(5)

* * * * *

■ 12. Revise newly redesignated appendix F to part 1 to read as follows:

Appendix F to Part 1—Futures Commission Merchant Acknowledgment Letter for CFTC Regulation 1.26 Customer Segregated Government Money Market Fund Account

[Date]

[Name and Address of Government Money Market Fund]

We propose to invest funds held by [Name of Futures Commission Merchant] ("we" or "our") on behalf of our customers in shares of [Name of Government Money Market Fund] ("you" or "your") under account(s) entitled (or shares issued to):

[Name of Futures Commission Merchant] [if applicable, add "FCM Customer Omnibus Account"] CFTC Regulation 1.26 Customer Segregated Government Money Market Fund Account under sections 4d(a) and 4d(b) of the Commodity Exchange Act [and, if applicable, "Abbreviated as [short title reflected in the depository's electronic system]"]

Account Number(s): [] (collectively, the "Account(s)").

You acknowledge that we are holding these funds, including any shares issued and amounts accruing in connection therewith (collectively, the "Shares"), for the benefit of customers who trade commodities, options, swaps and other products ("Commodity Customers"), as required by Commodity Futures Trading Commission ("CFTC") Regulation 1.26, as amended; that the Shares held by you, hereafter deposited in the Account(s) or accruing to the credit of the

Account(s), will be separately accounted for and segregated on your books from our own funds and from any other funds or accounts held by us in accordance with the provisions of the Commodity Exchange Act, as amended (the "Act"), and part 1 of the CFTC's regulations, as amended; and that the Shares must otherwise be treated in accordance with the provisions of section 4d of the Act and CFTC regulations thereunder.

Furthermore, you acknowledge and agree that the Shares are in a fund that holds itself out to investors as a government money market fund, in accordance with 17 CFR 270.2a–7. In addition, you acknowledge and agree that the Shares are in a fund that does not choose to rely on the ability to impose discretionary liquidity fees consistent with the requirements of 17 CFR 270.2a–7(c)(2)(i).

Furthermore, you acknowledge and agree that such Shares may not be used by you or by us to secure or guarantee any obligations that we might owe to you, and they may not be used by us to secure or obtain credit from you. You further acknowledge and agree that the Shares in the Account(s) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities we may now or in the future have owing to you.

In addition, you agree that the Account(s) may be examined at any reasonable time by the Director of the Market Participants Division of the CFTC or the Director of the Division of Clearing and Risk of the CFTC, or any successor divisions, or such Directors' designees, or an appropriate officer, agent or employee of our designated self-regulatory organization ("DSRO"), [Name of DSRO], and this letter constitutes the authorization and direction of the undersigned on our behalf to permit any such examination to take place without further notice to or consent from us.

You agree to reply promptly and directly to any request for confirmation of account balances or provision of any other account information regarding or related to the Account(s) from the Director of the Market Participants Division of the CFTC or the Director of the Division of Clearing and Risk of the CFTC, or any successor divisions, or such Directors' designees, or an appropriate officer, agent, or employee of [Name of DSRO], acting in its capacity as our DSRO, and this letter constitutes the authorization and direction of the undersigned on our behalf to release the requested information without further notice to or consent from us.

The parties agree that all actions on your part to respond to the above information request will be made in accordance with, and subject to, such usual and customary authorization verification and authentication policies and procedures as may be employed by you to verify the authority of, and authenticate the identity of, the individual making any such information request, in order to provide for the secure transmission and delivery of the requested information to the appropriate recipient(s).

We will not hold you responsible for acting pursuant to any information request from the Director of the Market Participants Division of the CFTC or the Director of the Division of Clearing and Risk of the CFTC, or any successor divisions, or such Directors'

designees, or an appropriate officer, agent, or employee of [Name of DSRO], acting in its capacity as our DSRO, upon which you have relied after having taken measures in accordance with your applicable policies and procedures to assure that such request was provided to you by an individual authorized to make such a request.

In the event we become subject to either a voluntary or involuntary petition for relief under the U.S. Bankruptcy Code, we acknowledge that you will have no obligation to release the Shares held in the Account(s), except upon instruction of the Trustee in Bankruptcy or pursuant to the Order of the respective U.S. Bankruptcy Court.

Notwithstanding anything in the foregoing to the contrary, nothing contained herein shall be construed as limiting your right to assert any right of offset or lien on assets that are not Shares maintained in the Account(s), or to impose such charges against us or any proprietary account maintained by us with you. Further, it is understood that amounts represented by checks, drafts or other items shall not be considered to be part of the Account(s) until finally collected.

Accordingly, checks, drafts and other items credited to the Account(s) and subsequently dishonored or otherwise returned to you or reversed, for any reason and any claims relating thereto, including but not limited to claims of alteration or forgery, may be charged back to the Account(s), and we shall be responsible to you as a general endorser of all such items whether or not actually so endorsed.

You may conclusively presume that any withdrawal from the Account(s) and the balances maintained therein are in conformity with the Act and CFTC regulations without any further inquiry, provided that, in the ordinary course of your business as a depository, you have no notice of or actual knowledge of a potential violation by us of any provision of the Act or the CFTC regulations that relates to the segregation of customer funds; and you shall not in any manner not expressly agreed to herein be responsible to us for ensuring compliance by us with such provisions of the Act and CFTC regulations; however, the aforementioned presumption does not affect any obligation you may otherwise have under the Act or CFTC regulations.

You may, and are hereby authorized to, obey the order, judgment, decree or levy of any court of competent jurisdiction or any governmental agency with jurisdiction, which order, judgment, decree or levy relates in whole or in part to the Account(s). In any event, you shall not be liable by reason of any action or omission to act pursuant to such order, judgment, decree or levy, to us or to any other person, firm, association or corporation even if thereafter any such order, decree, judgment or levy shall be reversed, modified, set aside or vacated.

We are permitted to invest customers' funds in government money market funds pursuant to CFTC Regulation 1.25. That rule sets forth the following conditions, among others, with respect to any investment in a government money market fund:

(1) The net asset value of the fund must be computed by 9 a.m. of the business day

following each business day and be made available to us by that time;

(2) The fund must be legally obligated to redeem an interest in the fund and make payment in satisfaction thereof by the close of the business day following the day on which we make a redemption request except as otherwise specified in CFTC Regulation 1.25(c)(5)(ii); and,

(3) The agreement under which we invest customers' funds must not contain any provision that would prevent us from pledging or transferring fund shares.

The terms of this letter agreement shall remain binding upon the parties, their successors and assigns, and for the avoidance of doubt, regardless of a change in the name of either party. This letter agreement supersedes and replaces any prior agreement between the parties in connection with the Account(s), including but not limited to any prior acknowledgment letter agreement, to the extent that such prior agreement is inconsistent with the terms hereof. In the event of any conflict between this letter agreement and any other agreement between the parties in connection with the Account(s), this letter agreement shall govern with respect to matters specific to section 4d of the Act and the CFTC's regulations thereunder, as amended.

This letter agreement shall be governed by and construed in accordance with the laws of [Insert governing law] without regard to the principles of choice of law.

Please acknowledge that you agree to abide by the requirements and conditions set forth above by signing and returning to us the enclosed copy of this letter agreement, and that you further agree to provide a copy of this fully executed letter agreement directly to the CFTC (via electronic means in a format and manner determined by the CFTC) and to [Name of DSRO], acting in its capacity as our DSRO, in accordance with CFTC Regulation 1.20. We hereby authorize and direct you to provide such copies without further notice to or consent from us, no later than three business days after opening the Account(s) or revising this letter agreement, as applicable.

[Name of Futures Commission Merchant]

By:

Print Name:

Title:

ACKNOWLEDGED AND AGREED:

[Name of Government Money Market Fund]

By:

Print Name:

Title:

Contact Information: [Insert phone number and email address]

Date:

■ 13. Revise newly redesignated appendix G to part 1 to read as follows:

**Appendix G to Part 1—Derivatives Clearing Organization
Acknowledgment Letter for CFTC
Regulation 1.26 Customer Segregated
Government Money Market Fund
Account**

[Date]

[Name and Address of Government Money Market Fund]

We propose to invest funds held by [Name of Derivatives Clearing Organization] ("we" or "our") on behalf of customers in shares of [Name of Government Money Market Fund] ("you" or "your") under account(s) entitled (or shares issued to):

[Name of Derivatives Clearing Organization] Futures Customer Omnibus Account, CFTC Regulation 1.26 Customer Segregated Government Money Market Fund Account under sections 4d(a) and 4d(b) of the Commodity Exchange Act [and, if applicable, "Abbreviated as [short title reflected in the depository's electronic system]"]

Account Number(s): []
(collectively, the "Account(s)").

You acknowledge that we are holding these funds, including any shares issued and amounts accruing in connection therewith (collectively, the "Shares"), for the benefit of customers who trade commodities, options, swaps and other products, as required by Commodity Futures Trading Commission ("CFTC") Regulation 1.26, as amended; that the Shares held by you, hereafter deposited in the Account(s) or accruing to the credit of the Account(s), will be separately accounted for and segregated on your books from our own funds and from any other funds or accounts held by us in accordance with the provisions of the Commodity Exchange Act, as amended (the "Act"), and part 1 of the CFTC's regulations, as amended; and that the Shares must otherwise be treated in accordance with the provisions of section 4d of the Act and CFTC regulations thereunder.

Furthermore, you acknowledge and agree that the Shares are in a fund that holds itself out to investors as a government money market fund, in accordance with 17 CFR 270.2a-7. In addition, you acknowledge and agree that the Shares are in a fund that does not choose to rely on the ability to impose discretionary liquidity fees consistent with the requirements of 17 CFR 270.2a-7(c)(2)(i).

Furthermore, you acknowledge and agree that such Shares may not be used by you or by us to secure or guarantee any obligations that we might owe to you, and they may not be used by us to secure or obtain credit from you. You further acknowledge and agree that the Shares in the Account(s) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities we may now or in the future have owing to you.

You agree to reply promptly and directly to any request for confirmation of account balances or provision of any other information regarding or related to the Account(s) from the Director of the Division of Clearing and Risk of the CFTC or the Director of the Market Participants Division of the CFTC, or any successor divisions, or such Directors' designees, and this letter constitutes the authorization and direction of the undersigned on our behalf to release the requested information without further notice to or consent from us.

The parties agree that all actions on your part to respond to the above information requests will be made in accordance with, and subject to, such usual and customary authorization verification and authentication policies and procedures as may be employed

by you to verify the authority of, and authenticate the identity of, the individual making any such information request, in order to provide for the secure transmission and delivery of the requested information to the appropriate recipient(s).

We will not hold you responsible for acting pursuant to any information request from the Director of the Division of Clearing and Risk of the CFTC or the Director of the Market Participants Division of the CFTC, or any successor divisions, or such Directors' designees, upon which you have relied after having taken measures in accordance with your applicable policies and procedures to assure that such request was provided to you by an individual authorized to make such a request.

In the event that we become subject to either a voluntary or involuntary petition for relief under the U.S. Bankruptcy Code, we acknowledge that you will have no obligation to release the Shares held in the Account(s), except upon instruction of the Trustee in Bankruptcy or pursuant to the Order of the respective U.S. Bankruptcy Court.

Notwithstanding anything in the foregoing to the contrary, nothing contained herein shall be construed as limiting your right to assert any right of offset or lien on assets that are not Shares maintained in the Account(s), or to impose such charges against us or any proprietary account maintained by us with you. Further, it is understood that amounts represented by checks, drafts or other items shall not be considered to be part of the Account(s) until finally collected. Accordingly, checks, drafts and other items credited to the Account(s) and subsequently dishonored or otherwise returned to you or reversed, for any reason, and any claims relating thereto, including but not limited to claims of alteration or forgery, may be charged back to the Account(s), and we shall be responsible to you as a general endorser of all such items whether or not actually so endorsed.

You may conclusively presume that any withdrawal from the Account(s) and the balances maintained therein are in conformity with the Act and CFTC regulations without any further inquiry, provided that, in the ordinary course of your business as a depository, you have no notice of or actual knowledge of a potential violation by us of any provision of the Act or the CFTC regulations that relates to the segregation of customer funds; and you shall not in any manner not expressly agreed to herein be responsible to us for ensuring compliance by us with such provisions of the Act and CFTC regulations; however, the aforementioned presumption does not affect any obligation you may otherwise have under the Act or CFTC regulations.

You may, and are hereby authorized to, obey the order, judgment, decree or levy of any court of competent jurisdiction or any governmental agency with jurisdiction, which order, judgment, decree or levy relates in whole or in part to the Account(s). In any event, you shall not be liable by reason of any action or omission to act pursuant to any such order, judgment, decree or levy, to us or to any other person, firm, association or corporation even if thereafter any such order,

decree, judgment or levy shall be reversed, modified, set aside or vacated.

We are permitted to invest customers' funds in government money market funds pursuant to CFTC Regulation 1.25. That rule sets forth the following conditions, among others, with respect to any investment in a government money market fund:

(1) The net asset value of the fund must be computed by 9 a.m. of the business day following each business day and be made available to us by that time;

(2) The fund must be legally obligated to redeem an interest in the fund and make payment in satisfaction thereof by the close of the business day following the day on which we make a redemption request except as otherwise specified in CFTC Regulation 1.25(c)(5)(ii); and,

(3) The agreement under which we invest customers' funds must not contain any provision that would prevent us from pledging or transferring fund shares.

The terms of this letter agreement shall remain binding upon the parties, their successors and assigns and, for the avoidance of doubt, regardless of a change in the name of either party. This letter agreement supersedes and replaces any prior agreement between the parties in connection with the Account(s), including but not limited to any prior acknowledgment letter agreement, to the extent that such prior agreement is inconsistent with the terms hereof. In the event of any conflict between this letter agreement and any other agreement between the parties in connection with the Account(s), this letter agreement shall govern with respect to matters specific to section 4d of the Act and the CFTC's regulations thereunder, as amended.

This letter agreement shall be governed by and construed in accordance with the laws of [Insert governing law] without regard to the principles of choice of law.

Please acknowledge that you agree to abide by the requirements and conditions set forth above by signing and returning to us the enclosed copy of this letter agreement, and that you further agree to provide a copy of this fully executed letter agreement directly to the CFTC (via electronic means in a format and manner determined by the CFTC) in accordance with CFTC Regulation 1.20. We hereby authorize and direct you to provide such copy without further notice to or consent from us, no later than three business days after opening the Account(s) or revising this letter agreement, as applicable.

[Name of Derivatives Clearing Organization]

By:

Print Name:

Title:

ACKNOWLEDGED AND AGREED:

[Name of Government Money Market Fund]

By:

Print Name:

Title:

Contact Information: [Insert phone number and email address]

DATE:

PART 22—CLEARED SWAPS

■ 14. The authority citation for part 22 continues to read as follows:

Authority: 7 U.S.C. 1a, 6d, 7a–1 as amended by Pub. L. 111–203, 124 Stat. 1376.

■ 15. Amend § 22.2 by:

■ a. Removing paragraph (g)(5)(iii)(D);

■ b. Redesignating paragraphs (g)(5)(iii)(E) through (G) as paragraphs (g)(5)(iii)(D) through (F); and

■ c. Revising newly redesignated paragraphs (g)(5)(iii)(D) through (F) to read as follows:

§ 22.2 Futures Commission Merchants: Treatment of Cleared Swaps and Associated Cleared Swaps Customer Collateral.

* * * * *

(g) * * *

(5) * * *

(iii) * * *

(D) Permitted foreign sovereign debt by country:

(1) Canada;

(2) France;

(3) Germany;

(4) Japan;

(5) United Kingdom;

(E) Interests in U.S. Treasury exchange-traded funds; and

(F) Interests in government money market funds.

* * * * *

■ 16. Amend § 22.3 by revising paragraph (d) to read as follows:

§ 22.3 Derivatives clearing organizations: Treatment of cleared swaps customer collateral.

* * * * *

(d) *Exceptions; permitted investments.* Notwithstanding the foregoing and § 22.15, a derivatives clearing organization may invest the money, securities, or other property constituting Cleared Swaps Customer Collateral in accordance with § 1.25 of this chapter. A derivative clearing organization shall bear sole responsibility for any losses resulting from the investment of Cleared Swaps Customer Collateral in instruments described in § 1.25 of this chapter. No investment losses shall be borne or otherwise allocated to a futures commission merchant.

PART 30—FOREIGN FUTURES AND FOREIGN OPTIONS TRANSACTIONS

■ 17. The authority citation for part 30 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6c, and 12a, unless otherwise noted.

■ 18. Amend § 30.7 by:

■ a. Revising paragraphs (d)(2) and (3);

■ b. Removing paragraph (l)(5)(iii)(D);

■ c. Redesignating paragraphs (l)(5)(iii)(E) through (G) as paragraphs (l)(5)(iii)(D) through (F); and

■ d. Revising newly redesignated paragraphs (l)(5)(iii)(D) through (F).

The revisions read as follows:

§ 30.7 Treatment of foreign futures or foreign options secured amount.

* * * * *

(d) * * *

(2) The written acknowledgment must be in the form as set out in appendix E to this part; *Provided, however*, that if the futures commission merchant invests funds set aside as the foreign futures or foreign options secured amount in government money market funds as a permitted investment under paragraph (h) of this section and in accordance with the terms and conditions of § 1.25(c) of this chapter, the written acknowledgment with respect to such investment must be in the form as set out in appendix F to this part.

(3)(i) A futures commission merchant shall deposit 30.7 customer funds only with a depository that agrees to provide the Director of the Market Participants Division, or any successor division, or such Director's designees, with account balance information for 30.7 customer accounts.

(ii) The written acknowledgment must contain the futures commission merchant's authorization to the depository to provide account balance information to the Director of the Market Participants Division, or any successor division, or such Director's designees, without further notice to or consent from the futures commission merchant.

* * * * *

(l) * * *

(5) * * *

(iii) * * *

(D) Permitted foreign sovereign debt by country:

(1) Canada;

(2) France;

(3) Germany;

(4) Japan;

(5) United Kingdom;

(E) Interests in U.S. Treasury exchange-traded funds; and

(F) Interests in government money market funds.

* * * * *

■ 19. Revise appendix E to part 30 to read as follows:

Appendix E to Part 30—

Acknowledgment Letter for CFTC Regulation 30.7 Customer Secured Account

[Date]

[Name and Address of Depository]

We refer to the Secured Amount Account(s) which [Name of Futures Commission Merchant] ("we" or "our") have opened or will open with [Name of Depository] ("you" or "your") entitled:

[Name of Futures Commission Merchant] [if applicable, add "FCM Customer Omnibus Account"] CFTC Regulation 30.7 Customer Secured Account under section 4(b) of the Commodity Exchange Act [and, if applicable, "Abbreviated as [short title reflected in the depository's electronic system]"]

Account Number(s): [] (collectively, the "Account(s)").

You acknowledge that we have opened or will open the above-referenced Account(s) for the purpose of depositing, as applicable, money, securities and other property (collectively "Funds") of customers who trade foreign futures and/or foreign options (as such terms are defined in U.S. Commodity Futures Trading Commission ("CFTC") Regulation 30.1, as amended; that the Funds held by you, hereafter deposited in the Account(s) or accruing to the credit of the Account(s), will be kept separate and apart and separately accounted for on your books from our own funds and from any other funds or accounts held by us, in accordance with the provisions of the Commodity Exchange Act, as amended (the "Act"), and part 30 of the CFTC's regulations, as amended; that the Funds may not be commingled with our own funds in any proprietary account we maintain with you; and that the Funds must otherwise be treated in accordance with the provisions of section 4(b) of the Act and CFTC Regulation 30.7.

Furthermore, you acknowledge and agree that such Funds may not be used by you or by us to secure or guarantee any obligations that we might owe to you, and they may not be used by us to secure or obtain credit from you. You further acknowledge and agree that the Funds in the Account(s) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities we may now or in the future have owing to you. This prohibition does not affect your right to recover funds advanced in the form of cash transfers, lines of credit, repurchase agreements or other similar liquidity arrangements you make in lieu of liquidating non-cash assets held in the Account(s) or in lieu of converting cash held in the Account(s) to cash in a different currency.

In addition, you agree that the Account(s) may be examined at any reasonable time by the Director of the Market Participants Division of the CFTC or the Director of the Division of Clearing and Risk of the CFTC, or any successor divisions, or such Directors' designees, or an appropriate officer, agent or employee of our designated self-regulatory organization ("DSRO"), [Name of DSRO], and this letter constitutes the authorization and direction of the undersigned on our behalf to permit any such examination to take place without further notice or consent from us.

You agree to reply promptly and directly to any request for confirmation of account balances or provision of any other information regarding or related to the Account(s) from the Director of the Market Participants Division of the CFTC or the Director of the Division of Clearing and Risk of the CFTC, or any successor divisions, or such Directors' designees, or an appropriate officer, agent, or employee of [Name of DSRO], acting in its capacity as our DSRO,

and this letter constitutes the authorization and direction of the undersigned on our behalf to release the requested information without further notice to or consent from us.

The parties agree that all actions on your part to respond to the above information request will be made in accordance with, and subject to, such usual and customary authorization verification and authentication policies and procedures as may be employed by you to verify the authority of, and authenticate the identity of, the individual making any such information request, in order to provide for the secure transmission and delivery of the requested information to the appropriate recipient(s).

We will not hold you responsible for acting pursuant to any information request from the Director of the Market Participants Division of the CFTC or the Director of the Division of Clearing and Risk of the CFTC, or any successor divisions, or such Directors' designees, or an appropriate officer, agent, or employee of [Name of DSRO], acting in its capacity as our DSRO, upon which you have relied after having taken measures in accordance with your applicable policies and procedures to assure that such request was provided to you by an individual authorized to make such a request.

In the event we become subject to either a voluntary or involuntary petition for relief under the U.S. Bankruptcy Code, we acknowledge that you will have no obligation to release the Funds held in the Account(s), except upon instruction of the Trustee in Bankruptcy or pursuant to the Order of the respective U.S. Bankruptcy Court.

Notwithstanding anything in the foregoing to the contrary, nothing contained herein shall be construed as limiting your right to assert any right of offset or lien on assets that are not 30.7 customer funds maintained in the Account(s), or to impose such charges against us or any proprietary account maintained by us with you. Further, it is understood that amounts represented by checks, drafts or other items shall not be considered to be part of the Account(s) until finally collected. Accordingly, checks, drafts and other items credited to the Account(s) and subsequently dishonored or otherwise returned to you or reversed, for any reason, and any claims relating thereto, including but not limited to claims of alteration or forgery, may be charged back to the Account(s), and we shall be responsible to you as a general endorser of all such items whether or not actually so endorsed.

You may conclusively presume that any withdrawal from the Account(s) and the balances maintained therein are in conformity with the Act and CFTC regulations without any further inquiry, provided that, in the ordinary course of your business as a depository, you have no notice of or actual knowledge of a potential violation by us of any provision of the Act or part 30 of the CFTC regulations that relates to the holding of customer funds; and you shall not in any manner not expressly agreed to herein be responsible to us for ensuring compliance by us with such provisions of the Act and CFTC regulations; however, the aforementioned presumption does not affect any obligation you may otherwise have under the Act or CFTC regulations.

You may, and are hereby authorized to, obey the order, judgment, decree or levy of any court of competent jurisdiction or any governmental agency with jurisdiction, which order, judgment, decree or levy relates in whole or in part to the Account(s). In any event, you shall not be liable by reason of any action or omission to act pursuant to any such order, judgment, decree or levy, to us or to any other person, firm, association or corporation even if thereafter any such order, decree, judgment or levy shall be reversed, modified, set aside or vacated.

The terms of this letter agreement shall remain binding upon the parties, their successors and assigns and, for the avoidance of doubt, regardless of a change in the name of either party. This letter agreement supersedes and replaces any prior agreement between the parties in connection with the Account(s), including but not limited to any prior acknowledgment letter agreement, to the extent that such prior agreement is inconsistent with the terms hereof. In the event of any conflict between this letter agreement and any other agreement between the parties in connection with the Account(s), this letter agreement shall govern with respect to matters specific to section 4(b) of the Act and the CFTC's regulations thereunder, as amended.

This letter agreement shall be governed by and construed in accordance with the laws of [Insert governing law] without regard to the principles of choice of law.

Please acknowledge that you agree to abide by the requirements and conditions set forth above by signing and returning to us the enclosed copy of this letter agreement, and that you further agree to provide a copy of this fully executed letter agreement directly to the CFTC (via electronic means in a format and manner determined by the CFTC) and to [Name of DSRO], acting in its capacity as our DSRO. We hereby authorize and direct you to provide such copies without further notice to or consent from us, no later than three business days after opening the Account(s) or revising this letter agreement, as applicable.

[Name of Futures Commission Merchant]

By:

Print Name:

Title:

ACKNOWLEDGED AND AGREED:

[Name of Depository]

By:

Print Name:

Title:

Contact Information: [Insert phone number and email address]

DATE:

■ 20. Revise appendix F to part 30 to read as follows:

**Appendix F to Part 30—
Acknowledgment Letter for CFTC
Regulation 30.7 Customer Secured
Government Money Market Fund
Account**

[Date]

[Name and Address of Government Money Market Fund]

We propose to invest funds held by [Name of Futures Commission Merchant] (“we” or “our”) on behalf of our customers in shares

of [Name of Government Money Market Fund] (“you” or “your”) under account(s) entitled (or shares issued to):

[Name of Futures Commission Merchant] [if applicable, add “FCM Customer Omnibus Account”] CFTC Regulation 30.7 Customer Secured Government Money Market Fund Account under section 4(b) of the Commodity Exchange Act [and, if applicable, “, Abbreviated as [short title reflected in the depository’s electronic system]”] Account Number(s): [] (collectively, the “Account(s)”).

You acknowledge that we are holding these funds, including any shares issued and amounts accruing in connection therewith (collectively, the “Shares”), for the benefit of customers who trade foreign futures and/or foreign options (as such terms are defined in U.S. Commodity Futures Trading Commission (“CFTC”) Regulation 30.1, as amended); that the Shares held by you, hereafter deposited in the Account(s) or accruing to the credit of the Account(s), will be kept separate and apart and separately accounted for on your books from our own funds and from any other funds or accounts held by us in accordance with the provisions of the Commodity Exchange Act, as amended (the “Act”), and this part, as amended; and that the Shares must otherwise be treated in accordance with the provisions of section 4(b) of the Act and CFTC Regulations 1.25 and 30.7.

Furthermore, you acknowledge and agree that the Shares are in a fund that holds itself out to investors as a government money market fund, in accordance with 17 CFR 270.2a–7. In addition, you acknowledge and agree that the Shares are in a fund that does not choose to rely on the ability to impose discretionary liquidity fees consistent with the requirements of 17 CFR 270.2a–7(c)(2)(i).

Furthermore, you acknowledge and agree that such Shares may not be used by you or by us to secure or guarantee any obligations that we might owe to you, and they may not be used by us to secure or obtain credit from you. You further acknowledge and agree that the Shares in the Account(s) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities we may now or in the future have owing to you.

In addition, you agree that the Account(s) may be examined at any reasonable time by the Director of the Market Participants Division of the CFTC or the Director of the Division of Clearing and Risk of the CFTC, or any successor divisions, or such Directors’ designees, or an appropriate officer, agent or employee of our designated self-regulatory organization (“DSRO”), [Name of DSRO], and this letter constitutes the authorization and direction of the undersigned on our behalf to permit any such examination to take place without further notice to or consent from us.

You agree to reply promptly and directly to any request for confirmation of account balances or provision of any other information regarding or related to the Account(s) from the Director of the Market Participants Division of the CFTC or the Director of the Division of Clearing and Risk of the CFTC, or any successor divisions, or such Directors’ designees, or an appropriate

officer, agent, or employee of [Name of DSRO], acting in its capacity as our DSRO, and this letter constitutes the authorization and direction of the undersigned on our behalf to release the requested information, without further notice to or consent from us.

The parties agree that all actions on your part to respond to the above information request will be made in accordance with, and subject to, such reasonable and customary authorization verification and authentication policies and procedures as may be employed by you to verify the authority of, and authenticate the identity of, the individual making any such information request, in order to provide for the secure transmission and delivery of the requested information to the appropriate recipient(s).

We will not hold you responsible for acting pursuant to any information request from the Director of the Market Participants Division of the CFTC or the Director of the Division of Clearing and Risk of the CFTC, or any successor divisions, or such Directors’ designees, or an appropriate officer, agent, or employee of [Name of DSRO], acting in its capacity as our DSRO, upon which you have relied after having taken measures in accordance with your applicable policies and procedures to assure that such request was provided to you by an individual authorized to make such a request.

In the event we become subject to either a voluntary or involuntary petition for relief under the U.S. Bankruptcy Code, we acknowledge that you will have no obligation to release the Shares held in the Account(s), except upon instruction of the Trustee in Bankruptcy or pursuant to the Order of the respective U.S. Bankruptcy Court.

Notwithstanding anything in the foregoing to the contrary, nothing contained herein shall be construed as limiting your right to assert any right of offset or lien on assets that are not Shares maintained in the Account(s), or to impose such charges against us or any proprietary account maintained by us with you. Further, it is understood that amounts represented by checks, drafts or other items shall not be considered to be part of the Account(s) until finally collected.

Accordingly, checks, drafts and other items credited to the Account(s) and subsequently dishonored or otherwise returned to you or reversed, for any reason and any claims relating thereto, including but not limited to claims of alteration or forgery, may be charged back to the Account(s), and we shall be responsible to you as a general endorser of all such items whether or not actually so endorsed.

You may conclusively presume that any withdrawal from the Account(s) and the balances maintained therein are in conformity with the Act and CFTC regulations without any further inquiry, provided that, in the ordinary course of your business as a depository, you have no notice of or actual knowledge of a potential violation by us of any provision of the Act or part 30 of the CFTC regulations that relates to the holding of customer funds; and you shall not in any manner not expressly agreed to herein be responsible to us for ensuring compliance by us with such provisions of the Act and CFTC regulations; however, the

aforementioned presumption does not affect any obligation you may otherwise have under the Act or CFTC regulations.

You may, and are hereby authorized to, obey the order, judgment, decree or levy of any court of competent jurisdiction or any governmental agency with jurisdiction, which order, judgment, decree or levy relates in whole or in part to the Account(s). In any event, you shall not be liable by reason of any action or omission to act pursuant to any such order, judgment, decree or levy, to us or to any other person, firm, association or corporation even if thereafter any such order, decree, judgment or levy shall be reversed, modified, set aside or vacated.

We are permitted to invest customers' funds in government money market funds pursuant to CFTC Regulation 1.25. That rule sets forth the following conditions, among others, with respect to any investment in a government money market fund:

(1) The net asset value of the fund must be computed by 9 a.m. of the business day following each business day and be made available to us by that time;

(2) The fund must be legally obligated to redeem an interest in the fund and make payment in satisfaction thereof by the close of the business day following the day on which we make a redemption request except as otherwise specified in CFTC Regulation 1.25(c)(5)(ii); and,

(3) The agreement under which we invest customers' funds must not contain any provision that would prevent us from pledging or transferring fund shares.

The terms of this letter agreement shall remain binding upon the parties, their successors and assigns and, for the avoidance of doubt, regardless of a change in the name of either party. This letter agreement supersedes and replaces any prior agreement between the parties in connection with the Account(s), including but not limited to any prior acknowledgment letter agreement, to the extent that such prior agreement is inconsistent with the terms hereof. In the event of any conflict between this letter agreement and any other agreement between the parties in connection with the Account(s), this letter agreement shall govern with respect to matters specific to section 4(b) of the Act and the CFTC's regulations thereunder, as amended.

This letter agreement shall be governed by and construed in accordance with the laws of [Insert governing law] without regard to the principles of choice of law.

Please acknowledge that you agree to abide by the requirements and conditions set forth above by signing and returning to us the enclosed copy of this letter agreement, and that you further agree to provide a copy of this fully executed letter agreement directly to the CFTC (via electronic means in a format and manner determined by the CFTC) and to [Name of DSRO], acting in its capacity as our DSRO. We hereby authorize and direct you to provide such copies without further notice to or consent from us, no later than three business days after opening the Account(s) or revising this letter agreement, as applicable. [Name of Futures Commission Merchant]
By:
Print Name:

Title:
ACKNOWLEDGED AND AGREED:
[Name of Government Money Market Fund]
By:
Print Name:
Title:
Contact Information: [Insert phone number and email address]
DATE:

Issued in Washington, DC, on December 19, 2024, by the Commission.

Christopher Kirkpatrick,
Secretary of the Commission.

NOTE: The following appendices will not appear in the Code of Federal Regulations.

Appendices to Investment of Customer Funds by Futures Commission Merchants and Derivatives Clearing Organizations—Commission Voting Summary and Chairman's Statement

Appendix 1—Commission Voting Summary

On this matter, Chairman Behnam and Commissioners Mersinger and Pham voted in the affirmative. Commissioner Goldsmith Romero voted in the negative. Commissioner Johnson abstained.

Appendix 2—Statement of Support of Chairman Rostin Behnam

This final rule amending Commission regulations addressing the investment of Customer Funds (funds deposited by customers to margin futures, foreign futures, and cleared swap transactions) by futures commission merchants (FCMs) and derivatives clearing organizations (DCOs) (the "Final Rule") represents responsive and responsible government action. It preserves core regulatory objectives through practical application of time-tested standards developed over decades to promote market resiliency, risk mitigation, and customer protections.

Financial regulation, unlike legislation, is designed to transition with and incorporate evolving market realities to preserve essential flexibilities in response to emerging market conditions, geopolitics, and economic policy. As with any principles-based regime, there are always concerns that our hands will provide no more than a feathery touch in the sway of prevailing winds. The response is, and always should be, that with our discretion embedded in statute, any rules or regulations we put forth are calibrated appropriately to the risks, embody principles and analyses above the highest levels of scrutiny, and incorporate prescriptive requirements as appropriate. The Final Rule is no departure. It further strengthens the Commission's fundamental customer protection framework aimed at preserving principal and maintaining liquidity by addressing foreign currency, credit, insolvency, and operational risks and incentivizing growth and competition, particularly among FCMs, which may reduce concentration risk and provide greater and more diverse hedging opportunities for customers. On this latter point, the Final Rule addresses a longstanding public interest

in encouraging FCM growth and innovation that can ultimately support competition and customer access with the added benefit of reducing concentration, and ultimately, systemic risk.¹ I am especially pleased to support this Final Rule.

Given the Final Rule's detailed and responsive preamble, I see no need to further reiterate the way the Final Rule modernizes the list of permitted investments of Customer Funds and creates parity across CFTC registrants without undermining or weakening any of the safeguards the Commission has maintained for the protection of Customer Funds for over a decade. To the extent one could confuse and conflate the events and bad actors that—to any degree—colored the Commission's consideration of prior rulemaking and policymaking, I would again suggest that they engage in a more thorough review of the Final Rule's surgically directed limitations.

Here, a periodic reassessment of Commission Regulation 1.25 and consideration of information submitted in two industry petitions supported the Commission's proposal to amend its rules governing the safeguarding and investment of Customer Funds by, among other things, revising the list of permitted investments to add two new asset classes including certain foreign sovereign debt instruments issued by Canada, France, Germany, Japan, and the United Kingdom, and certain short-term Treasury exchange-traded funds (ETFs), subject to certain restrictions. By finalizing these amendments, our regulations will now permit FCMs and DCOs to invest Customer Funds in the same narrowly tailored set of foreign sovereign debt to the extent that FCMs and DCOs hold balances owed to customers in the currency of the issuing sovereign and subject to certain eligibility, credit, and time-to-maturity conditions.

These additions to the list of permitted investments provide an efficient and effective means to minimize exposure to foreign currency risk fluctuations by eliminating the multi-step process exercised by FCMs and DCOs of converting the foreign currencies they accept from customers to U.S. dollars before investing in permitted investments (and converting them again when returning the margin deposits to customers). Permitting Customer Funds to be directly invested in foreign sovereign debt also eliminates the potential credit risk associated with holding Customer Funds in unsecured deposit accounts with commercial banks and the risk that such funds would be treated as unsecured claims in the event of a foreign depository facing insolvency.

It would always be easier for a regulator to eschew its duties and leave in place policies

¹ As explained in section IV.A.2.c. of the Final Rule preamble, over the last two decades, the number of FCMs has dropped by almost 64 percent, from 177 to 64. As further demonstrated by CFTC data, in 2004, there were 100 FCMs holding Customer Funds, whereas in September 2024, there were only 50, a decrease of 50 percent. This consolidation may be further illustrated by looking at the top ten firms, which hold 84 percent of Customer Funds. See CFTC, Financial Data for FCMs (last visited Dec. 6, 2024), <https://www.cftc.gov/MarketReports/financialfcmdata/index.htm>.

and processes put in place during our most challenging eras under the guise that we can never be nimble enough should circumstances change abruptly. But, should we not always play to our strengths, rather than our weaknesses? Our duty as a financial market regulator is to ensure our ruleset effectuates our mission and supports and protects the markets and the individuals and entities who use them. And our strength is in the discretion we have been granted because we have the expertise and experience to be responsive to market developments within the larger U.S. and

global financial systems, while always seeking to minimize risk.

I appreciate that commenters reminded us that despite regulations and an effective enforcement program, there will always be bad actors whose conduct runs afoul of our expectations. As detailed in the Final Rule, the Commission has been thoughtful in evaluating such concerns related to historical events and the market and other conditions to which they have been ascribed, rightly or wrongly. The Final Rule reflects such consideration by, among other things, limiting newly added permitted investments through tightly circumscribed risk

characteristics. To the extent that conclusions could be drawn in a manner that relies heavily on factors unrelated to the status of investments permitted under Commission regulations, it is critical that we focus on the correlations and causation supported by facts and analyses.

I want to thank Abigail Knauff, and staff in the Market Participants Division, Division of Clearing and Risk, Office of the General Counsel, and the Office of the Chief Economist for their work on the Final Rule.

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Part III

Commodity Futures Trading Commission

17 CFR Parts 1, 22, 30, et al.

Regulations To Address Margin Adequacy and To Account for the Treatment of Separate Accounts by Futures Commission Merchants; Final Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 22, 30, and 39

RIN 3038-AF21

Regulations To Address Margin Adequacy and To Account for the Treatment of Separate Accounts by Futures Commission Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is amending its regulations, adopted under the Commodity Exchange Act (CEA), to require a futures commission merchant (FCM) to ensure a customer does not withdraw funds from its account with the FCM if the balance in the account after the withdrawal would be insufficient to meet the customer's initial margin requirements; and relatedly, to permit an FCM, subject to certain requirements, to treat the separate accounts of a single customer as accounts of separate entities for purposes of certain Commission regulations.

DATES:

Effective date: This rule is effective March 24, 2025.

Compliance dates: The compliance date for FCMs that are clearing members of a derivatives clearing organization (DCO) as of the date of publication of this rule in the **Federal Register** shall be July 21, 2025. The compliance date for all other FCMs shall be January 22, 2026.

FOR FURTHER INFORMATION CONTACT:

Robert B. Wasserman, Chief Counsel, 202-418-5092, rwasserman@cftc.gov; Daniel O'Connell, Special Counsel, 202-418-5583, doconnell@cftc.gov, Division of Clearing and Risk; Thomas Smith, Deputy Director, 202-418-5495, tsmith@cftc.gov; Liliya Bozhanova, Associate Director, 202-418-6232, lbozhanova@cftc.gov; Jennifer Bauer, Special Counsel, 202-418-5472, jbauer@cftc.gov, Market Participants Division; Jasmine Lee, Special Counsel, 202-418-5226, jlee@cftc.gov, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

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I. Background

A. The Commission's Customer Funds Protection Regulations

Protection of market participants from misuses of customer assets and avoidance of systemic risk are two of the fundamental purposes of the CEA.¹ The Commission has promulgated regulations designed to protect customer assets, including regulations designed to ensure that FCMs appropriately margin customer accounts and are not induced to cover one customer's margin shortfall with another customer's funds. The Commission has also promulgated regulations designed to diminish the risk that a customer default in its obligations to an FCM that is a clearing member of a DCO (clearing FCM) results in the clearing FCM in turn defaulting on its obligations to a DCO, which could adversely affect the stability of the broader financial system.

Section 4d(a)(2) of the CEA and regulation § 1.20(a) require an FCM to separately account for, and segregate from its own funds, all money, securities, and property it has received to margin, guarantee, or secure the trades or contracts of its commodity customers.² Additionally, section 4d(a)(2) of the CEA and regulation § 1.22(a) prohibit an FCM from using the money, securities, or property of one customer to margin or settle the trades

or contracts of another customer.³ This requirement is designed to prevent an FCM from treating customers disparately and to mitigate the risk that the FCM will not maintain sufficient funds in segregation to pay all customer claims if the FCM becomes insolvent.⁴ Section 4d(a)(2) of the CEA and regulations §§ 1.20 and 1.22 effectively require an FCM to add its own funds into segregation in an amount equal to the sum of all customer undermargined amounts, including customer account deficits, to prevent the FCM from being induced to use one customer's funds to margin or carry another customer's trades or contracts.⁵

Section 5b of the CEA,⁶ as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010,⁷ sets forth eighteen core principles with which DCOs must comply to register and maintain registration as DCOs with the Commission. In 2011, the Commission adopted regulations for DCOs to implement Core Principle D, which concerns risk management.⁸ These regulations include a number of provisions that require a DCO to in turn require that its clearing members take certain steps to support their own risk management to mitigate the risk that such clearing members pose to the DCO.

One such regulation, § 39.13(g)(8)(iii), provides that a DCO shall require a clearing member to ensure that a customer does not withdraw funds from its account with the clearing member unless the net liquidating value plus the margin deposits remaining in the customer's account after the withdrawal would be sufficient to meet the customer initial margin requirements with respect to all products and swap portfolios held in the customer's account that are cleared by the DCO.⁹ Regulation § 39.13(g)(8)(iii) thus establishes a "Margin Adequacy Requirement" designed to mitigate the risk that a clearing FCM fails to hold customer funds sufficient to cover the required initial margin for the customer's cleared positions.¹⁰ In light

³ 7 U.S.C. 6d(a)(2); 17 CFR 1.22(a).

⁴ Prohibition of Guarantees Against Loss, 46 FR 11668, 11669 (Feb. 10, 1981).

⁵ 7 U.S.C. 6d(a)(2); 17 CFR 1.20; 17 CFR 1.22; Prohibition of Guarantees Against Loss, 46 FR at 11669.

⁶ 7 U.S.C. 7a-1.

⁷ Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376 (2010).

⁸ Section 5b(c)(2)(D) of the CEA, 7 U.S.C. 7a-1(c)(2)(D); Derivatives Clearing Organization General Provisions and Core Principles, 76 FR 69334, 69335 (Nov. 8, 2011).

⁹ 17 CFR 39.13(g)(8)(iii).

¹⁰ For purposes of this final rule, the Commission uses the term "Margin Adequacy Requirement" to

¹ Section 3(b) of the CEA, 7 U.S.C. 5(b).

² 7 U.S.C. 6d(a)(2); 17 CFR 1.20(a).

of the use of omnibus margin accounts, in which the funds of multiple customers are held together, this safeguard is necessary to avoid the misuse of customer funds by mitigating the likelihood that the clearing FCM will effectively cover one customer's margin shortfall using another customer's funds.¹¹

In adopting the Margin Adequacy Requirement of regulation § 39.13(g)(8)(iii), the Commission stated¹² that the regulation was consistent with the definition of "Margin Funds Available for Disbursement" in the Margins Handbook¹³ prepared by the Joint Audit Committee (JAC), a representative committee of U.S. futures exchanges and the National Futures Association (NFA).¹⁴ The Commission noted that although designated self-regulatory organizations (DSROs) reviewed FCMs to determine whether they appropriately prohibited their customers from withdrawing funds from their futures accounts, it was unclear to what extent that requirement applied to cleared swap accounts when such swaps were executed on a designated contract market (DCM) that participated in the JAC.¹⁵ The Commission also noted that clearing members that cleared only swaps that were executed on a swap execution facility were not subject to the requirements of the JAC Margins Handbook or review by a DSRO.¹⁶

Thus, although regulation § 39.13(g)(8)(iii) was also designed to apply these risk mitigation and customer protection standards to futures and swap positions carried in customer

accounts by clearing FCMs, Commission regulations do not apply a Margin Adequacy Requirement to non-clearing FCMs. Furthermore, regulation § 39.13(g)(8)(iii) does not require DCOs to apply a Margin Adequacy Requirement to the positions carried by a clearing FCM that are not cleared at a registered DCO (e.g., most foreign futures and foreign option positions).¹⁷

B. The Divisions' No-Action Position

On July 10, 2019, the Division of Swap Dealer and Intermediary Oversight (DSIO) (now Market Participants Division (MPD)) and the Division of Clearing and Risk (DCR) (collectively, the Divisions) published CFTC Letter No. 19–17, which, among other things, provides staff guidance with respect to the processing of margin withdrawals under regulation § 39.13(g)(8)(iii) and announced a conditional and time-limited no-action position for certain such withdrawals.¹⁸ The advisory followed discussions with, and written representations from, the Asset Management Group of the Securities Industry and Financial Markets Association (SIFMA–AMG), the Chicago Mercantile Exchange (CME), the Futures Industry Association (FIA), the JAC, and several FCMs, regarding practices among FCMs and their customers related to the handling of separate accounts of the same customer.¹⁹

CFTC Letter No. 19–17 used the term "beneficial owner" synonymously with the term "customer," as "beneficial owner" was, in this context, commonly used to refer to the customer that is financially responsible for an account.

Additionally, as discussed further below, in the customer relationship context, FCMs often deal directly with a commodity trading advisor acting as an agent of the customer rather than with the customer itself. For the avoidance of confusion (e.g., with regard to the terms "owner" or "ownership," as those terms are used in Forms 40 and 102,²⁰ or parts 17–20,²¹ or with regard to the term "beneficial owner," as that term may be used by other agencies), this final rule uses only the term "customer," except where directly quoting or paraphrasing a source that uses the term "beneficial owner."

The written representations preceding the issuance of CFTC Letter No. 19–17 included letters filed separately by SIFMA–AMG, CME, and FIA (collectively, the "Industry Letters"). Citing regulation § 39.13(g)(8)(iii)'s requirements related to the withdrawal of customer initial margin, and JAC Regulatory Alert #19–02 reminding FCMs of those requirements,²² SIFMA–AMG and FIA explained that provisions in certain FCM customer agreements provide that certain accounts carried by the FCM that have the same customer are treated as accounts for different legal entities (i.e., "separate accounts").²³

As FIA explained, there are a variety of reasons why a customer may want separate treatment for its accounts under such an agreement.²⁴ For instance, an institutional customer, such as an investment or pension fund, may allocate assets to investment managers²⁵ under investment management agreements that require each investment manager to invest a specified portion of the customer's assets under management in accordance with an agreed trading strategy, independent of the trading that may be undertaken for the customer by the same or other investment manager(s) acting on behalf of other accounts of the

refer to this requirement, which applies indirectly to clearing FCMs via the operation of DCO rules, and the analogous requirement set forth in regulation § 1.44(b) which will apply directly to all FCMs.

¹¹ Section 3(b) of the CEA, 7 U.S.C. 5(b).

¹² Derivatives Clearing Organization General Provisions and Core Principles, 76 FR at 69379.

¹³ Joint Audit Committee Margins Handbook, available at <http://www.jacfutures.com/jac/MarginHandBookWord.aspx>.

¹⁴ JAC, JAC Members, available at <http://www.jacfutures.com/jac/Members.aspx>. Self-regulatory organizations, such as commodity exchanges and registered futures associations (e.g., NFA), enforce minimum financial and reporting requirements, among other responsibilities, for their members. See regulation § 1.3, 17 CFR 1.3. Pursuant to regulation § 1.52(d), when an FCM is a member of more than one self-regulatory organization, the self-regulatory organizations may decide among themselves which of them will assume primary responsibility for these regulatory duties and, upon approval of such a plan by the Commission, the self-regulatory organization assuming such primary responsibility will be appointed the designated self-regulatory organization for the FCM. 17 CFR 1.52(d).

¹⁵ Derivatives Clearing Organization General Provisions and Core Principles, 76 FR at 69379.

¹⁶ *Id.*

¹⁷ The term "foreign futures" means any contract for the purchase or sale of any commodity for future delivery made, or to be made, on or subject to the rules of any foreign board of trade. Regulation § 30.1(a), 17 CFR 30.1(a). The term "foreign option" means any transaction or agreement which is or is held out to be of the character of, or is commonly known to the trade as, an "option," "privilege," "indemnity," "bid," "offer," "put," "call," "advance guaranty" or "decline guaranty," made or to be made on or subject to the rules of any foreign board of trade. 17 CFR 30.1(b).

¹⁸ CFTC Letter No. 19–17, July 10, 2019, available at <https://www.cftc.gov/csl/19-17/download> as extended by CFTC Letter No. 20–28, Sept. 15, 2020, available at <https://www.cftc.gov/csl/20-28/download>; CFTC Letter No. 21–29, Dec. 21, 2021, available at <https://www.cftc.gov/csl/21-29/download>; CFTC Letter No. 22–11, Sept. 15, 2022, available at <https://www.cftc.gov/csl/22-11/download>; CFTC Letter No. 23–13, Sept. 11, 2023, available at <https://www.cftc.gov/csl/23-13/download>; and CFTC Letter No. 24–07, June 24, 2024, available at <https://www.cftc.gov/csl/24-07/download>.

¹⁹ See, e.g., SIFMA–AMG letter dated June 7, 2019 to Brian A. Bussey and Matthew B. Kulkin (SIFMA–AMG Letter); CME letter dated June 14, 2019 to Brian A. Bussey and Matthew B. Kulkin (CME Letter); and FIA letter dated June 26, 2019 to Brian A. Bussey and Matthew B. Kulkin (First FIA Letter).

²⁰ See CFTC, CFTC Form 40, Statement of a Reporting Trader, available at <https://www.cftc.gov/sites/default/files/ids/groups/public/@forms/documents/file/cftcform40.pdf>; see also CFTC, Ownership & Control Reporting, available at <https://www.cftc.gov/Forms/OCR/index.htm> (discussing Ownership and Control Reporting under Form 102).

²¹ See 17 CFR parts 17 (covering reports by reporting markets, FCMs, clearing members, and foreign brokers), 18 (reports by traders), 19 (reports by persons holding reportable positions in excess of position limits and by merchants and dealers in cotton), and 20 (large trader reporting for physical commodity swaps).

²² JAC, Regulatory Alert #19–02, May 14, 2019, available at <http://www.jacfutures.com/jac/jacupdates/2019/jac1902.pdf>.

²³ SIFMA–AMG Letter; First FIA Letter.

²⁴ First FIA Letter.

²⁵ The Industry Letters sometimes used the terms "investment manager" and "asset manager" interchangeably.

customer.²⁶ Under such a circumstances, an investment manager, in order to implement its trading strategy effectively, may want assurance that the portion of funds it has been allocated to manage is entirely available to the investment manager, and will not be affected by the activities of other investment managers who manage other portions of the customer's assets and maintain separate accounts at the same FCM.

Additionally, as FIA explained, a commercial enterprise may establish separate agreements to leverage specific broker expertise on products or to diversify risk management strategies.²⁷ In such cases, each separate account may be subject to a separate customer agreement, which the FCM in many cases negotiates directly with the customer's agent, which is often an investment manager.²⁸

SIFMA-AMG and FIA asserted that, subject to appropriate FCM internal controls and procedures, separate accounts should be treated as separate legal entities for purposes of regulation § 39.13(g)(8)(iii); *i.e.*, separate accounts should not be combined when determining an account's margin funds available for disbursement.²⁹ SIFMA-AMG and FIA maintained that such separate account treatment should not be expected to expose an FCM to any greater regulatory or financial risk, and asserted that an FCM's internal controls and procedures could be designed to assure that the FCM does not undertake any additional risk as to the separate account.³⁰ The Industry Letters included a number of examples of such controls and procedures.³¹

In its letter, SIFMA-AMG suggested that it would be possible to allow for separate account treatment without undermining the risk mitigation and customer protection goals of regulation § 39.13(g)(8)(iii).³² SIFMA-AMG recognized that there may be some instances, such as a customer default, in which separate account margining would no longer be prudent.³³ SIFMA-AMG stated that an FCM could agree to first satisfy any amounts owed from agreed assets related to a separate account, and continue to release funds until the FCM provided the separate account with a notice of an event of default under the applicable clearing

account agreement, and determined that it is no longer prudent to continue to separately margin the customer's accounts, provided that such actions are consistent with the FCM's written internal controls and procedures.³⁴ SIFMA-AMG further stated that, in such instance, the FCM would retain the ability to ultimately look to funds in other accounts of the customer, including accounts under different control, and the right to call the customer for funds.³⁵ CME similarly asserted that disbursements on a separate account basis should not be permitted in certain circumstances, such as financial distress, that fall outside the "ordinary course of business."³⁶ Although CME asserted that the plain language of regulation § 39.13(g)(8)(iii) unambiguously forbids disbursements on a separate account basis, CME noted that it would be amenable to the Commission amending the regulation to permit such disbursements, subject to certain such risk-mitigating conditions.³⁷

SIFMA-AMG and FIA requested that DCR confirm that it would not recommend that the Commission initiate an enforcement action against a DCO that permits its clearing FCMs to treat certain separate accounts of a customer as accounts of separate entities for purposes of regulation § 39.13(g)(8)(iii).³⁸ and confirm that a clearing FCM may release excess funds from a separate customer account notwithstanding an outstanding margin call in another account of the same customer.³⁹

In CFTC Letter No. 19-17, DCR stated that, in the context of separate accounts, the risk management goals of regulation § 39.13(g)(8)(iii) may effectively be addressed if a clearing FCM carrying a customer with separate accounts meets certain conditions, which were derived from the Industry Letters and specified in CFTC Letter No. 19-17.⁴⁰ DCR stated that it would not recommend that the Commission take enforcement action against a DCO if the DCO permits its clearing FCMs to treat certain separate accounts as accounts of separate entities for purposes of regulation § 39.13(g)(8)(iii) subject to these

conditions.⁴¹ The no-action position extended until June 30, 2021, in order to provide staff with time to recommend, and the Commission with time to consider, a rulemaking to implement on a permanent basis requirements related to separate account treatment.⁴² CFTC Letter No. 20-28, published on September 15, 2020, extended the no-action position until December 31, 2021 due to challenges presented by the COVID-19 pandemic.⁴³ CFTC Letter No. 20-28 stated that if the process to consider codifying the no-action position provided for by CFTC Letter No. 19-17 was not completed by that date, the Divisions would consider further extending the no-action position.⁴⁴ The Divisions have continued to extend the no-action position in CFTC Letter No. 19-17 as they have worked toward a final rule. The no-action position currently expires on the earlier of June 30, 2025 or the effective date of this final rule.⁴⁵

C. The Commission's First Proposal

On April 14, 2023, the Commission published in the **Federal Register** a notice of proposed rulemaking designed to codify the no-action position in CFTC Letter No. 19-17 (First Proposal).⁴⁶ The First Proposal proposed to amend regulation § 39.13 to allow a DCO to permit a clearing FCM to treat the separate accounts of customers as accounts of separate entities for purposes of regulation § 39.13(g)(8)(iii), if such clearing member's written internal controls and procedures permitted it to do so, and the DCO required its clearing members to comply with risk-mitigating requirements based on the conditions in CFTC Letter No. 19-17.

The requirements for separate account treatment in the First Proposal were substantially similar to the conditions in CFTC Letter No. 19-17. However, certain such proposed requirements reflected modification of the no-action conditions on which they were based, including additional reporting requirements for clearing FCMs required to cease disbursements on a separate account basis, an explicit process for clearing FCMs to resume disbursements on a separate account basis, and

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ SIFMA-AMG Letter; First FIA Letter.

³⁰ SIFMA-AMG Letter; First FIA Letter.

³¹ SIFMA-AMG Letter; First FIA Letter; CME Letter.

³² SIFMA-AMG Letter.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ CME Letter.

³⁷ *Id.*

³⁸ FIA specifically noted that such a no-action position could be conditioned on the FCM maintaining certain internal controls and procedures. First FIA Letter.

³⁹ SIFMA-AMG Letter; First FIA Letter; *see also* CME Letter.

⁴⁰ CFTC Letter No. 19-17.

⁴¹ *Id.*

⁴² *Id.*

⁴³ CFTC Letter No. 20-28.

⁴⁴ *Id.*

⁴⁵ CFTC Letter No. 24-07.

⁴⁶ Derivatives Clearing Organization Risk Management Regulations to Account for the Treatment of Separate Accounts by Futures Commission Merchants, 88 FR 22934 (Apr. 14, 2023) (First Proposal).

provisions designed to further clarify the requirement that separate accounts be on a one business day margin call.

The Commission originally proposed to codify the no-action position in CFTC Letter No. 19–17 in part 39 to hew closely to the operation of the no-action position itself. Under the First Proposal, DCOs would be able to permit clearing FCMs to engage in separate account treatment, provided such clearing FCMs complied with certain requirements, which DCOs would be required to monitor and enforce through their rules.

The comment period for the First Proposal was extended once at the request of a commenter and closed on June 30, 2023.⁴⁷ The Commission received comments from twelve commenters.⁴⁸ Although commenters generally supported codifying the no-action position in CFTC Letter No. 19–17, six commenters⁴⁹ contended that the Commission should codify the no-action position in its part 1 FCM regulations (where it would apply directly to all FCMs) rather than in its part 39 DCO regulations (where it would apply only to clearing FCMs, through the instrumentality of DCO rules). Other commenters did not opine on whether the proposed codification should be in part 1 versus part 39.

D. The Commission's Second Proposal

On February 20, 2024, the Commission voted to approve withdrawal of the First Proposal and publish a notice of proposed rulemaking to codify a Margin Adequacy Requirement similar to that of regulation § 39.13(g)(8)(iii), along with the no-action position in CFTC Letter No. 19–17, in part 1 of its regulations, whereby it would be applicable to all FCMs (Second Proposal).⁵⁰ In the Second Proposal, the Commission discussed and addressed comments received in response to the First Proposal, including the comments that informed the Commission's decision to withdraw the First Proposal and instead

propose to codify the no-action position of CFTC Letter No. 19–17 in part 1.

The notice of proposed rulemaking and withdrawal were published in the **Federal Register** on March 1, 2024. The Commission is finalizing the Second Proposal, with modifications responding to the comments received. The bulk of the final rule will be contained in new regulation § 1.44. However, as explained below, the Commission is also finalizing supporting amendments in regulations §§ 1.3, 1.17, 1.20, 1.32, 1.58, 1.73, 22.2, 30.2, 30.7, and 39.13 to facilitate implementation of regulation § 1.44. The Commission is additionally finalizing amendments to address inadvertent inconsistencies in existing regulations.⁵¹

Regulation § 1.44 is comprised of eight subsections. Regulation § 1.44(a) defines key terms solely for purposes of regulation § 1.44. Regulation § 1.44(b) incorporates, for all FCMs, and for all accounts,⁵² the same Margin Adequacy Requirement that DCOs are obligated in regulation § 39.13(g)(8)(iii) to require their clearing FCMs to apply. Regulation § 1.44(c) makes clear that an FCM can provide disbursements on a separate account basis only during the “ordinary course of business,” a term that is defined in proposed regulation § 1.44(a). Regulation § 1.44(d) explains how FCMs may elect to engage in separate account treatment for one or more customers.

⁵¹ These are changes to regulation § 1.3 (to clarify that Saturday is not a business day); regulation § 1.17(b) (to reorganize the wording of the definition of the term “business day” for capital purposes to be consistent with the wording in the amendments to regulation § 1.3, to clarify that the definition of the term “risk margin” includes both customer and noncustomer accounts, and to change the term “FCM” to read “futures commission merchant”); regulations §§ 1.20(i), 30.7(f)(2), and 22.2(f) (to revise the regulatory description of the calculation of the total amount of funds that an FCM must hold in segregation for futures customers, Cleared Swaps Customers, and 30.7 customers, respectively, to align such description with the Commission's financial forms and the instructions to such forms, reorganizing regulations § 22.2(f)); regulation § 1.58(a) and (b) (to clarify that gross margining requirements for omnibus accounts carried for one FCM at another FCM apply to Cleared Swaps as well as to futures and options on futures); and § 30.2(b) (to clarify that, in the context of the exclusion for applying certain regulations to persons and transactions subject to the requirements of part 30, existing regulations §§ 1.41, 1.42, and 1.43 (which were added in the 2021 part 190 bankruptcy rulemaking) are not excluded). These changes are discussed in greater detail in the relevant sections below.

⁵² Regulation § 1.44(a) defines “account” to include futures accounts and Cleared Swaps Customer Accounts, both of which terms are defined in regulation § 1.3, and 30.7 accounts. A 30.7 account means any account maintained by an FCM for or on behalf of 30.7 customers to hold money, securities, or other property to margin, guarantee, or secure foreign futures or foreign options. 17 CFR 30.1(g).

Regulation § 1.44(e) enumerates the events that are inconsistent with the ordinary course of business for purposes of regulation § 1.44 and contains requirements for FCMs related to cessation of disbursements on a separate account basis upon the occurrence of such events, and resumption of separate account disbursements upon the cure of such events. Regulation § 1.44(f) contains the requirement that each separate account be on a “one business day margin call” and sets out provisions designed to establish how a one business day margin call is to be made and met for purposes of regulation § 1.44. Regulation § 1.44(g) sets forth capital, risk management, and segregation calculation requirements for FCMs with respect to accounts for which the FCM has elected separate treatment. Lastly, regulation § 1.44(h) articulates information and disclosure requirements for FCMs that engage in separate account treatment.

II. Regulations

Section 8a(5) of the CEA⁵³ authorizes the Commission “to make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of” the CEA. The Commission is promulgating these rules pursuant to section 8a(5) as reasonably necessary to effectuate sections 4d(a)(2) and 4d(f)(2) of the CEA,⁵⁴ providing for the segregation and protection of, respectively, futures customer funds and Cleared Swaps Customer Collateral, and section 4(b)(2)(A) of the CEA,⁵⁵ providing for the safeguarding of customers' funds in connection with foreign futures and foreign option transactions. The Commission is also promulgating these rules as reasonably necessary to effectuate section 4f(b) of the CEA, which requires an FCM to meet minimum financial requirements prescribed by the Commission as necessary to ensure that the FCM meets its obligations.⁵⁶ Moreover, the Commission is promulgating these rules as reasonably necessary to accomplish the purposes of the CEA as set forth in section 3(b);⁵⁷ specifically, “the avoidance of systemic risk” and “protect[ing] all market participants from . . . misuses of customer assets.”

Accordingly, the Commission believes that the amendments adopted herein relating to the Margin Adequacy

⁴⁷ Derivatives Clearing Organization Risk Management Regulations to Account for the Treatment of Separate Accounts by Futures Commission Merchants, 88 FR 39205 (June 15, 2023).

⁴⁸ The American Council of Life Insurers, CME, FIA, Intercontinental Exchange, Inc., the JAC, MFA (formerly Managed Funds Association), NFA, SIFMA-AMG, Symphony Communications Services, LLC, and three individuals.

⁴⁹ CME, FIA, Intercontinental Exchange, Inc., the JAC, NFA, and SIFMA-AMG.

⁵⁰ Regulations to Address Margin Adequacy and To Account for the Treatment of Separate Accounts by Futures Commission Merchants, 89 FR 15312 (Mar. 1, 2024) (Second Proposal). The Second Proposal also contained supporting amendments in parts 1, 22, 30, and 39.

⁵³ 7 U.S.C. 12a(5).

⁵⁴ 7 U.S.C. 6d(a)(2) and (f)(2).

⁵⁵ 7 U.S.C. 6(b)(2)(A).

⁵⁶ 7 U.S.C. 6f(b).

⁵⁷ 7 U.S.C. 5(b).

Requirement, and the modification of this requirement to permit, subject to certain further conditions, separate account treatment in connection with the withdrawal of customer initial margin, support the customer funds protection and risk management provisions and purposes of the CEA. As further described below, the Commission also believes that preventing the undermargining of customer accounts and mitigating the risk of a clearing member default, or the default of a non-clearing FCM, and the potential for systemic risk in either scenario, is effectively addressed by the standards set forth in this final rule.

All FCMs are currently subject to a detailed set of requirements designed to provide effective protection for customer funds. These include, for futures accounts, regulations §§ 1.20 (requiring segregation of customer funds), 1.22 (requiring, *inter alia*, residual interest to cover undermargined amounts), and 1.23 (requiring FCMs to maintain residual interest in segregated accounts up to a targeted amount that they determine based on specified considerations), as well as similar regulatory obligations with respect to Cleared Swaps Customer Accounts (respectively, regulations §§ 22.2(d) and (f) and 22.17), and 30.7 accounts (regulation § 30.7).

Regulation § 39.13(g)(8)(iii) provides, through the Margin Adequacy Requirement, an additional layer of protection for customer funds, but only with respect to FCMs that are clearing members of DCOs. Prior to this final rule, there was no analogous Margin Adequacy Requirement applicable to FCMs that are not clearing members of DCOs. As discussed above, regulation § 39.13(g)(8)(iii) is designed to mitigate the risk that a clearing member fails to hold, from a customer, funds sufficient to cover the required initial margin for the customer's cleared positions and, in light of the use of omnibus margin accounts, avoid the misuse of customer funds by reducing the likelihood that the clearing member will cover one customer's margin shortfall using another customer's funds.⁵⁸

Accordingly, regulation § 39.13(g)(8)(iii) provides risk mitigation benefits for DCOs, clearing FCMs, and customers. The effect of the staff no-action position in CFTC Letter No. 19–17 is to allow DCOs to permit clearing FCMs to engage in separate account treatment for purposes of that provision, but subject to conditions designed to maintain the provision's risk mitigating effects.

By establishing requirements for separate account treatment for all FCMs through the addition of a similar Margin Adequacy Requirement to part 1, the Commission seeks to replicate the regulatory structure presented by the interaction of regulation § 39.13(g)(8)(iii) and the no-action position of CFTC Letter No. 19–17 for all FCMs, and further the customer fund protection and risk mitigation purposes of the CEA⁵⁹ by implementing measures designed to further ensure that all FCMs, whether clearing or non-clearing, do not create or exacerbate an undermargining scenario.

The requirements for separate account treatment established herein are designed to (i) ensure that FCMs carry out separate account treatment in a consistent and documented manner; (ii) monitor customer accounts on a separate and combined basis; (iii) identify and act upon instances of financial or operational distress that necessitate a cessation of disbursements on a separate account basis; (iv) provide appropriate disclosures to customers⁶⁰ regarding separate account treatment; and (v) apprise their DSROs when they apply separate account treatment or when an event has occurred that would necessitate cessation of disbursements on a separate account basis.⁶¹

The amendments are designed to extend the customer protection and risk management benefits of regulation § 39.13(g)(8)(iii) to all FCMs and all of their customer accounts, and to provide an alternative means of achieving those risk management goals if the FCM elects to permit customers to maintain separate accounts.⁶² Additionally, as discussed further below in the cost benefit considerations, because a number of clearing FCMs have already

implemented the conditions set forth in CFTC Letter No. 19–17, some FCMs will have already implemented, in significant part, the requirements established herein.

The Commission received comment letters in response to the Second Proposal from the JAC, FIA, SIFMA–AMG, CME, Intercontinental Exchange, Inc. (ICE), the Options Clearing Corporation (OCC), and MFA (formerly Managed Funds Association). Commenters supported the Commission's proposal to codify the no-action position of CFTC Letter No. 19–17 and the Commission's proposed approach to base that codification in part 1. Certain commenters commented on the substantive requirements proposed, as well as how the proposed requirements may interact with one another and with other Commission regulations, and suggested modifications to the Second Proposal. The Commission addresses these comments in the discussion below. Additionally, the Commission posed specific questions for comment in the Second Proposal. Although in three instances commenters responded explicitly to these questions,⁶³ FIA noted that it considers its comment letter responsive to Questions 1–4, 6, and 7 in its discussion of proposed amendments to regulation § 1.17 and proposed regulation § 1.44(d), (f), and (h), including proposed requirements for the disclosure of information in the Disclosure Document required by regulation § 1.55(i).⁶⁴

Questions 1 and 2 concerned the Second Proposal generally. In Question 1, the Commission requested comment regarding whether, in light of changes made in the Second Proposal relative to the First Proposal, the Commission should consider any requirements for separate account treatment additional to those contained in regulation § 1.44 as proposed or modify or remove any of the proposed requirements. In Question 2, the Commission requested comment regarding whether the interaction between regulation § 1.44(g)–(h) as proposed and other regulations under parts 1, 22, and 30 affected by the proposed requirements (e.g., regulations §§ 1.17, 1.20, 1.22, 1.23, 1.32, 1.55, 1.58, 1.73, 22.2, 30.2, and 30.7) was sufficiently clear. No commenters responded explicitly to these questions, although, as indicated above, certain comments addressed the thematic issues these questions raise.

⁵⁹ Section 3(b) of the CEA, 7 U.S.C. 5(b) (It is the purpose of the CEA to ensure the financial integrity of all transactions subject to this Act and the avoidance of systemic risk and to protect all market participants from misuses of customer assets”).

⁶⁰ In this final rule, references to a “customer” are to a direct customer of the FCM in question. Thus, where non-clearing FCM *N* clears through clearing FCM *C*, a customer (including a separate account customer) of *N* is not considered a customer of *C*.

⁶¹ For the avoidance of doubt, the final rule permits an FCM to decide to engage in separate account treatment for a set of customers. It neither requires an FCM to engage in such treatment nor requires a customer of an FCM that decides to engage in separate account treatment for certain customers to choose to have its accounts with such FCM treated as separate accounts of separate entities. Thus, separate account treatment should involve an affirmative decision by both the FCM and the customer.

⁶² As a result, regulation § 1.44 prohibits the application of portfolio margining or cross-margining treatment *between* separate accounts of the same customer, but would not prohibit the application of such treatments *within* a particular separate account of a customer.

⁶³ FIA (Question 4), the JAC (Question 5) and CME (Question 8).

⁶⁴ FIA Comment Letter.

⁵⁸ Section 3(b) of the CEA, 7 U.S.C. 5(b).

A. Amendments to Regulation § 1.3

The definitions contained in regulation § 1.3 are key to understanding and interpreting the Commission's regulations, including part 1 FCM regulations. The Commission believes the provisions of regulation § 1.44 require an amendment to regulation § 1.3.

The Commission proposed to amend the definition of "business day" in regulation § 1.3. Prior to this final rule, regulation § 1.3 provided, in relevant part, that "business day" meant any day other than a Sunday or holiday. The term "business day" is intended to encompass days on which banks and custodians are open in the United States to facilitate payment of margin. For the avoidance of doubt, "holiday" in this context refers to holidays in the United States. The Commission proposed to modify the definition of "business day" in regulation § 1.3 to confirm that the term encompasses any day other than a *Saturday*, Sunday, or holiday.

The Commission notes that, in actual practice, Saturdays are generally not treated as business days in the markets,⁶⁵ by market participants, or for regulatory purposes.⁶⁶ The Commission proposed to amend the definition of "business day" in regulation § 1.3 to conform to that reality. In connection with the proposed amendments to regulation § 1.3, in Question 3 of the Second Proposal, the Commission requested comment regarding whether its proposal to revise the definition of "business day" in regulation § 1.3 would result in any adverse consequences for any market participants. The Commission did not receive any comments with respect to the proposed amendment to the definition of "business day" in regulation § 1.3 or explicitly in response to Question 3. Accordingly, the Commission is adopting the amendment

to the definition of "business day" in regulation § 1.3 as proposed.

B. Amendments to Regulation § 1.17

Regulation § 1.17 establishes minimum financial requirements for FCMs. Regulation § 1.17(a)(1)(i) provides that each person registered as an FCM must maintain adjusted net capital equal to, or in excess of, the greatest of: (1) \$1 million (or \$20 million if the FCM is also registered as a swap dealer); (2) eight percent of the total "risk margin" required on the positions in customer and noncustomer accounts⁶⁷ carried by the FCM; (3) the amount of adjusted net capital required by NFA as a registered futures association; or (4) for an FCM registered as a securities broker or dealer with the Securities and Exchange Commission (SEC), the amount of net capital required by SEC rule § 15c3-1.⁶⁸ For purposes of regulation § 1.17(a)(1)(i), the term "risk margin" is defined by paragraph (b)(8) of that regulation to generally mean the level of maintenance margin or performance bond required for customer and noncustomer positions established by the applicable exchanges or clearing organizations.

The Commission proposed several amendments to regulation § 1.17 to reflect the regulatory capital treatment of separate accounts that would result from the implementation of proposed regulation § 1.44, including the requirements contained in regulation § 1.44(g)(3), discussed below. As a general matter, the proposed amendments to regulation § 1.17 were designed to ensure that FCMs manage risk with respect to separate accounts consistently, and cannot revert to calculating minimum financial requirements on a combined account basis where such calculations would tend to reflect less risk and reduced financial requirements for a customer than if each of the customer's separate accounts were treated as an account of a distinct customer without regard to the same customer's other separate accounts.

Consistent with that intent, the Commission proposed to expand the list of modifiers to the definition of the term "risk margin" for an account by adding proposed paragraph (b)(8)(v) to regulation § 1.17, providing that if an FCM carries separate accounts for separate account customers pursuant to regulation § 1.44, then the FCM shall calculate the risk margin pursuant to

regulation § 1.17(a)(1)(i)(B)(1) as if each separate account is owned by a separate entity.

The Commission notes that, under the amendments as proposed, risk margin would be calculated on an individual basis for each separate account. Calculating risk margin separately for each separate account would eliminate the potential for portfolio margining offsets based on positions between separate accounts of the same separate account customer,⁶⁹ which would either increase, or leave unchanged, the total risk margin requirement, and thus the minimum adjusted net capital requirement, for an FCM providing separate account treatment.⁷⁰ The proposed addition of paragraph (b)(8)(v) to regulation § 1.17 was intended to further clarify that, pursuant to the Commission's FCM capital rule, an FCM that elects to permit separate account treatment must compute the risk margin amount for separate accounts as if each account is an account of a separate entity.

In proposing to amend the definition of the term "risk margin" in regulation § 1.17(b)(8) to reflect separate accounts, the Commission noted that such amendment, and the resulting potential increase in an FCM's minimum adjusted net capital requirement under regulation § 1.17(a)(1)(i), would also affect other regulations that impose obligations on FCMs based on their level of adjusted net capital.⁷¹ The Commission also

⁶⁵ It is true that some markets are moving toward 24/7 operation. The Commission will continue to monitor these developments, and consider further rulemaking in this area as appropriate. Nonetheless, a definition of business days that includes Saturday, but not Sunday, does not reflect present or plausible future reality.

⁶⁶ For instance, Saturdays are treated as non-business days for purposes of swaps reporting under parts 43 and 45 of the Commission's regulations, 17 CFR 43.1; 17 CFR 45.2, execution of confirmations by swap dealers, 17 CFR 23.501(c)(5)(ii), and under the Commission's part 39 DCO regulations, 17 CFR 39.2 (defining an intraday business day period). See also, e.g., CFTC, Guidebook for Part 17.00: Reports by Reporting Markets, Futures Commission Merchants, Clearing Members, and Foreign Brokers, at 18, May 30, 2023 (noting that for purposes of part 17.00 reports, "reporting entities may elect to not consider Saturdays to be a business day, as Saturday is not commonly known as such").

⁶⁷ The term "noncustomer account" generally means the accounts of affiliates of an FCM or employees of an FCM. See 17 CFR 1.17(b)(4).

⁶⁸ 17 CFR 240.15c3-1.

⁶⁹ As noted in regulation § 39.13(g)(4), a DCO may allow reductions in initial margin requirements for related positions if the price risks with respect to such positions are significantly and reliably correlated. This includes cases where (A) The products on which the positions are based are complements of, or substitutes for, each other. An example might be long versus short positions in oil and natural gas, both of which may be used for generating energy. However, portfolio margining is applicable only to accounts for the same customer. See regulation § 39.13(g)(8)(i) (requiring collection of initial margin on a gross basis for each clearing member's customer accounts). So, if a customer has, in a single account, both long oil positions and short natural gas positions, then the customer may benefit from a reduction in initial margin requirements for the two risk-offsetting positions. However, if those positions are in different separate accounts of the customer under this final rule, then the positions would not lead to an initial margin reduction as the positions would not be margined on a combined or portfolio basis.

⁷⁰ As noted above, per regulation § 1.17(a)(1)(i), the adjusted net capital requirement for an FCM is the greatest of several calculations, one of which is eight percent of the total risk margin requirement as defined in regulation § 1.17(b)(8). Thus, a calculation that would increase, or leave unchanged, the risk margin requirement would correspondingly increase, or leave unchanged, the adjusted net capital requirement.

⁷¹ For example, regulation § 1.17(h) conditions an FCM's ability to repay or prepay subordinated debt obligations on the FCM maintaining an amount of adjusted net capital that, after taking into effect the

noted that the proposed amendments to the minimum capital requirements would affect an FCM's obligation to provide certain notices to the Commission and to the FCM's DSRO under regulation § 1.12.⁷²

The Commission additionally proposed to amend regulation § 1.58 to provide that, where a clearing FCM carries an omnibus customer account for a non-clearing FCM, and the non-clearing FCM applies separate account treatment, then such non-clearing FCM must calculate initial and maintenance margin for purposes of regulation § 1.58(a) separately for each separate account. These proposed amendments to regulation § 1.58 are discussed further below.

Second, the Commission proposed to amend regulation § 1.17(c)(2), which defines "current assets" that an FCM may recognize and include in computing its net capital. Regulation § 1.17(c)(2) currently defines "current assets" to include cash and other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold during the next 12 months. However, regulation § 1.17(c)(2)(i) provides that an FCM must exclude from current assets any unsecured receivables resulting from futures, Cleared Swaps, or 30.7 accounts that liquidate to a deficit or contain a debit ledger balance only, provided, however, that the FCM may include a deficit or debit ledger balance in current assets until the close of business on the business day following the date on which the deficit or debit ledger balance originated (provided, in turn, that the account had timely satisfied the previous day's deficits or debit ledger balances).

The Commission proposed to amend regulation § 1.17(c)(2)(i) to provide explicitly that if an FCM carries separate accounts for separate account customers pursuant to proposed regulation § 1.44, then the FCM must treat each separate account as an account of a separate entity for the calculation of net capital, with certain limitations if deficits or

debit ledger balances were not satisfied across the separate accounts of one separate account customer in accordance with the one business day requirements. As proposed, amended regulation § 1.17(c)(2)(i) would provide that the FCM must exclude each unsecured separate account that liquidates to a deficit or contains a debit ledger balance only from current assets in its calculation of net capital, provided, however, that if the separate account is subject to a call for margin by the FCM, it may be included in current assets until the close of business on the business day following the date on which the deficit or debit ledger balance originated, provided that the separate account timely satisfied a previous day's deficit or debit ledger balance in its entirety. As proposed, amended regulation § 1.17(c)(2)(i) further provides that, if the separate account does not satisfy a previous day's deficit or debit ledger balance in its entirety, then the deficit or debit ledger balance for the separate account, and any other deficits or debit ledger balances of the separate account customer in other separate accounts carried by the FCM, shall not be included in current assets until all such calls are satisfied in their entirety. The Commission's proposed amendments were intended to provide the same capital treatment to separate accounts as is currently provided customer accounts that liquidate to deficits or contain debit ledger balances, and to be consistent with corresponding conditions to the no-action position in CFTC Letter No. 19–17.⁷³

Third, the Commission proposed to amend regulation § 1.17(c)(4), which defines the term "liabilities" for purposes of an FCM calculating its net capital. Regulation § 1.17(c)(4) generally defines the term "liabilities" to mean the total money liabilities of an FCM arising in connection with any transaction whatsoever, including economic obligations of an FCM that are recognized and measured in conformity with generally accepted accounting principles. Regulation § 1.17(c)(4) also provides that for purposes of computing net capital, an FCM may exclude from its liabilities funds held in segregation

for futures customers, Cleared Swaps Customers, and 30.7 customers, provided that such segregated funds are also excluded from the FCM's current assets in computing the firm's net capital.

The Commission proposed to amend regulation § 1.17(c)(4)(ii) to explicitly provide that an FCM that carries the separate accounts of separate account customers pursuant to proposed regulation § 1.44 must compute the amount of money, securities, and property due to a separate account customer as if each separate account of the separate account customer is a distinct customer. The Commission further proposed to amend regulation § 1.17(c)(4)(ii) to provide that an FCM, in computing its net capital, may exclude funds held in segregation for separate account customers from the FCM's liabilities, provided that funds held in segregation for separate account customers are also excluded from the FCM's current assets. The purpose of the proposed amendment is to ensure that an FCM, in computing its net capital, reflects separate accounts in a consistent manner in determining its total current assets and liabilities.

Fourth, the Commission proposed to amend regulation § 1.17(c)(5), which defines the term "adjusted net capital." Regulation § 1.17(c)(5)(viii) provides, in relevant part, that adjusted net capital means net capital minus, among other items detailed in regulation § 1.17(c)(5), the amount of funds required in each customer account to meet maintenance margin requirements of the applicable board of trade or, if there are no such maintenance margin requirements, clearing organization margin requirements applicable to the account's positions. FCMs are allowed to apply (that is, to reduce the amount of this deduction from capital by) "calls for margin or other required deposits which are outstanding no more than one business day."⁷⁴ However, once a customer fails to meet a margin call within one business day, the FCM loses that one business day period for receiving any of that customer's future margin calls, until the point in time at which the customer is no longer undermargined.⁷⁵

amount of the subordinated debt payment and other subordinate debt payments maturing within a set time period, exceeds the FCM's minimum adjusted net capital requirement by 120 percent to 125 percent, as specified in the applicable provision of regulation § 1.17(h). See, e.g., 17 CFR 1.17(h)(2)(vii) which generally provides, subject to certain conditions, that an FCM may not make a prepayment on an outstanding subordinated debt obligation if such payment would result in the FCM maintaining less than 120 percent of its minimum adjusted net capital requirement.

⁷² See, e.g., 17 CFR 1.12(a), which requires an FCM to provide notice to the Commission and the FCM's DSRO if the FCM's adjusted net capital at any time is less than the minimum required by regulation § 1.17.

⁷³ CFTC Letter No. 19–17. The letter provides that an "FCM shall record each separate account independently in the FCM's books and records, i.e., the FCM shall record separate accounts as a receivable (debit/deficit) or payable with no offsets between the other separate accounts of the same customer." *Id.* (Condition 6). The letter also provides that "the receivable from a separate account shall only be considered secured (a current/allowable asset) based on the assets of that separate account, not on the assets held in another separate account of the same customer." *Id.* (Condition 7).

⁷⁴ 17 CFR 1.17(c)(5)(viii).

⁷⁵ Thus, if, due to activity on Monday, Customer A is undermargined by \$150, and the FCM calls Customer A for that margin on Tuesday, then the FCM does not need to deduct that \$150 from its net capital in computing its adjusted net capital, so long as the margin call is met by the close of business on Wednesday. Moreover, if Customer A, due to activity on Tuesday, is undermargined by an additional \$100, and the FCM calls for that additional \$100 on Wednesday, then the FCM does not need to deduct that additional \$100 on

The Commission proposed to amend regulation § 1.17(c)(5)(viii) to provide that an FCM that carries separate accounts for a separate account customer pursuant to proposed regulation § 1.44 must compute the amount of funds required to meet maintenance margin requirements for each separate account as if the account was owned by a distinct customer. However, if a margin call for any separate account of a separate account customer is outstanding for more than one business day, then (consistent with the treatment of multiple margin calls for a single customer described in the previous paragraph), no margin call for that separate account customer will benefit from the one business day period until the point in time at which all margin calls for the separate accounts of that separate account customer have been met in full.

As discussed further below in the context of proposed regulation § 1.44(f), the concepts of margin calls that are outstanding no more than one business day (for purposes of § 1.17(c)(5)(viii)) and meeting a one business day margin call (for purposes of § 1.44(f)) are separate and distinct. It is possible that a separate account customer may meet the test for the first, but not the second, or may meet the test for the second, but not the first.

The proposed amendments to regulation § 1.17 also include certain technical changes designed to improve clarity and promote consistency with other Commission regulations.⁷⁶

Wednesday. If Customer A meets the \$150 call by close of business Wednesday, and the \$100 call by close of business on Thursday, then no deduction need be taken for either the \$150 or the \$100 margin calls. However, if Customer A fails to meet Tuesday's \$150 call by close of business on Wednesday, then the FCM must deduct *both* the \$150 from Tuesday *and* the \$100 from Wednesday (thus a total of \$250), as well as any future undermargined amounts *until* Customer A cures its entire undermargined amount. Again, once a customer fails to meet a margin call within one business day, the FCM loses the one business day period for that customer to meet any of its future margin calls, until the point in time at which the customer is no longer undermargined.

⁷⁶ E.g., changes to punctuation and substitution of "level of maintenance margin or performance bond required for the customer *and* noncustomer positions" for "level of maintenance margin or performance bond required for the customer *or* noncustomer positions" with respect to the meaning of risk margin for an account. See, e.g., regulation § 1.17(b)(8). The Commission is further replacing the term "FCM" in regulation § 1.17(b)(8) with "futures commission merchant." The Commission is also reorganizing paragraph § 1.17(c)(5)(viii) into sub-paragraphs (A), (B), (C), and (D) to enhance clarity. The Commission is also reorganizing the wording of the definition of the term "business day" in regulation § 1.17(b)(6) to read "any day other than a Saturday, Sunday, or holiday" rather than "any day other than a Sunday, Saturday, or holiday." This change would align the

Commenters did not object to the Commission's proposed addition of paragraph (b)(8)(v) to regulation § 1.17, the Commission's proposed amendments to regulation § 1.17(c)(4)(ii), or the technical amendments that the Commission proposed to regulation § 1.17. FIA welcomed the Commission's proposal to amend regulation § 1.17 to require FCMs that carry separate accounts to calculate the risk margin component of the FCM's regulatory capital requirement as if the separate accounts are owned by separate entities.⁷⁷ The JAC did not object to the proposed amendments to regulation § 1.17(c)(2)(i), but contended that the amendments would introduce a change from the current requirements related to the treatment of separate account debits and deficits in CFTC Letter No. 19–17 by requiring FCMs to look across all separate accounts of a separate account customer when determining one day debits or deficits to be considered current assets for net capital, rather than making that determination solely on the basis of each of the separate account customer's separate accounts individually.⁷⁸ The JAC noted that FCMs may require time to update their regulatory systems and records to comply with the amendments as proposed.⁷⁹

The JAC also recommended that the Commission clarify how an FCM should consider whether a separate account timely satisfied the previous day's debit or deficits in its entirety, noting that, if margin calls are only considered satisfied when receipts are settled for purposes of proposed regulation § 1.17(c)(2)(i), then margin calls met in non-USD in one separate account may affect the current or noncurrent classification of a debit or deficits in all separate accounts of a separate account customer.⁸⁰ As discussed further below, JAC guidance provides that FCMs, subject to certain conditions, may apply margin equity credit to an account for certain pending non-USD transactions. The JAC noted that, depending on how margin calls are considered satisfied, the proposed amendments may require FCMs permitting separate account treatment to consider additional capital needs.⁸¹

With respect to the proposed amendments to regulation § 1.17(c)(5)(viii), the JAC agreed that

wording in this provision with the wording of the term "business day" in regulation § 1.3.

⁷⁷ FIA Comment Letter.

⁷⁸ JAC Comment Letter.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

proposed regulation § 1.17(c)(5)(viii)(A) (requiring that if one margin call is noncurrent, then all margin calls are noncurrent), is consistent with how, pursuant to the JAC's guidance, FCMs currently calculate noncurrent margin calls and account for noncurrent margin calls for purposes of determining capital charges. The JAC did not take a position with respect to the proposed amendments to regulation § 1.17(c)(5)(viii)(B), but urged the Commission (if adopting the amendments as proposed) to highlight in its final rulemaking that the amendments would require that, if a margin call for any separate account of a separate account customer is outstanding for more than one business day, then the calculation of current calls used in computing the separate account's undermargined capital charge must account for the age of *all* margin calls in *all* separate accounts of the separate account customer. The JAC noted that the resulting look-across to all margin calls in all separate accounts of a separate account customer could result in significant capital charges for FCMs even where each separate account is meeting its calls on a one business day basis as required by proposed regulation § 1.44(f), due to the additional time for compliance with the one business day margin requirement provided for holidays and foreign currency wires as proposed in accordance with the practices followed under CFTC Letter No. 19–17.⁸²

Additionally, as the JAC noted in its comments with respect to the proposed amendments to regulation § 1.17(c)(2)(i), JAC Regulatory Alert #14–06 provides that, when calculating the undermargined capital charge and consistent with the treatment for residual interest, an FCM may consider pending non-USD deposits, ACH payments, and checks as received, subject to certain conditions.⁸³ The JAC requested that the Commission confirm

⁸² *Id.*

⁸³ *Id.* Specifically, JAC Alert #14–06 provides that, at an FCM's discretion, it may consider a non-USD deposit as pending in a customer's account and included in the account's margin equity if "(i) the FCM assesses that it is prudent to do so based on the account's past history of satisfying margin calls and the operational and credit risk profile of the account owner, (ii) the account is on a 1-day wire transfer basis (*i.e.*, the wire is initiated on Day 2), (iii) the FCM has a sufficient basis that the wire was actually initiated, (iv) the FCM continues to age the pending non-U.S. Dollar receipts and retains the ability to recognize a failed deposit immediately upon occurrence, and (v) the FCM treats unsettled non-U.S. Dollar disbursements from the account in the same manner." JAC Regulatory Alert #14–06, Nov. 4, 2014, available at <http://www.jacfutures.com/jac/jacupdates/2014/jac1406.pdf>.

that pending non-USD deposits would be permitted to be considered as received in computing the undermargined capital charge for all customers under proposed regulation § 1.17(c)(5)(viii)(A) and (B).⁸⁴

The JAC also noted that, as the Commission has not proposed to modify regulation § 1.17(c)(5)(ix), requiring undermargined capital charges for noncustomer and omnibus accounts, the JAC will assume that FCMs will still be able to apply treatment for pending deposits as set forth in JAC Regulatory Alert #14–06 to noncustomers and omnibus accounts, unless the Commission amends the provision or confirms otherwise.⁸⁵

Additionally, the JAC requested that the Commission confirm that for purposes of the undermargined capital charge for a customer account under regulation § 1.17(c)(5), maintenance margin requirements include the risk component only, and non-cash collateral should be valued at market value less applicable haircuts, including for separate account customers.⁸⁶ The JAC stated that performing such margin calculations differently in order to comply with different regulatory reporting requirements may prove burdensome for FCMs that permit separate account treatment.⁸⁷

FIA contended that the proposed amendments to regulation § 1.17(c)(2)(i) and regulation § 1.17(c)(5)(viii) are inconsistent with the principle of separate account margining and how clearing FCMs have understood the conditions of CFTC Letter No. 19–17.⁸⁸ FIA argued that, for purposes of calculating both current assets under regulation § 1.17(c)(2)(i) and charges against net capital for undermargined accounts under regulation § 1.17(c)(5)(viii), the Second Proposal would effectively require FCMs to suspend the ordinary course of business for purposes of both calculations in the event that any separate account fails to satisfy its previous day's deficit or debit ledger balance in its entirety within one business day (for purposes of the calculation of current assets) or within the close of business at the end of the second business day following the call (for purposes of the undermargined capital charge).⁸⁹ FIA noted that, on the basis of the conditions of the no-action position in CFTC Letter No. 19–17,⁹⁰

FCMs calculate current assets and undermargined capital charges for each separate account as if each such account were owned by a separate entity, and do not look across to other separate accounts of the same customer for purposes of either calculation, unless the FCM is suspending the ordinary course of business for any such account.⁹¹

FIA asserted that these proposed revisions to regulation § 1.17 would be costly for FCMs, which would be required to rebuild operational and reporting systems, and to rewrite underlying programming code, to perform the necessary look-across of all of the separately margined accounts for the same separate account customer whenever the separate account customer fails to timely satisfy the previous day's deficit/debit ledger balance in its entirety for the current asset calculation, or fails to settle a margin call by the end of the day after the call for the undermargined capital charge calculation.⁹²

FIA also argued that these proposed revisions to regulation § 1.17 would be punitive for FCMs, because they would impose capital costs on FCMs without regard to any related financial or operational risk. FIA included in its comment letter an example illustrating how an FCM could be required to take a significant capital charge due to a failure to meet a margin call timely in one separate account, even if the separate account customer's other separate accounts, managed by other investment managers, have margin calls that have not yet aged to a point that the FCM would be required to take a capital charge under existing regulation § 1.17.⁹³ FIA noted that a recent survey of its members showed that, although the percentage of required margin for separate accounts to total customer margin requirements varied from less than one percent to over 20%, members uniformly reported material potential capital implications measured by amount of margin required for a single beneficial owner across its separate accounts.⁹⁴

FIA recommended that the Commission modify its proposed

account independently in the FCM's books and records, including by recording each separate account as a receivable (debit/deficit) or payable with no offsets between the other separate accounts of the same customer; and (ii) reflect the receivable from a separate account as secured (as a current/allowable asset) based on the assets of that separate account rather than on the assets held in another separate account of the same customer.

⁹¹ FIA Comment Letter.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

amendments to regulation § 1.17 to require a look-across of all of a separate account customer's separate accounts only where the ordinary course of business has been suspended for the separate account customer.⁹⁵ FIA further recommended that such look-across be made subject to the requirements defining the Commission's proposed one business day margin call requirement in proposed regulation § 1.44(f) so that FCMs can continue taking the benefit of current assets and avoiding charges against capital while client settlement in non-USD for separate accounts is pending.⁹⁶

Like the JAC, FIA discussed the application of margin equity credit to accounts for pending non-USD margin deposits under JAC guidance.⁹⁷ FIA noted this practice appears to be in tension with the Commission's proposed amendments to regulation § 1.17 and urged the Commission to clarify that the Second Proposal was not adopted with the intention of prohibiting such current treatment of pending non-USD transfers for purposes of computing undermargined capital charges.⁹⁸

In proposing to codify the no-action position of CFTC Letter No. 19–17 in part 1 of its regulations, the Commission considered the way in which it would need to modify existing provisions of part 1 to facilitate separate account treatment for FCMs. With respect to the calculation of current assets as set forth in regulation § 1.17(c)(2)(i) and the undermargined capital charge as set forth in regulation § 1.17(c)(5)(viii), the Commission proposed a more conservative approach to risk management that would trigger inclusion of debits or deficits (with respect to proposed regulation § 1.17(c)(2)(i)) or outstanding margin calls (with respect to proposed regulation § 1.17(c)(5)(viii)) across a separate account customer's separate accounts when a margin call made of such separate account customer for purposes of either regulation is not satisfied timely. Although CFTC Letter No. 19–17, which applied directly to DCOs, did not speak explicitly to how FCMs should treat separate accounts for purposes of these regulations, its provisions call for DCOs to require FCMs to subject accounts receiving separate treatment to heightened scrutiny and enhanced risk management practices, particularly with respect to timely receipt of margin.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁸⁴ JAC Comment Letter.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ FIA Comment Letter.

⁸⁹ *Id.*

⁹⁰ Specifically, requirements that FCMs electing separate account treatment (i) record each separate

The Commission has considered the JAC's and FIA's assertions that the proposed amendments to regulation § 1.17(c)(2)(i) and regulation § 1.17(c)(5)(viii) would represent a deviation from how FCMs have generally understood and applied the conditions of CFTC Letter No. 19–17. The Commission further acknowledges that a separate account customer's untimely payment of margin with respect to a separate account for purposes of regulation § 1.17(c)(2)(i) or regulation § 1.17(c)(5)(viii) does not necessarily indicate that the separate account customer is out of the ordinary course of business, as set forth in proposed regulation § 1.44(a), with respect to that separate account or any other separate account of such customer. It follows that a separate account for which payment of margin is untimely for purposes of regulation § 1.17(c)(2)(i) or regulation § 1.17(c)(5)(viii) may not be indicative of financial or operational distress in the same manner as would untimely payment of margin for purposes of regulation § 1.44. Unlike regulations § 1.17(c)(2)(i) and § 1.17(c)(5)(iii), which require an FCM to reserve capital when the aggregate of a customer's accounts are, respectively, in debit/deficit or undermargined beyond a defined period of time to protect the FCM against potential losses or price exposure if the liquidation of the customer's positions is required, regulation § 1.44 is designed to build in allowances to account for delays resulting from differences in time zones as well as international banking conventions in establishing requirements for meeting a one business day margin call. The Commission accordingly appreciates, and finds persuasive, FIA's comments to the effect that the proposed look-across of separate accounts of a separate account customer who does not timely meet a margin call for purposes of regulation § 1.17(c)(2)(i) or § 1.17(c)(5)(viii) may prove costly to implement and operationally disruptive to deploy. The Commission also appreciates the JAC's comments regarding the potential implementation and compliance burden that the proposed requirements would pose for FCMs.

Accordingly, the Commission is adopting the amendments to regulation § 1.17 as proposed, but with two modifications. First, the Commission is removing language from the proposed amendments to regulation § 1.17(c)(2)(i) that would have provided that, if a separate account does not meet a previous day's margin call for a deficit or debit balance, the FCM shall exclude

all separate accounts of that separate account customer carried by the FCM that have a deficit or debit ledger balance from current assets under regulation § 1.17(c)(2)(i). Second, the Commission is modifying the language of proposed regulation § 1.17(c)(5)(viii)(B) to provide that, if a call for margin or other required deposits for any separate account of a particular separate account customer is outstanding for more than one business day, then all outstanding margin calls for *that separate account* shall be treated as if the margin calls are outstanding for more than one business day, and shall be deducted from net capital until all such calls have been met in full. In this manner, where a separate account customer's separate account does not meet a previous day's margin call for a deficit or debit balance under regulation § 1.17(c)(2)(i), or has a margin call or other required deposits outstanding for more than one business day under regulation § 1.17(c)(5)(viii), then the FCM shall treat the separate account on a standalone basis in determining current assets or the undermargined capital charge, and need not look across to debits or deficits, or outstanding margin calls, in the separate account customer's other separate accounts.

As previously discussed, the Commission believes that separate account treatment results in a conservative capital treatment due to the impact of removing portfolio margining across separate accounts, including in the calculation of the required capital based on risk margin separately for each separate account. Even during a period outside the ordinary course of business when disbursements on a separate account basis are suspended, the Commission believes that net capital treatment may in most instances continue to be more conservative by maintaining separate treatment of separate accounts for net capital calculation purposes. In consideration of the comments received regarding the operational difficulties which FCMs may face from being required to consolidate the treatment of separate accounts for net capital calculations and the likely conservative effect of maintaining separate treatment, the Commission is adopting the final rules as modified, and further clarifies that even during a period of a suspension of disbursements on a separate account basis, an FCM must continue separate treatment for net capital calculations. However, should an FCM itself cease treating the separate accounts separately, such as by

initiating any cross-default remedies across the separate accounts of a separate account customer (thus indicating the FCM is exercising legal remedies to collapse separate accounts for the purpose of collection against the separate account customer), then continued separate net capital treatment by the FCM of such accounts would no longer be appropriate, as an FCM's exercise of cross-default remedies that combine separate accounts would be inconsistent with an FCM's continued election of separate account treatment.

The Commission additionally considered the JAC's and FIA's comments with respect to the treatment of pending non-USD transfers. As the JAC and FIA noted, JAC Regulatory Alerts #14–03 and #14–06 permit FCMs to apply margin equity credit to an account for pending non-USD transfers for certain purposes and subject to certain conditions. As the JAC noted, the guidance provided by JAC Regulatory Alert #14–03 and #14–06 provides that, due to the inherent delays in the settlement of certain foreign currency transfers, in determining a customer's or noncustomer's margin status (under JAC Regulatory Alert #14–03) or residual interest requirement (under JAC Regulatory Alert #14–06), an FCM may, at its discretion, consider unsettled non-USD transactions as pending in a customer's or noncustomer's account and include in the account's margin equity if: (i) the FCM assesses that it is prudent to do so based on the account's past history of satisfying margin calls and the operational and credit risk profile of the account owner; (ii) the account is on a one-day wire transfer basis (*i.e.*, the wire is initiated on the day the margin call is issued); (iii) the FCM has a sufficient basis to believe that the wire was actually initiated; (iv) the FCM continues to age the pending non-USD receipts and retains the ability to recognize a failed deposit immediately upon occurrence; and (v) the FCM treats unsettled non-USD disbursements from the account in the same manner.⁹⁹ Although the Commission did not discuss treatment of pending non-USD transfers in the First Proposal, in the Second Proposal, or in CFTC Letter No. 19–17, as discussed below, commenters raised questions related to the treatment of pending non-USD transfers in several

⁹⁹ See JAC, JAC Regulatory Alert #14–03, May 21, 2014, available at <http://www.jacfutures.com/jac/jacupdates/2014/jac1403.pdf>; JAC, JAC Regulatory Alert #14–06, Nov. 4, 2014, available at <http://www.jacfutures.com/jac/jacupdates/2014/jac1406.pdf>.

contexts, which the Commission has focused on in developing this final rule.

In the Second Proposal, the Commission noted that it sought to enact a narrow codification, with respect to all FCMs, of the no-action conditions of CFTC Letter No. 19–17.¹⁰⁰ In particular, the Commission does not seek to disrupt current, established margining practices at FCMs, except where explicitly stated in this final rule. In considering the JAC's and FIA's comments with respect to the treatment of pending non-USD transfers, the Commission considers, in light of this objective, that currently, and for the past ten years, subject to JAC guidance, a number of FCMs have treated as received certain pending non-USD transfers (*i.e.*, those that are consistent with that guidance) for certain purposes.

As the third condition, the FCM must also have a sufficient basis to believe that the transfer was actually initiated for immediate settlement (including, as the Commission understands, that the transfer was actually initiated on the required one-day basis). The Commission notes that, as each condition for the treatment of pending non-USD transfers is a separate condition, the Commission expects that in order to meet this third condition, an FCM would rely on evidence beyond the factors identified in the first condition (*i.e.*, the account's past history of satisfying margin calls and the operational and credit risk profile of the account owner). Further to this point, the requirement that the FCM have a sufficient basis to believe that the transfer was *actually* initiated indicates that an FCM would be expected to identify a sufficient, factual basis to support its conclusion that a *specific* transfer was initiated for immediate settlement consistent with the banking practices relative to the jurisdiction from which the transfer originated. The Commission expects that such sufficient factual support would include at minimum an affirmative, written representation from the customer that the specific transfer had actually been initiated.¹⁰¹ The fourth condition requires the FCM to continue aging pending non-USD receipts and have the ability to recognize a deposit failure immediately when it occurs, both of which are critical to complying with the requirements of regulation § 1.17 (among other Commission regulations) that require an FCM to be able to

accurately age outstanding margin calls. In particular, a transfer that does not arrive by the day it is expected (consistent with banking practices relative to the jurisdiction from which the transfer originated) should be considered to have failed. The fifth condition requires consistent treatment of pending non-USD transfers in an account: to the extent an FCM treats pending non-USD deposits as received for certain purposes, it must similarly treat pending non-USD disbursements as disbursed.

The Commission has considered the history of FCMs' treatment of pending non-USD transfers under the JAC guidance. Among other information, the Commission has considered, with respect to separate accounts under the terms of the no-action position, the criteria applied to such treatment under the JAC guidance, the potential risks and benefits of such treatment for FCMs and customers, and the Commission's objectives in codifying the no-action position of CFTC Letter No. 19–17. The Commission confirms that it does not intend for the final rule to preclude FCMs from considering pending non-USD transfers as received for purposes of computing the undermargined capital charge pursuant to regulation § 1.17(c)(5), consistent with the JAC guidance as described above.¹⁰² In doing so, however, the Commission notes that it expects that DSROs will diligently monitor their FCMs to ensure compliance with the criteria for such treatment, and will take appropriate supervisory steps where they find failures to comply with such criteria, with particular focus on the requirement that an FCM have a sufficient basis to believe that a non-USD transfer classified as pending was *in fact* initiated, and the requirement that an FCM treat pending non-USD disbursements in a manner consistent with its treatment of pending non-USD receipts.

Lastly, to respond to the JAC's request for clarification on the subject, the Commission confirms that, for purposes of the undermargined capital charge for a customer account under regulation § 1.17(c)(5), maintenance margin requirements include the risk component only. The Commission

further confirms that in computing the value of the margin deposits of an account, including accounts of separate account customers, non-cash collateral should be valued at market value less applicable haircuts.

C. Amendments to Regulations §§ 1.20, 1.32, 22.2, and 30.7

As previously stated, protecting market participants from misuses of customer assets is one of the fundamental purposes of the CEA.¹⁰³ Regulations §§ 1.32, 22.2(g), and 30.7(l) are designed in part to further this purpose by requiring each FCM carrying accounts for futures customers, Cleared Swaps Customers, or 30.7 customers, respectively, to perform a daily computation of, and to prepare a daily record demonstrating compliance with, the FCM's obligation to hold a sufficient amount of funds in designated customer segregated accounts to meet the aggregate credit balances of all of the FCM's futures customers, Cleared Swaps Customers, and 30.7 customers.¹⁰⁴ An FCM is required to prepare the daily segregation calculations reflecting customer account balances as of the close of business each day, and to submit the applicable segregation statements electronically to the Commission and to the FCM's DSRO by noon the next business day.

The Commission proposed to amend regulations §§ 1.32, 22.2, and 30.7 to provide that an FCM that permits separate accounts pursuant to regulation § 1.44 must perform its daily segregation calculations, and prepare its daily segregation statements, by treating the accounts of separate account customers as accounts of separate entities. The amendments add new paragraph (l) to regulation § 1.32, new paragraph (g)(11) to regulation § 22.2, and new paragraph

¹⁰³ Section 3(b) of the CEA, 7 U.S.C. 5(b); *see also*, *e.g.*, CEA section 4d(a)(2), 7 U.S.C. 6d(a)(2); CEA section 4d(f)(2), 7 U.S.C. 6d(f)(2); CEA section 4b(2)(A), 7 U.S.C. 6b(2)(A).

¹⁰⁴ Each FCM that carries accounts for futures customers, Cleared Swaps Customers, and 30.7 customers is required to prepare daily statements demonstrating compliance with the applicable segregation requirements. For futures customers, the FCM must prepare a daily Statement of Segregation Requirements and Funds in Segregation for Customers Trading on U.S. Commodity Exchanges (17 CFR 1.32(a)) ("Futures Segregation Statement"); for Cleared Swaps Customers, the FCM must prepare a daily Statement of Cleared Swaps Customer Segregation Requirements and Funds in Cleared Swaps Customer Accounts under section 4d(f) of the CEA (17 CFR 22.2(g)(1)–(4)) ("Cleared Swaps Segregation Statement"); and for 30.7 customers, the FCM must prepare a daily Statement of Secured Amounts and Funds Held in Separate Accounts for 30.7 Customers pursuant to regulation 30.7 (17 CFR 30.7(l)(1)). The statements listed above are part of the Commission's Form 1–FR–FCM, which contains the financial reporting templates required to be filed by FCMs.

¹⁰⁰ Second Proposal, 89 FR at 15317.

¹⁰¹ The Commission notes that a pattern wherein funds are not timely received despite such representations would undermine the satisfaction of the first condition; *i.e.*, the account's past history of satisfying margin calls.

¹⁰² The Commission additionally confirms that the final rule is not intended to preclude FCMs from treating as received pending non-USD transfers, subject to the same five conditions listed in JAC Regulatory Alerts #14–03 and #14–06 discussed above, for purposes of calculating undermargined capital charges for noncustomer and omnibus accounts under regulation § 1.17(c)(5)(ix). As the JAC noted in its comment letter, the Commission did not propose to amend this provision.

(l)(11) to regulation § 30.7. The purpose of the amendments is to establish the manner in which these existing segregation and reporting obligations apply to FCMs that permit separate accounts pursuant to regulation § 1.44. Regulations §§ 1.32, 22.2, and 30.7 require an FCM to prepare one daily segregation computation, and submit one segregation schedule, for the funds of its futures customers, Cleared Swaps Customers, and 30.7 customers, respectively. The amendments to regulations §§ 1.32, 22.2(g), and 30.7(l) provide that an FCM that permits separate accounts, in preparing such computation and segregation schedule, is required to record each separate account as if it were an account of a separate entity, and include all separate accounts with other futures accounts, Cleared Swaps Customer Accounts, and 30.7 accounts, as applicable, carried by the FCM that are not separate accounts.

In addition, the amendments provide that an FCM, in computing its segregation obligations, may offset a net deficit in a particular separate account customer's separate account against the current value, net of specified haircuts, of any readily marketable securities held by the FCM for the separate account customer, provided that the readily marketable securities are held as margin collateral for the specific separate account that is in deficit. Readily marketable securities held for other separate accounts of the separate account customer may not be used to offset the separate account that is in deficit.¹⁰⁵ The amendments to regulations §§ 1.32, 22.2(g), and 30.7(l) with respect to the offsetting of a net deficit in a customer's account by the value of readily marketable securities, less applicable haircuts, held in the customer's account are consistent with how an FCM currently offsets a net deficit in a customer's account that is margined by securities. In addition, the amendments are consistent with the separate account conditions to the no-action position in CFTC Letter No. 19–17.¹⁰⁶

The Commission also proposed to amend regulation § 22.2(f) to revise the regulatory description of the stated calculation of the total amount of funds

that an FCM is required to hold in segregation for Cleared Swaps Customers. The amendment: (i) corrects an error included in the drafting of the description of the calculation when the regulation was originally adopted in 2012; and (ii) aligns the regulatory text describing the segregation calculation set forth in regulation § 22.2(f) with the calculation performed on the Cleared Swaps Segregation Statement that is submitted to the Commission each day by FCMs with Cleared Swaps Customers pursuant to regulation § 22.2(g). The amendment applies across FCMs with Cleared Swaps Customers, whether or not such FCMs maintain separate accounts.

The segregation calculation required by regulation § 22.2(f) is intended to ensure that an FCM holds, at all times, a sufficient amount of funds in segregation to cover its total financial obligation to all Cleared Swaps Customers. Compliance with the segregation requirements helps ensure that an FCM is not using the funds of one Cleared Swaps Customer to cover a deficit in the Cleared Swaps Customer Account of another Cleared Swaps Customer, and further helps ensure that an FCM holds sufficient funds in segregation to transfer the Cleared Swaps Customer Accounts, including the Cleared Swaps and the Cleared Swaps Customer Collateral, to a transferee FCM if the transferor FCM becomes insolvent.

To achieve the regulatory objective noted above, regulation § 22.2(f)(2) currently requires an FCM to calculate its minimum segregation requirement as the sum of the net liquidating equities of each Cleared Swaps Customer Account with a positive account balance carried by the FCM. The net liquidating equity of a Cleared Swaps Customer Account is explicitly calculated as the sum of the market value of any funds held in the Cleared Swaps Customer Account of a Cleared Swaps Customer (including readily marketable securities), as adjusted positively or negatively by, among other things, any unrealized gains or losses on open Cleared Swaps positions, the value of open long option positions and short option positions, fees charged to the account, and authorized withdrawals. To the extent that the calculation results in a net liquidating equity that is positive, the Cleared Swaps Customer Account has a credit balance.¹⁰⁷ To the extent that the calculation results in a net liquidating equity that is negative, the Cleared Swaps Customer Account

has a debit balance.¹⁰⁸ Regulation § 22.2(f)(4) provides that an FCM must hold, at all times, a sufficient amount of funds in segregation to meet the total net liquidating equities of all Cleared Swaps Customer Accounts with credit balances, and further provides that the FCM may not offset this total by any Cleared Swaps Customer Accounts with debit balances.

With respect to Cleared Swaps Customer Accounts with debit balances, regulation § 22.2(f)(5) further requires the FCM to include in the total funds required to be held in segregation all debit balances to the extent secured by readily marketable securities held for the particular Cleared Swaps Customers that have debit balances. The required addition of debit balance accounts in regulation § 22.2(f)(5) was intended to be consistent with the long-standing Futures Segregation Statement contained in the Form 1–FR–FCM and the Form 1–FR–FCM Instructions Manual.¹⁰⁹ An error, however, was made in drafting the description of the details of the segregation calculation in current regulation § 22.2(f)(5). Specifically, as noted above, regulation § 22.2(f)(5) requires an FCM to include in the total segregation requirement any Cleared Swaps Customer Accounts with debit balances that are secured by readily marketable securities. However, the full value of the readily marketable collateral is part of the calculation of the net liquidating equity of the account. Therefore, a Cleared Swaps Customer Account with a debit balance would never have additional readily marketable securities available to offset a debit balance.¹¹⁰

The segregation calculation required under regulation § 1.32 for futures accounts, and the Commission's Form 1–FR–FCM and related Form 1–FR–

¹⁰⁸ *Id.*

¹⁰⁹ In adopting the final regulation § 22.2(f), the Commission stated that proposed regulation § 22.2(f) set forth an explicit calculation for the amount of Cleared Swaps Customer Collateral that an FCM must maintain in segregation that did not materially differ from the calculation of the amount of funds an FCM is required to hold in segregation under the Form 1–FR–FCM for futures customers. The Commission adopted final regulation § 22.2(f) as proposed. Protection of Cleared Swaps Customer Contracts and Collateral; Conforming Amendments to the Commodity Broker Bankruptcy Provisions; Final Rule, 77 FR 6336, at 6352–6353 (Feb. 7, 2012).

¹¹⁰ For example, if a Cleared Swaps Customer Account was comprised of cash of \$300, securities of \$200, and an unrealized loss on open Cleared Swaps of \$600, the account would have a net equity debit balance of \$100 under regulation § 22.2(f). There are no additional securities that the FCM may use to secure the \$100 debit balance and, therefore, the FCM is required to increase its segregation requirement by \$100 to ensure that there are sufficient funds in segregation to cover the FCM's obligation to all Cleared Swaps Customers with a credit balance.

¹⁰⁵ *I.e.*, if separate account customer *S* has separate accounts *A* and *B*, then readily marketable securities held for separate account *A* could not be used to offset a deficit in separate account *B*, and vice versa.

¹⁰⁶ See CFTC Letter No. 19–17 (providing, among other conditions for separate account treatment, that “[e]ach receivable from a separate account shall be ‘grossed up’ on the applicable segregation, secured or cleared swaps customer statement; thus, an FCM shall use its own funds to cover the debit/deficit of each separate account.”).

¹⁰⁷ 17 CFR 22.2(f)(3).

FCM Instructions Manual, differs from the description as currently written in regulation § 22.2(f)(4) and (5) with respect to the offsetting of debit balances by readily marketable securities. Specifically, an FCM is required to calculate the net equity of each futures customer excluding the value of any noncash collateral held in the account.¹¹¹ If the calculation results in a debit balance, the FCM is permitted to offset the debit balance by the fair market value of any readily marketable securities (after application of applicable securities haircuts set forth in the regulation).¹¹²

As noted above, the amendments to regulation § 22.2(f)(4) and (5) are intended to correct the description of the segregation calculation and to make it consistent with: (i) how FCMs calculate their total Cleared Swaps segregation obligations under regulation § 22.2(g), (ii) how FCMs report their total segregation requirements on the Cleared Swaps Segregation Statement, and (iii) the segregation calculation requirements for futures accounts under regulation § 1.32. Thus, the amendments are not expected to have any effect on FCMs and their current practices.

In addition, the Commission proposed to amend regulations §§ 1.20(i) and 30.7(f), which require an FCM carrying futures accounts and 30.7 accounts, respectively, to calculate its total segregation requirements in a manner that is consistent with current regulation § 22.2(f). As with the

amendment to regulation § 22.2(f), the amendments to regulations §§ 1.20(i) and 30.7(f) apply across FCMs that maintain futures customer accounts or 30.7 customer accounts, respectively, whether or not such FCMs maintain separate accounts. The Commission adopted current regulations §§ 1.20(i) and 30.7(f) in 2013. The final regulations, however, did not include the provision set forth in regulation § 22.2(f)(5) requiring an FCM to include any secured debit balances in its segregation requirement. This omission was unintentional, as the Commission expressed its intent to “mirror” the requirements of regulation § 22.2(f) in regulation § 1.20(i) (and effectively regulation § 30.7(f)).¹¹³

To address the omission, the Commission proposed to amend regulations §§ 1.20(i) and 30.7(f) to reflect the requirement that an FCM include any unsecured customer debit balances, calculated consistent with the amendments to regulation § 22.2(f)(4) and (5) that are discussed above, in the calculation of its futures and foreign futures and foreign options segregation requirement. The amendments to regulations §§ 1.20(i) and 30.7(f) accurately describe and reflect the existing segregation calculations for futures, foreign futures, and Cleared Swaps as originally intended. The amendments to regulations §§ 1.20(i) and 30.7(f) are not expected to have any impact on FCMs as the firms currently calculate their segregation requirements by including customer unsecured debit balances.

The Commission did not receive any comments with respect to the proposed amendments to regulations §§ 1.20, 1.32, 22.2, and 30.7. Accordingly, the Commission is adopting the amendments to regulations §§ 1.20, 1.32, 22.2, and 30.7 as proposed.¹¹⁴

D. Regulation § 1.44(a)

The Commission structured proposed regulation § 1.44 so that FCMs would be required to avoid returning margin to

customers when doing so would create or exacerbate a margin deficiency in the customer’s account; however, the proposed regulation then would allow FCMs to provide for separate account treatment within the Commission’s broader regulatory framework for FCMs. As such, regulation § 1.44, as proposed, contains certain terms that are designed to operate in a specific manner with respect to regulation § 1.44, but that do not apply, or do not apply in the same way, with respect to other of the Commission’s FCM regulations. The Commission therefore proposed to add new regulation § 1.44(a) to define certain terms only for purposes of regulation § 1.44. The Commission believes that regulation § 1.44(a) is reasonably necessary to accomplishing the goals of protecting customer funds and mitigating systemic risk because it defines key terms in requirements that FCMs will need to apply to ensure margin adequacy, and in requirements that FCMs will need to apply when treating customer accounts separately for purposes of margin adequacy.

The Commission proposed to define “account” for purposes of proposed regulation § 1.44 as meaning a futures account, a Cleared Swaps Customer Account (both of which are defined in regulation § 1.3, which definitions apply broadly to all CFTC regulations), or a § 30.7 account (as defined in regulation § 30.1¹¹⁵). The Commission proposed this definition to implement the proposed Margin Adequacy Requirement, including in the context of separate account treatment, with respect to accounts of all three types for all FCMs, consistent with comments received in response to the First Proposal.

ICE’s comment letter indirectly addressed the definition of “account” in proposed regulation § 1.44(a). ICE voiced support for the Commission’s proposal to permit FCMs to provide separate account treatment for customers with regulation 30.7 accounts for futures and options transactions traded on exchanges outside the United States, but stated it does not believe it is necessary for the Commission to distinguish regulation 30.7 accounts from futures and Cleared Swap Customer accounts in connection with separate account treatment.¹¹⁶ ICE also noted that there are references in proposed regulation § 1.44 to DCMs that should also include foreign exchanges

¹¹¹ The Form 1–FR–FCM Instructions Manual provides that a customer account is in deficit when the combination of the account’s cash ledger balance, unrealized gain or loss on open futures contracts, and the value of open option contracts liquidates to an amount less than zero. The manual explicitly provides that “[a]ny securities used to margin the account are not included in determining a customer’s deficit.” 1–FR–FCM Instructions Manual, p. 10–2. Accordingly, an FCM would exclude the value of any readily marketable securities from the calculation of the customer’s account balance. The 1–FR–FCM Instructions Manual is available on the Commission’s website at: www.cftc.gov/sites/default/files/idc/groups/public/@jointintermediaries/documents/file/1fr-fcminstructions.pdf.

¹¹² 17 CFR 1.32(b). Applying the calculation in regulation § 1.32 to Cleared Swaps, if a Cleared Swaps Customer Account was comprised of cash of \$300, securities of \$200, and an unrealized loss on open Cleared Swaps of \$600, the account would have a net equity debit balance of \$300, as the value of the securities is not included in the calculation (\$300 cash less \$600 in unrealized losses, results in a \$300 debit balance). The FCM may offset the \$300 debit balance by \$170, which represents the value of the readily marketable securities held in the account as collateral (\$200 fair market value of the securities, less a \$30 haircut). The FCM is then required to include \$130 in its segregation requirement, which represents the amount of the unsecured debit balance remaining in the customer’s account (*i.e.*, \$300 debit balance, less \$170 value of the securities after haircuts).

¹¹³ Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations, 78 FR 68506, 68543 (Nov. 14, 2013) (discussing the Commission’s intent to adopt regulation § 1.20(i) consistent with the corresponding requirements in regulation § 22.2(f)); *id.* at 68576 (discussing the Commission’s intent for the daily segregation calculation for 30.7 accounts to be consistent with the requirements for the daily segregation calculations for futures customer funds in regulation § 1.32).

¹¹⁴ The Commission is making technical changes in the final amendments with respect to regulations §§ 1.20(i)(5)(ii), 1.32(b), 22.2(f)(5)(ii), and 30.7(f)(2)(v)(B) to correct the citation to the SEC regulation defining “ready market” (§ 240.15c3–1(c)(11) rather than § 241.15c3–1(c)(11)).

¹¹⁵ 17 CFR 30.1.

¹¹⁶ ICE Comment Letter.

in connection with regulation 30.7 accounts.¹¹⁷

The Commission proposed to codify the Second Proposal principally in part 1 (as opposed to in part 39) in light of comments received in response to the First Proposal. This is designed to ensure that the Margin Adequacy Requirement and requirements for separate account treatment will apply directly to all FCMs and all FCM customers, including futures customers, Cleared Swaps Customers, and 30.7 account customers. The Commission is distinguishing these accounts in regulation § 1.44 to ensure that the regulation encompasses each class of FCM customer.

The Commission agrees that certain references to DCMs that are included in regulation § 1.44 should be clarified to include explicitly foreign exchanges in connection with 30.7 accounts, as separate account customers may have foreign futures and foreign options positions traded on such exchanges. Accordingly, as noted further below in connection with regulation § 1.44(b)(2) and 1.44(f)(7), in adopting these provisions, the Commission is modifying them to refer to “any designated contract market or other board of trade,” in order to encompass such foreign exchanges. The Commission did not receive any other comments related to the definition of “account” in proposed regulation § 1.44(a) and is adopting that definition as proposed.

The Commission also proposed in proposed regulation § 1.44(a) to further define “business day” as having the same meaning as set forth in regulation § 1.3, but with the clarification that “holiday” refers to Federal holidays as established by 5 U.S.C. 6103. The Commission also proposed in proposed regulation § 1.44(a) to define “holiday” as meaning Federal holidays as established by 5 U.S.C. 6103.

In Question 4 of the Second Proposal, the Commission sought commenters’ views on how the proposed definition of “business day” should address days when securities and other markets are closed. (E.g., whether the Commission should address in the definition days when such other markets are open or create an exception for days when such markets are closed on a prescheduled basis.) The Commission sought information on potential liquidity challenges or other risks that could result from such an exception, as well as information on how FCMs and

customers currently address days when securities and other markets are closed.

In its comment letter, FIA noted that neither the proposed definitions of “business day” nor “holiday” in proposed regulation § 1.44(a) address days on which banks are open but futures and securities markets are closed.¹¹⁸ FIA stated that, on such days, transfers of non-cash collateral cannot settle, and separate account customers settling initial margin calls with such collateral will, under the proposed regulation, be deemed to have failed to meet a margin call.¹¹⁹ In FIA’s view, a separate account customer should not be deemed to have failed to settle a margin call because securities markets are closed.¹²⁰ FIA suggested the Commission revise the definition of “holiday” in proposed regulation § 1.44(a) to provide that holidays include “any business day that is not a securities settlement day in the United States.”¹²¹ No other commenters responded specifically to this question.

The Commission acknowledges that, on days on which banks are open but futures and securities markets are closed, customers, including separate account customers, may be unable to use non-cash collateral to aid in their meeting margin calls. However, FCMs and customers may arrange for a variety of methods to settle margin calls, including bank transfers. The Commission believes that, given the availability of such funding mechanisms on days when banks are open but securities and other markets are closed, introducing an exception that would allow for additional delays in the payment of margin on such days may introduce unnecessary additional risk of undermargining.

The Commission did not receive any other comments related to the definitions of “business day” or “holiday” in proposed regulation § 1.44(a) and is adopting those definitions as proposed.

Relatedly, the Commission proposed to define “one business day margin call” as a margin call that is issued and met in accordance with the requirements of proposed regulation § 1.44(f). The Commission did not receive any comments with respect to this proposed definition, but the Commission received comments related to the substantive requirements defining a one business day margin call in proposed regulation § 1.44(f). The Commission addresses those comments

below in connection with that provision. The Commission is adopting the definition of “one business day margin call” in regulation § 1.44(a) as proposed.

Under regulation § 1.44, an FCM may provide disbursements on a separate account basis only when it, and its customer, are operating within the “ordinary course of business,” as that term is defined in the proposed regulation. The Commission proposed to define “ordinary course of business” as meaning the standard day-to-day operation of the FCM’s business relationship with its separate account customer, a condition where there are no unusual circumstances that might indicate either a materially increased level of risk that the separate account customer may fail promptly to perform its financial obligations to the FCM, or a decrease in the FCM’s financial resilience. The Commission proposed regulation § 1.44(e) to set forth the circumstances that would be inconsistent with the ordinary course of business, and the occurrence of which would require a cessation of disbursements on a separate account basis.

SIFMA-AMG contended that the definition of “ordinary course of business” in proposed regulation § 1.44(a) poses certain regulatory compliance challenges.¹²² Specifically, SIFMA-AMG asserted that the proposed definition does not sufficiently clarify the meaning of “standard day-to-day operation.”¹²³ SIFMA-AMG argued that FCMs and DCOs would be required to continuously monitor for a series of events, some of which would not appear to rise to the level of significance to suggest that they are not within the ordinary course of business, such as the failure of a customer to make a single margin payment.¹²⁴ SIFMA-AMG urged the Commission to better define “ordinary course of business” and consider an approach that presumes operation in the ordinary course of business, with clearly delineated events such as default or bankruptcy as the only instances that would be considered outside the ordinary course of business.¹²⁵

SIFMA-AMG further contended that the Commission’s proposed definition of “ordinary course of business” fails to recognize that FCMs must, under Commission regulations, manage risk effectively, and that FCMs also have

¹¹⁸ FIA Comment Letter.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² SIFMA-AMG Comment Letter.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹¹⁷ Including proposed regulation § 1.44(b)(2) and (f)(7). *Id.*

commercial incentives to do so.¹²⁶ SIFMA–AMG argued the proposed definition of “ordinary course of business” is inconsistent with an FCM’s obligations, noting that an FCM’s obligations under its Risk Management Program (RMP) are intentionally fluid and are designed to allow FCMs to tailor their RMP to the specific activities of the FCM and its customers.¹²⁷

In adopting regulation § 1.44(a), the Commission has determined to modify the definition of “ordinary course of business” in consideration of SIFMA–AMG’s comment. As an initial matter, the Commission notes that under regulation § 1.44 as proposed, events inconsistent with the ordinary course of business are generally those that the Commission would expect an FCM to become aware of through its existing compliance function and procedures (e.g., with respect to cessation of disbursements on a separate account basis for a separate account customer, a failure to deposit margin timely; the occurrence and declaration by the FCM of an event of default as defined in the account documentation executed between the FCM and the separate account customer; a good faith determination by the FCM’s chief compliance officer (CCO), one of its senior risk managers, or other senior manager, following such FCM’s own internal escalation procedures, that the separate account customer is in financial distress; or the insolvency or bankruptcy of the separate account customer or a parent company of the customer; or, with respect to cessation of disbursements on a separate account basis for any of an FCM’s customers, a determination in good faith by an FCM’s CCO, senior risk managers, or other senior management, that the FCM itself is under financial or other distress; or the insolvency or bankruptcy of the FCM or a parent company of the FCM) and notifications or directives from third parties.

The Commission notes that the list of events inconsistent with the ordinary course of business proposed as part of regulation § 1.44(e) is substantially the same as the list of events discussed in CFTC Letter No. 19–17, which has been relied on by DCOs (and by extension their clearing FCMs) successfully since 2019. As SIFMA–AMG noted in its comment letter, FCMs have some discretion in managing risk with respect to their (and their customers’) activities, and FCMs appear to have done so effectively under the conditions of CFTC Letter No. 19–17 for over five

years. The Commission expects FCMs will under regulation § 1.44 similarly exercise risk management discretion to identify when certain non-ordinary course of business events have occurred.¹²⁸

Additionally, the Commission notes that although failure to make a single margin payment may not in itself represent a departure from the ordinary course of business (hence the Commission’s proposal, consistent with the no-action conditions of CFTC Letter No. 19–17, to include an exception to non-ordinary course of business conditions for failure to pay margin due to certain unusual administrative errors or operational constraints), as a general matter, ensuring timely payment of margin is critical to the Commission’s goal of providing for separate account treatment in a manner that ensures the safety of customer funds and effective risk mitigation.

Although the Commission believes default or bankruptcy of an FCM or customer are not the only events that could represent a departure from the ordinary course of business with respect to separate account margining, the Commission agrees that the standard for what constitutes the ordinary course of business can be more clearly defined.

Under the proposal, although the occurrence of any of the events described in regulation § 1.44(e) would be inconsistent with the “ordinary course of business,” it was also possible that some other, unspecified, events might also be inconsistent with the “ordinary course of business.” Accordingly, the Commission has modified regulation § 1.44(a) to close the set of such events by providing that the “ordinary course of business” means the operation of the FCM’s business relationship with its separate account customer *absent the occurrence of one or more of the events specified in regulation § 1.44(e)*. In such manner, the ordinary course of business continues, provided none of the events delineated in regulation § 1.44(e) have occurred.

The Commission proposed to define “separate account” as meaning any one of multiple accounts of the same separate account customer that are carried by the same FCM. The

¹²⁸ See, e.g., new regulation § 1.44(e)(1)(iii) (“A good faith determination by the futures commission merchant’s chief compliance officer, one of its senior risk managers, or other senior manager, following such futures commission merchant’s own internal escalation procedures, that the separate account customer is in financial distress, or there is significant and bona fide risk that the separate account customer will be unable promptly to perform its financial obligations to the futures commission merchant, whether due to operational reasons or otherwise.”).

Commission did not receive any comments with respect to this proposed definition and is adopting it as proposed.

The Commission proposed to define “separate account customer” as meaning a customer for which the FCM has elected to engage in separate account treatment. The Commission also did not receive any comments with respect to this proposed definition and is adopting it as proposed.

Lastly, the Commission proposed to define “undermargined amount” for an account as meaning the amount, if any, by which the customer margin requirements with respect to all products held in that account, exceed the net liquidating value plus the margin deposits currently remaining in that account.¹²⁹ The proposed definition noted that “[f]or purposes of this definition, ‘margin requirements’ shall mean the level of maintenance margin or performance bond (including, as appropriate, the equity component or premium for long or short option positions) required for the positions in the account by the applicable exchanges or clearing organizations.”¹³⁰ This clarification (which was drawn from the definition of risk margin in regulation § 1.17(b)(8)) is in recognition of the difference between exchange (or clearing organization) requirements for “initial margin” and “maintenance margin.” However, here, unlike risk margin, the Commission included the equity component or premium for long or short option positions, as those are part of the total required level of margin. “Initial margin” is the amount of margin (otherwise known as “performance bond”¹³¹ in this context) required to establish a position. Some (though not all) contract markets and clearing houses establish “maintenance margin” requirements that are less than the corresponding initial margin

¹²⁹ The definition of “undermargined amount” in regulation § 1.44(a) is different from, and simpler than, the definitions of “undermargined amount” for the purpose of residual interest calculations in regulations §§ 1.22(c)(1), 22.2(f)(6)(i), and 30.7(f)(1)(ii). The calculations in the latter cases are required to take into account information at the close of business on day T–1 that will be used to calculate a residual interest requirement on day T, as well as payments that may be received on day T, and the elimination of double counting of debit balances.

¹³⁰ The definition of “undermargined amount” in regulation § 1.44(a) further provides that, with respect to positions for which maintenance margin is not specified, “margin requirements” shall refer to the initial margin required for such positions.

¹³¹ “Performance bond” secures the performance by a customer to meet its variation margin payment obligations to its FCM (or the performance of variation margin payment obligations of an FCM to the clearinghouse, or to an intermediary upstream FCM).

¹²⁶ *Id.*

¹²⁷ *Id.*

requirement. Where, due to adverse market movements, the amount of margin on deposit is less than the initial margin requirement, but greater than or equal to maintenance margin, the FCM is not required to (though it may) call additional margin from the customer. Once the amount of margin on deposit is less than the maintenance margin required, the FCM must call the customer for enough margin to meet the initial margin level.

The Commission used the term “undermargined amount” in connection with proposed regulation § 1.44(f) in defining the requirements for making and meeting a one business day margin call, as well as in proposed regulation § 1.44(g) in setting legally segregated, operationally commingled (LSOC) compliance calculations for separate accounts.

In its comment letter, the JAC contended that the Commission’s proposed definition of “undermargined amount” in proposed regulation § 1.44(a) is inconsistent with industry practice and methodologies for calculating the undermargined amount provided in the JAC Margins Handbook.¹³² Specifically, proposed regulation § 1.44(a) defines “undermargined amount” for an account as, “the amount, if any, by which the customer margin requirements with respect to all products held in that account exceeds the net liquidating value plus the margin deposits currently remaining in that account.” Further, proposed regulation § 1.44(a) provides that, for purposes of such definition, “margin requirements” means the “level of maintenance margin or performance bond (including, as appropriate, the equity component or premium for long or short options positions) required for the positions in the account by the applicable exchanges or clearing organizations.”

As the JAC explained, its Margins Handbook recognizes two methods for determining the undermargined amount: the Net Liquidating Value Method¹³³ and the Total Equity Method.

For purposes of the Net Liquidating Value Method, the JAC Margins Handbook defines the undermargined amount as: “The amount by which margin equity is less than the maintenance margin requirement.”¹³⁴ The JAC noted that, for purposes of this

method, its Margins Handbook defines margin equity as “an account’s net liquidating equity plus the collateral value of acceptable margin deposits”¹³⁵ and defines the maintenance margin requirement as: “The minimum amount of margin equity required to be maintained in an account.”¹³⁶

Under the alternative Total Equity Method, the undermargined amount is the amount by which total equity plus the collateral value of acceptable margin deposits is less than the risk maintenance margin requirement adjusted for the option value.¹³⁷

The JAC argued that, as proposed, the definition of “undermargined amount” in proposed regulation § 1.44(a) would require that, for all customer accounts (not just the separate accounts of separate account customers), an FCM include the equity component of long and short options in both the margin equity and the margin requirement.¹³⁸ However, the JAC asserted, under the JAC Margins Handbook, exchange rules, and industry practice, the equity component of long and short options is included only in either the margin equity (under the Net Liquidating Value Method) or margin requirement (under the Total Equity Method).¹³⁹ The JAC further asserted that currently, option premium is already included in margin equity and is not a component of the margin requirement.¹⁴⁰

The JAC noted that, depending on the composition of an account, the Second Proposal’s definition of “undermargined amount” may result in different undermargined amounts than the Net Liquidating Value Method or Total Equity Method as those methods are applied today. The JAC requested the Commission provide the specific calculation for inclusion of the equity component of premium for long or short options positions and provide further clarification as to the rationale for the apparent proposed change in methodology.

FIA similarly commented that, although the proposed definition of “undermargined amount” in proposed regulation § 1.44(a) appeared to derive from the JAC Margins Handbook

definition of the same term, the definition as proposed may give the impression that the Commission intends to codify a preference for the Net Liquidating Value Method to the exclusion of the Total Equity Method alternative in the JAC Margins Handbook. FIA recommended that the Commission amend the proposed definition of “undermargined amount” in proposed regulation § 1.44(a) to provide that “undermargined amount” for an account means the account’s margin deficiency, if any, computed in accordance with applicable guidance of the JAC promulgated under regulation § 1.52(d).

The Commission’s proposed definition of “undermargined amount” is based not on the Net Liquidating Value/Risk/Pure SPAN Method as set forth in the JAC Margins Handbook but rather on the Margin Adequacy Requirement in regulation § 39.13(g)(8)(iii), which provides that a DCO shall require its clearing members to ensure their customers do not withdraw funds from their accounts with such clearing members unless the net liquidating value plus the margin deposits remaining in a customer’s account after such withdrawal are sufficient to meet the customer initial margin requirements with respect to all products and swap portfolios held in such customer’s account which are cleared by the DCO. In that respect, it is not intended to evince a requirement to determine the undermargined amount of an account specifically using the Net Liquidating Value Method to the exclusion of the Total Equity Method as set forth in the JAC Margins Handbook. In proposing the definition of “undermargined amount,” the Commission sought to make clear that an FCM’s determination of the undermargined amount for a separate account should account for the equity component or premium for long or short options positions in computing the required level of margin for an account. However, the Commission’s intent was not to change FCMs’ current practice with respect to the way in which they determine the undermargined amount for an account.

In its comment letter, the JAC noted that FCMs determine the undermargined amount using either the Net Liquidating Value method or the alternative Total Equity method set forth in the JAC Margins Handbook, both of which incorporate the equity component for long or short option positions (the former as part of margin equity and the latter as part of margin requirements), and that margin

¹³² JAC Comment Letter.

¹³³ Also referred to as the “Risk Method” or “Pure SPAN Method.”

¹³⁴ JAC Comment Letter (citing JAC Margins Handbook, Chapter 1, Definition of “Undermargined Amount”).

¹³⁵ *Id.* (citing JAC Margins Handbook, Chapter 1, Definition of “Margin Equity”).

¹³⁶ *Id.* (citing JAC Margins Handbook, Chapter 1, Definition of “Maintenance Margin Requirement (MMR)”). The definition further notes that the maintenance margin requirement is the actual risk margin calculated by the SPAN® margin system. *Id.*

¹³⁷ *Id.* (citing JAC Margins Handbook, Chapter 4, “Margins Calls”). The JAC noted that net long option value reduces the risk margin requirement while net short option value increases it.

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

premium is already included as part of margin equity under either method.

Having considered the JAC's and FIA's comments, relevant provisions of the JAC Margins Handbook, and the Commission's objectives in defining "undermargined amount," the Commission is persuaded that utilizing either the Net Liquidating Value method or the alternative Total Equity method to determine an account's undermargined amount generally will produce an identical result (with the exception, as the JAC notes, of certain instances involving long options positions, in which the Total Equity method will produce a greater margin deficiency, resulting in a greater margin requirement, which would further serve to mitigate risk).

Accordingly, in adopting the definition of "undermargined amount" in regulation § 1.44(a), the Commission is removing the proposed language stating that, for purposes of the definition of "undermargined amount," the term "margin requirements" shall "include[, as appropriate, the equity component or premium for long or short option positions," based on the Commission's understanding, in light of comments received, that under current practice, the equity component is included as a matter of course in margin equity or margin requirements, and the option premium is factored into margin equity.¹⁴¹ The Commission believes the resulting definition is consistent with the Net Liquidating Value method for determining an undermargined amount, as set forth in the JAC's Margins Handbook. Notwithstanding that definition, the Commission also believes an FCM's use of the Total Equity method, as set forth in the JAC's Margins Handbook, would also be consistent with that definition.

In Question 5 of the Second Proposal, the Commission invited commenters to provide feedback with respect to whether the definition of "undermargined amount" should apply haircuts to the value of customer collateral held by an FCM and, if so, whether the amount of such haircuts should be based on SEC rule 240.15c3-1 and Commission regulation § 1.17(c)(5)(ii), or on some other basis. A haircut is a reduction in the allowable value of an asset to account for market risk. In its comment letter, the JAC

stated that non-cash collateral on deposit in a customer's account should be valued at market value less applicable SEC and CFTC haircuts for determining the margin value of collateral. No other commenters responded specifically to this question. The Commission has determined, in adopting the definition of "undermargined amount" in regulation § 1.44(a), to include in that definition a requirement that collateral haircuts based on Rule 15c3-1 of the Securities and Exchange Commission (17 CFR 240.15c3-1) and regulation § 1.17(c)(5) be applied to the value of the margin deposits held by an FCM to reflect potential market risk associated with the value of the collateral if and when such collateral was liquidated.

Accordingly, the Commission is adopting regulation § 1.44(a) as proposed, subject to the modifications discussed above with respect to the definitions of "ordinary course of business" and "undermargined amount."

E. Proposed Regulation § 1.44(b)

The Commission proposed regulation § 1.44(b) to require all FCMs, whether clearing or non-clearing, to comply with the same Margin Adequacy Requirement that DCOs are required to apply to their clearing FCMs pursuant to regulation § 39.13(g)(8)(iii). As proposed, regulation § 1.44(b) provides that an FCM shall ensure that a customer does not withdraw funds from its accounts with such FCM unless the net liquidating value (calculated as of the close of business on the previous business day) plus the margin deposits remaining in the customer's account after such withdrawal are sufficient to meet the customer initial margin requirements with respect to all products held in such customer's account, except as provided in proposed regulation § 1.44(c), which allows an FCM to permit disbursements on a separate account basis under ordinary course of business conditions.¹⁴²

In proposing regulation § 1.44(b), the Commission sought to articulate a standard for the calculation of margin adequacy that is consistent with the Commission's requirements for calculation of undermargined amounts for purposes of an FCM's residual

interest calculations.¹⁴³ Regulations §§ 1.22(c)(2), 22.2(f)(6)(ii), and 30.7(f)(ii)(B) require each FCM to compute such undermargined amounts based on the information available to the FCM as of the close of each business day for futures customer accounts, Cleared Swaps Customer Accounts, and 30.7 accounts, respectively.

In order to address circumstances in which the previous day (for purposes of regulation § 1.44(b)(1)'s margin adequacy calculation requirements), excluding Saturdays and Sundays, is a holiday (as defined in regulation § 1.44(a)) on which markets, but not banks, may be open, proposed regulation § 1.44(b)(2) further provides that, in such circumstances, the margin adequacy calculation shall instead be made using the net liquidating value of an account as of the close of business on such holiday where (i) any DCM on which the FCM trades is open for trading; and (ii) an account of any of the FCM's customers includes positions traded on such a market.¹⁴⁴

The Commission notes that proposed regulation § 1.44(b)'s requirements related to the timing of the margin adequacy calculation required by the same section are intended to represent a minimum standard. The proposed requirements are not intended to prevent an FCM from exercising its judgment in connection with good risk management practice to prevent the disbursement of customer funds based on intervening intraday market movements resulting in losses to a customer account between the calculation benchmark set forth in proposed regulation § 1.44(b) and the time at which a customer requests to withdraw funds. Ensuring that customers do not withdraw funds from their accounts at FCMs if such withdrawal would create or exacerbate an initial margin shortfall is reasonably necessary from a risk management perspective to reduce the likelihood and magnitude of the risk that the FCM must cover losses due to a default by the customer on obligations that exceed the margin held by the FCM. Similarly, because customer funds are held by an FCM in omnibus accounts, this

¹⁴³ *Id.*

¹⁴⁴ Proposed regulation § 1.44(b)(2), and proposed regulation § 1.44(f)(7), discussed below, are consistent with JAC Regulatory Alert #22-02, which provides that an FCM must issue margin calls to customers on holidays where futures markets are open and U.S. banks are closed. The margin calls are calculated based on information as of the close of the previous business day (*i.e.*, the business day prior to the holiday) and the FCM does not count the holiday for purposes of aging the margin call. JAC Regulatory Alert #22-01, Mar. 30, 2022, available at www.jacfutures.com.

¹⁴¹ The Commission is also making a technical (grammatical) change to the definition of "undermargined amount" in regulation § 1.44(a) to change "by which the customer margin requirements . . . exceeds the net liquidating value" to "by which the customer margin requirements . . . exceed the net liquidating value"

¹⁴² Consistent with the existing Margins Handbook, the Margin Adequacy Requirement is based on initial margin requirements rather than any lower maintenance margin requirement. *See* JAC Margins Handbook at 10-1 ("Margin Funds Available for Disbursement = Net Liquidating Value + Margin Deposits - Initial Margin Requirement ≤ 0"); *see also supra* n. 13 and accompanying text.

prohibition will reduce the likelihood and magnitude of the risk that the FCM will effectively use the margin of other customers to “margin or guarantee the trades or contracts, or to secure or extend the credit of” a customer that was permitted to withdraw margin in a manner that created or exacerbated an undermargined condition,¹⁴⁵ whether the duty to prevent such withdrawals falls on DCOs acting on their clearing member FCMs (per regulation § 39.13(g)(8)(iii)), or directly on FCMs.

Because regulation § 39.13(g)(8)(iii) applies only to DCOs (which in turn can only apply regulation § 39.13(g)(8)(iii)’s Margin Adequacy Requirement to their clearing member FCMs), and given the strong trend of the comments in favor of addressing these issues in a manner that is uniform across all types of FCMs directly in part 1 rather than indirectly through part 39, the Commission continues to view it as reasonably necessary to extend the requirement to prevent such undermargining scenarios to all FCMs.

Accordingly, it is the Commission’s judgment that regulation § 1.44(b), which will apply a Margin Adequacy Requirement similar to that of regulation § 39.13(g)(8)(iii) directly to FCMs, both clearing and non-clearing, is reasonably necessary to protect customer funds and mitigate systemic risk, thus effectuating CEA section 4d(a)(2), 4d(f)(2), and 4(b)(2)(A)¹⁴⁶ and accomplishing the purposes of “avoidance of systemic risk” and “protecting all market participants from . . . misuses of customer assets.”¹⁴⁷

The JAC discussed proposed regulation § 1.44(b) in several respects in its comment letter. First, the JAC asserted that proposed regulation § 1.44(b)(1) is unclear; specifically, because it is unclear how the Commission is defining customer initial margin requirements in light of its definition of the term “margin requirements,” within the proposed definition of the term “undermargined amount” in proposed regulation § 1.44(a), as including “the equity component or premium for long or short

option positions.”¹⁴⁸ As the JAC noted, proposed regulation § 1.44(b)(1) would affect all customers, not just customers whose accounts receive separate account treatment.¹⁴⁹

As discussed above in connection with regulation § 1.44(a), the Commission is adopting its proposed definition of “undermargined amount” with modifications to remove language that the JAC identified as inconsistent with exchange rules and industry practice, and the Commission views an FCM’s use of either of the Net Liquidating Value or alternative Total Equity method set forth in the JAC Margins Handbook as consistent with the Commission’s objective in defining an account’s undermargined amount for purposes of regulation § 1.44.

Second, the JAC contended that proposed regulation § 1.44(b) may impact the way some FCMs settle with customers on a daily basis.¹⁵⁰ Specifically, the JAC asserted, many FCMs initiate multiple cash and/or collateral transactions within the same customer account on the same business day in order to settle each individual currency within the account, or may call initial margin separately from variation margin within a single customer account, whether or not such account is receiving separate account treatment.¹⁵¹ The JAC noted this may result in a withdrawal of margin funds by a single customer account or within a separate account when, in the aggregate, including required margin on all positions and total margin equity, the account was undermargined as of the close of business on the prior business day.¹⁵² The JAC asserted this is a generally accepted practice, provided certain controls are in place and adequate records are maintained to demonstrate margin calls are issued, aged, and fully initiated for immediate settlement to support any outgoing disbursements.¹⁵³ The JAC requested that the Commission confirm whether such margin procedures will continue to be permissible for separate and non-separate accounts, particularly with respect to the funds available for disbursement to a customer.¹⁵⁴

Relatedly, the JAC sought clarification regarding whether the Second Proposal

requires each separate account to settle a single undermargined amount pursuant to proposed regulation § 1.44(f) or disburse a single excess margin amount pursuant to proposed regulation § 1.44(b), taking into account the aggregate of all positions and currencies within the separate account.¹⁵⁵ The JAC indicated that, to the extent the proposed regulations would require a change in current practice with respect to settlement of margin payments on a currency-by-currency basis within a customer account (whether or not the account is receiving separate treatment), then FCMs may be required to update their regulatory records, risk programs, margin calculations, and reporting for customer accounts.¹⁵⁶

In response to the JAC’s comment, the Commission confirms that each separate account would not be required to settle a *single* undermargined amount or disburse a *single* excess margin amount pursuant to regulation § 1.44 as adopted herein. Rather, each receipt or disbursement would add to or subtract from the available balance in a customer’s account, calculated using a single reference currency. As stated above, regulation § 1.44(b) as proposed would require an FCM to ensure that a customer does not withdraw funds from its accounts with the FCM unless the net liquidating value (calculated as of the close of business on the previous business day) plus the margin deposits remaining in the customer’s account after the withdrawal are sufficient to meet the customer initial margin requirements with respect to all products held in the customer’s account, except as provided for pursuant to regulation § 1.44(c), which sets forth the fundamental requirements for separate account treatment.

¹⁵⁵ *Id.* The JAC provided the following example: a customer’s separate account has an overall undermargined amount at the close of business on Monday of \$2,000 USD (comprised of an undermargined amount in GBP currency with a USD equivalent value of \$6,000 and funds in excess of its margin requirements in USD currency of \$4,000). The JAC requested the Commission clarify whether, although the separate account was undermargined overall for Monday’s close of business, the FCM could allow the separate account customer to withdraw on Tuesday the excess margin funds denominated in USD of \$4,000 while also issuing a margin call on Tuesday for the GBP undermargined amount (for the USD equivalent value of \$6,000), and remain in compliance with proposed regulation § 1.44(b) and, if so, (i) whether there are certain requirements and controls that the FCM must have in place; and (ii) how the different settlement timeframes of the currencies would impact such permissibility, including in cases where a specific currency cannot be initiated for immediate settlement (e.g., if in the JAC’s example, Tuesday is a banking holiday in the UK, but not in the U.S.). *Id.*

¹⁵⁶ *Id.*

¹⁴⁵ See CEA § 4d(a)(2), 7 U.S.C. 6d(a)(2) (Providing that an FCM may not use the money or property of one customer “to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer or person other than the one for whom the same are held.”).

¹⁴⁶ 7 U.S.C. 6d(a)(2), 6d(f)(2), and 6(b)(2)(A).

¹⁴⁷ CEA § 3(b), 7 U.S.C. 5(b). See, as discussed above, section 8a(5) of the CEA, 7 U.S.C. 12a(5), authorizing the Commission to make and promulgate such rules and regulation as in the Commission’s judgment are reasonably necessary to effectuate any of the provisions, or to accomplish any of the purposes, of the CEA.

¹⁴⁸ JAC Comment Letter. The JAC reiterated additional points in support of this contention that the Commission discusses above in connection with the definition of “undermargined amount” in regulation § 1.44(a).

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

The Commission notes that, for purposes of regulation § 1.44(b), the net liquidating value is calculated based on the market value of the positions in the customer's account. In proposing regulation § 1.44(b), the Commission noted that real-time calculation of margin adequacy with respect to a potential withdrawal may prove impracticable.¹⁵⁷ In doing so, the Commission refers to the fact that it may be impracticable for an FCM to calculate the market value of the positions in a customer's account on a real-time basis.

However, the Commission does not believe it would be impracticable for an FCM to account for payments received or disbursements made since the close of business on the previous business day. Indeed, regulation § 1.22(c)(3)(ii) provides that an FCM may reduce the amount of residual interest required to be maintained under regulation § 1.22(c)(3)(i) to account for payments received from or on behalf of undermargined futures customers (less the sum of any disbursements made to or on behalf of such customers) between the close of business on the previous business day and the Residual Interest Deadline.¹⁵⁸ Regulations §§ 22.2(f)(6)(iii)(B) and 30.7(f)(ii)(C)(2) permit this practice as to the accounts of Cleared Swaps Customers and 30.7 customers, respectively.¹⁵⁹

Similarly, in calculating margin adequacy under regulation § 1.44(b), an FCM should consider payments received from or on behalf of customers, including the separate accounts of separate account customers, less the sum of any disbursements made to or on behalf of such customers, between the close of business on the previous business day and the time at which the FCM considers a disbursement to a customer. In calculating the current balance in a customer's account, an FCM may use either the currency exchange rates at the close of business on the previous day, or at some later time. The FCM should be consistent in both the sources of exchange rates that it uses and in choosing the time as of which it will reference such exchange rates in calculating the current balance in the customer's account. Moreover, in doing so, the FCM must act consistently with regulation § 1.49(e).¹⁶⁰

Additionally, as discussed below, the

Commission notes that the final rule is not intended to preclude FCMs from, consistent with JAC guidance, considering as received for purposes of regulation § 1.44(b)'s Margin Adequacy Requirement pending receipts denominated in non-USD (and non-CAD, in light of regulation § 1.44(f)(1)–(3)'s provisions for the timing of margin payments to meet a one business day margin call standard) currencies.¹⁶¹ The Commission expects that an FCM will, consistent with JAC guidance, also treat pending non-USD (and non-CAD) disbursements in the same manner (*i.e.*, as disbursed).

Third, the JAC noted that although the Margin Adequacy Requirement in proposed regulation § 1.44(b) discusses determination of funds available for withdrawal from customer accounts, the Commission in the Second Proposal proposed only to establish a requirement to collect margin from separate account customers (in proposed regulation § 1.44(f)(1)) and did not propose a broader requirement for FCMs to collect margin, analogous to the collection requirement in regulation § 39.13(g)(8)(ii), and applicable to all accounts carried by clearing and non-clearing FCMs.¹⁶² The JAC further noted that, in the absence of such a requirement, the requirements applicable to margin collection are limited to requirements under exchange rules whereas requirements applicable to disbursements to customers will be defined by Commission regulations (unless the exchange or clearing organization imposes a more stringent requirement).¹⁶³

As discussed above, commenters to the First Proposal, including the JAC, asked that the Commission codify requirements for the treatment of separate accounts in its regulations that would apply to all FCMs. In the Second Proposal, the Commission proposed to do just that. The Commission discussed in the Second Proposal its intent to promulgate a narrow codification, applied directly to FCMs, of the requirements for margin disbursement set forth in regulation § 39.13(g)(8)(iii), subject to requirements based on the conditional no-action position in CFTC

Letter No. 19–17, including requirements for separate account treatment that closely mirror the conditions in the no-action position.¹⁶⁴ The no-action position in CFTC Letter No. 19–17 and the First Proposal concerned requirements for separate account treatment for purposes of regulation § 39.13(g)(8)(iii) regarding disbursements of margin, and did not discuss requirements for collection of margin outside of the separate account context. Accordingly, the Commission considers the imposition of a requirement for collection of margin analogous to regulation § 39.13(g)(8)(ii) to be out of scope for purposes of this rulemaking, although the Commission may consider further amendments to its regulations in the future to incorporate a separate margin collection requirement. As the JAC's comment notes, margin collection requirements are currently set by exchanges (as well as DCOs with respect to cleared transactions).

The JAC also recommended that the Commission revise the Margin Adequacy Requirement in proposed regulation § 1.44(b) (and/or the definition of "account" proposed in proposed regulation § 1.44(a)) to "include accounts of noncustomers who pose risk to the FCM if such noncustomers are permitted to withdraw margin funds that would create or exacerbate an undermargined situation, or not be required to deposit and maintain sufficient margin to cover the risk of their positions."¹⁶⁵

The Commission appreciates the JAC's recommendation to consider revising the Margin Adequacy Requirement to apply to the accounts of noncustomers, which the Commission generally understands to encompass accounts of certain affiliates and affiliated individuals of an FCM. The Commission notes that the Margin Adequacy Requirement of regulation § 39.13(g)(8)(iii) does not apply with respect to withdrawals by noncustomers, and neither CFTC Letter No. 19–17 nor the Commission's proposals to codify the no-action position in that letter contemplated the application of a Margin Adequacy Requirement, or requirements for separate account treatment, with respect to noncustomers. The Commission considers application of the Margin Adequacy Requirement in proposed regulation § 1.44(b) to noncustomers to

¹⁶¹ See the Commission's discussion of the JAC's guidance with respect to pending non-USD transfers above in its discussion of amendments to regulation § 1.17.

¹⁶² *Id.* Regulation § 39.13(g)(8)(ii) provides, among other things, that a DCO shall require its clearing members to collect customer initial margin at a level that is not less than 100 percent of the DCO's clearing initial margin requirements with respect to each product and portfolio and commensurate with the risk presented by each customer account. 17 CFR 39.13(g)(8)(ii).

¹⁶³ JAC Comment Letter.

¹⁶⁴ See Second Proposal, 89 FR at 15317.

¹⁶⁵ The JAC noted the Commission could then consider allowing separate account treatment for such noncustomers under the provisions of proposed regulation § 1.44(c)–(h).

¹⁵⁷ Second Proposal, 89 FR at 15324.

¹⁵⁸ 17 CFR 1.22(c)(3)(ii).

¹⁵⁹ 17 CFR 22.2(f)(6)(iii)(B); 17 CFR 30.7(f)(ii)(C)(2). See also, *e.g.*, JAC Comment Letter (discussing multi-settlement margining procedures as well as treatment of pending non-USD transfers for purposes of determining a customer's residual interest requirement).

¹⁶⁰ 17 CFR 1.49(e).

be outside the scope of this rulemaking, but will consider whether to provide additional risk management requirements applicable to noncustomers in the future.¹⁶⁶

Lastly, as the Commission discusses above in connection with amendments to regulation § 1.17, the Commission received a number of comments requesting that the Commission confirm whether FCMs may consider as received pending non-USD transfers for purposes of certain regulations, consistent with JAC guidance and current industry practice. Although the Commission did not receive any such comments specifically with respect to proposed regulation § 1.44(b), for the avoidance of doubt, the Commission confirms that the final rule is not intended to preclude FCMs from considering as received pending non-USD transfers, consistent with JAC guidance, when considering a disbursement under regulation § 1.44(b). However, in light of regulation § 1.44(f)(1)–(3), under which payment of margin in Canadian dollars (CAD) is required to be settled pursuant to the timing requirements for payment of margin in USD for purposes of meeting a one business day margin call standard, the Commission expects that, when considering pending non-USD transfers for purposes of regulation § 1.44(b)'s Margin Adequacy Requirement, FCMs will treat pending CAD transfers on the same basis as pending USD transfers (*i.e.*, they will not be treated as received or as disbursed). Additionally, a non-USD transfer that ultimately is not received on a one business day basis, as set forth in regulation § 1.44(f), would be considered a failed deposit and could no longer be considered pending, even if this was due to administrative error or operational constraint. Thereafter, that transfer would only be considered as received upon actual receipt.

Having considered comments received in response to proposed regulation § 1.44(b), the Commission is adopting regulation § 1.44(b) as proposed, subject to modifications to regulation § 1.44(b)(2), discussed above in connection with regulation § 1.44(a), to address foreign exchanges related to regulation § 30.7 accounts.¹⁶⁷

¹⁶⁶ There are currently requirements relating to risk assessment recordkeeping for FCMs with respect to affiliated persons in regulations §§ 1.14 and 1.15.

¹⁶⁷ Specifically, as adopted, regulation § 1.44(b)(2) provides, "For purposes of [regulation § 1.44(b)(1)] . . . where the previous day (excluding Saturdays and Sundays) is a holiday . . . where any designated contract market or other board of trade on which the futures commission merchant trades is open for trading, and where an account of any of the futures commission merchant's customers includes positions traded on such a market, the net

F. Regulation § 1.44(c)

The Commission proposed regulation § 1.44(c) to establish the fundamental requirements for separate account treatment. As a general matter, these requirements are substantially the same as in CFTC Letter No. 19–17, and in the First Proposal, except that the FCM may choose to engage in separate account treatment without a requirement that a DCO specifically authorize such treatment. As proposed, regulation § 1.44(c) provides that an FCM may, only during the ordinary course of business, as that term is defined in regulation § 1.44, treat the separate accounts of a separate account customer as accounts of separate entities for purposes of regulation § 1.44(b),¹⁶⁸ if such FCM elects to do so as specified in regulation § 1.44(d). Regulation § 1.44(c) further provides that an FCM that has made such an election shall comply with the risk-mitigating requirements set forth in proposed regulation § 1.44 and maintain written internal controls and procedures designed to ensure such compliance.

The Commission believes that permitting FCMs to treat the separate accounts of separate account customers as accounts of separate entities for purposes of regulation § 1.44(b), subject to the risk-mitigating requirements set forth in regulation § 1.44, accomplishes the CEA's purposes of promoting responsible innovation as well as effective customer fund protection and risk mitigation.¹⁶⁹ Compliance with those requirements can best be achieved if the FCM maintains written internal controls and procedures designed to ensure such compliance.

In its comment letter, ICE stated that it does not object to the specific requirements that would be imposed under proposed regulation § 1.44(c) where an FCM elects separate account treatment with respect to a customer.¹⁷⁰

The Commission did not receive any other comments specific to proposed regulation § 1.44(c). Accordingly, the Commission is adopting regulation § 1.44(c) as proposed.

G. Regulation § 1.44(d)

The Commission proposed regulation § 1.44(d) to provide that an FCM may

liquidating value for such an account should . . . be calculated as of the close of business on such holiday."

¹⁶⁸ As noted above, proposed regulation § 1.44(b) is intended to serve as an analog to regulation § 39.13(g)(8)(iii) for FCMs.

¹⁶⁹ See CEA §§ 3(b), 8a(5); *see also*, CEA section 4d(a)(2), 7 U.S.C. 6d(a)(2); CEA section 4d(f)(2), 7 U.S.C. 6d(f)(2); CEA section 4b(2)(A), 7 U.S.C. 6b(2)(A); CEA section 4f(b), 7 U.S.C. 6f(b).

¹⁷⁰ ICE Comment Letter.

elect to treat the separate accounts of a customer as accounts of separate entities for purposes of proposed regulation § 1.44(b). As proposed, regulation § 1.44(d)(1) provides that, to elect to treat the separate accounts of a customer as accounts of separate entities for purposes of regulation § 1.44(b), the FCM shall include the customer on a list of separate account customers maintained in its books and records, and that such list shall include both the identity of each separate account customer and the identity of each separate account of such customer. The FCM would also be required to keep this list current. Furthermore, as proposed, regulation § 1.44(d)(2) provides that, when an FCM first chooses to include a customer on a list of separate account customers, the FCM is required to provide, within one business day, notification of the election to allow separate account treatment for customers in accordance with the process specified in regulation § 1.12(n)(3).¹⁷¹ For the avoidance of doubt, the notification of such election would remain a one-time notification made the first time the FCM begins providing separate account notification for any customer. Successive notifications would not be required for each additional customer for which the FCM provides separate account treatment. Furthermore, the FCM would need only provide notification of the election and would not be required to include the identity of the separate account customer. The Commission believes that regulation § 1.44(d) is reasonably necessary to protect customer funds and mitigate systemic risk because it is designed to enable DSROs to effectively monitor and regulate FCMs that engage in separate account treatment, and to provide that FCMs will have the records necessary to understand which accounts receive separate account treatment for purposes of monitoring compliance with the proposed regulation.

In its comment letter, the JAC stated that a complete and accurate listing of separate accounts is critical to ensure that the Commission's risk mitigating requirements can be effectively carried out by an FCM, monitored by self-regulatory organizations (SROs) and the Commission for compliance with such requirements, and monitored by DCOs for customer gross margin reporting under proposed regulation § 39.13(g)(8)(i), and to assist DCOs and/or bankruptcy trustees in porting accounts in the event of an FCM's

¹⁷¹ See 17 CFR 1.12(n)(3).

insolvency.¹⁷² The JAC asserted that, currently, when such listing has been requested, certain FCMs offering separate account treatment under the no-action position of CFTC Letter No. 19–17 include all of the FCM's accounts or potential accounts on such listing rather than only those accounts “currently subject to separate account treatment (*i.e.*, beneficial owners that maintain more than one account at the FCM which are being treated separately).”¹⁷³ The JAC recommended that the Commission require only accounts currently receiving separate account treatment to be included on such listing to ensure proper focus and attention to the additional risks posed by separate account treatment, effective monitoring of reporting of separate accounts, and proper and efficient porting of separate accounts.¹⁷⁴ The JAC also recommended that the Commission require separate accounts to be clearly identified as such in the FCM's books and records, including on the separate account customer's statements to assist in ensuring a current, accurate, and complete listing of accounts receiving separate treatment.¹⁷⁵

The Commission notes that the recordkeeping requirement in regulation § 1.44(d)(1), described above, is substantially similar to the corresponding condition in CFTC Letter No. 19–17 that an FCM maintain a list of all separate accounts receiving separate account treatment, indicating the beneficial owner and account numbers of such accounts. For the avoidance of doubt, the Commission also believes that the recordkeeping requirement in regulation § 1.44(d)(1) as proposed is consistent with the JAC's comment. It requires an FCM that elects to treat separate accounts of a customer as accounts of separate entities for purposes of regulation § 1.44(b) to: (i) include the customer on a list of separate account customers maintained in its books and records; (ii) include on the list the identity of each separate account customer; (iii) include on the list the identity of each separate account of such customer; and (iv) keep the list current.

The definition of “separate account customer” in regulation § 1.44(a) is “a customer for which the [FCM] has made the election set forth in [regulation § 1.44(d)].” The FCM would thus be required to subject the customers on that list, as separate account customers, to the requirements of regulation § 1.44

for separate account treatment, including regulation § 1.44's one business day margin call standard.

In its comment letter, ICE opined that it would be appropriate for the Commission under proposed regulation § 1.44(d) to require an FCM to provide notice to DCOs of which it is a clearing member of accounts that are subject to separate account treatment, so that the DCO can comply with its obligations with respect to the margining of such accounts under regulation § 39.13(g).¹⁷⁶

The Commission designed the Second Proposal to codify the terms of the no-action position in CFTC Letter No. 19–17 in a manner directly applicable to FCMs and not through the instrumentation of DCO rules. The Commission notes that under the conditions of CFTC Letter No. 19–17, an FCM shall, on a one-time basis, provide notification to its *DSRO* if it will apply separate account treatment as provided for in the no-action position to any separate accounts. No such notification to a *DCO* was a condition of the no-action position and, because the Commission is modifying part 1 to apply a Margin Adequacy Requirement and requirements for separate account treatment directly to FCMs, the Commission views a requirement, imposed by the Commission, for an FCM to provide to a DCO of which it is a clearing member the one-time notification of commencement of separate account treatment as outside the scope of this rulemaking. The Commission further notes that a DCO has the discretion to put in place additional rules regarding information its clearing members must provide, and could choose to independently promulgate a requirement under DCO rules to provide notification to such DCO the first time an FCM begins separate account treatment for a customer.¹⁷⁷ Regulation § 39.13(g)(8)(iii), as amended by this final rulemaking, requires a DCO to have rules requiring that its clearing members do not withdraw funds from their accounts in a manner that would lead to or exacerbate an undermargining scenario, except as provided for in regulation § 1.44, and DCOs have discretion in how they choose to monitor for and enforce that requirement.

¹⁷⁶ ICE Comment Letter.

¹⁷⁷ See, e.g., ICE Clear Credit Rule 406(f) (“Each Participant shall provide such reports to ICE Clear Credit with respect to Non-Participant Parties and their related Client Related Positions and Non-Participant Collateral . . . upon request of ICE Clear Credit and upon such other basis, if any, as is provided in the ICE Clear Credit Procedures.”).

FIA requested that the Commission clarify that any clearing FCM that has already provided the notice required by proposed regulation § 1.44(d)(2) to its *DSRO* in compliance with the conditions of CFTC Letter No. 19–17 shall be deemed to have complied with the requirement of proposed regulation § 1.44(d)(2) that an FCM provide notification to its *DSRO* of the first time the FCM includes a customer on its list of separate account customers.¹⁷⁸

As discussed above, in addition to requiring an FCM to maintain a list of all separate accounts (indicating the beneficial owner and account numbers) receiving separate account treatment, CFTC Letter No. 19–17 requires as a condition to separate account treatment that an FCM shall, on a one-time basis, provide notification to its *DSRO* if it will apply separate account treatment to any separate accounts. As proposed, regulation § 1.44(d)(2) adds to this requirement that such notification shall be provided in accordance with the following conditions: (i) the first time that the FCM includes a customer on the list of separate account customers; (ii) within one business day; (iii) to the Commission (in addition to the *DSRO*); and (iv) in accordance with the process specified in regulation § 1.12(n)(3). With respect to the one-time notification that the FCM is required to provide to its *DSRO*, the Commission recognizes that the requirements of regulation § 1.44(d)(2) are, in the main, substantially the same as those in the corresponding condition of CFTC Letter No. 19–17. Notwithstanding the timing and manner requirements of regulation § 1.44(d)(2) as proposed, recognizing that FCMs have successfully applied separate account treatment under the conditions of CFTC Letter No. 19–17 for over five years, the Commission confirms that a clearing FCM that has already provided to its *DSRO* the one-time notification of commencement of separate account treatment pursuant to the no-action conditions of CFTC Letter No. 19–17 shall be deemed to have complied with the analogous requirement of regulation § 1.44(d)(2).

Having considered comments received with respect to proposed regulation § 1.44(d), the Commission is adopting regulation § 1.44(d) as proposed.

H. Regulation § 1.44(e)

As proposed, regulation § 1.44(e) enumerates events that would be inconsistent with the ordinary course of business, as that term is defined in regulation § 1.44(a), and sets forth

¹⁷⁸ FIA Comment Letter.

¹⁷² JAC Comment Letter.

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

requirements related to the cessation and resumption of permitting disbursements on a separate account basis upon, respectively, the occurrence and cure of certain non-ordinary course of business events. Each of these events would raise important concerns about the financial resiliency of the FCM or one or more of its separate account customers.¹⁷⁹ As discussed above with respect to regulation § 1.44(a), the list of events in regulation § 1.44(e) will be the exclusive set of events that are inconsistent with the ordinary course of business for purposes of regulation § 1.44.

These events are divided into two categories: (i) events that concern the separate accounts of a particular separate account customer, the occurrence of any one of which would require the FCM to cease permitting disbursements on a separate account basis with respect to all accounts of that customer; and (ii) events that concern the financial status of the FCM itself, and the occurrence of any one of which would require the FCM to cease permitting disbursements on a separate account basis with respect to all of its separate account customers.

Significantly, while a separate account customer is outside the ordinary course of business as defined in regulation § 1.44(a), only the privilege of permitting disbursements on a separate account basis, pursuant to regulation § 1.44(c), is terminated (or suspended). So long as a customer remains a separate account customer, whether or not within the ordinary course of business, then the FCM is required to comply with the requirements of regulation § 1.44, including with respect to the relevant provisions addressed in regulations §§ 1.17, 1.20, 1.22, 1.23, 1.32, 1.55, 1.58, 1.73, 22.2, 30.7, and 39.13(g)(8)(i) regarding that customer and all of that customer's separate accounts. Similarly, if it is the FCM that is outside the ordinary course of business, it is only the privilege of permitting disbursements on a separate account basis with respect to any of the FCM's separate account customers and their separate accounts that is terminated (or suspended). The FCM continues to be

required to comply with the requirements in regulation § 1.44, including with respect to the relevant provisions described above, with respect to its separate account customers and their separate accounts. Thus, for the avoidance of doubt, a separate account customer that is outside the ordinary course of business is still a separate account customer.

The first category of events is as follows:

- (1)(i) The separate account customer, including any separate account of such customer, fails to deposit initial margin or maintain maintenance margin or make payment of variation margin or option premium as specified in proposed regulation § 1.44(f).¹⁸⁰
- (ii) The occurrence and declaration by the FCM of an event of default as defined in the account documentation executed between the FCM and the separate account customer.
- (iii) A good faith determination by the FCM's CCO, one of its senior risk managers, or other senior manager, following such FCM's own internal escalation procedures, that the separate account customer is in financial distress, or there is significant and bona fide risk that the separate account customer will be unable promptly to perform its financial obligations to the FCM, whether due to operational reasons or otherwise.
- (iv) The insolvency or bankruptcy of the separate account customer or a parent company of such customer.
- (v) The FCM receives notification that a board of trade, a DCO, an SRO as defined in regulation § 1.3 or section 3(a)(26) of the Securities Exchange Act of 1934, the Commission, or another regulator¹⁸¹ with jurisdiction over the separate account customer, has initiated an action¹⁸² with respect to such customer based on an allegation that the customer is in financial distress.
- (vi) The FCM is directed to cease permitting disbursements on a separate account basis, with respect to the separate account customer, by a board of trade, a DCO, an SRO, the Commission, or another regulator with jurisdiction over the FCM, pursuant to, as applicable, board of trade, DCO, or SRO rules, government regulations, or law.

The second set of events is as follows:

- (2)(i) The FCM is notified by a board of trade, a DCO, an SRO, the Commission, or another regulator with jurisdiction over the FCM, that the board of trade, the DCO, the SRO, the Commission, or other regulator, as applicable, believes the FCM is in financial or other distress.

- (ii) The FCM is under financial or other distress as determined in good faith by its CCO, senior risk managers, or other senior management.

- (iii) The insolvency or bankruptcy of the FCM or a parent company of the FCM.

As proposed, regulation § 1.44(e)(3) provides that the FCM must provide notice to its DSRO and to the Commission of the occurrence of any of the events terminating (or suspending) disbursements on a separate account basis for one or more separate account customers. The notice must be provided to the DSRO and the Commission in accordance with the process specified in regulation § 1.12(n)(3). The notice also must identify the event and, if applicable, the customer. The FCM is required to provide such notice promptly in writing no later than the next business day following the date on which the FCM identifies or has been informed that the relevant event has occurred. The notification required upon exiting the ordinary course of business is intended to ensure that the Commission and DSROs will be apprised of the occurrence of non-ordinary course of business events, so that they may actively communicate with and monitor an FCM with respect to the resolution of such events (*e.g.*, where an FCM attempts to establish that its customer has reentered ordinary course of business conditions).

Regulation § 1.44(e)(4), as proposed, provides an avenue for an FCM that has experienced a non-ordinary course of business event with respect to itself or a customer to return to the ordinary course of business and resume disbursements on a separate account basis for itself or its customers, as may be the case. Regulation § 1.44(e)(4) provides that an FCM that has ceased permitting disbursements on a separate account basis to a separate account customer due to the occurrence of a non-ordinary course of business event, with respect to that specific separate account customer, or with respect to all such customers, may resume permitting disbursements to such customer(s) on a separate account basis if such FCM reasonably believes, based on new information, that those circumstances triggering the event have been cured, and such FCM documents in writing the factual basis and rationale for its

¹⁷⁹ For example, while the bankruptcy of an FCM or a separate account customer would have direct effects, the bankruptcy of an FCM's or separate account customer's parent company would also portend financial challenges for, respectively, the FCM or separate account customer (*e.g.*, if the parent company decided to liquidate its subsidiaries in bankruptcy). Experience in the bankruptcies of, *e.g.*, Refco and Lehman, demonstrates that when one member of an affiliate financial company structure files for bankruptcy, other affiliates soon follow.

¹⁸⁰ *I.e.*, the one business day margin call requirement.

¹⁸¹ *E.g.*, the SEC or a foreign regulator.

¹⁸² In this context, the term "initiate an action" is intended to include the filing of a complaint or a petition to take action against an entity, or an analogous process. The initiation or conduct of an investigation would not be sufficient to constitute "initiating an action" in this context.

conclusion. However, regulation § 1.44(e)(4) also provides that, if the circumstances triggering cessation of such treatment were an action or direction by a board of trade, a DCO, an SRO, the Commission, or another regulator with jurisdiction over the separate account customer or the FCM, then cure of those circumstances would require the withdrawal or other appropriate termination of such action or direction by that entity.

That permitting disbursements on a separate account basis should be discontinued (or at least suspended) under certain circumstances is reflected in CME's recommendation, preceding issuance of CFTC Letter No. 19–17, that disbursements on a separate account basis be permitted only during the ordinary course of business. As CME explained, FCMs should maintain the flexibility to determine that either the customer or the FCM itself is in distress and “pause” disbursements until the customer's other account can demonstrably meet the call to deposit funds.¹⁸³ Similarly, as CME noted, an FCM should not be purposely releasing funds to a customer when the customer's overall account is in deficit, as doing so may create a shortfall in segregated, secured, or Cleared Swaps Accounts in the event the FCM becomes insolvent.¹⁸⁴

However, the Commission acknowledges that in some instances, an FCM or customer may exit a state of financial, operational, or other distress, such that resumption of separate account disbursements would be appropriate. By explicitly providing FCMs with an avenue to resume disbursements on a separate account basis consistent with the resumption of the ordinary course of business, the Commission seeks to ensure that a temporary departure from the ordinary course of business, once remedied, does not continue to preclude an FCM from applying (and a customer from having applied to its accounts) separate account treatment, and to incentivize transparency between FCMs and their DSROs and Commission staff with respect to conditions at the FCMs or customers that could indicate operational or financial distress and, more generally, the risk management program at the FCM.

Regulation § 1.44(e) is designed to ensure that disbursements are permitted on a separate account basis only during the routine operation of the FCM's business relationship with its customer. Certain events signaling financial or

operational distress of the FCM or customer are inconsistent with the normal operation of the business relationship between the FCM and its customer. The Commission believes that, when such events occur, and throughout the duration of their occurrence, suspending FCMs' ability to provide disbursements on a separate account basis with respect to the Margin Adequacy Requirement is reasonably necessary to protect customer funds and mitigate systemic risk, and to effectuate section 4d of the CEA.

The JAC, noting the passage of time since the Divisions issued CFTC Letter No. 19–17, requested that the Commission provide examples of non-enumerated events that would constitute operating outside the ordinary course of business, so that FCMs and their customers can better understand the circumstances in which disbursements on a separate account basis are not permitted.

In the Second Proposal, the Commission proposed to define the “ordinary course of business” as the “standard day-to-day operation of the futures commission merchant's business relationship with its separate account customer,” based on the similar definition in CFTC Letter No. 19–17 (“standard day to day operation of the FCM's business relationship with its customer”). Although in both CFTC Letter No. 19–17 and proposed regulation § 1.44(e) the Commission set forth events that it would consider inconsistent with the ordinary course of business, the Commission acknowledges that the Second Proposal's proposed definition of “ordinary course of business” in conjunction with the list of events inconsistent with the ordinary course of business in proposed regulation § 1.44(e) may have resulted in confusion regarding the scope of events that the Commission will consider inconsistent with the ordinary course of business for purposes of regulation § 1.44(a).

As discussed above in connection with SIFMA–AMG's comment related to the definition of “ordinary course of business” in regulation § 1.44(a), the Commission is modifying the proposed definition of “ordinary course of business” in regulation § 1.44(a) to make clear that regulation § 1.44(e) contains the complete list of events that, for purposes of regulation § 1.44, would cause a separate account customer or an FCM providing separate account treatment to fall outside the ordinary course of business, such that the FCM would need to cease providing disbursements on a separate account basis for one or more customers.

Therefore, only the events specifically enumerated in regulation § 1.44(e) would place a separate account customer or an FCM providing separate account treatment outside the ordinary course of business, as defined in regulation § 1.44(a).

ICE, in its comment letter, stated that it did not object to the list of events that would be inconsistent with the ordinary course of business in proposed regulation § 1.44(e).

The Commission did not receive any other comments directly related to proposed regulation § 1.44(e).¹⁸⁵ Accordingly, the Commission is adopting regulation § 1.44(e) as proposed.¹⁸⁶

I. Regulation § 1.44(f)

The Commission proposed regulation § 1.44(f) to require that each separate account must be on a one business day margin call, subject to certain requirements designed to further define what constitutes a one business day margin call. Providing for a one business day margin call, as defined in this regulation § 1.44(f), ensures that margin shortfalls are timely corrected, and that a customer's inability to meet a margin call is timely identified. However, in certain circumstances, it may be impracticable for payments to be received on a same-day basis due to the mechanics of international payment systems (e.g., time zones and schedules of correspondent banks). In promulgating requirements to define timely payment of margin for purposes of the standard set forth in proposed regulation § 1.44(f), the Commission seeks to establish requirements that reflect industry best practices among FCMs and customers.¹⁸⁷ The

¹⁸⁵ Comments with respect to the Commission's proposed definition of “ordinary course of business,” set forth in regulation § 1.44(a), are addressed above in connection with that section.

¹⁸⁶ As a matter of internal consistency and clarity, because proposed regulation § 1.44(e)(4) concerns the resumption of disbursements on a separate account basis following a cessation of such treatment due to non-ordinary course of business conditions, the Commission is making a change in final regulation § 1.44(e)(4), to substitute “disbursements on a separate account basis” for “separate account treatment,” in providing, “If the circumstances triggering cessation of *disbursements on a separate account basis* were an action or direction by one of the entities described in paragraphs (e)(1)(v) or (vi), or paragraph (e)(2)(i), of this section, then the cure of those circumstances would require the withdrawal or other appropriate termination of such action or direction by that entity.”

¹⁸⁷ An analysis by FIA indicated that, for the FCMs studied, on average more than 90% of margin deficits were collected by the close of business on the day following the market movements creating such deficits. For a majority of the FCMs studied, 95% of margin deficits were collected by that time. See Letter from Barbara Wierzinski, General

¹⁸³ CME Letter.

¹⁸⁴ *Id.*

Commission believes that regulation § 1.44(f) is reasonably necessary to protect customer funds and mitigate systemic risk, and to effectuate CEA section 4d, because it is designed to limit the time in which accounts receiving separate treatment may be undermargined, and to do so in a manner that takes into consideration the way in which that period may be affected by factors such as time zones, international banking conventions, and (to an appropriate extent) holidays.

Specifically, the Commission understands that, although margin calls made in the morning in the U.S. Eastern Time Zone (ET) are typically capable of being met on a same-day basis when margin is paid in United States dollars (USD) and CAD, the operation of time zones and banking conventions in other jurisdictions may necessitate additional time when margin is paid in other currencies. For example, the Commission understands, based on discussions with market participants, that margin paid in Japanese yen (JPY) and certain other currencies is typically received two business days after a margin call is issued, and margin paid in British pounds (GBP), euros (EUR), and certain other non-USD/CAD/JPY currencies is typically received one business day after a margin call is issued.

In connection with proposed regulation § 1.44(f), the Commission requested comment (as Question 6) regarding whether, in light of changes made in the Second Proposal relative to the First Proposal, the regulatory framework set forth in proposed regulation § 1.44(f) appropriately balances practicability and burden with risk management, as well as: (i) if not, what alternative approach should be taken; and (ii) how such an alternative approach would better balance practicability and burden with risk management. As part of this request, the Commission requested comment on whether the standard of timeliness for a one business day margin call set forth in proposed regulation § 1.44(f) presented practicability challenges and, if so, what those challenges would be, and how the proposed standard of timeliness could be improved. The Commission considers the comments received in response to the margin payment timing requirements set forth in proposed regulation § 1.44(f)(1)–(3), and other provisions of proposed regulation

§ 1.44(f) that modify those requirements in certain circumstances, to be generally responsive to this question. The Commission discusses these comments below.

As proposed, regulation § 1.44(f)(1) provides that, except as explicitly provided in regulation § 1.44(f), if, as a result of market movements or position changes on the previous business day, a separate account is undermargined (*i.e.*, the undermargined amount for the account is greater than zero), then the FCM shall issue a margin call for that separate account for at least the amount necessary for the separate account to meet the initial margin required by the applicable exchanges or clearing organizations (including, as appropriate, the equity component or premium for long or short option positions) for the positions in the separate account.¹⁸⁸ Such call must be met by the applicable separate account customer no later than the close of the Fedwire Funds Service on the same business day, consistent with the industry standard for when 90–95% of margin deficits are cured.¹⁸⁹

In light of challenges to same-day settlement posed by margining in certain currencies, as described above, and in recognition of the particular banking conventions around payments in other currencies, the Commission proposed regulation § 1.44(f)(2) to provide that payment of margin in certain currencies listed in proposed Appendix A to part 1 shall be considered in compliance with the requirements of regulation § 1.44(f) provided they are received by the applicable FCM no later than the end of the second business day after the day on which the margin call is issued.

The Commission also proposed regulation § 1.44(f)(3), which provides that payment of margin in fiat

currencies other than USD, CAD, or the currencies listed in proposed Appendix A to part 1 shall be considered in compliance with the requirements of regulation § 1.44(f) if received by the applicable FCM no later than the end of the business day after the business day on which the margin call was issued.

In the Commission's view, a "one business day margin call" should be defined beyond the term itself, in light of the effect of time zones and international banking conventions that may cause a customer to be unable to meet a call for margin in certain currencies on the day the margin call is issued. Although FCMs may ensure that margin calls are generally met within one business day, for purposes of separate account treatment, the Commission wishes to ensure that such margin calls are (subject to specified exceptions) always met on a one business day basis. The Commission also notes that, with respect to the calculation of balances in customers' accounts and the undermargined amount which the FCM must include in its residual interest and LSOC compliance calculations, such figures would be calculated on a separate account basis, as discussed herein.¹⁹⁰

The Commission received several comments with respect to the margin payment timing framework for separate accounts set forth in proposed regulation § 1.44(f)(1)–(3).

As discussed above in connection with regulation § 1.44(a), the JAC contended that the Commission's proposed definition of the term "undermargined amount" would be inconsistent with existing industry practice and the guidance for calculating a margin call in the JAC Margins Handbook. As with respect to other provisions of proposed regulation § 1.44 that use or otherwise rely on the term "undermargined amount," the JAC contended that the margin call required under proposed regulation § 1.44(f)(1) would be similarly inconsistent with industry practice and JAC guidance.¹⁹¹ In doing so, the JAC reiterated its comment that the Second Proposal's definition of "undermargined amount" would require FCMs to compute margin calls for separate accounts as required under proposed regulation § 1.44(f)(1) whereas FCMs would be required to

¹⁸⁸ The undermargined amount is based on maintenance margin, which may be lower than initial margin. However, if an account falls below the maintenance margin level, the amount of the margin call is generally required to be the amount necessary to bring the account back to the (potentially higher) initial margin level.

¹⁸⁹ The Fedwire Funds Service is an electronic funds transfer service commonly used for settlement and clearing arrangements. The service currently closes at 7:00 p.m. ET. For purposes of the Fedwire Funds Service, Federal Reserve Banks observe as holidays all Saturdays, all Sundays, and the holidays listed on the Federal Reserve Banks' Holiday Schedules. See The Federal Reserve, Fedwire® Funds Service and National Settlement Service Operating Hours and FedPayments® Manager Hours of Availability, available at <https://www.frb-services.org/resources/financial-services/wires/operating-hours.html>. Because the Fedwire Funds Service hours of operations may be subject to change, the Commission has determined to tie the timeframe to fulfill the one business day margin call requirements of proposed regulation § 1.44(f) to the Fedwire Funds Service's closing rather than an absolute time.

¹⁹⁰ See, e.g., JAC, Regulatory Alert, #18–02, at 2, June 6, 2018 (discussing undermargined accounts), regulation § 1.44(g)(5).

¹⁹¹ JAC Comment Letter. The JAC stated that, currently, FCMs calculate a margin call using the following formula: Initial Margin Requirement—Margin Equity—Outstanding Margins Calls = [a positive balance represents the amount of margin call to be issued]. *Id.*

Counsel, FIA, to Melissa Jurgens, Secretary, CFTC, Costs of the Proposed Residual Interest Requirement Compared to the FIA Alternative, at 3, available at <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=59283&SearchText=FIA>.

compute margin calls differently for non-separate account customers.¹⁹²

As discussed above in connection with regulation § 1.44(a), the Commission is modifying the definition of “undermargined amount” to remove the language that the Commission believes created the identified inconsistency and confirm that the Commission considers either of the Net Liquidating Value or Total Equity methods set forth in the JAC Margins Handbook to be consistent with the definition of “undermargined amount” that the Commission is adopting.

SIFMA-AMG urged the Commission to rescind the one business day margin call standard set forth in proposed regulation § 1.44(f)(1)–(3).¹⁹³ SIFMA-AMG contended that the Second Proposal does not adequately appreciate the differences in operational workflows and risk management processes currently in place and how they may differ depending on markets, products, clients, custodians, and fund structures.¹⁹⁴ Specifically, SIFMA-AMG disagreed with the Commission’s proposal to require same-day margin calls to be met regardless of the time the FCM issues them.¹⁹⁵ SIFMA-AMG noted that, for example, a 3:00 p.m. margin call would be required to be met on a same-day basis under proposed regulation § 1.44(f)(1), which would not happen in the normal course of business.¹⁹⁶ According to SIFMA-AMG, depending on how late in the day an FCM issued the margin call, managers may not be capable of meeting the call on a same-day basis, due in part to the time needed for managers, as fiduciaries, to validate the margin calls and instruct payments from the separate account clients’ custodians globally, who may impose earlier cutoff times to meet same-day margin transfers or be subject to different time zones and business days.¹⁹⁷ Instead, SIFMA-AMG argued, the Commission’s timing requirements for meeting margin calls should take into account the agreed call time in documents between FCMs and customers.¹⁹⁸ In SIFMA-AMG’s view, the Commission’s proposal represents a prescriptive framework around timing and deadlines for meeting margin calls that would eliminate the operational flexibility originally provided in CFTC Letter No. 19–17, and a one business day margin call should be deemed met

so long as it is issued by the cutoff time agreed between the FCM and its customer.¹⁹⁹

ICE, in its comment letter, noted it did not object to the proposed one business day margin call standard as it would apply to FCMs.²⁰⁰

The Commission proposed regulation § 1.44(f), particularly the margin payment timing framework set forth in regulation § 1.44(f)(1)–(3), to more clearly define the concept of a “one business day margin call,” as that term is used in CFTC Letter No. 19–17. CFTC Letter No. 19–17 provided, among other conditions for separate account treatment, that: (i) each separate account must be on a one business day margin call; (ii) situations of administrative error or operational constraints which prevent the call from being met within a one-day period will not be considered a violation of such condition; and (iii) in no case can customers and FCMs contractually arrange for longer than a one business day period for a margin call to be met. The Commission notes that the no-action conditions of CFTC Letter No. 19–17 would thus appear to unambiguously provide that a margin call in a separate account must be met within one business day, but do not explicitly address certain practical challenges in applying such a standard, such as how an FCM shall make, and a customer shall meet, a call for margin paid in a currency that an FCM may be unable to practicably receive on the same (or in some cases next) business day. Although SIFMA-AMG appears to interpret this silence as promoting operational flexibility, the Commission believes it may confuse FCMs as to their obligations with respect to the margining of separate accounts, and may result in interpretations that are inconsistent with the Commission’s customer funds protection and risk management goals in providing for the separate treatment of accounts.

Furthermore, although regulation § 1.44(f)(1)–(3) require a margin call to be met on a one business day basis, as set forth in regulation § 1.44(f)(1)–(3), regardless of the time the call is issued, the Commission did not prescribe a time by which a margin call must be issued, recognizing that there may be legitimate operational reasons as to why an FCM may need to issue margin calls to different separate account customers at different times. The margin call contemplated by regulation § 1.44(f)(1)–(3) is based on market movements or changes in positions on the previous business day, not as of the day of the

call itself.²⁰¹ The Commission proposed this standard to provide a clear cutoff time for the determination of a margin call, and to allow a margin call to be reasonably made and met on a one-day basis, based on the Commission’s understanding that margin calls to address market movements or changes in positions on a given day are typically issued early on the next business day. For the avoidance of doubt, FCMs and customers may agree on the time the margin call required by regulations § 1.44(f) should be made. If the call is not made timely due to administrative error or operational constraint as set forth in regulation § 1.44(f)(5), discussed below, then such failure would not be deemed a violation of regulation § 1.44’s one business day margin call standard. However, to require, as SIFMA-AMG suggests, only that a margin call be met if issued by the cutoff time agreed between the FCM and its customer, would be to effectively allow FCMs and customers to interpret the one business day period on a customer-by-customer basis. This would be contrary to the Commission’s goal of providing clear standards around the timely payment of margin to prevent separate accounts from becoming undermargined, which is at the core of the Commission’s risk-mitigation goals.

Accordingly, the Commission is adopting regulation § 1.44(f)(1)–(3) as proposed.

The occurrence of a foreign holiday during which banks are closed may also create difficulties in the payment of margin in a fiat currency other than USD. Therefore, the Commission proposed regulation § 1.44(f)(4), which, as proposed, states that the relevant deadline for payment of margin in fiat currencies other than USD may be extended by up to one additional business day and still be considered in compliance with the requirements of

²⁰¹ For the avoidance of doubt, an FCM may also, in its discretion, issue a call for margin based on same-day market movements or changes in positions. The FCM could, consistent with regulation § 1.44(f)(1), make that call due either same-day or next-day. For example, under regulation § 1.44(f)(1), the FCM would be required to make and collect, on Tuesday, a call for margin based on market movements and changes of positions on Monday. If the FCM determines to issue an additional margin call on Tuesday based on market movements (or changes in positions, or volatility, or other factors) on Tuesday, § 1.44(f)(1) would require that that call be collected *no later than* close of Fedwire on Wednesday. However, the FCM could, in its discretion (in what would likely be an unusual case) make that supplemental call also due on Tuesday (or some earlier point in time on Wednesday). If that additional margin call does not cover the margin required for all of Tuesday’s market movements and changes in positions, then the FCM would be required to issue (and collect) a margin call for the difference on Wednesday.

¹⁹² *Id.*

¹⁹³ SIFMA-AMG Comment Letter.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ ICE Comment Letter.

proposed regulation § 1.44(f) if payment is delayed due to a banking holiday in the jurisdiction of issue of the currency. In effect, as proposed, regulation § 1.44(f)(4) provides one additional business day for each nonconsecutive holiday in the jurisdiction of issue of the currency in which margin is to be paid. As proposed, regulation § 1.44(f)(4) also provides that, for payments of margin in EUR specifically, either the separate account customer or the investment manager managing the separate account may designate one country within the Eurozone with which they have the most significant contacts for purposes of meeting margin calls in that separate account, the banking holidays of which shall be referred to for such purpose.²⁰²

The Commission designed regulation § 1.44(f)(4) to provide FCMs with a level of discretion in how they manage risk by allowing an FCM to *permit* limited delays in margin payments due to non-U.S. banking conventions. Regulation § 1.44(f)(4) would not, however, *require* an FCM to extend the deadline for payments of margin. In this manner, the Commission sought to allow FCMs to exercise risk management judgment in balancing, within limits, the risk management challenges caused by extending the time before a margin call is met with the burdens involved in requiring the client or asset manager to prefund potential margin calls in advance of the holiday or to arrange to pay margin more promptly in USD or another currency not affected by the holiday. The Commission expected that FCM risk management decisions, including the use of any extension permitted under regulation § 1.44(f)(4), will be made in consideration of relevant risk management factors; *e.g.*, a client's risk profile and market conditions, evaluated at the time the risk management decisions are made.²⁰³

²⁰² With respect to margin payments in EUR, proposed regulation § 1.44(f)(4) was intended to prevent customers or asset managers from leveraging banking holidays in a multiplicity of jurisdictions, to circumvent requirements to pay margin timely.

²⁰³ This expectation is consistent with the statement of the directors of DCR and DSIO in issuing CFTC Letter No. 19–17, CFTC, Statement by the Directors of the Division of Clearing and Risk and the Division of Swap Dealer and Intermediary Oversight Concerning the Treatment of Separate Accounts of the Same Beneficial Owner, Sept. 13, 2019, available at <https://www.cftc.gov/PressRoom/SpeechesTestimony/dcrdsiodirectorstatement091319> (“We fully expect that DCOs and FCMs and their customers will agree that FCMs must retain, at all times, the discretion to determine that the facts and circumstances of a particular shortfall are extraordinary and therefore necessitate accelerating the timeline and relying on the FCM's protocol for liquidation or for accessing funds in the other accounts of the beneficial owner held at the

In the Second Proposal, with respect to proposed regulation § 1.44(f)(4), the Commission requested comment (as Question 7) regarding whether commenters believe it will be impracticable to comply with proposed regulation § 1.44(f)(4), as that section pertains to payment of margin in EUR, including examples of operational or other challenges that would result in such impracticability. To the extent commenters have such practicability concerns, the Commission requested comment regarding how, in the alternative, the Commission should seek to achieve its goal of preventing evasion of the one business day margin call standard, in light of differing banking holidays within the national jurisdictions that comprise the Eurozone. The Commission considers the comments received in response to proposed regulation § 1.44(f)(4) to be responsive to this question.

With respect to proposed regulation § 1.44(f)'s provisions regarding payment of margin in connection with Eurozone holidays, FIA stated it does not believe motives of leveraging banking holidays in a multiplicity of jurisdictions to circumvent margin payment timing requirements are practicable or can be fairly ascribed to the institutional asset owners and money managers whom, according to FIA, comprise the predominant part of the group of customers who rely on separate account margining.²⁰⁴ FIA contended that proposed regulation § 1.44(f)(4) would be unworkable, asserting that all investment managers and many separate account customers maintain custodial arrangements in multiple Eurozone jurisdictions and will be affected by local public holidays, which vary widely across the Eurozone.²⁰⁵

FIA noted, for example, that where a European state pension fund contracts with two unaffiliated institutional money managers based in France (*i.e.*, two separate accounts of the same customer), and custodies funds for one mandate with a bank in France and for the other with a bank in Germany, and both managers designate France as their jurisdiction of most significant contacts, an asset manager whose custodian is in Germany will have no way of settling a EUR call received from an FCM on October 3, which is German Unity Day, a national holiday; and, under regulation § 1.44(f)(4), as proposed, the FCM is prohibited from extending the benefit of a one business day extension

FCM.”) See also CFTC Letter No. 20–28 (stating the same).

²⁰⁴ FIA Comment Letter.

²⁰⁵ *Id.*

to the separate account.²⁰⁶ FIA noted that asset owners typically hardwire separate investment mandates to separate custodial arrangements, and do not expect to be involved in settling margin calls arising in connection with those separate mandates.²⁰⁷ Therefore, FIA argued, in this example, the German custodian would not be able to pass the margin call to the French custodian or directly onto the pension fund.²⁰⁸

Furthermore, FIA asserted, FCMs would incur operational risk in having to track the Eurozone holiday preferences of hundreds or thousands of separate accounts, and FCMs will need to deploy new margin day counting systems and protocols, including new coding for automated systems.²⁰⁹ FIA further contended that, where such systems are automated, the workflows imposed under the proposed regulation would likely result in the need for more manual handling, which increases the risk of operational error.²¹⁰ FIA recommended that the Commission revise proposed regulation § 1.44(f)(4) to specify that, with respect to payments in EUR, the banking holidays of any jurisdiction within the Eurozone with which either the separate account customer or the investment manager managing the separate account has significant contacts shall be referred to for purposes of receiving the benefit of a one business day extension of an EUR-denominated margin call in consideration of non-U.S. local banking holidays.²¹¹

Additionally, with respect to proposed regulation § 1.44(f)(4)'s provision for one additional business day to meet a margin call in non-USD fiat currency to account for non-U.S. banking holidays, FIA noted that a growing number of FCM institutional clients, managers, and custodians are based in jurisdictions where there may be consecutive holidays.²¹² In FIA's view, limiting the extension available to such clients to a single business day forces the FCM to choose between suspending disbursements on a separate account basis simply due to holidays in the client's jurisdiction and exercising its discretion not to suspend disbursements on a separate account basis in the absence of any other reason to do so, thereby risking disciplinary action by the Commission or the FCM's

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ *Id.*

²¹⁰ *Id.*

²¹¹ *Id.*

²¹² *Id.*

DSRO.²¹³ FIA urged the Commission to revise proposed regulation § 1.44(f)(4) to provide that the deadline for payment of margin in non-USD fiat currencies may be extended to the next business day following any banking holiday in the jurisdiction of issue of the currency and still be considered in compliance with the requirements of regulation § 1.44(f) if payment is delayed due to such banking holiday.²¹⁴

SIFMA-AMG asserted it would be impractical for FCMs to comply with proposed regulation § 1.44(f), and further asserted that there does not appear to be data or analysis to support the Commission's position.²¹⁵ SIFMA-AMG contended that, although the Commission considers technical margin deficit scenarios from global business that regularly navigate U.S. and non-U.S. bank holidays, it does not consider that firms may plan for expected events, such as Golden Week in Japan,²¹⁶ by pre-funding accounts.²¹⁷ According to SIFMA-AMG, under the Commission's proposal, such an approach would be unmanageable and unsustainable and would impose a regulatory burden without a corresponding public policy benefit.²¹⁸

SIFMA-AMG argued that requiring clients posting cash margin in EUR to choose a country in the Eurozone and follow its holiday schedule would, in the event different managers for the same client choose different Eurozone countries, require the overhaul of agreements and burden FCMs with additional monitoring responsibilities.²¹⁹ SIFMA-AMG recommended that the Commission provide greater flexibility to allow for better risk management, asserting that, by avoiding having to navigate the bank holidays of two different countries, a clearing member can appropriately manage its risk based on its business and customers.²²⁰

SIFMA-AMG stated that the base currency, custodian, and overall global nature of investing complicate efforts to pre-fund ahead of known holidays.²²¹ SIFMA-AMG noted that, typically, margin payments are made in the base currency of a fund, or the client and the FCM effectuate single currency margining and the asset manager then

repatriates foreign currency balances.²²² SIFMA-AMG asserted that this process has been successfully implemented and that the Commission should not attempt to establish or require particular methods of achieving these goals.²²³

SIFMA-AMG stated that, when a global holiday approaches, firms are asked by FCMs to prefund anticipated, expected initial and/or variation margin, resulting in overcollateralization.²²⁴ SIFMA-AMG asserted that prefunding margin is more operationally risky, particularly when scaled across multiple jurisdictions and with a global client base, because: (i) overcollateralization places excess risk at the FCM; (ii) it is impractical to attempt to estimate what other market moves will be in order to proactively overcollateralize and post margin; (iii) different custodians have different cutoff times, which may not be met ahead of a holiday; and (iv) prefunding leads to an inefficient process of having to be credited back payments as opposed to paying what is owed on a daily basis.²²⁵ SIFMA-AMG asserted that with large, separate accounts, there is always margin on hand to meet volatile market movements, and requiring prefunding as a precaution may be unnecessary because of a firm's ability to pay cash when needed.²²⁶ SIFMA-AMG also contended that the Commission's belief that firms might use holidays to gain a benefit with respect to required margin is misguided and impractical.²²⁷

Additionally, SIFMA-AMG stated the Commission's Second Proposal does not consider the product and foreign currency associated with a particular trade, noting that a client may always be behind on margin due to the client's or fund's location, the client custodian, the product traded, and the clearinghouse.²²⁸ SIFMA-AMG stated the Commission's regulations should consider all parties involved in a transaction, such as the FCM, asset manager, clearinghouse, product, and foreign currency associated with a particular trade.²²⁹

SIFMA-AMG requested that, to the extent the Commission is considering the deadline for payment of margin in non-USD fiat currencies may be extended by up to one additional business day and still be considered in

compliance with proposed regulation § 1.44(f) if payment is delayed due to a banking holiday in the jurisdiction of issue of the currency, the Commission confirm that initiating a transfer on the same day would suffice to meet the requirement.²³⁰

SIFMA-AMG contended FCMs should have discretion to consider a deposit as pending in a customer's account, consistent with JAC Regulatory Alert #14-03.²³¹ Specifically, SIFMA-AMG argued, if the FCM has a sufficient basis to believe the wire was actually initiated, and based on its experience with the customer and its normal course of business and consistent with its risk management program, then the FCM should have discretion to treat the margin as received and credited to a customer's margin equity.²³² Otherwise, SIFMA-AMG stated, the Commission should consider same-day initiation of a transfer as an alternative to a grace or cure period to demonstrate compliance with proposed regulation § 1.44(f).²³³ SIFMA-AMG stated that utilizing the time of initiation would effectively build into the regulation notice that payment was not received, the cure for which would be confirmation that the payment was initiated.²³⁴

In MFA's comment letter, MFA opined that the manner in which the Second Proposal defined "business day" provided appropriate extensions of time for circumstances in which U.S. markets are open, but the day is a holiday in a non-U.S. jurisdiction.²³⁵

The Commission is adopting regulation § 1.44(f)(4) with modifications in light of comments received.

Specifically, final regulation § 1.44(f)(4) provides, in its first sentence, "The relevant deadline for payment of margin in fiat currencies other than U.S. Dollars may be extended to the next business day following any banking holiday in the jurisdiction of issue of the currency, and still be considered in compliance with the requirements of this paragraph (f) if payment is delayed due to such banking holiday." Accordingly, final regulation § 1.44(f)(4) provides an extension to meet margin calls in non-USD fiat currency during consecutive holidays.

Furthermore, in final regulation § 1.44(f)(4), the Commission eliminates the proposed provision regarding payments in EUR that a would have

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ SIFMA-AMG Comment Letter.

²¹⁶ A period from April 29 to May 5 containing multiple public holidays.

²¹⁷ SIFMA-AMG Comment Letter.

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ *Id.*

²²² *Id.*

²²³ *Id.*

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ *Id.*

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.*

²³⁵ MFA Comment Letter.

required the identification of the jurisdiction within the Eurozone with which either the separate account customer or the relevant asset manager has the most significant contacts; the banking holidays of which would be referred to for purposes of receiving a one-day extension for EUR-denominated payments.

The Commission views the one business day margin call standard set forth in regulation § 1.44(f) as a fundamental measure for mitigating the risk to an FCM and its omnibus customer accounts for futures, Cleared Swaps, or foreign futures and foreign options, as it limits the time in which a customer's separate account may be undermargined. However, noting that, in codifying the no-action position of CFTC Letter No. 19–17, the Commission does not seek to disrupt established margining practices, the Commission has considered, and finds persuasive, comments submitted by FIA and SIFMA–AMG with respect to the anticipated challenges associated with implementing regulation § 1.44(f)(4) as proposed, including the expected difficulties associated with implementing and administering new operational systems and renegotiating customer agreements. The Commission also finds persuasive information submitted by commenters regarding steps FCMs take currently to ensure customer accounts will not be undermargined during non-U.S. banking holidays, including instances in which there are consecutive non-U.S. banking holidays. Furthermore, both FIA and SIFMA–AMG disputed that firms leverage banking holidays (or that they practicably could) to gain a benefit with respect to required margin, and the Commission did not receive any comments indicating that such leveraging occurs, or that it is a substantial risk.

In CFTC Letter No. 19–17, staff stated that a failure to deposit, maintain, or pay margin or option premium due to administrative errors or operational constraints would not constitute a failure to timely deposit or maintain initial or variation margin that would place a customer out of the ordinary course of business. This provision was intended to prevent a clearing FCM from being excluded from relying on the no-action position as a result of one-off exceptions, such as mis-entered data, a flawed software update, or an unusual and unexpected information technology outage (e.g., an unanticipated outage of the Fedwire Funds Service).

The Commission proposed regulation § 1.44(f)(5), which, as proposed, provides that a failure with respect to a

specific separate account to deposit, maintain, or pay margin or option premium that was called pursuant to regulation § 1.44(f)(1), due to unusual administrative error or operational constraints that a separate account customer or investment manager acting diligently and in good faith could not have reasonably foreseen, does not constitute a failure to comply with the requirements of regulation § 1.44(f). As proposed, regulation § 1.44(f)(4) also provides that, for such purposes, an FCM's determination that the failure to deposit, maintain, or pay margin or option premium is due to such administrative error or operational constraints must be based on the FCM's reasonable belief in light of information known to the FCM at the time the FCM learns of the relevant administrative error or operational constraint.

FIA contended that proposed regulation § 1.44(f)(5) results in a proposal that is unnecessarily complex, disruptive of existing market practice, and an inappropriate and unjustified departure from the conditions of CFTC Letter No. 19–17.²³⁶ FIA further contended that the proposed rule is overly prescriptive and inflexible, and would increase systemic risk in margin settlement rather than mitigate it.²³⁷ FIA argued that proposed regulation § 1.44(f)(5) would effectively require FCMs to suspend the ordinary course of business for events that are not extraordinary or unusual at all, but are intrinsic to the complexity and multiplicity of the components of the global payment settlement system that FCMs and their customers rely on.²³⁸

Specifically, FIA contended that, by reformulating CFTC Letter No. 19–17's standard for situations of administrative error or operational constraints to require that such situations be “unusual,” and by requiring FCMs to, in effect, document each determination of failure to settle based on administrative error or operational constraints in light of whether the separate account customer or investment manager acting diligently and in good faith could have reasonably foreseen the error or constraints giving rise to the settlement failure, the Commission has made such standard unworkable.²³⁹ FIA asserted that, when a separate account fails to settle within the applicable timeframe, FCMs will have to make and document a complicated and potentially highly speculative assessment of the facts under a legal standard that is subjective

and vague.²⁴⁰ FIA noted that this would subject FCMs to the risk of being second-guessed by DSRO examiners.²⁴¹

Additionally, FIA noted, FCMs have invested significantly in renovating operational and compliance systems in order to implement the conditions of CFTC Letter No. 19–17.²⁴² FIA argued that proposed regulation § 1.44(f)(5) will require material levels of new investment in compliance, risk management, and operations time and resources for no discernable risk management benefit.²⁴³ FIA recommended the Commission strike the requirement that an administrative error or operational constraint be “unusual,” and the requirement that the error or constraint be one that a separate account customer or investment manager acting diligently and in good faith could not have reasonably foreseen.²⁴⁴

SIFMA–AMG similarly contended that proposed regulation § 1.44(f)(5) would establish a standard that is subjective and ambiguous and does not appropriately balance practicability and burden with risk management.²⁴⁵ SIFMA–AMG opined that the Commission's proposal does not make sufficiently clear the meaning of “unusual,” asserting that the meaning of the term can be analyzed in any number of different contexts and that the proposed regulation would therefore be difficult to implement without factors or a determinative standard.²⁴⁶ SIFMA–AMG stated that it believes the level of prescriptiveness of proposed regulation § 1.44(f)(5) is inconsistent with the Commission's principles-based approach with respect to FCM regulation.²⁴⁷

MFA similarly argued that the Commission should effectively revert proposed regulation § 1.44(f)(5) to the original language of the corresponding condition in CFTC Letter No. 19–17 regarding instances when administrative error or operational constraints do not result in a non-ordinary course of business event.²⁴⁸ MFA, like FIA and SIFMA–AMG, asserted that FCMs and their customers have already developed procedures and controls to implement the conditions of CFTC Letter No. 19–17.²⁴⁹ MFA noted the Commission

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ SIFMA–AMG Comment Letter.

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ MFA Comment Letter.

²⁴⁹ *Id.*

²³⁶ FIA Comment Letter.

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ *Id.*

historically has applied a more principles-based approach with respect to margin regulation to recognize differences in FCMs and other market participants, and contended that this practice has avoided the interpretative challenges that would be created by the prescriptive nature of proposed regulation § 1.44(f)(5).²⁵⁰

MFA opined that the Second Proposal revises the conditions of CFTC Letter No. 19–17 to narrow them significantly and render them all but unusable. Specifically, MFA contended that the term “unusual” is subjective, and that, with the benefit of hindsight, any administrative error or operational constraint could be argued to have been reasonably foreseen.²⁵¹ MFA further questioned how an FCM is to make a determination that a failure to pay margin is due to administrative error or operational constraint, who is required to approve such determination, and whether it is expected that an FCM would be obligated to escalate a proposed recommendation that an error or constraint is unusual through its corporate governance infrastructure.²⁵² MFA argued that regulation § 1.44(f)(5), as proposed, would add unnecessary delay, complexity, and administrative burden to an FCM, creating a disincentive for the FCM to develop and present a record to support a determination that a failure to timely pay margin was due to unusual administrative error or operational constraints.²⁵³ MFA further argued that the burden imposed by regulation § 1.44(f)(5) as proposed would incentivize FCMs to simply declare that an event was outside the ordinary course of business and seek to eliminate separate account margining for the client.²⁵⁴ With respect to the requirement that an FCM’s determination of unusual administrative error or operational constraint be based on its “reasonable belief,” MFA questioned whether an FCM is expected to review the entire customer relationship to determine the frequency of administrative errors or operational constraints before it has the necessary information to form the basis of a determination.

MFA expressed concern that proposed regulation § 1.44(f)(5) would impede an FCM from exercising reasonable risk management practices and would require the FCM to undergo a complex and time-consuming analysis before determining whether to provide

some form of grace period to the underlying customer.²⁵⁵

The Commission proposed regulation § 1.44(f)(5) to provide that a single missed margin payment would not result in an FCM being required to suspend disbursements on a separate account basis for a customer, where the missed payment is the result of an unexpected, unusual administrative error or operational constraint. As proposed, regulation § 1.44(f)(5) reflects the Commission’s belief that providing such an exception for *any* administrative error or operational constraint could result in an FCM maintaining separate account disbursements for a separate account customer that fails to make timely margin payments on a frequent basis or because of known or avoidable issues. At the same time, the Commission believes that limiting such exceptions to specific events, or requiring that the FCM’s determination of administrative error or operational constraint be based on a prescriptive set of criteria, could in fact increase the risk that a single “foot-fault” (*i.e.*, an unusual and inadvertent failure), not explicitly addressed by Commission regulations, that results in a missed margin payment, would result in suspension of disbursements on a separate account basis, and may ultimately make separate account treatment unworkable for FCMs and their customers.

The Commission recognizes that there could be a wide variety of situations that may constitute administrative error or operational constraints for purposes of regulation § 1.44(f)(5), and, as discussed further below, that, at the time an FCM learns of such administrative error or operational constraint, a well-run FCM, may be required to act expeditiously based on limited information concerning such events, and in a manner consistent with its own risk management processes and procedures. The Commission accordingly is not prescribing the form or manner in which an FCM must document determinations of administrative error or operational constraints, much less that such determination be made following an exhaustive analysis. For the same reason, the Commission is not prescribing specific procedures or lines of escalation an FCM must implement in order to make a determination of administrative error or operational constraint in compliance with regulation § 1.44(f)(5).

Moreover, a client’s or asset manager’s arrangements for paying margin are not

necessarily static. Where an administrative error or operational constraint prevents the prompt payment of margin, the FCM may be able to work with the client or asset manager so that steps are taken to mitigate the likelihood of, or prevent, the recurrence of, the circumstances that led to that result.

As discussed above, FIA, SIFMA–AMG, and MFA variously commented that proposed regulation § 1.44(f)(5) uses subjective and ambiguous terms; in particular, the requirement that an administrative error or operational constraint be “unusual.” The corresponding condition in CFTC Letter No. 19–17, provides an exception to the one business day margin call condition for margin payments that are untimely due to administrative error or operational constraint, but does not contain an express limiting principle with respect to the nature of the administrative errors or operational constraints that would be within its scope.

The Commission agrees with commenters that the “unusual” standard could be read to be subjective and ambiguous, and does not appropriately balance practicability and burden with risk management. As such, the Commission is declining to retain in final regulation § 1.44(f)(5) the proposed requirement that an administrative error or operational constraint be unusual. The Commission is also persuaded by commenters’ assertions that the requirement that the relevant unusual administrative error or operational constraint be one that a “separate account customer or asset manager acting diligently and in good faith could not have reasonably foreseen” may prove unworkable and may ultimately introduce unnecessary delay and complexity to an FCM’s determination of the occurrence of an unusual administrative error or operational constraint.

Accordingly, in adopting regulation § 1.44(f)(5), the Commission is eliminating the requirement that an administrative error or operational constraint be “unusual” or one “that a separate account customer or asset manager acting diligently and in good faith could not have reasonably foreseen.” The Commission is otherwise adopting regulation § 1.44(f)(5) as proposed, with a change for internal consistency.²⁵⁶

²⁵⁶ As proposed, regulation § 1.44(f)(5) provides, in part, that, “A failure with respect to a specific separate account to deposit, maintain, or pay margin or option premium that was called pursuant to paragraph (f)(1) of this section, due to unusual administrative error or operational constraints . . . does not constitute a failure to comply with the

²⁵⁰ *Id.*

²⁵¹ *Id.*

²⁵² *Id.*

²⁵³ *Id.*

²⁵⁴ *Id.*

²⁵⁵ *Id.*

Although not directly related to proposed regulation § 1.44(f)(5), ICE suggested that the Commission revise regulation § 1.56, which prohibits an FCM from representing that it will not call for or collect margin, to make conforming changes to facilitate separate account treatment.²⁵⁷ ICE asserted that it is concerned that failing to do so may not allow FCMs to fully take advantage of regulation § 1.44, or may create uncertainty with respect to the application of regulation § 1.56 for a customer with separate accounts.²⁵⁸

The Commission appreciates ICE's comment. The Commission noted in the Second Proposal that it seeks in this rulemaking only to directly apply the Margin Adequacy Requirement encompassed by regulation § 39.13(g)(8)(iii) to all FCMs and to enact a narrow codification of the no-action position in CFTC Letter No. 19–17 as applicable to all FCMs, and that it considers amendments to regulation § 1.56 as outside the scope of this rulemaking. The Commission believes regulation § 1.56's prohibition of guarantees against loss with respect to "any commodity interest in *any account* carried by [an FCM]" (emphasis added) is sufficiently clear that such provision would apply to the separate accounts of a separate account customer. As staff made clear in CFTC Letters Nos. 19–17 and 20–28, separate account treatment is consistent with regulation § 1.56 so long as the FCM retains, at all times, the discretion to access funds in the other separate accounts of the beneficial owner held at the FCM.²⁵⁹

The Commission additionally notes that the requirement that an FCM provide separate account customers

requirements of this paragraph (f)." As discussed above, this provision is intended to implement in regulation § 1.44 the no-action condition providing that "[e]ach such separate account must be on a one business day margin call" and that "[s]ituations of administrative error or operational constraints which prevent the call from being met within a one-day period will not be considered a violation of [the] condition." CFTC Letter No. 19–17. Regulation § 1.44(f) requires separate accounts to be on a one business day margin call, a concept which the provisions of regulation § 1.44(f) further define. While regulation § 1.44(f)(1) provides a base requirement to issue a margin call which must be met on a one-day basis, other components of regulation § 1.44(f) address how a one business day margin call must be made and met in the context of international banking conventions as well as holidays. For internal consistency, the avoidance of confusion, and to ensure that the exception provided in regulation § 1.44(f)(5) applies in respect of such other provisions informing the meaning of a one business day margin call, in final regulation § 1.44(f)(5), the Commission is adjusting the reference to regulation § (f)(1) to instead reference regulation § 1.44(f) generally.

²⁵⁷ ICE Comment Letter.

²⁵⁸ *Id.*

²⁵⁹ See, e.g., CFTC Letter No. 20–28.

with a disclosure that under part 190 of the Commission's regulations that all separate accounts of a separate account customer will be combined in the event of an FCM bankruptcy, an original condition of the no-action position proposed as regulation § 1.44(h)(3), was included as a no-action condition due to the fact that it would not be possible to limit the losses in one separate account from affecting another separate account of the separate account customer in a default scenario.

The Commission proposed regulation § 1.44(f)(6) to make clear that it is establishing a maximum period in which a margin call must be met for purposes of regulation § 1.44, rather than establishing a minimum time an FCM must allow. As proposed, regulation § 1.44(f)(6) provides that an FCM would not be in compliance with the requirements of proposed regulation § 1.44(f) if it contractually agrees to provide separate account customers with periods of time to meet margin calls that extend beyond the time periods specified in proposed regulation § 1.44(f)(1)–(5),²⁶⁰ or engages in practices that are designed to circumvent proposed regulation § 1.44(f). As proposed, regulation § 1.44(f) would not preclude an FCM from having customer agreements that provide for more stringent margining requirements or applying more stringent margining requirements in appropriate circumstances. The statement that these "requirements apply solely for purposes of this paragraph (f)" means that such requirements are not intended to apply to any other provision; e.g., they are not intended to define when an account is undermargined for purposes of regulation § 1.17. Conversely, the Commission did not propose to prohibit contractual arrangements inconsistent with proposed regulation § 1.44(f). However, the FCM would not be permitted to engage in separate account treatment under such arrangements.

SIFMA–AMG urged the Commission to consider permitting FCMs to continue having discretion to agree on a limited grace period, based on their own credit assessment and consistent with their risk management programs.²⁶¹ SIFMA–AMG contended that such grace periods are consistent with the objectives of

²⁶⁰ For example, if an FCM and a customer contract for a grace or cure period that would operate to make margin due and payable later than the deadlines described herein, including a case where the FCM would not have the discretion to liquidate the customer's positions and/or collateral where margin is not paid by such time, such an agreement would be inconsistent with the requirements pursuant to which such FCM may engage in separate account treatment.

²⁶¹ SIFMA–AMG Comment Letter.

ensuring the timely correction of margin shortfalls or timely identification of a customer's inability to meet a margin call.²⁶²

SIFMA–AMG asserted that contractual grace periods can manifest in scenarios other than separate account treatment, depending on a fund's structure.²⁶³ For example, SIFMA–AMG noted, in instances where subadvisors are hired for a specific fund and the investment firm is managing the same fund with potentially the same FCM, removing the grace period would mean that a single "foot fault" with respect to a single asset manager can cause the FCM to revert to margining on a gross basis, which would disrupt the ability of certain SIFMA–AMG members to get excess margin back and could cause a lack of awareness of a client's overall margin requirements.²⁶⁴ SIFMA–AMG further asserted that this would incentivize customers to change FCMs and would result in less transparency and opportunity for existing FCMs to cover themselves if a client defaults.²⁶⁵

SIFMA–AMG contended that an FCM's inability to rely on the return of excess margin due to "foot faults" at other managers could cause further downstream failures and inadvertent consequences.²⁶⁶ For example, SIFMA–AMG noted, excess margin is normally expected to be returned based on data generated early in the morning, and managers may anticipate that excess margin will be available to make additional investments or execute new transactions, or to be used to cover other margin or payment obligations due.²⁶⁷ However, SIFMA–AMG stated, if later in the day, the excess margin unexpectedly is not returned due to a "foot fault" at a separate manager, which such manager cannot validate or challenge, there may not be time to either unwind the new trades or investments, or to meet the other margin or payment demands, which could lead to defaults on these and other obligations and potentially trigger other cross-defaults.

SIFMA–AMG also asserted that certain sub-advised funds or separate account clients are not able to hold cash as a buffer against this scenario due to cash limits, which, in light of the proposed regulation, would incentivize managers to move sub-advised funds or separate account clients to FCMs where there is no overlap across such sub-

²⁶² *Id.*

²⁶³ *Id.*

²⁶⁴ *Id.*

²⁶⁵ *Id.*

²⁶⁶ *Id.*

²⁶⁷ *Id.*

advised funds or separate account clients. SIFMA–AMG contended that this would result in less transparency and fewer assets available to each FCM, potentially impairing FCMs' credit risk management, and running counter to risk management goals where separate account treatment results in an FCM holding more margin than it otherwise would. Asserting that there may be occasions when additional time is warranted to allow a customer to address delays in the payment of margin that are not caused by administrative errors or operational constraints, SIFMA–AMG recommended that the Commission reconsider its position regarding grace periods.²⁶⁸

The Commission views grace periods as inconsistent with the risk management goals of separate account treatment, although the Commission reiterates that regulation § 1.44, as proposed, does not prohibit the use of grace periods with respect to the accounts of non-separate account customers. The Margin Adequacy Requirement set forth in regulation § 1.44(b) provides that an FCM shall not allow a customer to withdraw funds from its accounts if such withdrawal would create or exacerbate an undermargining scenario in the customer's account. Regulation § 1.44(c)'s provision for an election for separate account treatment for purposes of the Margin Adequacy Requirement is premised on an FCM's ability to comply with risk management requirements designed to ensure, in part, that margin for separate accounts is paid timely, such that a separate account customer's individual separate accounts do not become undermargining. The Commission's one business day margin call standard is intended to limit the window in which a customer's separate account may be undermargining, thus limiting the risk to the FCM, and the FCM's omnibus customer account for futures, Cleared Swaps, or foreign futures or foreign options.

The Commission notes that while a single "foot fault" with respect to a single manager *theoretically could* result in an FCM being required to suspend disbursements on a separate account basis, the error would not lead to that result if the FCM determines it constitutes an administrative error or operational constraints as set forth in regulation § 1.44(f)(5). Additionally, the Commission notes that, in light of the unpredictability of markets, it would appear that an asset manager that puts its account in a position where a failure to receive margin would result in an

actual default would be placing its customer at substantial risk.

As noted above, as proposed, regulation § 1.44(f)(6) provides that an FCM would not be in compliance with the requirements of proposed regulation § 1.44(f) if it contractually agrees to provide separate account customers with periods of time to meet margin calls that extend beyond the time periods specified in proposed regulation § 1.44(f)(1)–(5), or engages in practices that are designed to circumvent proposed regulation § 1.44(f). While the JAC did not directly discuss proposed regulation § 1.44(f)(6) in its comment letter, the JAC noted that if an FCM and customer contract to arrange for margins calls to be met in longer than one business day, then the FCM is not making a bona fide attempt to collect margin within one business day after the occurrence of the event giving rise to the margin deficiency.²⁶⁹

The Commission reiterates that regulation § 1.44 is designed to operate without prejudice to the rules or guidance of a DSRO, and that a DSRO may promulgate and maintain rules and guidance with respect to the treatment of customer accounts, including separate accounts, that are more stringent than the regulations promulgated herein.

Although FIA in its comment letter did not directly discuss proposed regulation § 1.44(f)(6), FIA noted that, for the past three years, examiners from CME's Financial and Regulatory Surveillance Department have taken the position in financial and operational audits of FCM clearing members for which CME serves as DSRO that any contractual grace or cure period overlying a customer's failure to satisfy a margin call (which is not qualified by reference to administrative or operational reasons for failure) is a violation of CME Rule 930.K.1, requiring clearing members to maintain full discretion to determine when and under what circumstances positions in any account shall be liquidated.²⁷⁰ FIA stated that it believes clear guidance is needed with respect to permissibility of grace periods, and requested the Commission communicate to CME and the JAC that they should make their position with respect to the permissibility of grace periods under CME rules known publicly through a market regulatory notice so that all clearing member FCMs, buy-side managers, and asset owners will receive the same message at the same time.²⁷¹

This issue would appear to have been addressed subsequent to FIA's comment.²⁷²

With respect to FIA's comment, the Commission believes that DSROs, in overseeing FCMs, should make clear the manner in which they will apply their rules, and should not apply such rules in a disparate manner to the entities for which they serve as DSRO.

Accordingly, the Commission is adopting regulation § 1.44(f)(6) as proposed, with a change for internal consistency.²⁷³

The Commission proposed regulation § 1.44(f)(7) to provide an exception to regulation § 1.44(f)(1) with respect to certain holidays (currently, Columbus Day and Veterans Day) on which some DCMs may be open for trading, but on which banks are closed (and, therefore, payment of margin may be difficult or impracticable). As proposed, regulation § 1.44(f)(7) only applies to an FCM if that FCM intermediates trades on such a DCM, and to a separate account if that

²⁷² *Id.* Following the close of the comment period, on October 15, 2024, CME published a bulletin reminding clearing members of their responsibility to comply with CME Rule 930.K.1 and Chicago Board of Trade, New York Mercantile Exchange, and COMEX Rule 930.K (collectively, Rule 930.K). CME Group, Memorandum, Financial and Regulatory Bulletin #24–02 re: Rule 930.K.—Liquidation of Accounts, Oct. 15, 2024, available at <https://www.cmegroup.com/notices/clearing/2024/10/frb-24-02.html>. The bulletin notes that recent disciplinary actions for violation of this rule highlight that clearing members may need to review and update their account agreements, and further notes that where a disciplinary committee has found one clearing member's conduct to be a violation of exchange rules, the public posting of the disciplinary action provides notice to all clearing members and market participants that such conduct is a rule violation. *Id.* CME further stated that, aside from reasonable, one-day administrative or operational exceptions, contractual language providing a period of time (*i.e.*, a grace or cure period) after a missed performance bond call before the clearing member could take action (including liquidation of positions) would violate Rule 930.K. *Id.*

²⁷³ As proposed, regulation § 1.44(f)(6) provides, "A futures commission merchant would not be in compliance with the requirements of this paragraph (f) if it contractually agrees to provide separate account customers with periods of time to meet margin calls that extend beyond the time periods specified in paragraph (f)(1) through (5) of this section, or engages in practices that are designed to circumvent this paragraph (f)." This provision is intended to implement in regulation § 1.44 the no-action condition (part of the one business day margin call condition) that, "In no case can customers and FCMs contractually arrange for longer than a one business day period for a margin call to be met." CFTC Letter No. 19–17. As a matter of internal consistency (with respect to the final clause of regulation § 1.44(f)(6)), consistency with the corresponding no-action condition, and to ensure that the time periods specified in the regulation encompass banking holidays for which regulation § 1.44(f)(7) provides an exception to the timing requirements of regulation § 1.44(f)(1), the Commission is adopting final regulation § 1.44(f)(6) with a modification to reference paragraph (f) generally in the first instance.

²⁶⁹ JAC Comment Letter.

²⁷⁰ FIA Comment Letter.

²⁷¹ *Id.*

²⁶⁸ *Id.*

separate account includes positions traded on such a DCM.

Paragraph (i) deals with margin calls based on undermargined amounts in a separate account resulting from market movements on the business day before the holiday. Such calls may be made on the holiday but would be due by the close of Fedwire on the next business day after the holiday.²⁷⁴

Paragraph (ii) deals with margin calls based on undermargined amounts resulting from market movements on the holiday. If, as a result of such market movements, a separate account is undermargined by an amount greater than the amount it was undermargined due to market movements or position changes on the business day before the holiday, the FCM shall issue a margin call for the separate account for at least the incremental undermargined amount, which must be met by the applicable separate account customer no later than the close of the Fedwire Funds Service on the next business day after the holiday.²⁷⁵

Although ICE, in its comment letter, stated that it did not object to the Commission's proposed standard for a one business day margin call as it applies to FCMs,²⁷⁶ ICE recommended that the Commission modify regulation § 1.44(f)(7), as proposed, to extend to DCOs that are open for clearing on a U.S. holiday to account for Cleared Swaps that may not be traded on a DCM and for which margin requirements are set by the DCO.²⁷⁷

The Commission acknowledges that the same rationale for providing the exception in proposed regulation

§ 1.44(f)(7) with respect to an FCM trading uncleared swaps on a DCM applies equally in respect of an FCM with swaps cleared at a DCO: on days when DCOs are open, but banks are closed, and margin requirements are set by the DCO, it may be difficult or impracticable for FCMs to pay margin.

Accordingly, the Commission is adopting regulation § 1.44(f)(7) with the modification that its terms shall apply in the case of a holiday where any DCM or other board of trade on which the FCM trades is open for trading, or any DCO that clears the Cleared Swaps of such FCM's Cleared Swaps Customers is open for clearing such swaps, and where a separate account of any of the FCM's separate account customers includes positions traded on such market or cleared at such a DCO. Additionally, as discussed above in connection with regulation § 1.44(a), final regulation § 1.44(f)(7) will also refer to "any designated contract market or other board of trade," to explicitly encompass foreign exchanges in connection with 30.7 accounts.

Lastly, the Commission proposed regulation § 1.44(f)(8) to set forth a procedure to adjust the scope of currencies in proposed Appendix A to part 1. In proposing regulation § 1.44(f)(8), the Commission sought to ensure a more flexible process whereby members of the public, or the Commission itself, may initiate a process to expand or narrow proposed Appendix A to part 1 as may be required from time to time, subject to public notice and comment. Regulation § 1.44(f)(8), as proposed, provides that any person may submit to the Commission any currency that such person proposes to add to or remove from proposed Appendix A to part 1.

The submission must include a statement that margin payments in the relevant currency cannot, in the case of a proposed addition, or can, in the case of a proposed removal, practicably be received by the FCM issuing a margin call no later than the end of the first business day after the day on which the margin call is issued. The submitter would be required to support such assertion with documentation or other relevant supporting information, as well as any additional information that the Commission requests.²⁷⁸ The Commission would be required to review the submission and determine whether to propose to add the relevant currency to, or remove it from, proposed Appendix A to part 1. The Commission

would also be required to issue such determination through notice-and-comment rulemaking, with a comment period of no less than thirty days. Proposed regulation § 1.44(f)(8) also provides that the Commission may propose to issue such a determination of its own accord, without prompting by a submission from a member of the public. As with a public submission, a Commission determination on its own accord would be subject to notice and comment rulemaking, with a public comment period of no less than thirty days.

The Commission did not receive any comments with respect to proposed regulation § 1.44(f)(8). Accordingly, the Commission is adopting regulation § 1.44(f)(8) as proposed.

J. Regulation § 1.44(g)

As proposed, regulation § 1.44(g) contains requirements related to calculations for capital, risk management, and segregation of customer funds. These provisions are substantially similar to the corresponding no-action conditions in CFTC Letter No. 19–17, except that they have been reorganized and subjected to minor changes to account for their proposed inclusion in part 1 of the Commission's regulations as well as the proposed introduction of new defined terms. Regulation § 1.44(g) is intended to ensure that an FCM treats separate accounts in a consistent manner for purposes of risk management. Many of its provisions are intended to ensure that an FCM treats each separate account as a distinct account from all other accounts of a separate account customer for purposes of the FCM computing its regulatory capital and segregation of customer funds.

The Industry Letters preceding the issuance of CFTC Letter No. 19–17 provided examples of controls an FCM could apply to mitigate the risk of permitting disbursements on a separate account basis, and discussed restrictions used in customer agreements providing for the application of separate account treatment designed to ensure that a customer's separate accounts are in fact treated separately on a consistent basis in the FCM's management of risk. For instance, as FIA noted in its June 26, 2019 letter, customer agreements that provide for separate account treatment generally require that a separate account be margined separately from any other account maintained for the customer with the FCM, and assets held in one separate account should not ordinarily be used to offset, or (absent default) meet, any obligations of another separate account, including obligations

²⁷⁴ Additional days due to other provisions of proposed regulation § 1.44(f) would also be applicable.

²⁷⁵ To illustrate the operation of regulation § 1.44(f)(7)(i)–(ii) as proposed, using Veterans Day (November 11) as an example, and assuming that no relevant day falls on a weekend, if, as a result of market movements on November 10, a separate account is undermargined by \$100, the FCM would issue a margin call of at least \$100 and, payment of that \$100 would be due by the close of Fedwire on November 12. If that separate account were to be undermargined by a total of \$160 as a result of market movements on November 11, the FCM would issue a margin call for at least the incremental amount (\$160 – \$100 = \$60) on November 12, and that incremental \$60 would also be due by the close of Fedwire on November 12. If, instead, the separate account gained \$60 on November 11, the original margin call for \$100 (issued on November 11) would still need to be met by the close of Fedwire on November 12. By contrast, if the separate account were not undermargined as a result of market movements on November 10, but then became undermargined by \$60 as a result of market movements on November 11, the FCM would issue a margin call in the amount of at least \$60 on November 12, and payment would be due by the close of Fedwire on November 12.

²⁷⁶ ICE Comment Letter.

²⁷⁷ *Id.*

²⁷⁸ Submitters may request confidential treatment for parts of its submission in accordance with regulation § 145.9(d).

that it or another asset manager may have incurred on behalf of a different account of the same customer.²⁷⁹ In that letter, preceding issuance of CFTC Letter No. 19–17, FIA observed that these restrictions serve to assure the customer, or the asset manager responsible for a particular account, that the account will not be subject to unanticipated interference that may exacerbate stress on a customer's aggregate exposure to the FCM.²⁸⁰ Additionally, FIA noted that where an FCM treats separate accounts as separate customers for risk management purposes, the FCM may manage risk more conservatively against the customer under the assumption that the customer has fewer assets than it may in fact have.²⁸¹

These controls, and conditions for the consistent treatment of separate accounts in an FCM's books and records for purposes of risk management, constitute a key part of the no-action conditions of CFTC Letter No. 19–17. The Commission considers such requirements as reasonably necessary with respect to this final rule to ensure that FCMs do not manage the risk posed by the separate accounts of certain separate account customers, or the risk posed by certain such separate accounts of such customers, in a disparate manner. Such disparate treatment could reduce the risk-mitigating effects of such requirements with respect to certain separate account customers and their separate accounts, and could impair the ability of an FCM's DSRO or the Commission to ascertain the extent to which certain customers' accounts are in fact being treated separately. Thus, these requirements are reasonably necessary to effectuate section 4d of the CEA.

Accordingly, as proposed, regulation § 1.44(g) would apply to all FCMs certain conditions in CFTC Letter No. 19–17 designed to provide for consistent treatment of separate accounts. As proposed, regulation § 1.44(g) requires a separate account of a customer to be treated separately from other separate accounts of the same customer for purposes of certain existing computational and recordkeeping requirements, which would otherwise be met by treating accounts of the same customer on a combined basis. Because accounts subject to regulation § 1.44 would be risk-managed on a separate basis, the Commission believes it is appropriate for the regulation to provide that FCMs apply these risk-mitigating

computational and recordkeeping requirements on a separate account basis. The effect of the requirements in these paragraphs is to augment the FCM's existing obligations under various provisions of regulation § 1.17.

As proposed, regulation § 1.44(g)(1) provides that an FCM's internal risk management policies and procedures shall provide for stress testing as set forth in regulation § 1.73, and credit limits for separate account customers. Regulation § 1.44(g)(1) further provides that such stress testing must be performed, and the credit limits must be applied, both on an individual separate account and on a combined account basis. By conducting stress testing on both an individual separate account and on a combined account basis, an FCM can determine the potential for significant loss in the event of extreme market conditions, and the ability of traders and FCMs to absorb those losses, with respect to each individual separate account of a customer, as well as with respect to all of the customer's separate accounts. Additionally, by applying credit limits on both an individual separate account basis (to address issues that may be specific to the particular strategy governing the separate account) and on a combined account basis (to address issues that may be applicable to the customer's overall portfolio at the FCM), an FCM can better manage the financial risks they incur as a result of carrying positions both for a customer's separate account and for all of the customer's accounts. By better managing the financial risks posed by customers and understanding the extent of customers' risk exposures, FCMs can better mitigate the risk that customers do not maintain sufficient funds to meet applicable initial and maintenance margin requirements. Such FCMs can also anticipate and mitigate the risk of the occurrence of certain of the events detailed in regulation § 1.44(e).

Regulation § 1.44(g)(2), as proposed, provides that an FCM shall calculate the margin requirement for each separate account of a separate account customer independently from such margin requirement for all other separate accounts of the same customer with no offsets or spreads recognized across the separate accounts. An FCM would be required to treat each separate account of a customer independently from all other separate accounts of the same customer for purposes of computing capital charges for undermargined customer accounts in determining its adjusted net capital under regulation § 1.17.

Regulation § 1.44(g)(3), as proposed, provides that an FCM shall, in

computing its adjusted net capital for purposes of regulation § 1.17, record each separate account of a separate account customer in the books and records of the FCM as a distinct account of a customer, including recording each separate account with a net debit balance or a deficit as a receivable from the separate account customer, with no offsets between the other separate accounts of the same separate account customer.

Regulations §§ 1.20, 22.2, and 30.7 currently require an FCM to maintain a sufficient amount of customer funds in segregated accounts to meet its total obligations to all futures customers, Cleared Swaps Customers, and 30.7 customers, respectively.²⁸² In order to ensure that the FCM holds sufficient funds in segregation to satisfy the aggregate account balances of all customers with positive net liquidating balances, the FCM is prohibited from netting the account balances of customers with deficit or debit ledger balances against the account balances of customers with credit balances.²⁸³ Each FCM is also required to prepare and submit to the Commission, and to FCM's DSRO, a daily statement demonstrating compliance with its segregation obligations.²⁸⁴

Regulation § 1.44(g)(4), as proposed, provides that an FCM shall, in calculating the amount of its own funds it is required to maintain in segregated accounts to cover deficits or debit ledger balances pursuant to regulations §§ 1.20(i), 22.2(f), or 30.7(f)(2) in any futures customer accounts, Cleared Swaps Customer Accounts, or 30.7 accounts, respectively, include any deficits or debit ledger balances of any separate account as if the accounts are accounts of separate entities. The purpose of regulation § 1.44(g)(4) is to ensure that an FCM that elects to permit separate account customers treats separate accounts as if the accounts are accounts of separate entities for purposes of computing the amount of funds the FCM is required to hold in segregation for futures customers, Cleared Swaps Customers, and 30.7 customers. Specifically, regulation § 1.44(g) would provide that an FCM may not offset a deficit or debit ledger balance in the separate account of a separate account customer by any credit balance in any other separate accounts of the same separate account customer carried by the FCM. Regulation § 1.44(g)

²⁸² 17 CFR 1.20(a), 22.2(f)(2), and 30.7(a).

²⁸³ 17 CFR 1.20(i)(4), 22.2(f)(4), and 30.7(f)(2)(iv) for futures customer accounts, Cleared Swaps Customer Accounts, and 30.7 accounts, respectively.

²⁸⁴ See 17 CFR 1.32(d), 22.2(g)(3), and 30.7(l)(3).

²⁷⁹ First FIA Letter.

²⁸⁰ *Id.*

²⁸¹ *Id.*

would impose the same obligations on separate accounts that are currently imposed by regulations §§ 1.20, 22.2, and 30.7 on customer accounts that are not separate accounts. Regulation § 1.44(g) is also consistent with CFTC Letter No. 19–17.²⁸⁵

Regulations §§ 1.22, 22.2, and 30.7 currently prohibit an FCM from using, or permitting the use of, the funds of one futures customer, Cleared Swaps Customer, or 30.7 customer, respectively, to purchase, margin, or settle the positions of, or to secure or extend the credit of, any person other than such customer.²⁸⁶ To ensure compliance with this prohibition, each FCM is required to compute, as of the close of the previous business day, the total undermargined amount of its customers' accounts and to maintain a sufficient amount of the FCMs' own funds (*i.e.*, residual interest) in the applicable customer segregated accounts to cover the undermargined amounts.²⁸⁷

The Commission proposed regulation § 1.44(g)(5) to provide that, for purposes of its residual interest and LSOC compliance calculations, as applicable under regulations §§ 1.22(c), 22.2(f)(6), and 30.7(f)(1)(ii), the FCM shall treat the separate accounts of a separate account customer as if the accounts were accounts of separate entities and include the undermargined amount of each separate account, and cover such deficiency with its own funds. The amendments would result in an FCM treating each separate account in a manner comparable with the treatment currently provided to customer accounts that are not separate accounts and are consistent with CFTC Letter No. 19–17.²⁸⁸

Regulation § 1.11 requires an FCM that accepts customer funds to margin futures, Cleared Swaps, or foreign futures and foreign options to implement a risk management program designed to monitor and manage the

risks associated with the activities of the FCM.²⁸⁹ The risk management program is required to address, among other risks, segregation risk, and further requires an FCM to establish a targeted amount of its own funds, or residual interest, that the firm will hold in segregated accounts for futures customers, Cleared Swaps Customers, and 30.7 customers to reasonably ensure that the FCM remains in compliance with its obligation to hold, at all times, a sufficient level of funds in segregation to cover its full obligation to its customers.²⁹⁰ Regulation § 1.23(c) further requires an FCM to establish a targeted residual interest amount that is held in segregation to reasonably ensure that the FCM remains in compliance, at all times, with its customer funds segregation requirements.²⁹¹

The Commission proposed regulation § 1.44(g)(6) to provide that, in determining its residual interest target for purposes of regulations §§ 1.11(e)(3)(i)(D) and 1.23(c), the FCM must treat separate accounts of separate account customers as accounts of separate entities. In this regard, an FCM is required to consider the potential impact to segregated funds and to the FCM's targeted residual interest resulting from one or more separate accounts of a separate account customer that are undermargined, or that contain deficits or debit ledger balances, without taking into consideration the funds in excess of the margin requirements maintained in other separate accounts of the separate account customer.

Currently, Commission regulations require an FCM to maintain its own capital, or residual interest, in customer segregated accounts in an amount equal to or greater than its customers' aggregate undermargined accounts.²⁹² Additionally, each day, an FCM is required to perform a segregated calculation to verify its compliance with segregation requirements. The FCM must file a daily electronic report showing its segregation calculation with its DSRO, and the DSRO must be provided with electronic access to the FCM's bank accounts to verify that the segregated funds reported are in fact maintained. The FCM must also assure its DSRO that when it meets a margin call for customer positions, it never uses value provided by one customer to meet another customer's obligation.²⁹³ These

requirements are intended to prevent FCMs from being induced to cover one customer's margin shortfall with another customer's excess margin and allow DSROs to verify that FCMs are not in fact doing so. Regulation § 1.44(g)(6) is designed to ensure that margin deficiencies are calculated accurately for accounts receiving separate treatment, and that such deficiencies are covered consistent with existing Commission regulations. Regulation § 1.44(g)(6) is also consistent with the conditions to the no-action position in CFTC Letter No. 19–17.²⁹⁴

Citing proposed regulation § 1.44(g)(5)'s requirement that an FCM, for purposes of its residual interest and LSOC compliance calculations, must “treat the separate accounts of a separate account customer as if the accounts were accounts of separate entities and include the undermargined amount of each separate account, and cover such undermargined amount with its own funds,” the JAC reiterated its comment that the definition of “undermargined amount” in proposed regulation § 1.44(a) defines the undermargined amount differently than how the term is currently defined in the JAC Margins Handbook and has been applied for purposes of an FCM's compliance with regulations §§ 1.22(c), 22.2(f)(6), and 30.7(f)(1)(ii).²⁹⁵ The JAC stated that, given this discrepancy, for non-separate account customers, the undermargined amount to be included in the residual interest requirements and LSOC compliance calculations may be different than that for separate account customers under proposed regulation § 1.44(g)(5), and this change would require FCMs that permit separate account treatment to bifurcate the manner in which they calculate their requirements and update their regulatory reporting records.²⁹⁶

As discussed above in connection with regulation § 1.44(a), the Commission is adopting its proposed definition of “undermargined amount”

²⁸⁵ CFTC Letter No. 19–17 provides that an “FCM shall use its own funds to cover the debit/deficit of each separate account.” CFTC Letter No. 19–17.

²⁸⁶ 17 CFR 1.22(a), 22.2(d), and 30.7(f)(1)(i).

²⁸⁷ An FCM is required to maintain a sufficient amount of its own funds in segregation to cover the FCM's customers' undermargined amounts by the residual interest deadline. The residual interest deadline for futures customers and 30.7 customers is 6:00 p.m. Eastern Time on the next business day. 17 CFR 1.22(c) & 30.7(f). The residual interest deadline for Cleared Swaps Customers is the time of settlement on the next business day of the applicable swaps clearing organization. 17 CFR 22.2(f)(6).

²⁸⁸ CFTC Letter No. 19–17 provides that an “FCM shall include the margin deficiency of each separate account, and cover with its own funds as applicable, for purposes of its [r]esidual [i]nterest and LSOC compliance calculations.” CFTC Letter No. 19–17 (Condition 10).

²⁸⁹ 17 CFR 1.11(c).

²⁹⁰ 17 CFR 1.11(e)(3)(i)(D).

²⁹¹ 17 CFR 1.23(c).

²⁹² See, e.g., 17 CFR 1.22(c)(3); 17 CFR 22.2(f)(6)(iii)(A).

²⁹³ See, e.g., 17 CFR 22.2(g).

²⁹⁴ CFTC Letter No. 19–17 provides that the “FCM shall factor into its residual interest target customer receivables as computed on a separate account basis.” CFTC Letter No. 19–17 (Condition 9).

²⁹⁵ JAC Comment Letter. The JAC noted that, pursuant to JAC Regulatory Alert #14–06, the undermargined amount or margin deficiencies should be calculated for the residual interest requirement as: Risk Maintenance Margin Requirement – Credit Net Liquidating Value – Margin Collateral in Excess of Amounts to Secure Debit/Deficits = Undermargined Amount (if amount < zero, then the amount is zero.) The JAC also noted JAC Regulatory Alert #12–03 defines a similar calculation for the margin deficiencies to be included in the LSOC compliance calculation in accordance with regulation § 22.2(f). *Id.*

²⁹⁶ *Id.*

with modifications to remove language that the JAC identified as inconsistent with exchange rules and industry practice, and the Commission views an FCM's use of either of the Net Liquidating Value or alternative Total Equity method set forth in the JAC Margins Handbook as consistent with the Commission's objective in defining an account's undermargined amount for purposes of regulation § 1.44.

Additionally, recalling its comment with respect to pending receipts, the JAC noted it was unclear whether pending non-USD receipts could be considered as received under proposed regulation § 1.44(g)(5) based on the definition of "undermargined amount" in proposed regulation § 1.44(a).²⁹⁷

Consistent with its discussion of the JAC's and FIA's comments with respect to treatment of pending non-USD transfers in connection with amendments to regulation § 1.17, the Commission confirms that the final rule would not preclude an FCM from treating as received pending non-USD transfers, consistent with the conditions in the JAC guidance discussed above, for purposes of complying with regulation § 1.44(g)(5).

ICE noted that it generally supports the risk management requirements for separate accounts set forth in proposed regulation § 1.44(g).

The Commission did not receive any other comments regarding proposed regulation § 1.44(g). Accordingly, the Commission is adopting regulation § 1.44(g) as proposed.

K. Regulation § 1.44(h)

As proposed, regulation § 1.44(h) contains requirements related to information and disclosures. As with the provisions in regulation § 1.44(g), these provisions are substantially similar to their corresponding no-action conditions in CFTC Letter No. 19-17, except that they have been reorganized and subject to minor changes to account for their proposed inclusion in part 1 as well as the proposed introduction of new defined terms. The Commission believes that regulation § 1.44(h) is reasonably necessary to protect customer funds and mitigate systemic risk, and to effectuate section 4d of the CEA, because it establishes requirements designed to ensure that FCMs applying separate account treatment have the customer information necessary to apply such treatment consistent with the risk mitigating requirements of regulation § 1.44 and, with respect to FCMs that choose to apply separate account

treatment, it establishes requirements designed to inform customers of certain potential risks associated with such treatment.

As proposed, regulation § 1.44(h)(1) provides that an FCM shall obtain from each separate account customer or, as applicable, the manager of a separate account, information sufficient for the FCM to: (i) assess the value of the assets dedicated to such separate account; and (ii) identify the direct or indirect parent company of the separate account customer, as applicable, if such customer has a direct or indirect parent company.²⁹⁸ Regulation § 1.44(h)(1) is intended to ensure that FCMs have visibility with respect to customers' financial resources appropriate to ensure that a customer's separate account is adequately margined in light of those resources, and to identify when a customer's financial circumstances would necessitate the cessation of disbursements on a separate account basis. Regulation § 1.44(h)(1)(i) contemplates that, in certain instances, an asset manager may manage one or more accounts under power of attorney on a customer's behalf. In such cases, an FCM may obtain the requisite financial information from the asset manager. Regulation § 1.44(h)(1)(ii) is intended to ensure that FCMs have sufficient information to identify the direct or indirect parent company of a customer so that they may identify when a parent company of a customer has become insolvent, for purposes of proposed regulation § 1.44(e)(1)(iv).

The Commission did not receive any comments with respect to proposed regulation § 1.44(h)(1), and accordingly is adopting that provision as proposed.

As proposed, regulation § 1.44(h)(2) provides that, where a separate account customer has appointed a third-party as the primary contact to the FCM, the FCM must obtain and maintain current contact information of an authorized representative at the customer and take reasonable steps to verify that such contact information is and remains accurate, and that the person is in fact an authorized representative of the customer. In many cases, an asset manager acts under a power of attorney on behalf of a customer, and the FCM has little direct contact with the customer. Regulation § 1.44(h)(2) is designed to ensure that FCMs have a reliable means of contacting separate account customers directly if the asset

manager fails to ensure prompt payment on behalf of the customer.

The Commission did not receive any comments with respect to proposed regulation § 1.44(h)(2), and accordingly is adopting that provision as proposed.²⁹⁹

Regulation § 1.44 will not affect the Commission's bankruptcy rules under part 190 of its regulations or any rights of a customer or FCM in bankruptcy thereunder. In the event that an FCM electing separate account treatment experiences a bankruptcy, the accounts of a customer in each account class will be consolidated, and accounts of the same customer treated separately for purposes of regulation § 1.44 will not be treated separately in bankruptcy. To make this limitation clear to customers and FCMs, the Commission proposed regulation § 1.44(h)(3), which provides that an FCM must provide each separate account customer with a disclosure that, pursuant to part 190 of the Commission's regulations, all separate accounts of the customer in each account class will be combined in the event of the FCM's bankruptcy. As proposed, regulation § 1.44(h)(3) provides that the disclosure statement must be delivered directly to the customer via electronic means, in writing or in such other manner as the FCM customarily delivers disclosures pursuant to applicable Commission regulations, and as permissible under the FCM's customer documentation. Furthermore, the FCM must maintain documentation demonstrating that the disclosure statement required by regulation § 1.44(h)(3) was delivered directly to the customer. The FCM must also include the disclosure statement required by regulation § 1.44(h)(3) on its website or within its Disclosure Document required by regulation § 1.55(i).

The Bankruptcy Reform Act of 1978³⁰⁰ enacted subchapter IV of chapter 7 of the Bankruptcy Code, title 11 of the U.S. Code, to add certain provisions designed to afford enhanced protections to commodity customer property and protect markets from the reversal of certain transfers of money or other property, in recognition of the complexity of the commodity business.³⁰¹ The Commission enacted part 190 of its regulations,³⁰² to

²⁹⁹ The Commission is making a technical change to final regulation § 1.44(h)(2), to substitute "representative of the customer" for "representative at the customer," in recognition of the fact that a customer may be a natural person.

³⁰⁰ Public Law 95-598, 92 Stat. 2549.

³⁰¹ Bankruptcy, 46 FR 57535, 57535-36 (Nov. 24, 1981).

³⁰² 17 CFR part 190.

²⁹⁷ *Id.*

²⁹⁸ The Commission understands that, in certain cases, such as when a customer is a fund, the customer may not have a parent company. In such cases, the requirement to obtain information sufficient to identify the direct or indirect parent company would not apply.

implement subchapter IV. Under part 190, all separate accounts of a customer in an account class will be combined in the event of an FCM's bankruptcy.³⁰³ The Commission proposed regulation § 1.44(h)(3) so that customers receive full and fair disclosure as to the treatment of their accounts in an FCM bankruptcy.

In its comment letter, FIA requested that the Commission clarify that any FCM that has already provided the disclosure specified in proposed regulation § 1.44(h)(3) pursuant to the identical requirement of CFTC Letter No. 19–17 shall be deemed to have complied with regulation § 1.44(h)(3).³⁰⁴

The Commission is adopting regulation § 1.44(h)(3) as proposed. However, the Commission recognizes that regulation § 1.44(h)(3) is virtually identical to a corresponding condition in CFTC Letter No. 19–17,³⁰⁵ and that, under the terms of the no-action letter, as applied by DCOs, FCMs permitting separate account treatment are required to comply with the condition. Accordingly, the Commission confirms that, to the extent an FCM has already provided the disclosure required by regulation § 1.44(h)(3) to its separate account customers consistent with the no-action position in CFTC Letter No. 19–17, and continues to provide such disclosure to new separate account customers, then such FCM would be in compliance with the disclosure provision requirement of regulation § 1.44(h)(3).

As proposed, regulation § 1.44(h)(4) provides that an FCM that has made an election pursuant to regulation § 1.44(d) shall disclose in the Disclosure

Document required by regulation § 1.55(i) that it permits the separate treatment of accounts for the same customer under the requirements of proposed regulation § 1.44 and that, in the event that separate account treatment for some customers were to contribute to a loss that exceeds the FCM's ability to cover, that loss may affect the segregated funds of all of the FCM's customers in one or more account classes. Regulation § 1.55 was adopted to “advise new customers of the substantial risk of loss inherent in trading commodity futures.”³⁰⁶ The Commission amended regulation § 1.55 in 2013 to, among other things, add new paragraph (i) requiring FCMs to disclose to customers “all information about the [FCM], including its business, operations, risk profile, and affiliates, that would be material to the customer's decision to entrust . . . funds to and otherwise do business with the [FCM] and that is otherwise necessary for full and fair disclosure.”³⁰⁷ Such disclosures include material information regarding specific topics identified in regulation § 1.55(k), which include “[a] basic overview of customer funds segregation,” as well as “current risk practices, controls, and procedures.”³⁰⁸ These disclosures are designed to “enable customers to make informed judgments regarding the appropriateness of selecting an FCM” and to enhance the diligence that a customer can conduct prior to opening an account and on an ongoing basis.³⁰⁹

The Commission believes that the application of separate account treatment for some customers of an FCM, is “material to the . . . decision to entrust . . . funds to and otherwise do business with the [FCM]” with respect to the customers of such FCM generally because, in the event that separate account treatment for some customers were to contribute to a loss that exceeds the FCM's ability to cover, that loss might affect the segregated funds of all of the FCM's customers in one or more account classes.³¹⁰ Accordingly, the Commission proposed regulation § 1.44(h)(4) to ensure that customers are apprised of a matter that is relevant to the FCM's risk management policies.

In its comment letter, FIA contended that the Commission's proposed firm-

specific disclosure for regulation § 1.55(i) under proposed regulation § 1.44(h)(4) is confusing and misleading.³¹¹ As proposed, regulation § 1.44(h)(4) provides that the disclosure statement must apprise the customer that if separate account treatment for some customers were to contribute to a loss that exceeds the FCM's ability to cover, that loss may affect the segregated funds of all of the FCM's customers in one or more account classes. FIA argued that such language is confusing because it fails to specify how separate account treatment for some customers might contribute to a loss that exceeds the FCM's ability to cover.³¹² FIA noted any customer's activity in any account could contribute to a loss, and FIA asserted that such fellow-customer risk is already addressed in existing firm-specific disclosure.³¹³ FIA asserted that it is unclear how separate account margining increases such risk, noting that, if anything, separate account treatment generally mitigates credit risk to the underlying asset owner, ensuring, in most cases, that the FCM holds more collateral against the owner's consolidated portfolio of positions than it would if it was net margining the portfolio as a single account.³¹⁴

The Commission notes that, although separate account margining may reduce risk in the sense that, generally, an FCM will hold more collateral with respect to the portfolio of a separate account customer, separate account margining is not risk-free. In adopting a Margin Adequacy Requirement applicable to all FCMs similar to that presently in regulation 39.13(g)(8)(iii), the Commission implements a regulation designed to guard against the possibility that an FCM will permit a withdrawal of customer funds that will lead to the customer's account becoming undermargined. Regulation § 1.44 operates to permit the customer's separate accounts to be treated as accounts of separate legal entities for purposes of the Margin Adequacy Requirement, provided the FCM complies with specified requirements for the treatment of separate accounts. Those requirements (including those that would result in the FCM holding a greater amount of margin than it would if it did not engage in separate account treatment) are designed to mitigate the potential risk posed by the treatment of one customer's separate account as the account of a separate legal entity without reference to other separate

³⁰³ 17 CFR 190.08(b)(2)(i) and (xii) (“Aggregate the credit and debit equity balances of all accounts of the same class held by a customer in the same capacity Except as otherwise provided in this paragraph (b)(2), all accounts that are . . . deemed to be held by [a person] in its individual capacity shall be deemed to be held in the same capacity Except as otherwise provided in this section, an account maintained with a debtor by an agent or nominee for a principal or a beneficial owner shall be deemed to be an account held in the individual capacity of such principal or beneficial owner.”).

³⁰⁴ FIA Comment Letter.

³⁰⁵ Cf. CFTC Letter No. 19–17 (“The FCM shall provide each beneficial owner using separate accounts with a disclosure that under CFTC Part 190 rules all separate accounts of the beneficial owner will be combined in the event of an FCM bankruptcy. The disclosure statement required by this paragraph will be delivered separately to the beneficial owner via electronic means in writing or in such other manner as the FCM customarily delivers disclosures pursuant to applicable CFTC regulations and as permissible under the FCM's customer documentation. The FCM must maintain evidence that such disclosure was delivered directly to the beneficial owner. The FCM shall also include the disclosure on its website or within its disclosure document required by Regulation 1.55(i).”).

³⁰⁶ Adoption of Customer Protection Rules, 43 FR 31886, 31888 (July 24, 1978).

³⁰⁷ 17 CFR 1.55(i).

³⁰⁸ 17 CFR 1.55(k)(8) & (11).

³⁰⁹ Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations, 78 FR 68506, 68564 (Nov. 14, 2013).

³¹⁰ See 17 CFR 1.55(i).

³¹¹ FIA Comment Letter.

³¹² *Id.*

³¹³ *Id.*

³¹⁴ *Id.*

accounts of the same separate account customer.

Although the Commission believes FCMs have successfully complied with the no-action conditions of CFTC Letter No. 19–17, where ensuring margin adequacy is critical to protecting customer funds and mitigating risk to an FCM and the broader financial system, FCMs that engage in separate account treatment comply with margin adequacy in a materially different manner than FCMs that do not engage in separate account treatment, and are subject to additional requirements. The failure to comply with such requirements could contribute to a loss that the FCM is unable to cover. In light of considerations of protection of customer funds, and the purpose of regulation § 1.55(i) to provide to customers “all information . . . that would be material to the customer’s decision to entrust such funds to and otherwise do business with” the FCM, the Commission believes it is appropriate for FCMs to apprise customers, whether separate account customers or otherwise, of such risk of loss resulting from the FCM’s separate treatment of accounts.

Additionally, as proposed, regulation § 1.44(h)(4)(i) provides that an FCM that applies separate account treatment pursuant to proposed regulation § 1.44 must apply such treatment in a consistent manner over time, and that if the election pursuant to proposed regulation § 1.44(d) for a separate account customer is revoked, such election may not be reinstated during the 30 days following such revocation. The Commission proposed this 30-day period to prevent the possibility that, as discussed below, an FCM could toggle its separate account treatment election for purposes other than serving customers’ bona fide commercial purposes.

Proposed regulation § 1.44(h)(4)(i) is intended to ensure that FCMs employ separate account treatment in a way that is consistent with the customer protection and FCM risk management provisions of the CEA and Commission regulations. The Commission recognizes that, although bona fide business or risk management purposes may at times warrant application or cessation of separate account treatment, FCMs should not apply or cease separate account treatment for reasons, or in a manner, that would contravene the customer protection and risk mitigation purposes of the CEA and Commission regulations. For instance, an FCM should not switch back and forth between separate and combined

or offset margin shortfalls in particular accounts. The period of 30 days was chosen to balance this goal with a recognition that, after a sufficient period, the relevant circumstances for a particular customer may change for reasons other than strategic switching. The Commission recognizes that there are a wide variety of circumstances that may indicate inconsistent application of separate account treatment.

With respect to the 30-day toll on reinstatement of separate account disbursements in proposed regulation § 1.44(h)(4)(i), FIA asserted that it is not aware that any FCM has ever “toggled” separate account treatment for any customer, and further asserted the tolling period could have negative unintended consequences for customers and overall market liquidity.³¹⁵ FIA noted that separate account margining is crucial for many institutional asset managers to efficiently deploy their investment strategies across multiple accounts, and if an FCM is forced to suspend separate account treatment due to an event outside the ordinary course of business, the 30-day minimum waiting period could significantly disrupt the trading and risk management of affected customers even after the underlying issue is resolved.³¹⁶ FIA urged the Commission to adopt a more targeted, risk-based approach that defers to FCMs’ judgment.³¹⁷ FIA asserted that the only reasons an FCM is likely to have to suspend separate account treatment against the wishes of its customer are those detailed in the risk scenarios in proposed regulation § 1.44(e), and the timeframe within which separate account treatment should be restored in the wake of any such event should be left to the FCM’s risk management discretion.³¹⁸

SIFMA–AMG similarly commented that its members are not aware of instances in which an FCM might “toggle” separate account treatment, noting that, in addition to significant regulatory obligations intended to protect customers, including stringent risk management provisions, FCMs who try to “game” a system to maintain separate account status would lose the trust necessary to maintain these competitive, longstanding commercial relationships.³¹⁹ SIFMA–AMG also asserted that, operationally, its members would not permit or give contract authority for an FCM to switch back and forth between separate and combined

treatment for customer accounts in order to achieve more preferable margining outcomes or offset margin shortfalls in particular accounts.³²⁰ According to SIFMA–AMG, this would be highly unusual and would be a significant deviation from industry practice.³²¹ Additionally, SIFMA–AMG asserted that it did not find the rationale for a tolling period of 30 days to be persuasive, and does not believe there is any reason why such period should be considered appropriate or sufficient.³²² SIFMA–AMG expressed concern that such revocation could cause harm to its business activities, in turn harming SIFMA–AMG members’ customers and their investments.³²³ SIFMA–AMG also expressed concern that the tolling period could have a compounding effect on markets and liquidity as well as risk management of FCMs and asset managers, and should be removed or modified to be more flexible.³²⁴

For the avoidance of doubt, the Commission confirms that the proposed 30-day toll on the reinstatement of separate account *treatment* was not intended to apply in instances in which the occurrence of events outside the ordinary course of business, as enumerated in regulation § 1.44(e), have caused an FCM to terminate or suspend *disbursements* on a separate account basis for a separate account customer.

An event that is outside the ordinary course of business would mean that the customer would, at least for a time, not be able to obtain disbursements on a separate account basis, pursuant to regulation § 1.44(c). During that time, the FCM would still be subject to the requirements attendant upon separate account treatment of a customer’s account, including, *e.g.*, those under regulations §§ 1.44(f) through (h), 1.58(c), and 1.73(c). It is only where the election pursuant to regulation § 1.44(d) for a particular customer’s account is affirmatively revoked that those requirements would cease to be applicable, and it is only in that case that the 30-day toll period would apply.

By contrast, if an FCM must cease providing disbursements to a customer on a separate account basis because the customer’s account is no longer in the “ordinary course of business,” the FCM may permit a resumption of disbursements on a separate account basis for the separate account customer as soon as the requirements of regulation § 1.44(e)(4), regarding the

³¹⁵ FIA Comment Letter.

³¹⁶ *Id.*

³¹⁷ *Id.*

³¹⁸ *Id.*

³¹⁹ SIFMA–AMG Comment Letter.

³²⁰ *Id.*

³²¹ *Id.*

³²² *Id.*

³²³ *Id.*

³²⁴ *Id.*

cure of non-ordinary course of business conditions and resumption of separate account treatment, are met.

As discussed above, FIA and SIFMA-AMG stated in their comments that they are not aware that any FCM has ever attempted to selectively use separate account treatment to obtain an illegitimate economic advantage. The Commission does not assume that establishes that there is no possibility of separate account treatment being used in such manner, and further submits that, if such strategic use of separate account treatment is uncommon, then a toll on resumption of separate account treatment following a revocation of an election for separate account treatment should not represent a significant burden for FCMs or customers. At the same time, the Commission is not aware of any such instances of “strategic switching” occurring under the no-action position, nor has any commenter discussed such issue as a significant risk.

Accordingly, in adopting regulation § 1.44(h)(4), including regulation § 1.44(h)(4)(i), the Commission is eliminating the proposed 30-day tolling period for an FCM to reinstate an election for separate account treatment. The Commission is also adopting regulation § 1.44(h)(4) with a technical change.³²⁵

L. Appendix A to Part 1

The Commission proposed Appendix A to part 1 to set forth those currencies for which payment of margin shall be considered in compliance with the one business day margin call requirements of regulation § 1.44(f) if received no later than the end of the second business day after the day on which the margin call is issued.³²⁶

The Commission understands that the list of currencies it included in proposed Appendix A to part 1 is consistent with current industry settlement conventions, based on the Commission staff’s informational discussions with industry professionals knowledgeable regarding such conventions. The Commission proposed that the initial currencies under

proposed Appendix A to part 1 should be Australian dollar (AUD), Chinese renminbi (CNY), Hong Kong dollar (HKD), Hungarian forint (HUF), Israeli new shekel (ILS), Japanese yen (JPY), New Zealand dollar (NZD), Singapore dollar (SGD), Turkish lira (TRY), and South African rand (ZAR).

The Commission did not receive any comments with respect to proposed Appendix A to part 1. Accordingly, the Commission is adopting Appendix A to part 1 as proposed.

M. Amendments to Regulation § 1.58

Regulation § 1.58(a) currently provides that each FCM that carries a commodity futures or commodity option position for another FCM or a foreign broker on an omnibus basis must collect, and each FCM and foreign broker whose account is so carried, must deposit initial and maintenance margin on positions reportable under regulation § 17.04³²⁷ at a level of at least that established for customer accounts by the rules of the relevant contract market. Regulation § 1.58(a) is designed to ensure that where a clearing FCM (*i.e.*, a carrying FCM) carries a customer omnibus account for a non-clearing FCM (*i.e.*, a depositing FCM), the risk posed by the customers of the depositing FCM continues to be appropriately mitigated through margining of those positions (*i.e.*, calculation of initial and maintenance margins) on a gross basis at the depositing FCM. This is analogous to the margining of positions of a clearing FCM on a gross basis at the DCO.³²⁸

In proposing regulation § 1.58(a) in 1981, the “Commission view[ed] with great concern the fact that [a significant] amount of customer funds [was] being held by firms [*i.e.*, non-clearing FCMs] that, in comparison to clearing FCMs, generally have less capital and are less equipped to handle the volatility of the commodity markets, a concern which was highlighted by the . . . bankruptcies [of three FCMs] which occurred during the last half of 1980.”³²⁹ In light of the segregation requirements at the time—which did not yet apply to foreign futures and foreign options, and also did not apply to cleared swaps (a category that did not then exist)—these requirements were designed only to apply to futures and options. The requirement was therefore tied to position reporting under regulation § 17.04, a reporting

requirement that is limited to futures and options.

By 2011, industry practice had developed such that “[u]nder current industry practice, omnibus accounts report gross positions to their clearing members and clearing members collect margins on a gross basis for positions held in omnibus accounts.”³³⁰ The Commission thus required DCOs to require that clearing members post margin to DCOs on a gross basis for both domestic futures and cleared swaps.³³¹ The Commission stated, as its rationale, that it continues to believe, as stated in the notice of proposed rulemaking, that gross margining of customer accounts will: (a) More appropriately address the risks posed to a DCO by its clearing members’ customers than net margining; (b) will increase the financial resources available to a DCO in the event of a customer default; and (c) with respect to cleared swaps, will support the requirement in § 39.13(g)(2)(iii) that a DCO must margin each swap portfolio at a minimum 99 percent confidence level.³³²

The Commission also noted that, “under certain circumstances gross margining may also increase the portability of customer positions in an FCM insolvency. That is, a gross margining requirement would increase the likelihood that there will be sufficient collateral on deposit in support of a customer position to enable the DCO to transfer it to a solvent FCM.”³³³

At the time, with its focus on implementing rules for DCOs, the Commission did not amend regulation § 1.58 explicitly to require gross margining for Cleared Swaps in omnibus accounts cleared by a non-clearing FCM through a clearing FCM. However, reviewing the matter presently, the Commission is of the view that the reasons for requiring clearing FCMs to post margin at a DCO on a gross basis apply, *mutatis mutandis*, to support requiring gross margining for omnibus customer accounts of non-clearing FCMs for

³²⁵ The Commission is making a technical change in final regulation § 1.44(h)(4) to substitute the phrase “pursuant to the requirements” for “under the terms and conditions” (“A futures commission merchant that has made an election pursuant to paragraph (d) of this section shall disclose in the Disclosure Document required under paragraph 1.55(i) of this part that it permits the separate treatment of accounts for the same customer pursuant to the requirements of this § 1.44 . . .”).

³²⁶ As discussed above, the procedures for adding currencies to or removing currencies from Appendix A to part 1 will be set forth in regulation § 1.44(f)(8).

³²⁷ 17 CFR 17.04.

³²⁸ See regulation § 39.13(g)(8)(i).

³²⁹ See *Gross Margining of Omnibus Accounts*, 46 FR 62864 (Dec. 29, 1981).

³³⁰ See *Derivatives Clearing Organization General Provisions and Core Principles*, 76 FR 69334, 69375 (Nov. 8, 2011).

³³¹ See *id.*, regulation § 39.13(g)(8)(i).

³³² *Derivatives Clearing Organization General Provisions and Core Principles*, 76 FR 69375–69376.

³³³ *Id.* at 69376 n. 133 (citing CPSS-IOSCO Consultative Report [on the Principles for Financial Market Infrastructures], Principle 14: Segregation and Portability, Explanatory Notes 3.14.6 and 3.14.8, at 67–68).

Cleared Swaps in addition to domestic futures.³³⁴

Accordingly, in the Second Proposal, the Commission proposed to amend regulations § 1.58(a) and (b). The Commission proposed to amend regulation § 1.58(a), addressing gross collection of margin generally, to require that “[e]ach futures commission merchant which carries a futures, options, or Cleared Swaps position for another futures commission merchant or for a foreign broker on an omnibus basis must collect, and each futures commission merchant and foreign broker for which an omnibus account is being carried must deposit, initial and maintenance margin on each position so carried” at a level no less than that established for customer accounts by the rules of the applicable contract market or other board of trade” (or, if the board of trade does not specify any such margin level, the level specified by the relevant clearing organization), *i.e.*, on a gross margin basis. The Commission proposed to amend regulation § 1.58(b), addressing entitlement to spread or hedge margin treatment, to require that if an FCM that “carries a futures, options, or Cleared Swaps position for another futures commission merchant or for a foreign broker on an omnibus basis allows a position to be margined as a spread position or as a hedged position in accordance with the rules of the applicable contract market, the carrying futures commission merchant must obtain and retain a written representation from the futures commission merchant or from the foreign broker for which the omnibus account is being carried that each such position is entitled to be so margined.”

Under regulation § 1.58 as proposed to be amended, clearing FCM initial and maintenance margin requirements for separate accounts of the same customer are to be calculated on a gross basis as the margin for accounts of distinct customers.³³⁵ The Commission believes it is important to continuity of risk management that the same approach

also be applied in the case of a non-clearing (depositing) FCM whose accounts are carried by a clearing (carrying) FCM, with respect to the amount that depositing FCM is required to deposit, and that the carrying FCM is required to collect.³³⁶ The Commission therefore proposed to amend regulation § 1.58 to add new paragraph (c) providing that, where an FCM has established an omnibus account that is carried by another FCM, and the depositing FCM has elected to treat the separate accounts of a customer as accounts of separate entities for purposes of regulation § 1.44, then the depositing FCM must calculate initial and maintenance margin for purposes of regulation § 1.58(a) separately for each separate account.³³⁷

In its comment letter, the JAC discussed the Commission’s proposal to amend regulation § 1.58(a) and (b) to extend the gross margin requirements of domestic futures and options accounts to Cleared Swaps accounts while specifically declining to require gross margining for omnibus accounts of secured 30.7 futures and options positions held by FCMs.³³⁸ The JAC noted that, although proposed regulation § 1.58(a) allows an FCM carrying a secured 30.7 omnibus account to margin that account on a net basis, the FCM would be able to margin the account on a net basis even if the DCO, a non-U.S. clearinghouse, or broker carrying an omnibus account were to collect margin on a gross basis from the FCM.³³⁹ Thus, the FCM would be collecting less margin than they are paying to the DCO, the non-U.S. clearinghouse, or the carrying broker. The JAC recommended that the Commission consider requiring gross margining for secured 30.7 omnibus accounts.³⁴⁰ Discussing the Commission’s statement in the Second Proposal that “[r]equiring an FCM to send a larger amount of 30.7 funds upstream to a foreign broker or foreign clearing organization would run counter to [regulation § 30.7(c)]’s goal of limiting

such amounts,” the JAC asserted that requiring a secured 30.7 omnibus account to be gross margined under regulation § 1.58 would only require the FCM to collect gross margin (*i.e.*, versus a lower net margin amount) from the depositing FCM or foreign broker, not for the FCM to send the amount along outside the U.S.³⁴¹ The JAC contended that requiring gross margining of secured 30.7 omnibus accounts will ensure the FCM’s risk-based capital requirement is accurately based on the risk margin required for all customer and noncustomer positions.³⁴²

CME also suggested that the Commission require FCMs to collect margin on a gross basis for the foreign futures and foreign options contracts in an omnibus account held by the clearing FCM, noting that CME believes gross margining of customer positions is an important element of risk management in the event of default by an FCM and is essential to the Commission’s stated goal in part 190 for porting customers regardless of whether the non-DCO foreign clearing organization collects margin on a gross or net basis.³⁴³

The Commission has not proposed to require gross margining of secured 30.7 omnibus accounts and does not in this final rulemaking adopt such a requirement, although the Commission may consider proposing to do so in the future. The Commission notes that, with respect to the accounts of foreign futures and foreign options customers, unless an FCM is a direct clearing member of a non-U.S. DCO, porting the positions of the FCM’s customers may prove impracticable because, to the extent the FCM clears through a foreign affiliate, the foreign affiliate will likely be subject to foreign insolvency laws.

N. Amendments to Regulation § 1.73

The Commission proposed to amend regulation § 1.73 to add new paragraph (c) providing that an FCM that is not a clearing member of a DCO but that treats the separate accounts of a customer as accounts of separate entities for purposes of proposed regulation § 1.44 shall comply with regulation § 1.73(a) and (b) with respect to accounts and separate accounts of separate account customers, as if the FCM were a clearing member of a DCO. Regulation § 1.73 currently sets forth risk management requirements only for FCMs that are clearing members of DCOs. The Commission proposed this amendment to ensure that, where non-clearing FCMs are engaging in separate account

³³⁴ By contrast, the Commission has imposed limits on holding the foreign futures or foreign options secured amount outside the United States. See regulation § 30.7(c) (limiting such amounts to 120% “of the total amount of funds necessary to meet margin and prefunding margin requirements” that are “established by rule, regulation or order of foreign boards of trade or foreign clearing organizations, or to meet margin calls issued by foreign brokers carrying the 30.7 customers’ foreign futures and foreign options positions.”) Requiring an FCM to send a larger amount of 30.7 funds upstream to a foreign broker or foreign clearing organization would run counter to the regulation’s goal of limiting such amounts. Accordingly, the Commission did not propose to require gross margining with respect to 30.7 accounts.

³³⁵ See proposed regulation § 1.44(g)(2).

³³⁶ As a result, each customer with accounts subject to separate account treatment should be subject to the same or greater margin requirements as such customer would be subject to if its separate accounts were margined on a combined account basis.

³³⁷ If non-clearing FCM *N* has customers *P* and *Q*, and *Q* is a separate account customer with separate accounts *R*, *S*, and *T*, then *N* would calculate, on a gross basis, the margin requirements for accounts *P*, *R*, *S*, and *T*, consistent with proposed regulation § 1.58(c). That gross margin requirement, across those four accounts, will be the amount that, consistent with regulation § 1.58(a), *N* must deposit and *N*’s clearing FCM, *C*, must collect.

³³⁸ JAC Comment Letter.

³³⁹ *Id.*

³⁴⁰ *Id.*

³⁴¹ *Id.*

³⁴² *Id.*

³⁴³ CME Comment Letter.

treatment, they are required to comply with the same baseline risk management requirements with respect to those separate accounts as their clearing counterparts do with respect to all accounts. In particular, this amendment links regulation § 1.73 to a non-clearing FCM's compliance with proposed regulation § 1.44(g)(1)'s stress testing and credit limit requirements. Since 2019, clearing FCMs have successfully applied regulation § 1.73(a), in conjunction with the no-action position's stress testing and credit limit conditions,³⁴⁴ to manage the risk of accounts subject to separate treatment.

In proposing to codify the no-action position in part 1 of the Commission's regulations, the Commission believes it would be prudent from a customer funds protection perspective, and a systemic risk mitigation perspective, to ensure that any FCMs that provide for separate account treatment, whether clearing or non-clearing, do so subject to similarly heightened risk management requirements. The Commission expects that, by applying the heightened risk management requirements applicable to clearing FCMs to all of a non-clearing FCM's accounts for a customer receiving separate treatment, a non-clearing FCM will be better able to detect and prevent the emergence of risks that could lead to operational or financial distress at such customer, reducing the potential risk of a default (or a failure to maintain adequate customer funds) by the non-clearing FCM.

The Commission did not receive any comments with respect to the proposed amendments to regulation § 1.73.

Accordingly, the Commission is adopting the amendments to regulation § 1.73 as proposed.³⁴⁵

O. Amendments to Regulation § 30.2

Regulation § 30.2(b) currently excludes an FCM engaging in foreign futures and foreign option transactions for 30.7 customers from certain provision of the Commission's regulations, including regulation § 1.44, in recognition that such transactions are entered into on contract markets that are subject to regulation by non-U.S. authorities.³⁴⁶ Immediately prior to this

final rule, regulation § 1.44 was reserved. The Commission proposed to amend regulation § 30.2(b) to remove regulation § 1.44 from the list of excluded regulations.³⁴⁷

The amendment to regulation § 30.2(b) is consistent with the imposition of the Margin Adequacy Requirement on 30.7 accounts and the proposed definition of the term "account" in regulation § 1.44(a), which would include 30.7 accounts in addition to futures accounts and Cleared Swaps Customer Accounts.

The Commission also proposed to remove the exclusion of regulations §§ 1.41–1.43 from applicability to part 30. When regulation § 30.2 was promulgated in 1987 as part of the establishment of part 30,³⁴⁸ it explicitly provided that certain of its existing regulations would not be applicable "to the persons and transactions that are subject to the requirements of" part 30. At that time, regulations §§ 1.41–1.43 addressed, respectively, crop or market information letters, filing of contract market rules with the Commission, and warehouses, depositories, and other similar entities. Those regulations were subsequently deleted, and those sections were reserved.

When the Commission revised its part 190 bankruptcy rules in 2021, the Commission added, as regulations §§ 1.41–1.43, designation of hedging accounts, delivery accounts, and conditions on accepting letters of credit as collateral. Each of these regulations was intended to apply to foreign futures accounts. In this final rule, the Commission amends regulation § 30.2 to conform with that intention.

The Commission did not receive any comments with respect to the proposed amendments to regulation § 30.2.

Accordingly, the Commission is adopting the amendments to regulation § 30.2 as proposed.

P. Amendments to Regulation § 39.13

Regulation § 39.13(g)(8)(i) requires DCOs to collect customer margin from their clearing members on a gross basis, that is, collect margin "equal to the sum of initial margin amounts that would be required by the [DCO] for each individual customer within that account

the segregation requirements of 30.7 customer funds.

³⁴⁷ As previously noted, immediately prior to this final rule, regulation § 1.44 was reserved and, accordingly, did not impose any regulatory obligation on an FCM. However, at the time regulation § 30.2 was promulgated, regulation § 1.44 addressed records and reports of warehouses, depositories, and other similar entities. This regulation was subsequently deleted.

³⁴⁸ Foreign Futures and Foreign Options Transactions, 52 FR 28980 (Aug. 5, 1987).

if each individual customer were a clearing member." ³⁴⁹ The Commission proposed to add new regulation § 39.13(g)(8)(i)(E) to clarify that, for purposes of this regulation on gross margining, each separate account of a separate account customer shall be treated as an account of a separate individual customer.

The Commission also proposed to amend regulation § 39.13(g)(8)(iii) to provide that such paragraph shall apply except as provided for in regulation § 1.44. The Commission proposed this amendment to ensure that the carve-out (represented by regulation § 1.44(c)–(h)) to the Margin Adequacy Requirement (represented by regulation § 1.44(b)) that would apply to all FCMs is also effectuated with respect to the Margin Adequacy Requirement applicable to clearing members through DCOs pursuant to regulation § 39.13(g)(8)(iii).

OCC commented that the Second Proposal makes clear, in defining the conditions under which an FCM can offer separate account treatment, that the Commission intended to make compliance with the requirements for such treatment the responsibility of FCMs, and the responsibility for monitoring such compliance that of the FCM's DSRO rather than any DCO of which it is a member.³⁵⁰ OCC noted that, consistent with this, the proposal would not require an FCM to notify a DCO of which it is a member either of the FCM's initial election for separate account treatment, or the occurrence of any non-ordinary course of business event, which would have the effect of removing the DCO's visibility into its members' separate account treatment practices.³⁵¹

With respect to the Margin Adequacy Requirement of regulation § 39.13(g)(8)(iii), which, as proposed, would apply except as provided for in § 1.44, OCC noted that the requirements for determining whether an FCM is operating in compliance with the requirements of regulation § 1.44 would require detailed knowledge of an FCM's operational and risk management practices on an ongoing basis, including, among other information, real-time knowledge of the timing of each such customer's margin posting to the FCM, and information as to the exact cause of any delay in posing margin.³⁵² OCC expressed concern that, without clarification, regulation § 39.13(g)(8)(iii), as amended, could be interpreted as imposing strict liability

³⁴⁹ 17 CFR 39.13(g)(3)(i)(A).

³⁵⁰ OCC Comment Letter.

³⁵¹ *Id.*

³⁵² *Id.*

³⁴⁴ CFTC Letter No. 19–17 (Condition 3).

³⁴⁵ The Commission is making one technical modification to the final amendments to regulation § 1.73. In final regulation § 1.73(c), the Commission is changing "[an FCM] . . . shall comply . . . as if it was a clearing member of a [DCO]" to "[an FCM] . . . shall comply . . . as if it were a clearing member of a [DCO]."

³⁴⁶ For example, regulation § 30.2 excludes persons and foreign futures and foreign options transactions from the segregation requirements of § 1.20, which applies only to futures customer funds and transactions. Regulation § 30.7 addresses

on DCOs for their members' compliance with regulation § 1.44.³⁵³ Accordingly, OCC recommended that the Commission modify regulation § 39.13(g)(8)(iii) to specify that a DCO will not be liable for violating regulation § 39.13(g)(8)(iii) on the basis of any failure by any clearing member to comply with any requirement or requirements of regulation § 1.44.³⁵⁴

Although both regulation § 1.44(b) and regulation § 39.13(g)(8)(iii) contain a Margin Adequacy Requirement, the former applies directly to FCMs whereas the latter applies to FCMs that are clearing members of DCOs through the operation of DCO rules. Accordingly, a DCO must have in place rules to effectuate the requirements of regulation § 39.13(g)(8)(iii) and must monitor and enforce compliance with those rules, consistent with DCO Core Principle H³⁵⁵ and regulation § 39.17³⁵⁶ regarding rule enforcement, but a DCO is not itself responsible for enforcing regulation § 1.44. Although the Commission disagrees that there are *no* instances in which a DCO could be held liable with respect to a clearing member's violation of regulation § 1.44 (*i.e.*, where the violation would independently result in a violation of the Margin Adequacy Requirement of regulation § 39.13(g)(8)(iii)), such as might result where the DCO has actual knowledge of an actual or potential underlying violation of regulation § 1.44 which results in a violation of the DCO's rules to effectuate the Margin Adequacy Requirement of regulation § 39.13(g)(8)(iii)), the Commission agrees that, as a general matter, regulation § 1.44 is not designed to impose on a DCO responsibility to meticulously supervise a clearing FCM's compliance with the requirements of the regulation. Moreover, DCOs currently have the responsibility to enforce their rules established pursuant to regulation § 39.13(g)(8)(iii), subject to CFTC Letter No. 19–17.

In its comment letter, CME agreed with the Commission's proposal to add new regulation § 39.13(g)(8)(i)(E) to clarify that, for purposes of such provision, related to gross margining, each separate account of a separate account customer shall be treated as an account of a separate individual customer.³⁵⁷ CME however requested that the Commission clarify, for purposes of ensuring accurate customer gross margin, that an FCM must identify

not only accounts eligible for separate account margining, but also which accounts are currently deploying the practice on the FCM's books.³⁵⁸ Consistent with its response above to the JAC's similar comment with respect to the recordkeeping requirement in regulation § 1.44(d)(1), the Commission confirms that such requirement, which requires an FCM to keep current the required list of separate account customers and their separate accounts, is intended to ensure that FCMs maintain a current list of separate account customers and their accounts receiving separate treatment. Thus, the FCM is required to apply the requirements of regulation § 1.44 applicable to separate account customers to all customers on that list.

Additionally, in connection with proposed changes to regulation § 39.13(g)(8)(iii), the Commission requested comment with respect to whether the Commission should remove regulation § 39.13(g)(8)(iii), if the Commission includes the Margin Adequacy Requirement and requirements regarding separate account treatment in part 1 of its regulations as proposed (Question 8). In its comment letter, CME agreed that it would be logical to delete regulation § 39.13(g)(8)(iii) as regulation § 1.44 will address withdrawals from customer accounts at the clearing member.³⁵⁹ The Commission did not receive any other comments in response to this question.

The Commission appreciates CME's comment and acknowledges that the Margin Adequacy Requirement in regulation § 39.13(g)(8)(iii) is substantially the same as that in regulation § 1.44(b) (albeit applicable to FCMs through the instrumentation of DCO rules). The Commission, however, notes that in requiring DCOs to prevent clearing members from withdrawing margin such that it would lead to undermargining in the customer's account, regulation § 39.13(g)(8)(iii) provides for an additional layer of monitoring and enforcement (in addition to FCMs' DSROs and the Commission), to ensure that the Margin Adequacy Requirement is being met. Considering this substantial oversight benefit and noting the low volume of responses to this question, the Commission has determined to retain regulation § 39.13(g)(8)(iii).

Accordingly, the Commission is adopting the amendments to regulation § 39.13 as proposed.

III. Cost Benefit Considerations

A. Introduction

Section 15(a) of the CEA requires the Commission to "consider the costs and benefits" of its actions before promulgating a regulation under the CEA or issuing certain orders.³⁶⁰ Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) protection of market participants and the public; (2) efficiency; competitiveness, and financial integrity of markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations (collectively referred to herein as the section 15(a) Factors). Accordingly, the Commission considers the costs and benefits associated with this final rule in light of the section 15(a) Factors. In conducting its analysis, the Commission may, in its discretion, give greater weight to any one of the five enumerated areas of concern. In the sections that follow, the Commission considers: (1) the costs and benefits of the final rule; (2) the alternatives contemplated by the Commission and their costs and benefits; and (3) the impact of the final rule on the section 15(a) Factors.

By its terms, section 15(a) does not require the Commission to quantify the costs and benefits of a new rule or to determine whether the benefits of the adopted rule outweigh its costs. Nonetheless, the Commission has endeavored to assess the expected costs and benefits of the final rule in quantitative terms, including Paperwork Reduction Act-related costs, where practicable. In situations where the Commission is unable to quantify the costs and benefits, the Commission identifies and considers the costs and benefits of the applicable amendments in qualitative terms. However, the Commission lacks the data necessary to reasonably quantify all of the costs and benefits considered below. In some instances, it is not reasonably feasible to quantify the costs and benefits to FCMs with respect to certain factors, such as market integrity. Additionally, any initial and recurring compliance costs for any particular FCM will depend on its size, existing infrastructure, practices, and cost structures. Notwithstanding these types of limitations, the Commission otherwise identifies and considers the costs and benefits of these final rule amendments in qualitative terms.

In the following consideration of costs and benefits, the Commission first

³⁵³ *Id.*

³⁵⁴ *Id.*

³⁵⁵ 7 U.S.C. 7a–1(c)(2)(H).

³⁵⁶ 17 CFR 39.17.

³⁵⁷ CME Comment Letter.

³⁵⁸ *Id.*

³⁵⁹ *Id.*

³⁶⁰ 7 U.S.C. 19(a).

identifies and discusses the benefits and costs attributable to the final rule amendments. Next, the Commission identifies and discusses the benefits and costs attributable to the final rule amendments as compared to alternatives to the final rule amendments. The Commission, where applicable, then considers the costs and benefits of the final rule amendments in light of the section 15(a) Factors.

The Commission notes that this consideration of costs and benefits is based on, *inter alia*, its understanding that the derivatives markets regulated by the Commission function internationally, with (1) transactions that involve entities organized in the United States occurring across different international jurisdictions, (2) some entities organized outside of the United States that are prospective Commission registrants, and (3) some entities that typically operate both within and outside the United States, and that follow substantially similar business practices wherever located. Where the Commission does not specifically refer to matters of location, the discussion of costs and benefits below refers to the effects of the final regulations on all relevant derivatives activity, whether based on their actual occurrence in the United States or on their connection with, or effect on, U.S. commerce.³⁶¹

In the Second Proposal, the Commission generally requested comment on all aspects of its cost benefit considerations. The Commission also included a number of questions for the purpose of eliciting cost and benefit estimates from public commenters wherever possible.

1. Final Rule

The Commission is promulgating new regulations in part 1 of its regulations designed to (1) further ensure that FCMs hold customer funds sufficient to cover the required initial margin for the customer's positions, by prohibiting an FCM from permitting customers to withdraw funds from their accounts with such FCM unless the net liquidating value plus the margin deposits remaining in the customer's account after the withdrawal would be sufficient to meet the customer initial margin requirements with respect to the products or portfolios in the customer's account (*i.e.*, the Margin Adequacy Requirement) (regulation § 1.44(b)) and (2) permit FCMs to treat the separate accounts of a single customer as accounts of separate entities for purposes of the Margin Adequacy Requirement, subject to requirements

designed to ensure that such separate account treatment is carried out in a documented and consistent manner, and that FCMs, their DSROs, and the Commission are apprised of, and able to respond to, conditions that, for risk mitigation reasons, would necessitate the cessation of disbursements on a separate account basis (regulation § 1.44(c)–(h)).³⁶² The Commission is also adopting revisions to regulations in parts 1, 22, and 30 of its regulations related to definitions, FCM minimum financial requirements, reporting, collection of margin, and clearing FCM risk management (amendments to regulations §§ 1.3, 1.17, 1.20, 1.58, and 1.73, as well as §§ 22.2 and 30.7), and part 39 of its regulations related to DCO risk management (amendments to regulation § 39.13), to facilitate full implementation of the Margin Adequacy Requirement and the requirements for separate account treatment.

2. Baseline: Current Part 1 and Regulation 39.13(g)(8)(iii)

The Commission identifies the costs and benefits of the final amendments relative to the baseline of the regulatory status quo. In particular, the baseline that the Commission considers for the costs and benefits of these final rule amendments is the Commission regulations in effect immediately prior to the adoption of this final rule; specifically, part 1 of the Commission's regulations (where the operative part of the final rule would be codified) and regulation § 39.13(g)(8)(iii) (which contains the Commission's current Margin Adequacy Requirement). In considering the costs and benefits of the final rule against this baseline, the Commission considers the costs and benefits for both clearing FCMs and non-clearing FCMs—the two categories of market participants that will be directly affected by the final rule. To the extent that certain FCMs that are clearing members of DCOs have taken actions in reliance on CFTC Letter No. 19–17, the Commission recognizes the practical implications of those actions on the costs and benefits of the final rule.

a. Baseline With Respect to Clearing FCMs

Regulation § 39.13(g)(8)(iii) currently provides that DCOs shall establish a Margin Adequacy Requirement for their clearing FCMs with respect to the products that the DCOs clear. Thus, under the status quo baseline, clearing FCMs are, albeit indirectly (through the

operation of DCO rules designed to implement regulation § 39.13(g)(8)(iii)), subject to the Margin Adequacy Requirement for futures and Cleared Swaps. They are not, however, subject to the Margin Adequacy Requirement for foreign futures that are not cleared by a DCO.³⁶³ Under the baseline—which does not include the effect of CFTC Letter No. 19–17 and its superseding letters—clearing FCMs are not permitted to engage in separate account treatment with respect to the Margin Adequacy Requirement.

b. Baseline With Respect to Non-Clearing FCMs

Immediately prior to the adoption of this final rule, Commission regulations did not, either directly or indirectly, impose a Margin Adequacy Requirement on non-clearing FCMs. Accordingly, non-clearing FCMs had no need to engage in separate account treatment with respect to such a requirement.

Additionally, immediately prior to the adoption of this final rule, the Commission's part 1 regulations did not contain any requirements specifically related to the separate treatment of accounts. As noted above, under the baseline, clearing FCMs are not permitted to engage in separate account treatment with respect to regulation § 39.13(g)(8)(iii)'s Margin Adequacy Requirement, and non-clearing FCMs previously had no need to engage in separate account treatment with respect to the Margin Adequacy Requirement of regulation § 39.13(g)(8)(iii) (because DCO rules addressing that regulation do not apply to non-clearing FCMs). Additionally, a non-clearing FCM was not permitted to treat the accounts of a single customer as accounts of separate entities for purposes of regulatory requirements imposed by the Commission (*e.g.*, capital requirements under regulation § 1.17).

³⁶³ While existing regulation § 39.13(g)(8)(iii) does not require DCOs to impose a Margin Adequacy Requirement on their clearing FCMs with respect to such FCMs' foreign futures (part 30) accounts, it may well be the case that such FCMs' existing systems and procedures already apply that requirement to those accounts, because it may be impracticable operationally to treat those accounts differently from futures and Cleared Swaps Accounts. If that assumption is correct, then the final part 1 Margin Adequacy Requirement is unlikely to impose significant costs on, or cause significant benefits with respect to, clearing FCMs.

³⁶¹ See, *e.g.*, 7 U.S.C. 2(i).

³⁶² Regulation § 1.44(a) provides definitions supporting the other subsections of the regulation.

B. Consideration of the Costs and Benefits of the Commission's Action

1. Benefits

a. Margin Adequacy Requirement (Regulation § 1.44(b))

As discussed above, the Commission is (a) promulgating new regulations in part 1 of its regulations designed to (1) further ensure that FCMs hold customer funds sufficient to cover the required initial margin for the customer's positions, and (2) permit FCMs to treat the separate accounts of a single customer as accounts of separate entities for purposes of such Margin Adequacy Requirement, subject to requirements designed to mitigate the risk that such separate account treatment could result in or worsen an undermargining scenario; and (b) adopting supporting amendments in parts 1, 22, 30, and 39 to facilitate the Margin Adequacy Requirement and requirements for separate account treatment, namely through changes to definitions, amendment of certain margin calculation requirements, application of certain risk management requirements to non-clearing FCMs engaged in separate account treatment, and amendment of regulation § 39.13(g)(8)(iii)'s Margin Adequacy Requirement to accommodate separate account treatment under the final rule.

Existing regulation § 39.13(g)(8)(iii) establishes a Margin Adequacy Requirement, designed to mitigate the risk that a clearing member fails to hold, from a customer, funds sufficient to cover the required initial margin for the customer's cleared positions, and thereby designed to avoid the risk that a clearing FCM will, whether deliberately or inadvertently, misuse customer funds by using one customer's funds to cover another customer's margin shortfall. DCO Core Principle D, which concerns DCO risk management, imposes a number of duties upon DCOs related to their ability to manage the risks associated with discharging their responsibilities as DCOs, such as measuring credit exposures, limiting exposures to potential default-related losses, setting margin requirements, and establishing risk management models and parameters.³⁶⁴ Among other requirements, Core Principle D requires that the margin required from each member and participant of a DCO be sufficient to cover potential exposures in normal market conditions.³⁶⁵ Regulation § 39.13 implements Core

Principle D, including through regulation § 39.13(g)(8)(iii)'s restrictions on withdrawal of customer initial margin.

With respect to clearing FCMs, because regulation § 39.13(g)(8)(iii) already results in the application of a Margin Adequacy Requirement to clearing FCMs through DCO rules in the context of futures and Cleared Swaps, the benefits of a Margin Adequacy Requirement in part 1 that applies directly to FCMs will be more limited than the benefits with respect to non-clearing FCMs. However, the Commission believes that, to the extent there are failures in compliance with respect to margin adequacy, final regulation § 1.44(b) will provide an additional avenue (*i.e.*, through the Commission and an FCM's DSRO) for monitoring and enforcement of margin adequacy for clearing FCMs. Moreover, final regulation § 1.44(b) will expand the Margin Adequacy Requirement to apply to foreign futures transactions cleared through both clearing and non-clearing FCMs.³⁶⁶

With respect to non-clearing FCMs, the Margin Adequacy Requirement of final regulation § 1.44(b) will result in similar benefits to those currently experienced with respect to clearing FCMs under regulation § 39.13(g)(8)(iii). Regulation § 39.13(g)(8)(iii) provides that DCOs shall require clearing FCMs to ensure that their customers do not withdraw funds from their accounts unless sufficient funds remain to meet customer initial margin requirements with respect to all products and swap portfolios held in the customers' accounts and cleared by the DCO. This requirement is designed to prevent the undermargining of customer accounts, and thus mitigate the risk of a clearing member default and the consequences that could accrue to the broader financial system.

Section 4d(a)(2) of the CEA and regulation § 1.20(a) require an FCM to separately account for and segregate all money, securities, and property which it has received to margin, guarantee, or secure the trades or contracts of its commodity customers, and section 4d(a)(2) of the CEA and regulation § 1.22(a) prohibit an FCM from using the money, securities, or property of one

customer to margin or settle the trades or contracts of another customer.³⁶⁷

The Commission believes that regulation § 1.44(b), which will apply a Margin Adequacy Requirement directly to FCMs, both clearing and non-clearing, would further achieve the benefits of serving to protect customer funds, and mitigating systemic risk that could arise from misuse of customer funds, by applying the undermargining avoidance requirements of regulation § 39.13(g)(8)(iii) directly to all FCMs. As noted above, this Margin Adequacy Requirement does not currently apply to non-clearing FCMs. The Commission further believes that the application of such a Margin Adequacy Requirement to all FCMs (and to all three types of customer transactions, including (additionally) foreign futures transactions), through more broadly preventing undermargining situations, is reasonably necessary to effectuate CEA sections 4d and 4(b)(2) and to accomplish the purposes of the CEA (from section 3(b)) of "avoidance of systemic risk" and "protecting all market participants from . . . misuses of customer assets."

b. Requirements for Separate Account Treatment (Regulation § 1.44(c)–(h) and Supporting Amendments to Regulations §§ 1.3, 1.17, 1.20, 1.32, 1.58, 1.73, 22.2, 30.2, 30.7, and 39.13(g)(8))

As discussed in section I.B above, there are a number of commercial reasons why an FCM or customer may wish to treat the separate accounts of a single customer as accounts of separate entities. Combination of all accounts of the same customer within the same regulatory account classification for purposes of margining and determining funds available for disbursement may make it challenging for certain customers and their asset managers to achieve certain commercial purposes.³⁶⁸ For example, where a customer has apportioned assets among multiple asset managers, neither the customer nor their asset managers may be able to obtain certainty that the individual portion of funds allocated to one asset manager will not be affected by the activities of other asset managers.

Where FCMs are able to treat the separate accounts of a single customer as accounts of separate entities for purposes of the Margin Adequacy Requirement, customers benefit from being better able to leverage the skills and expertise of asset managers and realize the benefits of a balance of

³⁶⁴ Section 5b(c)(2)(D) of the CEA, 7 U.S.C. 7a–1(c)(2)(D).

³⁶⁵ Section 5b(c)(2)(D)(iv) of the CEA, 7 U.S.C. 7a–1(c)(2)(D)(iv).

³⁶⁶ To the extent that FCMs already follow the Margin Adequacy Requirement for foreign futures, *e.g.*, for reasons of operational convenience (for example, if a clearing FCM applies the Margin Adequacy Requirement to its customer risk management for futures and Cleared Swaps, it may be easier to also apply it in the context of customer risk management for foreign futures than to have two different approaches) or as a matter of prudent risk management, the related costs and benefits would be reduced.

³⁶⁷ 7 U.S.C. 6d(a)(2); 17 CFR 1.20(a); 17 CFR 1.22(a).

³⁶⁸ See First FIA Letter.

investment strategies in order to meet specific commercial goals. Moreover, as discussed further below, clearing FCMs and customers of clearing FCMs already relying on the no-action position would also obtain the benefit of continuing to leverage existing systems and procedures to provide for separate account treatment.

The Commission believes that, where such separate account treatment is offered, it should be subject to safeguards that mitigate the risk that it will result in the undermargining of customer accounts. By applying regulatory safeguards designed to preserve the goals of the Margin Adequacy Requirement during such treatment, the final rule would achieve the benefit of permitting separate account treatment in a manner that would not contravene the customer funds protection and risk mitigation purposes of the CEA and Commission regulations.

The Commission also believes that several years of successful separate account activity based on the no-action conditions of CFTC Letter No. 19–17 and its superseding letters by DCOs, clearing FCMs, and customers demonstrate that separate account treatment can be successfully applied, subject to certain safeguards.

As discussed above, sections 4d(a)(2) of the CEA and regulations §§ 1.20(a) and 1.22(a) require an FCM to account separately for and segregate futures customer funds and prohibit FCMs from using one customer's funds to cover another customer's margin shortfall³⁶⁹—requirements which serve to further the CEA's purposes (as set forth in section 3(b)) of protecting customer funds and avoiding systemic risk.

Part 1 of the Commission's regulations contain the principal regulations applicable to the operation of FCMs that support the above-described statutory purposes and requirements. Such regulations include requirements related to financial and other reporting, risk management, treatment of customer funds, and recordkeeping, among others. As noted above, the Commission believes that a Margin Adequacy Requirement, directly applied to all FCMs and combined with separate account treatment, can further effectuate CEA section 4d(a)(2)'s customer fund protection and risk avoidance requirements³⁷⁰ while offering

commercial utility for a variety of market participants. However, prior to the adoption of this final rule, part 1 did not contain any regulations imposing such a Margin Adequacy Requirement, or governing the manner in which separate account treatment may be conducted.

The final rule is designed to achieve the benefit of bridging this gap by

(i) inserting a Margin Adequacy Requirement (regulation § 1.44(b)) into part 1 to ensure further that an FCM (whether a clearing or non-clearing FCM) does not permit margin withdrawals that would create or exacerbate an undermargining situation,

(ii) allowing FCMs to treat the separate accounts of a single customer as accounts of separate entities for purposes of the Margin Adequacy Requirement, with the benefits discussed above (regulation § 1.44(c)),

(iii) establishing the manner in which FCMs may elect to engage in separate account treatment for a particular customer, with the benefit of identifying both for the FCM and its supervisory authorities (the Commission and SROs) whether it is engaging in separate account treatment, and, if so, for which customers, with the benefit of facilitating effective regulatory/self-regulatory supervision (regulation § 1.44(d)),

(iv) setting forth financial and operational conditions for customers and FCMs that would identify risk management issues that are sufficiently significant to disqualify a particular separate account customer from receiving (or an FCM with respect to all of its separate account customers from making) disbursements on a separate account basis (regulation § 1.44(e)),

(v) requiring that separate accounts be on a one business day margin call, while setting forth limited circumstances in which failure to actually receive margin on a same-day basis may be excused, with the benefit of limiting the extent of potential undermargining, (regulation § 1.44(f)), and

(vi) establishing requirements designed to ensure that separate account treatment is carried out in a consistent and documented manner, and carrying that treatment through to related FCM capital, customer funds protection, and risk management requirements in part 1 (regulation § 1.44(g)–(h)), with the benefit of further ensuring that the risk management objectives of the Margin Adequacy Requirement continue to be met during separate account treatment.

The revisions to regulations §§ 1.3, 1.17, 1.20, 1.32, 1.58, 1.73, 22.2, 30.2, 30.7, and 39.13(g)(8)(i) are designed to define terms used in regulation § 1.44

and facilitate implementation of provisions in regulation § 1.44 that would affect compliance with financial requirements for FCMs, collection of margin, and FCM risk management. Additionally, a revision to regulation § 39.13(g)(8)(iii) is intended to make clear that regulation § 39.13(g)(8)(iii)'s Margin Adequacy Requirement, applicable directly to DCOs and indirectly to clearing FCMs, and similar in substance to the Margin Adequacy Requirement of regulation § 1.44(b), does not require DCOs to preclude separate account treatment carried out subject to regulation § 1.44.

The Commission believes that final regulation § 1.44(c)–(h), and the final supporting amendments to regulations §§ 1.3, 1.17, 1.20, 1.32, 1.58, 1.73, 22.2, 30.2, 30.7, and 39.13 would benefit both clearing FCMs and non-clearing FCMs, in addition to customers and other market participants, by providing a comprehensive framework that affirms the availability of separate account treatment, and sets forth the manner in which such treatment can be carried out consistent with the customer fund protection and risk avoidance objectives of regulation § 39.13(g)(8)(iii) (as applied via DCO rules, with respect to clearing FCMs) and regulation § 1.44(b)'s Margin Adequacy Requirement (with respect to both clearing FCMs and non-clearing FCMs).

The Commission additionally notes that the allowance of, and requirements for separate account treatment in final regulation § 1.44(c)–(h) are substantially similar to the conditions to the staff no-action position in CFTC Letter No. 19–17. A number of clearing FCMs have adopted some practices based on this no-action position provided by Commission staff. As such, to the extent that some clearing FCMs have relied on the no-action position, the actual costs and benefits of the rule amendments as realized in the market may not be as significant as a comparison of the rule to the regulatory baseline would suggest.³⁷¹

Moreover, if the Commission were to allow the no-action position in CFTC Letter No. 19–17 to expire, and did not adopt the proposed regulation, then clearing FCMs that already engage in separate account treatment consistent with the terms of CFTC Letter No. 19–17 would be required to reverse those

³⁶⁹ See also the analogous requirements in CEA §§ 4d(f)(2) and 4(b), and regulations §§ 22.2 and 30.7 (for, respectively, Cleared Swaps and foreign futures).

³⁷⁰ And, similarly, those of CEA section 4d(f)(2) and 4(b).

³⁷¹ For those clearing FCMs that currently choose not to engage in separate account treatment, and therefore, do not adhere to CFTC Letter No. 19–17, but choose to do so following the adoption of this final rule, the Commission submits that there will be significant costs; similar to those faced by non-clearing FCMs. This is discussed further below in the costs section.

changes. This could entail significant expenditures of funds and resources in order to rework systems, procedures, and customer documentation for such FCMs.³⁷² Hence, actual benefits to the regulation may accrue from the ability of many FCMs to avoid these costs.

In connection with its discussion of the benefits of the proposed requirements for separate account treatment, the Commission asked as Question 9 what evidence can be provided that customers have been able to achieve better performance by virtue of allowing separate account treatment; and whether there is evidence of under margining due to separate account treatment since CFTC Letter No. 19–17 was issued. Additionally, as Question 10, the Commission asked whether there is evidence of regulatory arbitrage between clearing FCMs and non-clearing FCMs on the grounds that the latter are not currently subject to the Margin Adequacy Requirement. No commenter responded to these questions.

2. Costs

The final rule (i) amends part 1 of the Commission regulations to add a new requirement (regulation § 1.44(b)) for FCMs to hold customer funds sufficient to cover the required initial margin for the customer's positions (the Margin Adequacy Requirement); (ii) amends part 1 to, in the same new section (regulation § 1.44(c)–(h)), permit FCMs, subject to certain requirements and for purposes of the Margin Adequacy Requirement, treat the accounts of a single customer as accounts of separate entities; and (iii) amends existing regulations in parts 1 and 39 to facilitate implementation of the new regulation. The Commission herein discusses the costs related to each such set of amendments with respect to clearing and non-clearing FCMs. There are currently approximately 60 registered FCMs, and of these, the Commission estimates that approximately 40 are clearing FCMs and approximately 20 are

non-clearing FCMs.³⁷³ While the final rule would require all FCMs to comply with the Margin Adequacy Requirement, it would not require FCMs to engage in separate account treatment, and the Commission does not expect that all FCMs will engage in separate account treatment. Accordingly, as noted in connection with the Commission's discussion below related to the PRA, the Commission estimates that 30 FCMs will choose to apply separate account treatment.

a. Margin Adequacy Requirement (Regulation § 1.44(b))

The Margin Adequacy Requirement of regulation § 1.44(b) requires FCMs to hold customer funds sufficient to cover the required initial margin for customer positions. With respect to clearing FCMs, the Commission estimates that the cost of compliance would be *de minimis*. As discussed above, existing regulation § 39.13(g)(8)(iii) provides that a DCO shall require its clearing members to ensure that their customers do not withdraw funds from their accounts with such clearing members unless the net liquidating value plus the margin deposits remaining in a customer's account after such withdrawal are sufficient to meet the customer initial margin requirements with respect to all products and swap portfolios held in such customer's account which are cleared by the DCO. Thus, regulation § 39.13(g)(8)(iii) applies a requirement that is substantively identical to the Margin Adequacy Requirement of regulation § 1.44(b) indirectly to clearing FCMs, through the rules of their DCOs. Because clearing FCMs are already functionally subject to the Margin Adequacy Requirements of regulation § 1.44(b) as a result of regulation § 39.13(g)(8)(iii), the Commission does not expect any significant additional cost of compliance for clearing FCMs.

Prior to this final rule, non-clearing FCMs were not subject to a Margin Adequacy Requirement promulgated by the Commission, and the Commission expects that the costs for a non-clearing FCM to comply could be significant. The Commission expects that compliance with the Margin Adequacy Requirement for a non-clearing FCM may entail many of the same types of costs noted below in connection with compliance with separate account treatment requirements. Such costs could include personnel, operational, and other costs related to updating

internal policies and procedures, updating or renegotiating customer documentation, and implementing or configuring internal systems to identify and prevent margin withdrawals that would be inconsistent with the Margin Adequacy Requirement. The Commission expects that the compliance costs for non-clearing FCMs could vary significantly depending on factors such as the FCM's size, customer base, and existing compliance infrastructure and resources. The extent to which non-clearing FCMs need to develop new tools, policies, and procedures may however be reduced, to the extent that such FCMs already voluntarily take steps to avoid distributing funds back to their customers in a manner that would create or exacerbate an undermargin condition for a customer, as a means of managing risks to the FCM.

Moreover, while promoting margin adequacy is a policy goal of many of the regulations promulgated under the CEA, there are potential costs to individual investors of the Margin Adequacy Requirement. In general, tightening the rules concerning margins can reduce the return to investors, and some effects of this type could result from requiring margin adequacy at non-clearing FCMs.

b. Requirements for Separate Account Treatment (Regulation § 1.44(c)–(h) and Supporting Amendments to Regulations §§ 1.3, 1.17, 1.20, 1.32, 1.58, 1.73, 22.2, 30.2, 30.7, and 39.13(g)(8))

In addition to the Margin Adequacy Requirement of regulation § 1.44(b), the Commission is also adopting in regulation § 1.44(c)–(h) rules to allow FCMs to elect to apply separate account treatment for purposes of the Margin Adequacy Requirement, and requirements for the application of such treatment. The regulation would not require FCMs to apply separate account treatment, and FCMs that do not presently apply separate account treatment, and do not desire to do so in the future, would generally not incur any costs related to the application of such treatment. Furthermore, the Commission believes that an FCM electing separate account treatment will do so because such FCM believes the benefits of doing so will exceed the costs of doing so.

With respect to FCMs that choose to engage in separate account treatment under the final rule, the Commission expects that clearing FCMs and non-clearing FCMs will generally incur the same types of compliance costs, as there are no applicable requirements for separate account treatment under the baseline with respect to either clearing

³⁷² See Second FIA Letter. For instance, FIA noted that clearing FCMs would again be required to review and amend customer agreements, noting that negotiations to amend such agreements would likely prove “extremely difficult” as “advisers would seek to assure that their ability to manage their clients’ assets entrusted to them would not be adversely affected by the actions (or inactions) of another adviser.” FIA letter dated May 11, 2022 to Robert Wasserman (Third FIA Letter). FIA further noted that “an adviser may be less likely to use exchange-traded derivatives to hedge its customers’ cash market positions if the adviser could not have confidence that it would be able to withdraw its customers’ excess margin as necessary to meet its obligations in other markets.” *Id.*

³⁷³ CFTC, Financial Data for FCMs, Aug. 31, 2024, available at <https://www.cftc.gov/MarketReports/financialfcmdata/index.htm>.

FCMs or non-clearing FCMs, and the requirements of the final rule generally do not distinguish between clearing FCMs and non-clearing FCMs.³⁷⁴

The costs of the final rule related to application of separate account treatment will likely vary across FCMs depending on the nature of their existing rule and compliance infrastructures, and as such would be difficult to quantify with precision. However, for those FCMs that choose to engage in separate account treatment in a manner consistent with the final rule, the costs of compliance could be significant, and may vary based on factors such as the size and existing compliance resources of a particular FCM, as well as the extent to which the FCM's existing risk management policies and procedures already incorporate risk management measures that overlap with those required under the final rule. FCMs that wish to allow for separate account treatment would likely incur costs in connection with updating their policies and procedures, internal systems, customer documentation and (re-)negotiation of customer agreements to allow for separate account treatment under the conditions codified in the final rule.

In a letter to the Commission staff dated April 1, 2022, FIA noted that, "For many [clearing] FCMs and their customers, the terms and conditions of the no-action position . . . presented significant operational and systems challenges," as clearing FCMs were required to "(i) adopt new practices for stress testing accounts; (ii) review and possibly change margin-timing expectations for non-US accounts; (iii) undertake legal analysis to clarify interpretive questions; and (iv) revise their segregation calculation and recordkeeping practices," as well as

engage in "time-consuming documentation changes and customer outreach."³⁷⁵

FIA further described these challenges in a letter to the Commission staff dated May 11, 2022, noting that in order to meet the conditions of the no-action position, clearing FCMs were required to review and in some cases amend customer agreements, and identify and implement information technology systems changes.³⁷⁶ FIA also asserted that clearing FCMs were likely required to revise internal controls and procedures.³⁷⁷ FIA stated that while the costs incurred by each clearing FCM varied depending on its customer base, among larger clearing FCMs with a significant institutional customer base, personnel costs would have included identifying and reviewing up to 3,000 customer agreements to determine which agreements required modification, and then negotiating amendments with customers or their advisers.³⁷⁸ FIA further stated that because the relevant provisions of these agreements were not uniform, they generally required individual attention.³⁷⁹

The Commission anticipates that similar costs would arise for FCMs attempting to meet the requirements of the final rule.

Of the costs that FCMs would likely incur related to application of separate account treatment, some costs would be incurred on a one-time basis (*e.g.*, updates to systems, procedures, disclosure documents, and recordkeeping practices, and renegotiation of customer agreements with separate account customers), and some would be recurring (*e.g.*, monitoring compliance with the one-day margin call requirement and the other conditions for ordinary course of business). However, those costs could vary widely on an FCM-by-FCM basis, depending on factors such as the number of customers at a particular FCM who wish to have separate treatment applied to their accounts; thus, for some FCMs, ongoing costs of maintaining compliance may be less significant.

While the Commission, in connection with its Paperwork Reduction Act

assessment below,³⁸⁰ estimates that certain reporting, disclosure, and recordkeeping costs would not be significant on an entity level, as FIA noted, taken as a whole, compliance with the conditions that the regulation codifies could result in significant operational and systems costs. In other words, the Commission anticipates that FCMs may incur significant costs related to designing and implementing new systems, or enhancing existing systems, to comply with the final rule, as well as negotiation costs, even where direct recordkeeping costs may not be significant on an entity-by-entity basis.³⁸¹

In terms of implementation costs relative to the baseline (that does not consider the effects of NAL 19–17), the Commission believes clearing FCMs and non-clearing FCMs will be subject to the same types of costs related to application of separate account treatment.

As discussed above, a number of clearing FCMs have adopted some current practices based not only upon regulation § 39.13(g)(8)(iii)'s existing Margin Adequacy Requirement applicable to clearing FCMs through the rules of such clearing FCMs' DCOs, but also on the no-action position provided by Commission staff in CFTC Letter No. 19–17, and decisions by DCOs to provide relief from their rules adopting a Margin Adequacy Requirement in line with (and subject to the conditions specified in) that staff no-action position. As such, to the extent that clearing FCMs have relied on the no-action position, the actual costs and benefits of the final rule amendments as realized in the market may not be as significant as a comparison of the rule to the regulatory baseline would suggest.³⁸² Specifically, to the extent clearing FCMs already rely on the effects of the no-action position, the tools (*e.g.*, software) and policies and procedures necessary to comply with

³⁷⁴ There are two distinctions between clearing and non-clearing FCMs relevant to separate account compliance costs.

The first would not create a difference in costs: Gross collection of margin without netting between separate accounts is required by regulation § 1.44(g)(2) and existing regulation § 39.13(g)(8)(i), as clarified by regulation § 39.13(g)(8)(i)(E) for clearing FCMs, and regulation § 1.58(c) creates this requirement for non-clearing FCMs.

The second would create some difference in additional costs: Under current regulation § 1.73, clearing FCMs are required to establish risk-based credit limits, screen orders for compliance with those limits, and monitor adherence to those limits, as well as conduct stress testing of positions that could pose material risk. Non-clearing FCMs are not currently required to do these things. Under regulations §§ 1.44(g)(1) and 1.73(c), they would be required to do so for separate account customers and separate accounts, both on an individual separate account and aggregate basis. As such, there are additional incremental costs faced by non-clearing FCMs that choose separate account treatment.

³⁷⁵ FIA letter dated Apr. 1, 2022 to Clark Hutchison and Amanda Olear (Second FIA Letter).

³⁷⁶ Third FIA Letter. FIA noted that these changes were particularly challenging for FCMs that are part of a bank holding company structure, as "[m]odifying integrated technology information systems across a bank holding company structure is complicated, expensive and time-consuming." *Id.*

³⁷⁷ *Id.*

³⁷⁸ *Id.*

³⁷⁹ *Id.*

³⁸⁰ As discussed below, the Commission staff estimates total annual costs of \$10,292,580 across 7,530 respondents with respect to reporting, disclosure, and recordkeeping requirements; however, as certain such costs are one-time costs, the Commission staff expects such figure would be reduced after the first year of application of separate account treatment.

³⁸¹ This may be true to a somewhat lesser extent with respect to new entrants to the FCM business, in that those FCMs would incur the cost of implementing policies, procedures, and systems that comply with the requirements of the final rule, but would not need to retrofit existing policies, procedures, and systems.

³⁸² For those clearing FCMs that currently choose not to engage in separate account treatment, and therefore, do not adhere to CFTC Letter No. 19–17, but choose to do so following the adoption of the final rule, the Commission submits that there will be significant costs similar to non-clearing FCMs.

the final rule on an ongoing basis will largely have already been built, and the costs associated with compliance will largely have already been incurred.³⁸³ (This would not apply to non-clearing FCMs, who have had no need to rely on the effects of the no-action position.) However, the Commission notes that because the provisions of the final rule vary in some respects from the terms of the no-action position, at least some additional costs are likely to be incurred by clearing FCMs that already rely on the no-action position.

In addition to compliance costs, one other type of costs should be noted: The Commission is of the view that the risk mitigants in final regulation § 1.44(c)–(h) would achieve the benefits of the Margin Adequacy Requirement while permitting separate account treatment. However, there does exist a possibility that, despite these risk mitigants, an undermargin condition could exist, followed by a default by the customer to the FCM, and a consequent default by the FCM upstream (either to a DCO or to a clearing FCM), where the losses due to that default would be greater than they would have been absent separate account treatment.

As Question 11, the Commission asked whether the descriptions of the types of costs that would be incurred by FCMs to implement each of the Margin Adequacy Requirement and Separate Account Treatment under the proposed rules were appropriately comprehensive, and what data can be provided about the magnitude of such costs, either by type or in the aggregate. As Question 12, the Commission requested comment on the extent to which FCMs that are not presently clearing members that rely on the no-action position in CFTC Letter No. 19–17 would, following implementation of the proposed regulation, seek to engage in separate account treatment (requesting that commenters provide data where available). As Question 13, the Commission requested comment regarding whether there are FCMs that chose not to rely on the no-action position in CFTC Letter No. 19–17 due to the conditions required to rely on that position. The Commission further requested comment on how the implementation of those conditions in the Second Proposal could be modified to mitigate the burden of compliance while achieving the goals of mitigating systemic risk and protecting customer funds.

No commenters responded to these questions; however, several commenters submitted comments that dealt with potential costs, generally qualitatively. For example, in commenting on the Commission's definition of "undermargined amount" in proposed regulation § 1.44(a), the JAC asserted that the proposed rule appeared to require FCMs to perform margin calculations differently for compliance with different regulatory reporting requirements (including, potentially, bifurcated treatment for non-separate account customers and separate account customers), which the JAC contended may prove burdensome for FCMs that permit separate account treatment (e.g., such FCMs may be required to update their regulatory reporting records).³⁸⁴ As discussed above, the Commission has modified the final definition of "undermargined amount" to address the JAC's comment and make clear that the final rule is not intended to alter the manner in which FCMs determine the undermargined amount for a separate account or non-separate account customer.

In discussing the permissibility under the proposed regulation of certain multi-settlement margining processes, the JAC also noted FCMs may be required to undertake significant work to update their regulatory records, risk programs, margin calculations, and reports for separate account customers and non-separate account customers.³⁸⁵ While the Commission confirms above that the final rule is not intended to preclude FCMs and their customers from, e.g., settling margin in multiple currencies, and does not require the disbursement or settlement of a single amount, the Commission nonetheless expects that, as a general matter, some FCMs will be required to undertake significant work to implement requirements for separate account treatment (in particular, FCMs that have not provided such treatment for customers previously but opt to do so following the adoption of this final rule).

The JAC discussed in its comment letter that FCMs could be subject to significant capital charges for separate accounts in light of the requirement in proposed regulation § 1.17(c)(5)(viii)(B) to require the calculation of current calls used in computing a separate account's undermargined capital charge based on the age of all margin calls in all separate accounts of the separate account customer.³⁸⁶ With respect to the requirement in proposed regulation

§ 1.17(c)(2)(i), which would have required FCMs to look across all separate accounts of a separate account customer in determining one-day debits or deficits for purposes of ascertaining current assets, the JAC noted that FCMs permitting separate account treatment may need to consider additional capital needs, particularly in the event that margin calls met in non-USD currencies would be considered satisfied only when receipts are settled.³⁸⁷ FIA similarly argued that the proposed revisions to regulation § 1.17 would likely be costly to FCMs because they would require FCMs to rebuild operational and reporting systems to perform the required look-across of separate accounts.³⁸⁸ Using a quantitative example and information ascertained from a survey of FIA members, FIA also argued that the proposed look-across could result in capital treatment that, in FIA's view, would be punitive and without regard to related financial or operational risk.³⁸⁹

As discussed above, in this final rule, the Commission has eliminated the requirement to look across separate accounts for purposes of regulation § 1.17(c)(2)(i) and regulation § 1.17(c)(5)(viii)(B), and further confirms that the final rule is not intended to preclude treatment of pending non-USD transfers as received (subject to conditions identical to those set forth in JAC guidance) for purposes of regulation § 1.17(c)(5)(viii), among others.

Additionally, FIA asserted that the standard for determining the occurrence of an unusual administrative error or operational constraint that would excuse a margin fail under the one business day margin call standard of regulation § 1.44, set forth in proposed regulation § 1.44(f)(5), introduces subjectivity and complexity into routine determinations that will require material levels of new investment in compliance, risk management, and operations time and resources, for no discernible risk management benefit.³⁹⁰ SIFMA–AMG opined that the proposed regulation § 1.44(f)(5) did not appropriately balance practicability and burden with risk management,³⁹¹ and MFA contended that the proposed requirement would result in additional administrative burdens on an FCM.³⁹² FIA also contended that proposed regulation § 1.44(f)(4), which in part permits a separate account customer or

³⁸⁷ *Id.*

³⁸⁸ FIA Comment Letter.

³⁸⁹ *Id.*

³⁹⁰ *Id.*

³⁹¹ SIFMA–AMG Comment Letter.

³⁹² MFA Comment Letter.

³⁸³ Communications from FIA indicate that significant resources have, in fact, been expended to meet the conditions of the no-action position of CFTC Letter No. 19–17. See Second FIA Letter.

³⁸⁴ JAC Comment Letter.

³⁸⁵ *Id.*

³⁸⁶ *Id.*

investment manager to designate the holiday schedule of a Eurozone country to follow for purposes of regulation § 1.44's one business day margin call standard where margin is to be paid in EUR, will require FCMs to deploy new margin day counting systems and protocols.³⁹³ SIFMA-AMG argued that proposed regulation § 1.44(f)(4) would be unmanageable and unsustainable, would impose a regulatory burden without a corresponding public policy benefit, and could require the overhaul of customer agreements and burden FCMs with additional monitoring responsibilities.³⁹⁴ The Commission is adopting regulation § 1.44(f)(4) and 1.44(f)(5) with modifications in light of comments received, and responds to FIA's and SIFMA-AMG's comments above.

FIA also asserted that proposed regulation § 1.44(h)(4)(i)'s 30-day stay on reinstating disbursements on a separate account basis could have certain negative unintended consequences for customers and market liquidity, if, due to an event outside the ordinary course of business, an FCM were forced to suspend disbursements to customers on a separate account basis (even after the underlying event was resolved).³⁹⁵ SIFMA-AMG voiced similar concerns.³⁹⁶ Here, and above, the Commission notes that the 30-day stay on reinstating disbursements on a separate account basis is intended to apply only in instances in which the election for separate account treatment for a separate account customer pursuant to regulation § 1.44(d) is revoked. It will not apply where an event outside the ordinary course of business has required cessation of disbursements on a separate account basis, and that circumstance subsequently has been cured, consistent with regulation § 1.44(e)(4).

C. Costs and Benefits of the Commission's Action as Compared to Alternatives

The Commission considered as an alternative to this final rule codifying the no-action position absent the conditions. This alternative would preserve the benefits of separate account treatment for FCMs and customers. However, as discussed further below, the conditions of the no-action position—codified herein on an FCM-wide basis—are designed to permit separate account treatment only to the extent that such treatment would not

contravene the risk mitigation goals of regulation § 39.13 (and the Margin Adequacy Requirement of regulation § 1.44(b)). The Commission believes that codifying the staff no-action position without the conditions would intensify risks for DCOs, FCMs, and customers. For instance, without a requirement to cease disbursements on a separate account basis in cases in which a customer is in financial distress, it is more likely that an undermargining scenario would be exacerbated, and a customer default to the clearing FCM—and potentially a default of the clearing FCM to the DCO—would be more likely. It would also forego applying the benefits of the Margin Adequacy Requirement and specific risk-mitigating requirements for separate account treatment to all FCMs.

D. Section 15(a) Factors

Section 15(a) of the CEA requires the Commission to consider the effects of its actions in light of the following five factors:

1. Protection of Market Participants and the Public

Section 15(a)(2)(A) of the CEA requires the Commission, before promulgating a regulation or issuing an order, to consider the costs and benefits of the action in light of considerations of protection of market participants and the public. The Commission believes that the amendments adopted herein would strengthen the customer protection and risk mitigation provisions of part 1 applicable to FCMs generally, and, with respect to clearing FCMs, maintain the efficacy of protections for customers and the broader financial system contained in Core Principle D and regulation § 39.13.

The Commission believes that the final rule's Margin Adequacy Requirement will have a salutary effect on the protection of market participants and the public. Section 4d(a)(2) of the CEA and the Commission's implementing regulations under part 1 require FCMs to segregate customer funds to margin trades and prohibit FCMs from using one customer's funds to margin another customer's trades. The final rule is designed to effectuate and support these requirements by implementing requirements for FCMs to limit the potential for losses from defaults and maintain margin sufficient to cover potential exposures in normal market conditions³⁹⁷ by requiring FCMs to ensure that their customers do not withdraw funds from their accounts if such withdrawal would create or

exacerbate an initial margin shortfall, and to do so in a manner consistent with the Margin Adequacy Requirement in regulation § 39.13(g)(8)(iii) already applicable through DCO rules to clearing FCMs. This requirement protects not only market participants by requiring FCMs to ensure that adequate margin exists to cover customer positions; it also protects the public from disruption to the wider financial system by mitigating the risk that an FCM will default due to customer nonpayment of variation margin obligations combined with insufficient initial margin.

The Commission also believes the requirements in the final rule for carrying out separate account treatment will provide for separate account treatment in a manner that protects market participants and the public. While, with respect to clearing FCMs subject to the indirect effects of current § 39.13(g)(8)(iii), permitting separate account treatment unavoidably creates some additional risk of a margin deficiency, the conditions of the no-action position outlined in CFTC Letter No. 19–17, and codified herein, as modified and applicable on an FCM-wide basis, are designed to effectuate these customer protection and risk mitigation goals notwithstanding an FCM's application of separate account treatment (and the consequent additional risk). For example, disbursements on a separate account basis are not permitted in certain circumstances outside the ordinary course of business (e.g., where an FCM learns a customer is in financial distress, and thus may be unable promptly to meet initial margin requirements, whether in one or more separate accounts or on a combined account basis). The final rule also puts in place requirements for FCMs designed to ensure that they collect information sufficient to understand the value of assets dedicated to a separate account, apply separate account treatment consistently, and maintain reliable lines of contact for the ultimate customer of the account. Clearing FCMs have, for over five years, successfully relied on a no-action letter, as applied through their DCOs, establishing conditions substantially similar to the requirements for separate account treatment set forth in this final rule, and the Commission believes that the codification of these conditions, as set forth herein, supports protection of market participants and the public.

³⁹³ FIA Comment Letter.

³⁹⁴ SIFMA-AMG Comment Letter.

³⁹⁵ FIA Comment Letter.

³⁹⁶ SIFMA-AMG Comment Letter.

³⁹⁷ 7 U.S.C. 7a–1(c)(2)(D)(iii)–(iv).

2. Efficiency, Competitiveness, and Financial Integrity of Futures Markets

Section 15(a)(2)(B) of the CEA requires the Commission to evaluate the costs and benefits of its action in light of efficiency, competitiveness, and financial integrity of futures markets. The Commission believes that the final rule may carry potential implications for the financial integrity of markets, but not for the efficiency or competitiveness of markets, which the Commission believes remain unchanged.

As stated above, the purposes of the Commission's customer funds protection and risk management regulations include not just protection of customer assets, but also mitigation of systemic risk: a customer in default to an FCM may in turn trigger the FCM to default, either to the DCO (if it is a clearing member) or to another FCM that is itself a clearing member, with potentially cascading consequences for the clearing FCM (if applicable) or the DCO and the wider financial system. The Margin Adequacy Requirement of regulation § 1.44(b) advances those purposes directly. The final amendments permitting separate account treatment reflect the Commission's conclusion that the conditions of CFTC Letter No. 19–17, as codified herein, are sufficient and appropriate to guard against such risks for purposes of the Margin Adequacy Requirement.

In CFTC Letter No. 19–17, the Commission staff highlighted market participants' concerns that the Commission should recognize "diverse practices among FCMs and their customers with respect to the handling of separate accounts of the same beneficial owner" as consistent with regulation § 39.13(g)(8)(iii). FIA, in particular, outlined several business cases in which a customer may want to apply separate account treatment, and each of SIFMA–AMG, FIA, and CME outlined controls that clearing FCMs could apply to ensure that, in instances in which separate account treatment is desired, such treatment can be applied in a manner that effectively prevents systemic risk.³⁹⁸ By codifying in part 1 a Margin Adequacy Requirement directly applicable to FCMs similar to the Margin Adequacy Requirement of regulation § 39.13(g)(8)(iii), and a modified version of the no-action position provided for by CFTC Letter No. 19–17 and its superseding letters, applicable to all FCMs, the Commission is promulgating a framework for FCMs, whether clearing or non-clearing, to

provide separate account treatment for customers subject to enhanced customer fund and risk mitigation protections, thereby ensuring FCMs can compete on services offered to customers to address their financial needs, in a manner consistent with the customer protection and risk mitigation goals of the CEA.

3. Price Discovery

Section 15(a)(2)(C) of the CEA requires the Commission to evaluate the costs and benefits of its action in light of price discovery considerations. The Commission believes that the final amendments will not have a significant impact on price discovery.

4. Sound Risk Management Practices

Section 15(a)(2)(D) of the CEA requires the Commission to evaluate the costs and benefits of its action in light of sound risk management practices. As discussed above, the CEA sets forth requirements providing that an FCM may not use one customer's funds to cover another customer's margin shortfall. The Margin Adequacy Requirement of regulation § 1.44(b) serves these purposes by further ensuring that FCMs do not allow customers to create or increase undermargining in their accounts through withdrawals of funds. While, as discussed above, clearing FCMs are already subject to this requirement as a result of DCO rules adopted under regulation § 39.13(g)(8)(iii), the final rule also applies this requirement to non-clearing FCMs, and creates another avenue to monitoring and enforcement of this requirement for clearing FCMs.

Additionally, the Commission believes that the final rule will ensure that application of the requirements for separate account treatment occurs in a manner that continues to be consistent with the CEA's customer fund protection and risk mitigation objectives. As discussed above, the no-action position has been successfully used to allow clearing FCMs to engage in separate account treatment in a manner that is consistent with the protection of customer funds and the mitigation of systemic risk, including by requiring the application of separate account treatment in a consistent manner, and requiring regulatory notifications and the cessation of disbursements on a separate account basis in certain instances of operational or financial distress. The Commission believes codification of the no-action conditions, and the Margin Adequacy Requirement they address, applied

directly to all FCMs, promotes sound FCM risk management practices.³⁹⁹

5. Other Public Interest Considerations

Section 15(a)(2)(e) of the CEA requires the Commission to evaluate the costs and benefits of its action in light of other public interest considerations. The Commission is identifying a public interest benefit in codifying the Divisions' no-action position, where the efficacy of that position has been demonstrated. In such a situation, the Commission believes it serves the public interest and, in particular, the interests of market participants, to engage in notice-and-comment rulemaking, where it seeks and considers the views of the public in amending its regulations, rather than for market participants to continue to rely on a time-limited no-action position that can be easily withdrawn, provides less long-term certainty for market participants, and offers a more limited opportunity for public input. In promulgating this final rule, the Commission sought and considered public comment both as to the proposed regulation generally and as to specific aspects of the proposal (including costs and benefits).

As Question 14, the Commission requested comment, including any available quantifiable data and analysis, concerning its analysis of the section 15(a) factors. No commenters responded to this question.

IV. Related Matters

A. Antitrust Considerations

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the purposes of the CEA in issuing any order or adopting any Commission rule or regulation.⁴⁰⁰

The Commission believes that the public interest to be protected by the antitrust laws is generally to protect competition. The Commission did not identify any anti-competitive effects in the NPRM. The Commission requested comment on whether the proposed regulation implicates any other specific public interest to be protected by the antitrust laws, as well as on whether the proposed regulation is anticompetitive and, if it is, what the anticompetitive effects are. The Commission did not receive any comments in response to these requests.

³⁹⁸ See First FIA Letter; SIFMA–AMG Letter; CME Letter.

³⁹⁹ See, e.g., First FIA Letter (describing use of separate account treatment for hedging purposes).

⁴⁰⁰ 7 U.S.C. 19(b).

The Commission confirms its determination that this final rule is not anti-competitive and has no anti-competitive effects. Given this determination, the Commission has not identified any less anti-competitive means of achieving the purposes of the CEA.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires agencies to consider whether their rules have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis with respect to such impact.⁴⁰¹ The rules adopted herein would require all FCMs to ensure that they do not permit their customers to withdraw funds from their accounts unless the net liquidating value plus the margin deposits remaining in the account are sufficient to meet the customer initial margin requirements for such accounts, but would also establish requirements under which FCMs could engage in separate account treatment. The Commission has previously established certain definitions of “small entities” to be used by the Commission in evaluating the impact of its regulations on small entities in accordance with the RFA.⁴⁰² The Commission has previously determined that FCMs are not small entities for the purpose of the RFA.⁴⁰³ Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that these final rules will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA)⁴⁰⁴ imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any “collection of information” as defined by the PRA. Under the PRA, 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 (OMB) has assigned to this new

collection the control number 3038–0121.

The PRA is intended, in part, to minimize the paperwork burden created for individuals, business, and other persons as a result of the collection of information by Federal agencies, and to ensure the greatest possible benefit and utility of information created, collected, maintained, used, shared, and disseminated by or for the Federal government. The PRA applies to all information, regardless of form or format, whenever the Federal government is obtaining, causing to be obtained, or soliciting information, and includes required disclosure to third parties or the public, of facts or opinions, when the information collection calls for answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons.

This final rule will result in a new collection of information within the meaning of the PRA, as discussed below. Responses to this collection of information would be required to obtain a benefit. Specifically, FCMs would be required to respond to the collection in order to obtain the benefit of engaging in separate account treatment for purposes of regulation § 1.44.⁴⁰⁵ Beyond the reporting, disclosure, and recordkeeping provisions identified below, the Commission does not believe the final rule imposes any other new collections of information that require approval of OMB under the PRA. The Commission requests that OMB approve OMB control number 3038–0121 in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11.

The Commission will protect proprietary information it may receive according to the Freedom of Information Act and 17 CFR part 145, “Commission Records and Information.” In addition, section 8(a)(1) of the CEA strictly prohibits the Commission, unless specifically authorized by the CEA, from making public “data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.”⁴⁰⁶ The Commission also is required to protect certain information contained in a government system of records according to the Privacy Act of 1974, 5 U.S.C. 552a.

⁴⁰⁵ As noted below in connection with recordkeeping requirements, the final rule may also contain recordkeeping implications under the PRA for certain separate account customers/asset managers to the extent an FCM considers pending non-USD transfers as received for certain purposes.

⁴⁰⁶ 7 U.S.C. 12(a)(1).

1. Information Provided by Reporting Entities/Persons

The final rule applies directly to FCMs. All FCMs that engage in separate account treatment, both those that are clearing members of DCOs and those that are not, would be subject to certain reporting, disclosure, and recordkeeping requirements to comply with the requirements for separate account treatment specified in regulation § 1.44.

While the Commission staff estimates burden hours and costs using current part 1 and regulation § 39.13(g)(8)(iii) as a baseline, the Commission notes that FCMs that are clearing members of DCOs are already effectively subject to the Margin Adequacy Requirement, in order to comply with rules that their DCOs have established in order to in turn comply with the DCO’s obligations under regulation § 39.13(g)(8)(iii). Thus, the Commission notes that many clearing FCMs already are subject to the conditions of the no-action position, which are substantially similar to the requirements for separate account treatment under this final rule. For these clearing FCMs, the Commission expects that any additional cost or administrative burden associated with complying with the final rule would be reduced.⁴⁰⁷

a. Reporting Requirements

The final rule contains two reporting requirements that could result in a collection of information from ten or more persons over a 12-month period.

There are currently approximately 60 registered FCMs.⁴⁰⁸ The Commission staff estimates that slightly less than half of all FCMs would engage in separate account treatment under the final rule, resulting in approximately 30 respondents.

First, regulation § 1.44(d)(2) provides that, to the extent an FCM elects to treat the separate accounts of a customer as accounts of separate entities pursuant to the terms of regulation § 1.44, the FCM must provide a one-time notification to its DSRO and to the Commission that it will apply such treatment. The Commission staff estimates this would result in a total of one response per respondent on a one-time basis, and that

⁴⁰⁷ However, the Commission expects that FCMs that do not currently rely on the no-action position, but choose to apply separate account treatment following the adoption of this final rule, would incur new costs. This would include all non-clearing FCMs that choose to apply separate account treatment following the adoption of this final rule.

⁴⁰⁸ See CFTC, Selected FCM Financial Data as of August 31, 2023, available at <https://www.cftc.gov/sites/default/files/2023-10/01%20-%20FCM%20web%20page%20Update%20-%20August%202023.xlsx>.

⁴⁰¹ 5 U.S.C. 601 *et seq.*

⁴⁰² Bankruptcy Regulations, 86 FR 19324, 19416 (Apr. 13, 2021) (citing Policy Statement and Establishment of Definitions of “Small Entities” for Purposes of the Regulatory Flexibility Act, 47 FR 18618 (Apr. 30, 1982)).

⁴⁰³ See *id.* (citing New Regulatory Framework for Clearing Organizations, 66 FR 45604, 45609 (Aug. 29, 2001); Customer Margin Rules Relating to Security Futures, 67 FR 53146, 53171 (Aug. 14, 2002)).

⁴⁰⁴ 44 U.S.C. 3501 *et seq.*

respondents could expend up to \$268, based on an hourly rate of \$268,⁴⁰⁹ to comply with regulation § 1.44(d)(2). This would result in an annual burden of 30 hours and an aggregated cost of \$8,040 (30 respondents × \$268).

Second, regulation § 1.44(e)(3) requires an FCM engaging in separate account treatment to communicate promptly in writing to its DSRO and to the Commission the occurrence of certain enumerated “non-ordinary course of business” events. The Commission staff estimates that each such FCM may experience two non-ordinary course of business events per year, either with respect to themselves, or a customer. For purposes of determining the number of responses, the Commission staff anticipates that additional notifications of substantially the same information, and at substantially the same time, by means of electronic communication to both the DSRO and the Commission would not materially increase the time and cost burden for such FCM. Therefore, for purposes of these estimates, the Commission staff treats a set of notifications sent to the DSRO and to the Commission as a single response.⁴¹⁰ Accordingly, the Commission staff estimates a total of two responses per respondent on an annual basis. In addition, the Commission staff estimates

that each response would take eight hours. This yields a total annual burden of 480 hours (2 responses × 8 hours/response × 30 respondents). In addition, the Commission staff estimates that each respondent could expend up to \$4,288 annually, based on an hourly rate of \$268, to comply with this requirement.⁴¹¹ This would result in an aggregated cost of \$128,640 per annum (30 respondents × \$4,288).

The aggregate information collection burden estimate associated with the reporting requirements is as follows:⁴¹²

Estimated number of respondents: 30.

Estimated number of reports: 90.

Estimated annual hours burden: 510.

Estimated annual cost: \$136,680.

b. Disclosure Requirements

The final rule contains three disclosure requirements that could affect ten or more persons in a 12-month period.

First, regulation § 1.44(h)(3)(i) requires an FCM to provide each customer using separate accounts with a disclosure that, pursuant to part 190 of the Commission’s regulations, all separate accounts of the customer will be combined in the event of the FCM’s bankruptcy. The Commission staff estimates that this would result in a total of 1 response per respondent on a one-time basis, and that each respondent is likely to spend one hour to comply with this requirement for a total of 1 annual burden hour and up to \$268 annually, based on an hourly rate of \$268.⁴¹³ This would result in an annual burden of 30 hours (1 response/respondent × 1 hour/response × 30 respondents) and an aggregated cost of \$8,040 (30 respondents × \$268). This estimate reflects one initial disclosure distributed simultaneously to all existing separate account customers. The Commission staff expects that, on a going forward basis, this disclosure would be included in standard disclosures for new customers and

would therefore not result in any additional costs.

Second, regulation § 1.44(h)(3)(iii) requires that an FCM engaging in separate account treatment include the disclosure statement required by regulation § 1.44(h)(3) on its website or within its Disclosure Document required by regulation § 1.55(i). If the FCM opts to update its Disclosure Document, the Commission staff estimates that this requirement would result in a total of one response on a one-time basis, and that each respondent could expend up to \$608 annually, based on an hourly rate of \$608,⁴¹⁴ to comply with regulation § 1.44(h)(3)(iii). This would result in an estimated 30 burden hours annually (1 response × 1 hour/response × 30 respondents) and an aggregated cost of \$18,240 (30 respondents × \$608). This estimate reflects one updated disclosure distributed simultaneously to existing customers. If the FCM opts to include the disclosure on its website, the Commission staff estimates that this requirement would result in a total of one response on a one-time basis, and that each respondent could expend up to \$324 annually, based on an hourly rate of \$324, to comply with regulation § 1.44(h)(3)(iii).⁴¹⁵ This would result in an estimated 30 burden hours annually (1 response × 1 hour/response × 30 respondents) and an aggregated cost of \$9,720 (30 respondents × \$324). The Commission staff expects that once the disclosure is included in the Disclosure Document required by regulation § 1.55(i) or posted on the FCM’s website, the FCM would not incur any additional costs.

Third, regulation § 1.44(h)(4) requires an FCM that has made an election pursuant to regulation § 1.44(d) to treat the separate accounts of a customer as accounts of separate entities for purposes of regulation § 1.44(b), to disclose in the Disclosure Document required under regulation § 1.55(i) that it permits the separate treatment of accounts for the same customer under the requirements of regulation § 1.44. The Commission staff estimates that this would result in a total of one response per respondent on a one-time basis, and

⁴⁰⁹ This figure is rounded to the nearest dollar and based on the annual mean wage for U.S. Bureau of Labor Statistics (BLS) category 13–2061, “Financial Examiners.” BLS, Occupational Employment and Wages, May 2023 [hereinafter “BLS Data”], available at https://www.bls.gov/oes/current/oes_nat.htm. This category consists of professionals who “[e]nforce or ensure compliance with laws and regulations governing financial and securities institutions and financial and real estate transactions.” BLS, Occupational Employment and Wages, May 2023: 13–2061 Financial Examiners, available at <https://www.bls.gov/oes/current/oes132061.htm>. According to BLS, the mean salary for this category in the context of Securities, Commodity Contracts, and Other Financial Investments and Related Activities is \$116,520. This number is divided by 1,800 work hours in a year to account for sick leave and vacations and multiplied by 4 to account for retirement, health, and other benefits or compensation, as well as for office space, computer equipment support, and human resources support. This number is further multiplied by 1.0357 to account for the 3.57% change in the Consumer Price Index for Urban Wage-Earners and Clerical Workers between May 2023 and September 2024 (298.382 to 309.046). BLS, CPI for Urban Wage Earners and Clerical Workers (CPI-W), U.S. City Average, All Items—CWUR0000SA0, available at <https://www.bls.gov/data/#prices>. Together, these modifications yield an hourly rate of \$268. The rounding and modifications applied with respect to the estimated average burden hour cost for this occupational category have been applied with respect to each occupational category discussed as part of this analysis.

⁴¹⁰ The Commission staff applies the same assumption to notifications to DSROs and the Commission with respect to regulation § 1.44(d)(2) and regulation § 1.44(e)(3).

⁴¹¹ See BLS Data (category 13–2061, “Financial Examiners,” in Securities, Commodity Contracts, and Other Financial Investments and Related Activities).

⁴¹² This estimate reflects the aggregate information collection burden estimate associated with the reporting requirements for the first annual period following implementation of the final rule. Because regulation § 1.44(d)(2) will result in a one-time reporting requirement, the Commission staff estimates that for each subsequent annual period, the number of reports, burden hours, and burden cost will be reduced accordingly.

⁴¹³ This figure is based on the annual mean wage of \$264,110 for BLS category 23–1011, “Lawyers,” in Securities, Commodity Contracts, and Other Financial Investments and Related Activities, available at <https://data.bls.gov/oes/#/indOcc/Multiple%20occupations%20for%20one%20industry>.

⁴¹⁴ This figure is based on the annual mean wage of \$264,110 for BLS category 23–1011, “Lawyers,” in Securities, Commodity Contracts, and Other Financial Investments and Related Activities, available at <https://data.bls.gov/oes/#/indOcc/Multiple%20occupations%20for%20one%20industry>.

⁴¹⁵ This figure is based on the annual mean wage of \$140,970 for BLS category 15–1254, “Web Developers,” in Securities, Commodity Contracts, and Other Financial Investments and Related Activities. BLS Data, available at https://www.bls.gov/oes/current/oes_nat.htm.

that respondents could expend up to \$608 annually, based on an hourly rate of \$608,⁴¹⁶ to comply with regulation § 1.44(h)(4). This would result in an estimated 30 burden hours annually (1 response × 1 hour/response × 30 respondents) and an aggregated cost of \$18,240 (30 respondents × \$608). This estimate reflects an initial updated disclosure distributed simultaneously to existing customers. The Commission staff expects that once this disclosure is made, the disclosure would be included in the Disclosure Document required by regulation § 1.55(i) going forward and would not result in any additional costs.

The aggregate information collection burden estimate associated with the disclosure requirements is as follows:⁴¹⁷

Estimated number of respondents: 30.
Estimated number of reports: 120.
Estimated annual hours burden: 120.
Estimated annual cost: \$54,240.

c. Recordkeeping Requirements

The final rule contains four recordkeeping requirements that could affect ten or more persons in a 12-month period.

First, regulation § 1.44(d)(1) provides that, to elect to treat the separate accounts of a customer as accounts of separate entities, for purposes of the Margin Adequacy Requirement, the FCM shall include the customer on a list of separate account customers receiving such treatment maintained in its books and records. The Commission staff estimates that this would result in a total of 125 responses per respondent on a one-time basis at a rate of 15 minutes per response,⁴¹⁸ and that respondents could expend up to \$8,375 annually per respondent, based on an hourly rate of \$268,⁴¹⁹ to comply with regulation

§ 1.44(d)(1). This would result in an estimated 938 burden hours annually (125 responses × 15 minutes/response × 30 respondents) and an aggregated cost of \$251,250 per annum (30 respondents × \$8,375).

Second, regulation § 1.44(e)(4) provides that an FCM that has ceased permitting disbursements on a separate account basis to a separate account customer due to the occurrence of a non-ordinary course of business event may resume permitting disbursements on a separate account basis if the FCM reasonably believes, based on new information, that the circumstances leading to cessation of disbursements on a separate account basis have been cured, and the FCM documents in writing the factual basis and rationale for its conclusion that such circumstances have been cured. Where the Commission staff have estimated above that an FCM may experience two non-ordinary course of business events per year, the Commission staff conservatively estimate that in each case the conditions leading to cessation of disbursements on a separate account basis would be cured. Accordingly, the Commission staff estimates that documenting the cure of each non-ordinary course of business event would require two recordkeeping responses per respondent on an annual basis, resulting in a total of 60 annual responses, and that respondents are likely to spend two hours to complete the required recordkeeping tasks.⁴²⁰ This would result in a total of 120 annual burden hours (2 responses × 2 hours/response × 30 respondents) and up to \$1,072 annually per respondent, based on an hourly rate of \$268,⁴²¹ to comply with this requirement. This would result in an aggregated cost of \$32,160 per annum (30 respondents × \$1,072).

Third, regulation § 1.44(h)(2) provides that where a separate accounts customer has appointed a third-party as the primary contact to the FCM, the FCM must obtain and maintain current contact information of an authorized representative(s) at the customer and take reasonable steps to verify that such contact information is and remains accurate and that such person is in fact an authorized representative of the customer. The Commission staff

estimates this would result in a total of 125 responses per respondent on an annual basis at one hour per response,⁴²² and that respondents could expend up to \$20,250 annually, based on an hourly rate of \$162.⁴²³ This would result in an estimated 3,750 burden hours annually (125 responses × 1 hour/response × 30 respondents) and an aggregated cost of \$607,500 per annum (30 respondents × \$20,250).

Fourth, regulation § 1.44(h)(3)(ii) requires that an FCM maintain documentation demonstrating that the part 190 disclosure statement required by regulation § 1.44(h)(3)(i) was delivered directly to the customer. The Commission staff estimates that this would result in a total of 125 responses per respondent on a one-time basis at an estimated six minutes per response, and that respondents could expend up to \$2,025 annually, based on an hourly rate of \$162, to comply with regulation § 1.44(h)(3)(ii). This would result in an estimated 375 burden hours annually (125 responses × 6 minutes/response × 30 respondents) and an aggregated cost of \$60,750 (30 respondents × \$2,025). This estimate reflects initial recordkeeping of documentation that the disclosure was delivered to existing customers subject to separate account treatment. The Commission staff estimates that, once such recordkeeping is complete, the recordkeeping required by regulation § 1.44(h)(3)(ii) would be required only with respect to new customers who receive disclosures pursuant to regulation § 1.44(h)(3)(ii), and the costs and burden hours associated with regulation § 1.44(h)(3)(ii) would be reduced accordingly.⁴²⁴

⁴²² FIA stated that while the costs incurred by each FCM to comply with the conditions of CFTC Letter No. 19-17 varies depending on customer base, among larger FCMs with a significant institutional customer base, personnel costs would have included identifying and reviewing up to 3,000 customer agreements to determine which agreements required modification, and then negotiating amendments with customers or their advisors. Applying a 25% upward adjustment to account for the passage of time, potential onboarding of new customers, and application to non-clearing FCMs, the Commission staff estimates that there are 3,750 customers of FCMs whose accounts could be in scope for the final rule, with an average of 125 customers per FCM (among 30 FCMs).

⁴²³ This figure is based on the annual mean wage of \$70,470 for BLS category 43-6012, "Legal Secretaries & Administrative Assistants" in the New York City Metropolitan Area, one of the top paying metropolitan areas for this category. BLS Data, available at <https://www.bls.gov/oes/current/oes436012.htm>.

⁴²⁴ This estimate reflects the aggregate information collection burden estimates associated with the disclosure requirements for the first annual period following implementation of the final rule.

Continued

⁴¹⁶ See BLS Data (category 23-1011, "Lawyers," in Securities, Commodity Contracts, and Other Financial Investments and Related Activities).

⁴¹⁷ For purposes of this analysis, the Commission staff calculates the aggregate information collection burden assuming that respondents choose to include the disclosure statement required by regulation § 1.44(h)(3) on their websites and within their Disclosure Document required by regulation § 1.55(i), in order to comply with regulation § 1.44(h)(3)(iii). Additionally, this estimate reflects the aggregate information collection burden estimate associated with the disclosure requirements for the first annual period following implementation of the final rule. Because each of regulation § 1.44(h)(3)(i), § 1.44(h)(3)(iii), and § 1.44(h)(4) would result in a one-time disclosure requirement for PRA purposes, the Commission staff estimates that for each subsequent annual period the number of respondents, reports, burden hours, and burden cost would be reduced accordingly.

⁴¹⁸ The Commission does not expect a significant time burden required to record that an individual customer is receiving separate account treatment and add such customer to a list of customers receiving separate account treatment.

⁴¹⁹ Financial Examiners.

⁴²⁰ Regulation § 1.44(e)(4) requires the FCM to document in writing the factual basis and rationale for its conclusion that the circumstances leading to the cessation of separate account treatment for one or more separate account customers has been cured but does not otherwise prescribe the form or manner for such documentation. Nor does it require that such documentation be voluminous. As such, the Commission staff estimates that two hours per response may be reasonable in most instances.

⁴²¹ Financial Examiners.

Lastly, to the extent FCMs treat pending non-USD transfers as received, consistent with JAC guidance, for certain purposes,⁴²⁵ as discussed above, the Commission appreciates that an FCM's application of the condition in JAC guidance that an FCM has a sufficient basis to believe that the wire supporting the transfer was actually initiated may result in recordkeeping for customers/asset managers. The Commission staff estimates that this would result in a total of 1 response per respondent, 125 times per year,⁴²⁶ at an estimated one minute per response, and that respondents could expend up to \$1,220 annually, based on an hourly rate of \$574, to perform the relevant recordkeeping.⁴²⁷ This would result in an estimated 15,938 burden hours annually (125 responses × 1 minute (approximately 0.017 hours)/response × 7,500 respondents)⁴²⁸ and an aggregated cost of \$9,150,000 (7,500 respondents × \$1,220). The Commission notes that while certain other provisions of the final rule may result in recordkeeping requirements, the Commission anticipates that any burden associated with these requirements is likely to be *de minimis* and therefore does not expect these provisions to increase the recordkeeping burden for FCMs.

The aggregate information collection burden estimate associated with the recordkeeping requirements is as follows:

Estimated number of respondents: 7,530.

Because, as noted above, regulation § 1.44(h)(3)(i) would result in a one-time recordkeeping requirement as to each customer (*i.e.*, once the disclosure is provided to existing customers, it would need to be provided only to new customers on a going forward basis), the Commission staff estimates that for each subsequent annual period the number of reports, burden hours, and burden cost would be reduced accordingly.

⁴²⁵ *I.e.*, with respect to the final amendments to regulation § 1.17(c)(5)(viii), with respect to regulation § 1.17(c)(5)(ix) as discussed in the JAC's comment letter, and with respect to final regulation § 1.44(b) and (g)(5).

⁴²⁶ A response would only be necessary on days when a respondent has been called for margin due to an undermargined condition, and is meeting that call with at least one currency other than USD (or CAD). A conservative estimate of the frequency of this happening is on half of the trading days in a year for each respondent.

⁴²⁷ This figure is based on the annual mean wage of \$249,260 for BLS category 11–3031, “Financial Managers,” in Securities, Commodity Contracts, and Other Financial Investments and Related Activities, available at <https://www.bls.gov/oes/current/oes113031.htm>.

⁴²⁸ The Commission staff has estimated that there are 3,750 separate account customers and further estimates that each customer has an average of three separate accounts, and that two thirds of these accounts settle at least in part in currencies other than USD and CAD. While the same asset manager may, in fact, manage multiple separate accounts, the Commission is treating each separate account as a separate respondent.

Estimated number of reports: 948,810.
Estimated annual hours burden: 21,121.

Estimated annual cost: \$10,101,660.
The Commission invited, but did not receive, any public comments related to the proposed information collection requirements.

D. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a “major rule,” as defined by 5 U.S.C. 804(2).

List of Subjects

17 CFR Part 1

Brokers, Commodity futures, Consumer protection, Reporting and recordkeeping requirements.

17 CFR Part 22

Brokers, Clearing, Consumer protection, Reporting and recordkeeping, Swaps.

17 CFR Part 30

Consumer protection.

17 CFR Part 39

Clearing, Clearing organizations, Commodity futures, Consumer protection.

For the reasons set forth in the preamble, the Commodity Futures Trading Commission amends 17 CFR chapter I as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6l, 6m, 6n, 6o, 6p, 6r, 6s, 7, 7a–1, 7a–2, 7b, 7b–3, 8, 9, 10a, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, and 24 (2012).

■ 2. Amend § 1.3 by revising the definition of “business day” to read as follows:

§ 1.3 Definitions.

* * * * *

Business day. This term means any day other than a Saturday, Sunday, or holiday. In all notices required by the Act or by the rules and regulations in this chapter to be given in terms of business days the rule for computing time shall be to exclude the day on which notice is given and include the day on which shall take place the act of which notice is given.

* * * * *

■ 3. Amend § 1.17 by:

- a. Republishing paragraph (b) introductory text;
- b. Revising paragraphs (b)(6) and (b)(8) introductory text;
- c. Adding paragraph (b)(8)(v);
- d. Republishing paragraphs (c) introductory text and (c)(2) introductory text;
- e. Revising paragraph (c)(2)(i);
- f. Republishing paragraph (c)(4) introductory text;
- g. Revising paragraph (c)(4)(ii);
- h. Republishing paragraph (c)(5) introductory text; and
- i. Revising paragraph (c)(5)(viii).

The republications, revisions, and additions read as follows:

§ 1.17 Minimum financial requirements for futures commission merchants and introducing brokers.

* * * * *

(b) For the purposes of this section:

* * * * *

(6) *Business day* means any day other than a Saturday, Sunday, or holiday.

* * * * *

(8) *Risk margin* for an account means the level of maintenance margin or performance bond required for the customer and noncustomer positions by the applicable exchanges or clearing organizations, and, where margin or performance bond is required only for accounts at the clearing organization, for purposes of the futures commission merchant's risk-based capital calculations applying the same margin or performance bond requirements to customer and noncustomer positions in accounts carried by the futures commission merchant, subject to the following.

* * * * *

(v) If a futures commission merchant carries separate accounts for separate account customers pursuant to § 1.44, the futures commission merchant shall calculate the risk margin pursuant to this section as if the separate accounts are owned by separate entities.

* * * * *

(c) Definitions: For the purposes of this section:

* * * * *

(2) The term *current assets* means cash and other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold during the next 12 months. “Current assets” shall:

(i) Exclude any unsecured commodity futures, options, cleared swaps, or other Commission regulated account containing a ledger balance and open trades, the combination of which liquidates to a deficit or containing a debit ledger balance only. For purposes

of this paragraph (c)(2)(i), a futures commission merchant that carries separate accounts for separate account customers pursuant to § 1.44 shall treat each separate account as if it is the account of a separate entity, apply only margin collateral held for the particular separate account in determining if the deficit or debit ledger balance is secured, and exclude from current assets a separate account that liquidates to a deficit or contains a debit ledger balance only. *Provided, however,* that any deficit or debit ledger balance in an account listed above, including a separate account, which is the subject of a call for margin or other required deposits may be included in current assets until the close of business on the business day following the date on which such deficit or debit ledger balance originated provided that the account had timely satisfied, through the deposit of new funds, the previous day's deficit or debit ledger balance, if any, in its entirety.

(4) The term *liabilities* means the total money liabilities of an applicant or registrant arising in connection with any transaction whatsoever, including economic obligations of an applicant or registrant that are recognized and measured in conformity with generally accepted accounting principles. "Liabilities" also include certain deferred credits that are not obligations but that are recognized and measured in conformity with generally accepted accounting principles. For the purposes of computing "net capital," the term "liabilities":

(ii) Excludes, in the case of a futures commission merchant, the amount of money, securities and property due to customers which is held in segregated accounts in compliance with the requirements of the Act and these regulations. For purposes of this paragraph (c)(4)(ii), a futures commission merchant that carries separate accounts of a separate account customer pursuant to § 1.44 shall compute the amount of money, securities and property due to the separate account customer as if the separate accounts were accounts of separate entities. A futures commission merchant may exclude money, securities and property due to customers, including separate account customers, only if such money, securities and property held in segregated accounts have been excluded from current assets in computing net capital;

(5) The term *adjusted net capital* means net capital less:

(viii)(A) In the case of a futures commission merchant, for undermargined customer accounts, the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade, or if there are no such maintenance margin requirements, clearing organization margin requirements applicable to such positions, after application of calls for margin or other required deposits which are outstanding no more than one business day. If there are no such maintenance margin requirements or clearing organization margin requirements, then the amount of funds required to provide margin equal to the amount necessary, after application of calls for margin or other required deposits outstanding no more than one business day, to restore original margin when the original margin has been depleted by 50 percent or more. If, however, a call for margin or other required deposits for an undermargined customer account is outstanding for more than one business day, then no such call for that undermargined customer account shall be applied until all such calls for margin have been met in full.

(B) If a futures commission merchant carries separate accounts for one or more separate account customers pursuant to § 1.44, the futures commission merchant shall compute the amount of funds required under paragraph (c)(5)(viii)(A) of this section to meet maintenance margin requirements for each separate account as if the account is owned by a separate entity, after application of calls for margin or other required deposits which are outstanding no more than one business day. If, however, a call for margin or other required deposits for any separate account of a particular separate account customer is outstanding for more than one business day, then all outstanding margin calls for that separate account shall be treated as if the margin calls are outstanding for more than one business day, and shall be deducted from net capital until all such calls have been met in full.

(C) If a customer account or a customer separate account deficit or debit ledger balance is excluded from current assets in accordance with paragraph (c)(2)(i) of this section, such deficit or debit ledger balance amount shall not also be deducted from current assets under this paragraph (c)(5)(viii).

(D) In the event that an owner of a customer account, or a customer separate account pursuant to § 1.44, has deposited an asset other than cash to margin, guarantee or secure the account, the value attributable to such asset for purposes of this paragraph (c)(5)(viii) shall be the lesser of:

(1) The value attributable to the asset pursuant to the margin rules of the applicable board of trade, or

(2) The market value of the asset after application of the percentage deductions specified in this paragraph (c)(5);

■ 4. Amend § 1.20 by revising paragraph (i)(4) and adding paragraph (i)(5) to read as follows:

§ 1.20 Futures customer funds to be segregated and separately accounted for.

(i) * * *

(4) The futures commission merchant must, at all times, maintain in segregation an amount equal to the sum of any credit and debit balances that the futures customers of the futures commission merchant have in their accounts. Notwithstanding the preceding sentence, a futures commission merchant must add back to the total amount of funds required to be maintained in segregation any futures customer accounts with debit balances in the amounts calculated in accordance with paragraph (i)(5) of this section.

(5) The futures commission merchant, in calculating the total amount of funds required to be maintained in segregation pursuant to paragraph (i)(4) of this section, must include any debit balance, as calculated pursuant to this paragraph (i)(5), that a futures customer has in its account, to the extent that such debit balance is not secured by "readily marketable securities" that the particular futures customer deposited with the futures commission merchant.

(i) For purposes of calculating the amount of a futures account's debit balance that the futures commission merchant is required to include in its calculation of its total segregation requirement pursuant to this paragraph (i)(5), the futures commission merchant shall calculate the net liquidating equity of each futures account in accordance with paragraph (i)(2) of this section, except that the futures commission merchant shall exclude from the calculation any noncash collateral held in the futures customer account as margin collateral. The futures commission merchant may offset the debit balance computed under this paragraph (i)(5) to the extent of any "readily marketable securities," subject

to percentage deductions (*i.e.*, “securities haircuts”) as specified in paragraph (f)(5)(iv) of this section, held for the particular futures customer to secure its debit balance.

(ii) For purposes of this section, “readily marketable” shall be defined as having a “ready market” as such latter term is defined in Rule 15c3–1(c)(11) of the Securities and Exchange Commission (17 CFR 240.15c3–1(c)(11)).

(iii) In order for a debit balance to be deemed secured by “readily marketable securities,” the futures commission merchant must maintain a security interest in such securities, and must hold a written authorization to liquidate the securities at the discretion of the futures commission merchant.

(iv) To determine the amount of such debit balance secured by “readily marketable securities,” the futures commission merchant shall:

(A) Determine the market value of such securities; and

(B) Reduce such market value by applicable percentage deductions (*i.e.*, “securities haircuts”) as set forth in Rule 15c3–1(c)(2)(vi) of the Securities and Exchange Commission (17 CFR 240.15c3–1(c)(2)(vi)). Futures commission merchants that establish and enforce written policies and procedures to assess the credit risk of commercial paper, convertible debt instruments, or nonconvertible debt instruments in accordance with Rule 240.15c3–1(c)(2)(vi) of the Securities and Exchange Commission (17 CFR 240.15c3–1(c)(2)(vi)) may apply the lower haircut percentages specified in Rule 240.15c3–1(c)(2)(vi) for such commercial paper, convertible debt instruments and nonconvertible debt instruments.

* * * * *

■ 5. Amend § 1.32 by:

■ a. Removing from paragraph (b) the reference “17 CFR 241.15c3–1(c)(2)(vi)” and adding in its place “17 CFR 240.15c3–1(c)(2)(vi)” wherever it appears, and

■ b. Adding paragraph (l).

The addition reads as follows:

§ 1.32 Reporting of segregated account computation and details regarding the holding of futures customer funds.

* * * * *

(l) A futures commission merchant that carries futures accounts for futures customers as separate accounts for separate account customers pursuant to § 1.44 shall:

(1) Calculate the total amount of futures customer funds on deposit in segregated accounts carried as separate accounts of separate account customers

on behalf of such futures customers pursuant to paragraph (a)(1) of this section and the total amount of futures customer funds required to be on deposit in segregated accounts carried as separate accounts of separate account customers on behalf of such futures customers pursuant to paragraph (a)(2) of this section by including the separate accounts of the separate account customers as if the separate accounts were accounts of separate entities;

(2) Offset a net deficit in a particular futures account carried as a separate account of a separate account customer in accordance with paragraph (b) of this section against the current market value of readily marketable securities held only for the particular separate account of such separate account customer; and

(3) Document its segregation computation in the Statement of Segregation Requirements and Funds in Segregation of Customers Trading on U.S. Commodity Exchanges required by paragraph (c) of this section by incorporating and reflecting the futures accounts carried as separate accounts of separate account customers as accounts of separate entities.

■ 6. Add § 1.44 to read as follows:

§ 1.44 Margin Adequacy and Treatment of Separate Accounts

(a) *Definitions.* These following definitions apply only for purposes of this section, except to the extent explicitly noted:

Account means a futures account as defined in § 1.3, a Cleared Swaps Customer Account as defined in § 1.3, or a 30.7 account as defined in § 30.1 of this chapter.

Business day has the meaning set forth in § 1.3, with the clarification that “holiday” has the meaning defined in paragraph (a) of this section.

Holiday means Federal holidays as established by 5 U.S.C. 6103.

One business day margin call means a margin call that is issued and met in accordance with the requirements of paragraph (f) of this section.

Ordinary course of business means the operation of the futures commission merchant’s business relationship with its separate account customer absent the occurrence of one or more of the events specified in paragraph (e) of this section.

Separate account means any one of multiple accounts of the same separate account customer that are carried by the same futures commission merchant.

Separate account customer means a customer for which the futures commission merchant has made the election set forth in paragraph (d) of this section.

Undermargined amount for an account means the amount, if any, by which the customer margin requirements with respect to all products held in that account exceed the net liquidating value plus the margin deposits currently remaining in that account. For purposes of this definition, “margin requirements” shall mean the level of maintenance margin or performance bond required for the positions in the account by the applicable exchanges or clearing organizations. Market risk collateral haircuts based on Rule 15c3–1 of the Securities and Exchange Commission (17 CFR 240.15c3–1) and § 1.17(c)(5) shall be applied to the value of the margin deposits held by a futures commission merchant. With respect to positions for which maintenance margin is not specified, “margin requirements” shall refer to the clearing organization margin requirements applicable to such positions.

(b) *Ensuring adequacy of customer initial margin.* (1) A futures commission merchant shall ensure that a customer does not withdraw funds from its accounts with such futures commission merchant unless the net liquidating value (calculated as of the close of business on the previous business day) plus the margin deposits remaining in the customer’s account after such withdrawal are sufficient to meet the customer initial margin requirements with respect to all products held in such customer’s account, except as provided in paragraph (c) of this section.

(2) For the purposes of paragraph (b)(1) of this section, where the previous day (excluding Saturdays and Sundays) is a holiday, as defined in paragraph (a) of this section, where any designated contract market or other board of trade on which the futures commission merchant trades is open for trading, and where an account of any of the futures commission merchant’s customers includes positions traded on such a market, the net liquidating value for such an account should instead be calculated as of the close of business on such holiday.

(c) *Separate account treatment with respect to withdrawal of customer initial margin.* A futures commission merchant may, only during the “ordinary course of business” as that term is defined in this section, treat the separate accounts of a separate account customer as accounts of separate entities for purposes of paragraph (b) of this section if such futures commission merchant elects to do so as specified in paragraph (d) of this section. A futures commission merchant that has made such an election shall comply with the

requirements set forth in this section, and maintain written internal controls and procedures designed to ensure such compliance.

(d) *Election to treat a customer's accounts as separate accounts.* (1) To elect to treat the separate accounts of a customer as accounts of separate entities for purposes of paragraph (b) of this section, the futures commission merchant shall include the customer on a list of separate account customers maintained in its books and records. This list shall include the identity of each separate account customer, identify each separate account of such customer, and be kept current.

(2) The first time that the futures commission merchant includes a customer on the list of separate account customers, it shall, within one business day, provide notification of the election to allow separate account treatment for customers to its designated self-regulatory organization and to the Commission. The notice shall be provided in accordance with the process specified in § 1.12(n)(3).

(e) *Events inconsistent with the ordinary course of business.* (1) The following events are inconsistent with the ordinary course of business with respect to the separate accounts of a particular separate account customer, and the occurrence of any such event would require the futures commission merchant to cease permitting disbursements on a separate account basis with respect to all accounts of the relevant separate account customer:

(i) The separate account customer, including any separate account of such customer, fails to deposit initial margin or maintain maintenance margin or make payment of variation margin or option premium as specified in paragraph (f) of this section.

(ii) The occurrence and declaration by the futures commission merchant of an event of default as defined in the account documentation executed between the futures commission merchant and the separate account customer.

(iii) A good faith determination by the futures commission merchant's chief compliance officer, one of its senior risk managers, or other senior manager, following such futures commission merchant's own internal escalation procedures, that the separate account customer is in financial distress, or there is significant and bona fide risk that the separate account customer will be unable promptly to perform its financial obligations to the futures commission merchant, whether due to operational reasons or otherwise.

(iv) The insolvency or bankruptcy of the separate account customer or a parent company of such customer.

(v) The futures commission merchant receives notification that a board of trade, a derivatives clearing organization, a self-regulatory organization as defined in § 1.3 or section 3(a)(26) of the Securities Exchange Act of 1934, the Commission, or another regulator with jurisdiction over the separate account customer, has initiated an action with respect to such customer based on an allegation that the customer is in financial distress.

(vi) The futures commission merchant is directed to cease permitting disbursements on a separate account basis, with respect to the separate account customer, by a board of trade, a derivatives clearing organization, a self-regulatory organization, the Commission, or another regulator with jurisdiction over the futures commission merchant, pursuant to, as applicable, board of trade, derivatives clearing organization or self-regulatory organization rules, government regulations, or law.

(2) The following events are inconsistent with the ordinary course of business with respect to the separate accounts of all separate account customers of the futures commission merchant, and the occurrence of any such event would require the futures commission merchant to cease permitting disbursements on a separate account basis with respect to any of its customers:

(i) The futures commission merchant is notified by a board of trade, a derivatives clearing organization, a self-regulatory organization, the Commission, or another regulator with jurisdiction over the futures commission merchant, that the board of trade, the derivatives clearing organization, the self-regulatory organization, the Commission, or other regulator, as applicable, believes the futures commission merchant is in financial or other distress.

(ii) The futures commission merchant is under financial or other distress as determined in good faith by its chief compliance officer, senior risk managers, or other senior management.

(iii) The insolvency or bankruptcy of the futures commission merchant or a parent company of the futures commission merchant.

(3) The futures commission merchant must provide notice to its designated self-regulatory organization and to the Commission of the occurrence of any of the events enumerated in paragraph (e)(1) or (2) of this section. The notice must identify the event and (if

applicable) the customer, and be provided promptly in writing, and in any case no later than the next business day following the date on which the futures commission merchant identifies or has been informed that such event has occurred. Such notice must be provided in accordance with the process specified in § 1.12(n)(3).

(4) A futures commission merchant that has ceased permitting disbursements on a separate account basis to a separate account customer due to the occurrence of any of the events enumerated in paragraph (e)(1) of this section with respect to a specific separate account customer (or in paragraph (e)(2) with respect to all of its separate account customers) may resume permitting disbursements on a separate account basis to that customer (or, respectively, all customers) if such futures commission merchant reasonably believes, based on new information, that those circumstances have been cured, and such futures commission merchant documents in writing the factual basis and rationale for that conclusion. If the circumstances triggering cessation of disbursements on a separate account basis were an action or direction by one of the entities described in paragraph (e)(1)(v) or (vi) or (e)(2)(i) of this section, then the cure of those circumstances would require the withdrawal or other appropriate termination of such action or direction by that entity.

(f) *Requirements: One business day margin call.* Each separate account must be on a one business day margin call. The following provisions apply solely for purposes of this paragraph (f):

(1) Except as explicitly provided in this paragraph (f), if, as a result of market movements or changes in positions on the previous business day, a separate account is undermargined (*i.e.*, the undermargined amount for that account is greater than zero), the futures commission merchant shall issue a margin call for the separate account for at least the amount necessary for the separate account to meet the initial margin required by the applicable exchanges or clearing organizations (including, as appropriate, the equity component or premium for long or short option positions) for the positions in the separate account, and that call must be met by the applicable separate account customer no later than the close of the Fedwire Funds Service on the same business day.

(2) Payment of margin in currencies listed in appendix A to this part shall be considered in compliance with the requirements of this paragraph (f) if received by the applicable futures

commission merchant no later than the end of the second business day after the day on which the margin call is issued.

(3) Payment of margin in fiat currencies other than U.S. Dollars, Canadian Dollars, or currencies listed in Appendix A to this part shall be considered in compliance with the requirements of this paragraph (f) if received by the applicable futures commission merchant no later than the end of the business day after the day on which the margin call is issued.

(4) The relevant deadline for payment of margin in fiat currencies other than U.S. Dollars may be extended to the next business day following any banking holiday in the jurisdiction of issue of the currency, and still be considered in compliance with the requirements of this paragraph (f) if payment is delayed due to such banking holiday.

(5) A failure with respect to a specific separate account to deposit, maintain, or pay margin or option premium that was called pursuant to this paragraph (f), due to administrative error or operational constraints, does not constitute a failure to comply with the requirements of this paragraph (f). For these purposes, a futures commission merchant's determination that the failure to deposit, maintain, or pay margin or option premium is due to such administrative error or operational constraints must be based on the futures commission merchant's reasonable belief in light of information known to the futures commission merchant at the time the futures commission merchant learns of the relevant administrative error or operational constraint.

(6) A futures commission merchant would not be in compliance with the requirements of this paragraph (f) if it contractually agrees to provide separate account customers with periods of time to meet margin calls that extend beyond the time periods specified in this paragraph (f), or engages in practices that are designed to circumvent this paragraph (f).

(7) In the case of a holiday where any designated contract market or other board of trade on which the futures commission merchant trades is open for trading, or any derivatives clearing organization that clears the Cleared Swaps of such futures commission merchant's Cleared Swaps Customers is open for clearing such swaps, and where a separate account of any of the futures commission merchant's separate account customers includes positions traded on such a market or cleared at such a derivatives clearing organization, then for any such separate account:

(i) If, as a result of market movements or changes in positions on the business day before the holiday, a separate account is undermargined, the futures commission merchant shall issue a margin call for the separate account for at least the undermargined amount, and that call must be met by the applicable separate account customer no later than the close of the Fedwire Funds Service on the next business day after the holiday, and,

(ii) If, as a result of market movements or changes in positions on the holiday, a separate account is undermargined by an amount greater than the amount it was undermargined as a result of market movements or changes in positions on the business day before the holiday, the futures commission merchant shall issue a margin call for the separate account for at least the incremental undermargined amount, and that call must be met by the applicable separate account customer no later than the close of the Fedwire Funds Service on the next business day after the holiday.

(8) Any person may submit to the Commission any currency that such person proposes should be added to or removed from appendix A to this part.

(i) A submission pursuant to this paragraph (f)(8) shall include:

(A) A statement that margin payments in the relevant currency cannot, in the case of a proposed addition, or can, in the case of a proposed removal, practicably be received by the futures commission merchant issuing a margin call no later than the end of the first business day after the day on which the margin call is issued;

(B) Documentation or other information sufficient to support the statement contemplated by paragraph (f)(8)(i)(A) of this section; and

(C) Any additional information specifically requested by the Commission.

(ii) A submitter pursuant to paragraph (f)(8)(i) of this section that wishes to request confidential treatment for portions of its submission may do so in accordance with the procedures set out in § 145.9(d).

(iii) The Commission shall review a submission made pursuant to this paragraph (f)(8) and determine whether to propose to add the relevant currency to, or remove the relevant currency from, appendix A to this part.

(iv) If the Commission proposes to add a currency to or remove a currency from appendix A to this part, the Commission shall issue such determination through notice and comment rulemaking, and shall provide a public comment period of no less than thirty days.

(v) The Commission may, of its own accord and absent a submission pursuant to this paragraph (f)(8), propose to issue a determination to add a currency to or remove a currency from appendix A to this part pursuant to the procedure set forth in paragraph (f)(8)(iv) of this section.

(g) *Requirements: Calculations for capital, risk management, and segregation.* (1) The futures commission merchant's internal risk management policies and procedures shall provide for stress testing and credit limits as set forth in § 1.73 for separate account customers. Such stress testing must be performed, and the credit limits must be applied, both on an individual separate account and on a combined account basis.

(2) A futures commission merchant shall calculate the margin requirement for each separate account of a separate account customer independently from such margin requirement for all other separate accounts of the same customer with no offsets or spreads recognized across the separate accounts.

(3) A futures commission merchant shall, in computing its adjusted net capital for purposes of § 1.17, record each separate account of a separate account customer in the books and records of the futures commission merchant as a distinct account of a customer. This includes recording each separate account with a net debit balance or a deficit as a receivable from the separate account customer, with no offsets between the other separate accounts of the same separate account customer.

(4) A futures commission merchant shall, in calculating the amount of its own funds it is required to maintain in segregated accounts to cover deficits or debit ledger balances pursuant to § 1.20(i), § 22.2(f), or § 30.7(f)(2) of this chapter in any futures customer accounts, Cleared Swaps Customer Accounts, or 30.7 accounts, respectively, include any deficits or debit ledger balances of any separate accounts as if the accounts are accounts of separate entities.

(5) For purposes of its residual interest and legally segregated operationally commingled compliance calculations, as applicable under §§ 1.22(c), 22.2(f)(6), and 30.7(f)(1)(ii) of this chapter, a futures commission merchant shall treat the separate accounts of a separate account customer as if the accounts were accounts of separate entities and include the undermargined amount of each separate account, and cover such undermargined amount with its own funds.

(6) In determining its residual interest target for purposes of §§ 1.11(e)(3)(i)(D) and 1.23(c), the futures commission merchant must consider the impact of calculating customer receivables for separate account customers on a separate account basis.

(h) *Requirements: information and disclosures.* (1) A futures commission merchant shall obtain from each separate account customer or, as applicable, the manager of a separate account, information sufficient for the futures commission merchant to:

(i) Assess the value of the assets dedicated to such separate account; and

(ii) Identify the direct or indirect parent company of the separate account customer, as applicable, if such customer has a direct or indirect parent company.

(2) Where a separate account customer has appointed a third-party as the primary contact to the futures commission merchant, the futures commission merchant must obtain and maintain current contact information of an authorized representative of the customer, and take reasonable steps to verify that such contact information is and remains accurate, and that the person is in fact an authorized representative of the customer.

(3) A futures commission merchant must provide each separate account customer a disclosure that, pursuant to part 190 of the Commission's regulations (17 CFR part 190), all separate accounts of the customer in each account class will be combined in the event of the futures commission merchant's bankruptcy.

(i) The disclosure statement required by this paragraph (h)(3) must be delivered directly to the customer via electronic means, in writing or in such other manner as the futures commission merchant customarily delivers disclosures pursuant to applicable Commission regulations, and as permissible under the futures commission merchant's customer documentation.

(ii) The futures commission merchant must maintain documentation demonstrating that the disclosure statement required by this paragraph (h)(3) was delivered directly to the customer.

(iii) The futures commission merchant must include the disclosure statement required by this paragraph (h)(3) on its website or within its Disclosure Document required by paragraph 1.55(i).

(4) A futures commission merchant that has made an election pursuant to paragraph (d) of this section shall disclose in the Disclosure Document required under § 1.55(i) that it permits

the separate treatment of accounts for the same customer pursuant to the requirements of this section and that, in the event that separate account treatment for some customers were to contribute to a loss that exceeds the futures commission merchant's ability to cover, that loss may affect the segregated funds of all of the futures commission merchant's customers in one or more account classes.

(i) A futures commission merchant that applies separate account treatment pursuant to this section shall apply such treatment in a consistent manner over time.

■ 7. Revise § 1.58 to read as follows:

§ 1.58 Gross collection of exchange-set margins.

(a) Each futures commission merchant which carries a futures, options on futures, or Cleared Swaps position for another futures commission merchant or for a foreign broker on an omnibus basis must collect, and each futures commission merchant and foreign broker for which an omnibus account is being carried must deposit, initial and maintenance margin on each position so carried at a level no less than that established for customer accounts by the rules of the applicable contract market or other board of trade. If the contract market or other board of trade does not specify any such margin level, the level required will be that specified by the relevant clearing organization.

(b) If the futures commission merchant which carries a futures, options on futures, or Cleared Swaps position for another futures commission merchant or for a foreign broker on an omnibus basis allows a position to be margined as a spread position or as a hedged position in accordance with the rules of the applicable contract market, the carrying futures commission merchant must obtain and retain a written representation from the futures commission merchant or from the foreign broker for which the omnibus account is being carried that each such position is entitled to be so margined.

(c) Where a futures commission merchant has established an omnibus account that is carried by another futures commission merchant, and the depositing futures commission merchant has elected to treat the separate accounts of a futures customer or a Cleared Swaps Customer as accounts of separate entities for purposes of § 1.44, the depositing futures commission merchant shall calculate the required initial and maintenance margin for purposes of paragraph (a) of this section separately for each such separate account.

■ 8. Amend § 1.73 by adding paragraph (c) to read as follows:

§ 1.73 Clearing futures commission merchant risk management.

* * * * *

(c) A futures commission merchant that is not a clearing member of a derivatives clearing organization, but that treats the separate accounts of a customer as accounts of separate entities for purposes of § 1.44, shall comply with paragraphs (a) and (b) of this section with respect to the accounts and separate accounts of separate account customers as if it were a clearing member of a derivatives clearing organization.

■ 9. Add appendix A to part 1 to read as follows:

Appendix A to Part 1—Treatment of Certain Foreign Currencies for Margin Adequacy Requirements Under Regulation 1.44

Payment of margin in currencies listed in this Appendix A shall be considered in compliance with the requirements of Regulation 1.44(f) of Part 1 of the Commission's regulations (17 CFR 1.44(f)) if received by the applicable futures commission merchant no later than the end of the second business day after the day on which the margin call is issued.

Currency

Australian dollar (AUD)
Chinese renminbi (CNY)
Hong Kong dollar (HKD)
Hungarian forint (HUF)
Israeli new shekel (ILS)
Japanese yen (JPY)
New Zealand dollar (NZD)
Singapore dollar (SGD)
South African rand (ZAR)
Turkish lira (TRY)

PART 22—CLEARED SWAPS

■ 10. The authority citation for part 22 continues to read as follows:

Authority: 7 U.S.C. 1a, 6d, 7a–1 as amended by Pub. L. 111–203, 124 Stat 1376.

■ 11. Amend § 22.2 by

■ a. Republishing the paragraph (f) heading;

■ b. Revising paragraphs (f)(4) and (5);

■ c. Republishing the paragraph (g) heading; and

■ d. Adding paragraph (g)(11).

The republications, revisions, and addition to read as follows:

§ 22.2 Futures Commission Merchants: Treatment of Cleared Swaps and Associated Cleared Swaps Customer Collateral.

* * * * *

(f) *Requirements as to amount.* * * *

(4) The futures commission merchant must, at all times, maintain in

segregation, in its FCM Physical Locations and/or its Cleared Swaps Customer Accounts at Permitted Depositories, an amount equal to the sum of any credit and debit balances that the Cleared Swaps Customers of the futures commission merchant have in their accounts. Notwithstanding the preceding sentence, a futures commission merchant must add back to the total amount of funds required to be maintained in segregation any Cleared Swaps Customer Accounts with debit balances in the amounts calculated in accordance with paragraph (f)(5) of this section.

(5) The futures commission merchant, in calculating the total amount of funds required to be maintained in segregation pursuant to paragraph (f)(4) of this section, must include any debit balance, as calculated pursuant to this paragraph (f)(5), that a Cleared Swaps Customer has in its account, to the extent that such debit balance is not secured by “readily marketable securities” that the particular Cleared Swaps Customer deposited with the futures commission merchant.

(i) For purposes of calculating the amount of a Cleared Swaps Customer Account’s debit balance that the futures commission merchant is required to include in its calculation of its total segregation requirement pursuant to this paragraph (f)(5), the futures commission merchant shall calculate the net liquidating equity of each Cleared Swaps Customer Account in accordance with paragraph (f)(2) of this section, except that the futures commission merchant shall exclude from the calculation any noncash collateral held in the Cleared Swaps Customer Account as margin collateral. The futures commission merchant may offset the debit balance computed under this paragraph (f)(5) to the extent of any “readily marketable securities,” subject to percentage deductions (*i.e.*, “securities haircuts”) as specified in paragraph (f)(5)(iv) of this section, held for the particular Cleared Swaps Customer to secure its debit balance.

(ii) For purposes of this section, “readily marketable” shall be defined as having a “ready market” as such latter term is defined in Rule 15c3–1(c)(11) of the Securities and Exchange Commission (17 CFR 240.15c3–1(c)(11)).

(iii) In order for a debit balance to be deemed secured by “readily marketable securities,” the futures commission merchant must maintain a security interest in such securities, and must hold a written authorization to liquidate the securities at the discretion of the futures commission merchant.

(iv) To determine the amount of such debit balance secured by “readily marketable securities,” the futures commission merchant shall:

(A) Determine the market value of such securities; and

(B) Reduce such market value by applicable percentage deductions (*i.e.*, “securities haircuts”) as set forth in Rule 15c3–1(c)(2)(vi) of the Securities and Exchange Commission (17 CFR 240.15c3–1(c)(2)(vi)). Futures commission merchants that establish and enforce written policies and procedures to assess the credit risk of commercial paper, convertible debt instruments, or nonconvertible debt instruments in accordance with Rule 240.15c3–1(c)(2)(vi) of the Securities and Exchange Commission (17 CFR 240.15c3–1(c)(2)(vi)) may apply the lower haircut percentages specified in Rule 240.15c3–1(c)(2)(vi) for such commercial paper, convertible debt instruments and nonconvertible debt instruments.

* * * * *

(g) *Segregated account; Daily computation and record.* * * *

(11) A futures commission merchant that carries Cleared Swaps Accounts for Cleared Swaps Customers as separate accounts for separate account customers pursuant to § 1.44 of this chapter shall:

(i) Calculate the total amount of Cleared Swaps Customer Collateral on deposit in segregated accounts on behalf of Cleared Swaps Customers pursuant to paragraph (g)(1)(i) of this section and the total amount of Cleared Swaps Customer Collateral required to be on deposit in segregated accounts on behalf of Cleared Swaps Customers pursuant to paragraph (g)(1)(ii) of this section by including the separate accounts of the separate account customers as if the separate accounts were accounts of separate entities;

(ii) Offset a net deficit in a particular Cleared Swaps Customer Account carried as a separate account of a separate account customer in accordance with paragraphs (f)(4) and (5) and (g)(1)(ii) of this section against the current market value of readily marketable securities held only for the particular separate account of such separate account customer; and

(iii) Document its segregation computation in the Statement of Cleared Swaps Customer Segregation Requirements and Funds in Cleared Swaps Customer Accounts under 4d(f) of the CEA required by paragraph (g)(2) of this section by incorporating and reflecting the Cleared Swaps Customer Accounts carried as separate accounts of separate account customers as accounts of separate entities.

PART 30—FOREIGN FUTURES AND FOREIGN OPTIONS TRANSACTIONS

■ 12. The authority citation for part 30 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6c, and 12a, unless otherwise noted.

■ 13. Amend § 30.2 by revising paragraph (b) to read as follows:

§ 30.2 Applicability of the Act and rules.

* * * * *

(b) The provisions of §§ 1.20 through 1.30, 1.32, 1.35(a)(2) through (4) and (c) through (i), 1.36(b), 1.38, 1.39, 1.40, 1.45 through 1.51, 1.53, 1.54, 1.55, 1.58, 1.59, 33.2 through 33.6, and parts 15 through 20 of this chapter shall not be applicable to the persons and transactions that are subject to the requirements of this part.

■ 14. Amend § 30.7 by:

■ a. Republishing the paragraph (f) and (f)(2) headings;

■ c. Revising paragraph (f)(2)(iv);

■ d. Adding paragraph (f)(2)(v);

■ e. Republishing the paragraph (l) heading; and

■ f. Adding paragraph (l)(11).

The republications, revisions, and additions read as follows:

§ 30.7 Treatment of foreign futures or foreign options secured amount.

* * * * *

(f) *Limitations on use of 30.7 customer funds.*

* * * * *

(2) *Requirements as to amount.* * * *

(iv) The futures commission merchant must, at all times, maintain in segregation an amount equal to the sum of any credit and debit balances that 30.7 customers of the futures commission merchant have in their accounts. Notwithstanding the preceding sentence, a futures commission merchant must add back to the total amount of funds required to be maintained in segregation any 30.7 accounts with debit balances in the amounts calculated in accordance with paragraph (f)(2)(v) of this section.

(v) The futures commission merchant, in calculating the total amount of funds required to be maintained in segregation pursuant to paragraph (f)(2)(iv) of this section, must include any debit balance, as calculated pursuant to this paragraph (f)(2)(v), that a 30.7 customer has in its account, to the extent that such debit balance is not secured by “readily marketable securities” that the particular 30.7 customer deposited with the futures commission merchant.

(A) For purposes of calculating the amount of a 30.7 account’s debit balance that the futures commission merchant is required to include in its calculation of

its total segregation requirement pursuant to this paragraph (f)(2)(v), the futures commission merchant shall calculate the net liquidating equity of each 30.7 account in accordance with paragraph (f)(2)(ii) of this section, except that the futures commission merchant shall exclude from the calculation any noncash collateral held in the 30.7 account as margin collateral. The futures commission merchant may offset the debit balance computed under this paragraph (f)(2)(v) to the extent of any “readily marketable securities,” subject to percentage deductions (*i.e.*, “securities haircuts”) as specified in paragraph (f)(2)(v)(D) of this section, held for the particular 30.7 customer to secure its debit balance.

(B) For purposes of this section, “readily marketable” shall be defined as having a “ready market” as such latter term is defined in Rule 15c3–1(c)(11) of the Securities and Exchange Commission (17 CFR 240.15c3–1(c)(11)).

(C) In order for a debit balance to be deemed secured by “readily marketable securities,” the futures commission merchant must maintain a security interest in such securities, and must hold a written authorization to liquidate the securities at the discretion of the futures commission merchant.

(D) To determine the amount of such debit balance secured by “readily marketable securities,” To do so, the futures commission merchant shall:

(1) Determine the market value of such securities; and

(2) Reduce such market value by applicable percentage deductions (*i.e.*, “securities haircuts”) as set forth in Rule 15c3–1(c)(2)(vi) of the Securities and Exchange Commission (17 CFR 240.15c3–1(c)(2)(vi)). Futures commission merchants that establish and enforce written policies and procedures to assess the credit risk of commercial paper, convertible debt instruments, or nonconvertible debt instruments in accordance with Rule 240.15c3–1(c)(2)(vi) of the Securities and Exchange Commission (17 CFR 240.15c3–1(c)(2)(vi)) may apply the lower haircut percentages specified in Rule 240.15c3–1(c)(2)(vi) for such commercial paper, convertible debt instruments and nonconvertible debt instruments.

* * * * *

(l) *Daily computation of 30.7 customer secured amount requirement and details regarding the holding and investing of 30.7 customer funds.*

* * * * *

(11) A futures commission merchant that carries 30.7 accounts for 30.7

customers as separate accounts for separate account customers pursuant to § 1.44 of this chapter shall:

(i) Calculate the total amount of 30.7 customer funds on deposit in 30.7 accounts on behalf of 30.7 customers pursuant to paragraph (l)(1) of this section and the total amount of 30.7 customer funds required to be on deposit in segregated accounts on behalf of 30.7 customers pursuant to paragraph (l)(1) of this section by including the separate accounts of the separate account customers as if the separate accounts were accounts of separate entities;

(ii) Offset a net deficit in a particular 30.7 account carried as a separate account of a separate account customer in accordance with this paragraph (l) against the current market value of readily marketable securities held only for the particular separate account of such separate account customer; and

(iii) Document its segregation computation in the Statement of Secured Amounts and Funds Held in Separate Accounts for 30.7 Customers pursuant to Commission Regulation 30.7 required by paragraph (l)(3) of this section by incorporating and reflecting the 30.7 accounts carried as separate accounts of separate account customers as accounts of separate entities.

PART 39—DERIVATIVES CLEARING ORGANIZATIONS

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

Authority: 7 U.S.C. 2, 6(c), 7a–1, and 12a(5); 12 U.S.C. 5464; 15 U.S.C. 8325; section 752 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, title VII, sec. 752, July 21, 2010, 124 Stat. 1749.

■ 16. Amend § 39.13 by:

■ a. Republishing the paragraph (g) and (g)(8) headings;

■ c. Adding paragraph (g)(8)(i)(E); and

■ d. Revising paragraph (g)(8)(iii).

The republications, addition, and revision read as follows:

§ 39.13 Risk management.

* * * * *

(g) *Margin requirements—*

* * * * *

(8) *Customer margin—*

* * * * *

(i) * * *

(E) For purposes of this paragraph (g)(8)(i), each separate account of a separate account customer (as such terms are defined in § 1.44 of this chapter) shall be treated as an account of a separate individual customer.

* * * * *

(iii) *Withdrawal of customer initial margin.* A derivatives clearing organization shall require its clearing members to ensure that their customers do not withdraw funds from their accounts with such clearing members unless the net liquidating value plus the margin deposits remaining in a customer’s account after such withdrawal are sufficient to meet the customer initial margin requirements with respect to all products and swap portfolios held in such customer’s account which are cleared by the derivatives clearing organization, except as provided for in § 1.44 of this chapter.

* * * * *

Issued in Washington, DC, on December 20, 2024, by the Commission.

Christopher Kirkpatrick,
Secretary of the Commission.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendices to Regulations To Address Margin Adequacy and To Account for the Treatment of Separate Accounts by Futures Commission Merchants—Commission Voting Summary and Chairman’s and Commissioner’s Statements

Appendix 1—Commission Voting Summary

On this matter, Chairman Behnam and Commissioner Goldsmith Romero voted in the affirmative. Commissioners Johnson and Pham voted to concur. Commissioner Mersinger voted in the negative.

Appendix 2—Statement of Support of Chairman Rostin Behnam

Since 2019, derivatives clearing organizations (DCOs) and futures commission merchants (FCMs) faithfully relied on guidance and a no-action position issued through CFTC Staff Letter 19–17¹ to comply with DCO rules. In the several years during which the original letter was issued, DCOs and FCMs invested accordingly in anticipation that the Commission would act diligently and engage the Commission in the process to implement appropriate relief on a permanent basis. I am pleased today that, consistent with my commitment to improving rules and codifying longstanding staff positions through rulemakings that benefit from the engagement and expertise of

¹ CFTC Letter No. 19–17, July 10, 2019, available at <https://www.cftc.gov/csl/19-17/download> as extended by CFTC Letter No. 20–28, Sept. 15, 2020, available at <https://www.cftc.gov/csl/20-28/download>; CFTC Letter No. 21–29, Dec. 21, 2021, available at <https://www.cftc.gov/csl/21-29/download>; CFTC Letter No. 22–11, Sept. 15, 2022, available at <https://www.cftc.gov/csl/22-11/download>; CFTC Letter No. 23–13, Sept. 11, 2023, available at <https://www.cftc.gov/csl/23-13/download>; and CFTC Letter No. 24–07, June 24, 2024, available at <https://www.cftc.gov/csl/24-07/download>.

our entire Commission, the CFTC is issuing a final rule that allocates greater protections and more importantly, provides long awaited certainty.

I fully support the final rule which protects customer funds, promotes effective DCO and FCM risk management, and balances risk management with practicability. To ensure that the final rule was workable, there were numerous discussions and extensive engagement between staff and industry, in addition to two notices of proposed rulemaking.² This final rule is the

² On April 14, 2023, the Commission published in the **Federal Register** a notice of proposed rulemaking designed to codify the no-action position in CFTC Letter No. 19–17, Derivatives Clearing Organization Risk Management Regulations to Account for the Treatment of Separate Accounts by Futures Commission Merchants, 88 FR 22934 (Apr. 14, 2023) (First Proposal). The First Proposal sought to codify the provisions of CFTC Letter No. 19–17 in regulation 39.13, where it would have applied directly to DCOs, and only indirectly to FCMs that are clearing members of DCOs through DCO rules. The Second Proposal, which withdrew the First Proposal, sought to codify these provisions in part 1 of the Commission's regulations, which apply to FCMs directly. Regulations To Address Margin Adequacy and To Account for the Treatment of Separate Accounts by Futures Commission Merchants, 89 FR

culmination of these efforts and serves as an example of effective collaboration with industry yielding positive results.

I thank Alicia Lewis in my office, and staff in the Division of Clearing and Risk, Market Participants Division, Office of the General Counsel, and the Office of the Chief Economist for their work on the final rule.

Appendix 3—Concurring Statement of Commissioner Caroline D. Pham

I respectfully concur on the Regulations to Address Margin Adequacy and to Account for the Treatment of Separate Accounts by Futures Commission Merchants (FCMs) (Separate Accounts Final Rule). I am pleased that the Separate Accounts Final Rule has resolved two critical issues with the proposed rule that were unworkable because of (1) conflicts of law under U.S. banking and securities regulation and foreign banking law, and operational realities regarding the cross-border movement of funds, and (2) lack of regulatory clarity for the handling of administrative errors and operational constraints. In particular, the significant changes in the proposed rule from existing

15312 (Mar. 1, 2024) (Second Proposal). The final rule follows from the Second Proposal.

regulatory requirements under CFTC Letter No. 19–17, which FCMs have implemented and complied with for the past 5 years, were not supported by robust cost-benefit analysis to justify imposing overly burdensome new rules. I greatly appreciate the support of Chairman Behnam and the efforts by CFTC staff to address my concerns, and the engagement with my fellow Commissioners.

I would like to thank Daniel O'Connell, Bob Wasserman, and Clark Hutchison in the Division of Clearing and Risk for their work on the Separate Accounts Final Rule and the significant time and effort spent working with my office, especially to reconsider the requirements for a one business day margin call and circumstances involving banking holidays in the eurozone, and “unusual” administrative errors and operational constraints.¹ I applaud their dedication to strengthening our markets and addressing the public comments.

[FR Doc. 2024–31177 Filed 1–14–25; 4:15 pm]

BILLING CODE 6351–01–P

¹ Statement of Commissioner Caroline D. Pham in Support of the Treatment of Separate Accounts Proposal (Feb. 20, 2024), <https://www.cftc.gov/PressRoom/SpeechesTestimony/phamstatement022024b>.



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Part IV

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Chemical
Manufacturing Area Sources Technology Review; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2024-0303; FRL-7623-01-OAR]

RIN 2060-AU73

National Emission Standards for Hazardous Air Pollutants: Chemical Manufacturing Area Sources Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to establish a new area source category to address chemical manufacturing process units (CMPUs) using ethylene oxide (EtO). The EPA is proposing to list EtO in table 1 to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Chemical Manufacturing Area Sources (referred to as the CMAS NESHAP in this document) and to add EtO-specific requirements to the CMAS NESHAP. The EPA is also proposing to add a fence line monitoring program for EtO. In addition, the EPA is proposing new requirements for pressure vessels and pressure relief devices (PRDs). This proposal also presents the results of the EPA's technology review of the CMAS NESHAP as required under the Clean Air Act (CAA). As part of this technology review, the EPA is proposing to add new leak detection and repair (LDAR) requirements to the CMAS NESHAP for equipment leaks in organic HAP service and heat exchange systems. The EPA is also proposing performance testing once every 5 years and to add provisions for electronic reporting. We estimate that the proposed amendments to the CMAS NESHAP, excluding the proposed EtO emission standards, would reduce hazardous air pollutant (HAP) emissions from emission sources by approximately 158 tons per year (tpy). Additionally, the proposed EtO emission standards are expected to reduce EtO emissions by approximately 4.6 tpy.

DATES:

Comments. Comments must be received on or before March 24, 2025. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before February 21, 2025.

Public hearing: If anyone contacts us requesting a public hearing on or before

January 27, 2025 we will hold a virtual public hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OAR-2024-0303, by any of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.
- **Email:** a-and-r-docket@epa.gov. Include Docket ID No. EPA-HQ-OAR-2024-0303 in the subject line of the message.
- **Fax:** (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2024-0303.
- **Mail:** U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2024-0303, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- **Hand/Courier Delivery:** EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact U.S. EPA, Attn: Mr. William Gallagher, Mail Drop: E143-01, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina 27711; telephone number: (919) 541-2336; and email address: gallagher.william@epa.gov.

SUPPLEMENTARY INFORMATION:

Participation in virtual public hearing.

To request a virtual public hearing, contact the public hearing team at (888) 372-8699 or by email at SPPDpublichearing@epa.gov. If requested, the hearing will be held via virtual platform. The EPA will announce the date of the hearing and further details at <https://www.epa.gov/stationary-sources-air-pollution/chemical-manufacturing-area-sources-national-emission-standards>. The hearing will convene at 11:00 a.m. Eastern Time (ET) and will conclude at 4:00 p.m. ET. The EPA may close a

session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers.

The EPA will begin pre-registering speakers for the hearing no later than 1 business day after a request has been received. To register to speak at the virtual hearing, please use the online registration form available at <https://www.epa.gov/stationary-sources-air-pollution/chemical-manufacturing-area-sources-national-emission-standards> or contact the public hearing team at (888) 372-8699 or by email at SPPDpublichearing@epa.gov. The last day to pre-register to speak at the hearing will be February 3, 2025. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers at: <https://www.epa.gov/stationary-sources-air-pollution/chemical-manufacturing-area-sources-national-emission-standards>.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 4 minutes to provide oral testimony. The EPA encourages commenters to submit a copy of their oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at <https://www.epa.gov/stationary-sources-air-pollution/chemical-manufacturing-area-sources-national-emission-standards>. While the EPA expects the hearing to go forward as set forth above, please monitor these websites or contact the public hearing team at (888) 372-8699 or by email at SPPDpublichearing@epa.gov to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of a translator or a special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by January 29, 2025. The EPA may not be able to arrange accommodations without advanced notice.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2024-0303. All

documents in the docket are listed in <https://www.regulations.gov/>. Although listed, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. With the exception of such material, publicly available docket materials are available electronically in <https://www.regulations.gov/>.

Instructions. Direct your comments to Docket ID No. EPA-HQ-OAR-2024-0303. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov/>, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically to <https://www.regulations.gov/> any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

The <https://www.regulations.gov/> website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov/>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the

EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <https://www.epa.gov/dockets>.

Submitting CBI. Do not submit information containing CBI to the EPA through <https://www.regulations.gov/>. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (e.g., Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the Office of Air Quality Planning and Standards (OAQPS) CBI Office at the email address oaqpscbi@epa.gov and, as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email oaqpscbi@epa.gov to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: U.S. EPA, Attn: OAQPS Document Control Officer, Mail Drop: C404-02, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2024-0303. The mailed CBI material should be double

wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

Preamble acronyms and abbreviations. Throughout this preamble the use of "we," "us," or "our" is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ACC American Chemistry Council
 ACS American Community Survey
 ADAF age-dependent adjustment factor
 AFPM American Fuels and Petrochemical Manufacturers
 APCD air pollution control device
 API American Petroleum Institute
 AVO audio, visual, and olfactory
 BACT best available control technology
 CAA Clean Air Act
 CBI Confidential Business Information
 CEDRI Compliance and Emissions Data Reporting Interface
 CFR Code of Federal Regulations
 CMAS Chemical Manufacturing Area Source(s)
 CMPU chemical manufacturing process unit
 CO carbon monoxide
 CO₂ carbon dioxide
 EAV equivalent annualized value
 EFR external floating roof
 EIS Emissions Inventory System
 EJ environmental justice
 EMACT Ethylene Production MACT
 EPA Environmental Protection Agency
 ERT Electronic Reporting Tool
 EtO ethylene oxide
 FID flame ionization detector
 FR Federal Register
 GACT generally available control technologies
 HAP hazardous air pollutant(s)
 HON Hazardous Organic NESHA
 HQ hazard quotient
 HRVOC highly reactive volatile organic compound
 ICR information collection request
 IFR internal floating roof
 IRIS Integrated Risk Information System
 km kilometer(s)
 kPa kilopascal(s)
 LAER lowest achievable emission rate
 lb pound(s)
 lb/yr pound(s) per year
 LDAR leak detection and repair
 MACT maximum achievable control technology
 MIR maximum individual lifetime [cancer] risk
 MON Miscellaneous Organic Chemical Manufacturing NESHA
 MTVP maximum true vapor pressure
 NAICS North American Industry Classification System
 NATA National Air Toxics Assessment
 NEI National Emissions Inventory
 NESHA national emission standards for hazardous air pollutants
 NO_x nitrogen oxides
 N₂O nitrous oxide

NPRA National Petrochemical and Refiners Association
 NSPS new source performance standards
 OAQPS Office of Air Quality Planning and Standards
 OAR Office of Air and Radiation
 OLD Organic Liquids Distribution
 OMB Office of Management and Budget
 P&R I Group I Polymers and Resins
 PDF portable document format
 PEPO Polyether Polyols Production
 PM_{2.5} particulate matter 2.5
 PMPU polyether polyol manufacturing process unit
 ppmv parts per million by volume
 ppmw parts per million by weight
 PRA Paperwork Reduction Act
 PRD pressure relief device
 PV present value
 RACT reasonably available control technology
 RDL representative detection limit
 RFA Regulatory Flexibility Act
 RTR risk and technology review
 SOCM I Synthetic Organic Chemical Manufacturing Industry
 SO₂ sulfur dioxide
 TCEQ Texas Commission on Environmental Quality
 TOC total organic compounds
 TOSHI target organ-specific hazard index
 tpy tons per year
 TRE total resource effectiveness
 UMRA Unfunded Mandates Reform Act
 U.S.C. United States Code
 VCS voluntary consensus standards
 VOC volatile organic compound(s)
 µg/m³ micrograms per cubic meter

Organization of this document. The information in this preamble is organized as follows:

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 - I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
 - J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

I. General Information

A. Does this action apply to me?

The source categories that are the subject of this proposal are Agricultural Chemicals and Pesticides Manufacturing, Chemical Manufacturing with Ethylene Oxide, Cyclic Crude and Intermediate Production, Industrial Inorganic Chemical Manufacturing, Industrial Organic Chemical Manufacturing, Inorganic Pigments Manufacturing, Miscellaneous Organic Chemical Manufacturing, Plastic Materials and Resins Manufacturing, Pharmaceutical Production, and Synthetic Rubber Manufacturing, regulated under 40 CFR part 63, subpart VVVVVV. The North American Industry Classification System (NAICS) code for the chemical manufacturing operations at any of the ten chemical manufacturing area source (CMAS) categories is 325. This list of categories and NAICS codes is not intended to be exhaustive, but rather

provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and Tribal government entities would not be affected by this proposed action. We listed Cyclic Crude and Intermediate Production, Industrial Inorganic Chemical Manufacturing, Industrial Organic Chemical Manufacturing, Plastic Materials and Resins Manufacturing, and Synthetic Rubber Manufacturing as area source categories under CAA section 112(c)(3) as part of the 1999 Integrated Urban Air Toxics Strategy (64 FR 38721, July 19, 1999). On June 26, 2002, we amended the area source category list by adding source categories, including Agricultural Chemicals and Pesticides Manufacturing, Miscellaneous Organic Chemical Manufacturing, and Pharmaceutical Production (67 FR 43112, 43113). On November 22, 2002, we added Inorganic Pigments Manufacturing to the area source category list (67 FR 70427, 70428). In this action, we are proposing to amend the area source category list by adding Chemical Manufacturing with Ethylene Oxide (see section II.A.1 of this preamble). The other nine CMAS categories are discussed further in section II.B of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet. In accordance with 5 U.S.C. 553(b)(4), a summary of this rulemaking may be found at <https://www.regulations.gov/>, Docket ID No. EPA-HQ-OAR-2024-0303. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at <https://www.epa.gov/stationary-sources-air-pollution/chemical-manufacturing-area-sources-national-emission-standards>. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website.

A memorandum showing the edits that would be necessary to incorporate the changes to the CMAS NESHAP (40 CFR part 63, subpart VVVVVV) proposed in this action is available in the docket (Docket ID No. EPA-HQ-OAR-2024-0303). Following signature by the EPA Administrator, the EPA also will post a copy of this document to [https://www.epa.gov/stationary-sources-air-pollution/](https://www.epa.gov/stationary-sources-air-pollution/chemical-manufacturing-)

area-sources-national-emission-standards.

II. Background

A. What is the statutory authority for this action?

The statutory authority for this action is provided by sections 112 and 301 of the CAA, as amended (42 U.S.C. 7401 *et seq.*). Several CAA sections are relevant to this action as they specifically address regulations of HAP emissions from area sources. Collectively, CAA sections 112(c)(3), (d)(5), and (k)(3) are the basis of the Area Source Program under the Urban Air Toxics Strategy, which provides the framework for regulation of area sources under CAA section 112. Section 112(k)(3)(B) of the CAA requires the EPA to identify at least 30 HAP that pose the greatest potential health threat in urban areas with a primary goal of achieving a 75 percent reduction in cancer incidence attributable to HAP emitted from stationary sources. As discussed in the Integrated Urban Air Toxics Strategy (64 FR 38706, 38715, July 19, 1999), the EPA identified 30 HAP emitted from area sources that pose the greatest potential health threat in urban areas, and these HAP are commonly referred to as the “30 urban HAP.” CAA section 112(c)(3), in turn, requires the EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 urban HAP are subject to regulation. The EPA implemented these requirements through the Integrated Urban Air Toxics Strategy by identifying and setting standards for categories of area sources including the original nine CMAS categories that are addressed in this action. This proposed action presents the required CAA 112(d)(6) technology review of the generally available control technology (GACT) standards that the EPA established in 2009¹ for the nine CMAS categories. In this action, we are also proposing to set additional GACT standards for these categories. In addition to the source categories and subcategories listed pursuant to CAA section 112(c)(3), CAA section 112(c)(5) provides the EPA discretion to establish additional categories and subcategories of sources for regulation if a threat of adverse effects to human health or the environment is identified, per the criteria set forth in CAA section 112(c)(1) and (3). Pursuant to CAA section 112(c)(5), and consistent with the requirements of CAA section 112(c)(3), this action also proposes for

regulation as part of the CMAS NESHAP a new area source category, Chemical Manufacturing with Ethylene Oxide, and proposes GACT standards for that new source category pursuant to CAA section 112(d)(5). Information about establishing a new area source category for regulation pursuant to CAA section 112(c)(3) and (5), setting GACT standards under CAA section 112(d)(5), and reviewing standards under CAA section 112(d)(6) are provided in sections II.A.1, II.A.2, and II.A.3 of this preamble, respectively.

1. Listing An Additional Category Under CAA Section 112(c)(5)

CAA section 112(c)(5) provides that “the Administrator may at any time list additional categories and subcategories of sources of hazardous air pollutants according to the same criteria for listing applicable under [CAA section 112(c)(1) and (3)].” CAA 112(c)(3), in turn, provides in part that “[t]he Administrator shall list . . . each category or subcategory of area sources which the Administrator finds presents a threat of adverse effects to human health or the environment (by such sources individually or in the aggregate) warranting regulation under this section.”

In 2016, the EPA updated the integrated risk information system (IRIS) value for EtO to reflect new science related to the pollutant.² The updated IRIS value indicates that EtO is far more carcinogenic than previously understood. In response to this update, the EPA Office of Inspector General (OIG) released a report in 2021 using data from the 2014 National Air Toxics Assessment (NATA) identifying facilities that could present lifetime cancer risks to the public greater than or equal to 100-in-1 million.³ Several of these facilities were area source chemical manufacturers. Based on the revised carcinogenicity of EtO, the EPA decided to assess whether EtO emissions from CMAS should be listed as an area source category pursuant to CAA section 112(c)(3) and (5).

EtO is not one of the fifteen urban HAP currently regulated by the CMAS NESHAP. Therefore, to fully assess whether a source category including EtO emissions from area source chemical manufacturing operations presents an adverse effect to human health or the environment, facilities not currently part of the nine regulated source categories were considered. To that end,

we conducted a risk assessment evaluating all reported HAP emissions from sources currently subject to the CMAS NESHAP as well as sources that we believe would become subject to the CMAS NESHAP if EtO were to be added to table 1 to 40 CFR part 63, subpart VVVVVV. The results of the risk assessment are summarized in section II.E of this preamble. Based on the assessment, seven area source chemical manufacturing facilities were estimated to have maximum cancer risks greater than 100-in-1 million, all of which were driven primarily (greater than 90 percent) by EtO emissions.⁴ The maximum individual lifetime [cancer] risk (MIR) posed by the evaluated sources is 800-in-1 million, driven by EtO emissions from process vents (97 percent).

Given these estimates of risk, we propose that an area source category associated with EtO emissions from area source chemical manufacturers presents a threat of adverse effect on human health. Accordingly, consistent with CAA section 112(c)(3) and (5), we are proposing to list a new area source category. This area source category, Chemical Manufacturing with Ethylene Oxide, would encompass processes that produce a material or family of materials described by NAICS code 325 where EtO is used as a feedstock, generated as a byproduct, or is the material produced. This proposed source category matches the scope of the nine source categories currently regulated by the CMAS NESHAP, as described in section II.B of this preamble. Since the existing CMAS NESHAP currently regulates these nine area source categories collectively, we are proposing to also regulate the new Chemical Manufacturing with Ethylene Oxide area source category under the CMAS NESHAP at 40 CFR part 63, subpart VVVVVV. Alongside the listing of this new area source category, the EPA is proposing to add EtO specific applicability requirements at 40 CFR 63.11494(a)(2)(v) and to list EtO in table 1 to 40 CFR part 63, subpart VVVVVV.

In conjunction with proposing to establish a new area source category for Chemical Manufacturing with Ethylene Oxide, the EPA must establish the level of control for the source category. Section II.A.2 provides details on our authority to establish GACT standards pursuant to CAA section 112(d)(5) in lieu of maximum achievable control

² The review is available at <https://iris.epa.gov/static/pdfs/1025tr.pdf>.

³ The report is available at https://www.epa.gov/sites/default/files/2021-05/documents/_epaog_20210506-21-p-0129.pdf.

⁴ For additional details on these facilities, please see the document titled *Risk Assessment for the Chemical Manufacturing Area Source (CMAS) Categories in Support of the 2025 Technology Review for the Proposed Rule* in the docket for this action.

¹ See 74 FR 56008, October 29, 2009.

technology (MACT) standards pursuant to CAA section 112(d)(2) and (3).

2. Alternative Standards for Area Sources Under CAA Section 112(d)(5)

Under CAA section 112(d)(5), the EPA may elect to promulgate standards or requirements for area sources “which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants.” Additional information on GACT or management practices is found in the Senate report on the legislation (Senate report Number 101–228, December 20, 1989), which describes GACT as “. . . methods, practices and techniques which are commercially available and appropriate for application by the sources in the category considering economic impacts and the technical capabilities of the firms to operate and maintain the emissions control systems.”

Consistent with the legislative history, we can consider costs and economic impacts in determining GACT. Determining what constitutes GACT involves considering the control technologies and management practices that are generally available to the area sources in the source category. As previously mentioned, GACT standards were set for the CMAS categories in 2009. These GACT standards are discussed in section IV.C of this preamble. See section II.B of this preamble for details about each of the nine currently regulated CMAS categories.

In this action, we are proposing to set additional GACT standards for the CMAS categories that would apply to certain emission sources (*i.e.*, equipment leaks, heat exchange systems, process vents, storage tanks, wastewater, and transfer operations) associated with the proposed area source category, Chemical Manufacturing with Ethylene Oxide. In addition, we are proposing to set GACT standards for pressure vessels and PRDs. The proposed GACT standards are discussed in sections IV.A and IV.B of this preamble. In setting GACT, we always look to the standards applicable to major sources in the same industrial sector to determine if the control technologies and management practices are transferable and generally available to area sources. In appropriate circumstances, we may also consider technologies and practices at area and major sources in similar categories to determine whether such technologies and practices could be considered generally available for the area source category at issue. In this case, the

control technologies and management practices for process units are transferable because process units at major source chemical manufacturing facilities are essentially no different than process units at area source chemical manufacturing facilities excepting that the former exceeds the major source HAP thresholds with respect to emissions and the latter does not. Finally, as we have already noted, in determining GACT for a particular area source category, we consider the costs and economic impacts of available control technologies and management practices on that category.

GACT differs from MACT in that cost can be considered in the first instance when establishing a GACT standard. By contrast, when establishing MACT standards pursuant to CAA section 112(d)(3), the EPA must determine the average emission limitation achieved by the best performing 12 percent of existing sources (or average emission limitation achieved by the best performing 5 sources for existing sources with fewer than 30 sources) and the emission limitation achieved by the best controlled similar source for new sources, without regard to cost.

As explained in greater detail in sections IV.A and IV.B of this preamble, we determined that the GACT standards we are proposing for sources emitting EtO (*i.e.*, GACT standards for equipment leaks, heat exchange systems, process vents, storage tanks, wastewater, and transfer operations) located at CMAS, and the GACT standards we are proposing for pressure vessels and PRDs at these same area sources, should be similar, if not the same, as the major source standards that were finalized in the Miscellaneous Organic Chemical Manufacturing NESHAP (MON) and Hazardous Organic NESHAP (HON) pursuant to CAA section 112(d)(6) and (f) (see 85 FR 49084, August 12, 2020 and 89 FR 42932, May 16, 2024, respectively). Our rationale for this is based on the similarities between production processes, emission points, emissions, and control technologies that are characteristic of both major and area source chemical manufacturing facilities and considerations of cost.⁵

We note that if standards for EtO are finalized, the EPA has committed to the Office of the Inspector General (OIG) to

⁵ The EPA also considers the costs and economic impacts of available control technologies and management practices when determining whether to revise a standard pursuant to section 112(d)(6); and the EPA also considers costs, energy, and other relevant factors when determining whether to revise a standard in the second step of the ample margin of safety analysis pursuant to CAA section 112(f)(2)(A).

assess the risk posed from EtO emission sources subject to the CMAS NESHAP. Specifically, the EPA committed to assess risk within four years of promulgation of standards. At that time, the EPA would determine if it is appropriate to review the standards prior to the date required by CAA section 112(d)(6) (*i.e.*, 8 years).⁶

3. Technology Review Under CAA Section 112(d)(6)

CAA section 112(d)(6) requires the EPA to review standards promulgated under CAA section 112(d) and revise them “as necessary (taking into account developments in practices, processes, and control technologies)” no less often than every 8 years following promulgation of those standards. This is referred to as a “technology review” and is required for all standards established under CAA section 112(d) including GACT standards that apply to area sources.

As previously mentioned, GACT standards were set for the CMAS categories in 2009. Although in this action we are proposing additional GACT standards for these categories, this proposed action also presents the required CAA 112(d)(6) technology review of the 2009 GACT standards for these source categories.

B. What are the source categories and how does the current NESHAP regulate HAP emissions?

The EPA promulgated the CMAS NESHAP on October 29, 2009 (74 FR 56008), and codified the NESHAP at 40 CFR part 63, subpart VVVVVV. As promulgated in 2009, and further amended on December 21, 2012 (77 FR 75740), the CMAS NESHAP regulates HAP emissions from chemical manufacturing process units at an area source of HAP emissions if HAP listed in table 1 to 40 CFR part 63, subpart VVVVVV are present in the CMPU. A CMPU includes all process vessels, equipment, and activities necessary to

⁶ On June 1, 2022, the EPA, in response to the OIG’s report stating that EPA should revise the CMAS NESHAP to regulate EtO and conduct a residual risk review, stated: “. . . technology-based standards for EtO have not yet been established for the CMAS source category. Therefore, we plan to first evaluate EtO emissions from the source category, and if EtO emissions present a public health concern (*i.e.*, by considering risk information), we will regulate EtO in the CMAS rule . . . However, within four years of promulgation (enough time to understand the level of emissions remaining after implementation of new standards) of an any initial EtO standards for CMAS, EPA would assess the risks from EtO emissions from CMAS sources to inform us on whether an earlier review date is appropriate.” Refer to https://www.epa.gov/sites/default/files/documents/2022-06/epaig_21-P-0129_Agency_Response2.pdf for additional details.

operate a chemical manufacturing process that produces a material or a family of materials described by NAICS code 325.⁷ A CMPU consists of one or more unit operations and any associated recovery devices. A CMPU also includes each storage tank, transfer operation, surge control vessel, and bottoms receiver associated with the production of such NAICS code 325 materials. The affected source is the facility-wide collection of CMPUs and each heat exchange system and wastewater system associated with a CMPU.

The CMAS NESHAP currently applies to chemical manufacturing operations at nine area source categories: (1) Agricultural Chemicals and Pesticides Manufacturing; (2) Cyclic Crude and Intermediate Production; (3) Industrial Inorganic Chemical Manufacturing; (4) Industrial Organic Chemical Manufacturing; (5) Inorganic Pigments Manufacturing; (6) Miscellaneous Organic Chemical Manufacturing; (7) Plastic Materials and Resins Manufacturing; (8) Pharmaceutical Production; and (9) Synthetic Rubber Manufacturing. These nine CMAS categories encompass facilities that use as feedstocks,⁸ generate as byproducts, or produce as products any of the following 15 HAP: 1,3-butadiene; 1,3-dichloropropene; acetaldehyde; chloroform; ethylene dichloride; hexachlorobenzene; methylene chloride; quinoline (these eight HAP are referred to as the "Table 1⁹ organic HAP"); compounds of arsenic, cadmium, chromium, lead, manganese, or nickel (these six HAP are referred to as the "Table 1 metal HAP"); or hydrazine. In this preamble we refer to the nine source categories collectively as CMAS categories (we are also proposing a tenth source category as discussed in section II.A.1 of this preamble). Descriptions of the nine source categories are as follows:

Agricultural Chemicals and Pesticides Manufacturing. The agricultural chemicals and pesticides manufacturing source category is designated by NAICS codes 325311 (nitrogenous fertilizer manufacturing), 325312 (phosphatic

fertilizer manufacturing), and 325320 (pesticide and other agricultural chemical manufacturing). Products of this industry include nitrogenous and phosphatic fertilizer materials including anhydrous ammonia, nitric acid, ammonium nitrate, ammonium sulfate, urea, phosphoric acid, superphosphates, ammonium phosphates, and calcium metaphosphates. The source category also includes the formulation and preparation of ready-to-use agricultural and household pest control chemicals from technical chemicals or concentrates, the production of concentrates which require further processing before use as agricultural pesticides, and the manufacturing or formulating of other agricultural chemicals such as minor or trace elements and soil conditioners.

Organic Chemical Production. The cyclic crude and intermediate production, industrial organic chemical manufacturing, and miscellaneous organic chemical manufacturing source categories are discussed collectively because there is considerable overlap in the NAICS codes that apply to these source categories. These source categories include cellulosic organic fiber manufacturing as well as other source categories that are designated by NAICS codes 32511 (petrochemical manufacturing), 325130 (synthetic dye and pigment manufacturing), 32519 (other basic organic chemical manufacturing), and 3256 (soap, cleaning compound, and toilet preparation manufacturing). The source category also includes organic gases designated by NAICS code 325120 (industrial gas manufacturing), and it includes production of chemicals such as explosives and photographic chemicals designated by NAICS code 3259 (other chemical product and preparation manufacturing). Raw materials for this industry include, for example, refined petroleum chemicals, coal tars, and wood. The industry manufactures a wide variety of final products as well as numerous chemicals that are used as feedstocks to produce these final products and products in other chemical manufacturing source categories. Examples of types of products include solvents, organic dyes and pigments, plasticizers, alcohols, detergents, and flavorings.

Industrial Inorganic Chemical Manufacturing. The industrial inorganic chemical manufacturing source category includes manufacturing of inorganic gases that are designated by NAICS code 325120 (industrial gas manufacturing), manufacturing of inorganic dyes that are designated by NAICS code 325130 (synthetic dye and pigment

manufacturing), and most manufacturing designated by NAICS code 32518 (other basic inorganic chemical manufacturing). Exceptions to production designated by NAICS code 32518 include carbon black and mercury cell chlor-alkali production, which are separate source categories.

Inorganic Pigment Manufacturing. Inorganic pigments are part of NAICS code 325130 (synthetic dye and pigment manufacturing). The majority of inorganic pigments are oxides, sulfides, oxide hydroxides, silicates, sulfates, or carbonates that normally consist of single component particles. The inorganic pigment manufacturing processes can generally be divided between those that use partial combustion and those that use pure pyrolysis. Inorganic pigments generally are used to impart colors to a variety of compounds. They may also impart properties of rust inhibition, rigidity, and abrasion resistance. Inorganic pigments are generally insoluble and remain unchanged physically and chemically when mixed with a carrier. Pigment manufacturers supply inorganic colors in a variety of forms including powders, pastes, granules, slurries, and suspensions. Pigments are used in the manufacture of paints and stains, printing inks, plastics, synthetic textiles, paper, cosmetics, contact lenses, soaps, detergents, wax, modeling clay, chalks, crayons, artists' colors, concrete, masonry products, and ceramics.

Pharmaceutical Production. The pharmaceutical manufacturing source category consists of chemical production operations that produce drugs and medication. These operations include chemical synthesis (deriving a drug's active ingredient) and chemical formulation (producing a drug in its final form). The source category is designated by NAICS codes 325411 (medicinal and botanical manufacturing), 325412 (pharmaceutical preparation manufacturing), and 325414 (biological product, except diagnostic, manufacturing).

Plastic Materials and Resins Manufacturing. This source category is designated by NAICS code 325211 (plastics material and resin manufacturing). Examples of products in this source category include epoxy resins, nylon resins, phenolic resins, polyesters, polyethylene resins, and styrene resins. The source category does not include polyvinyl chloride and copolymers production, which is a separate source category.

Synthetic Rubber Manufacturing. The synthetic rubber manufacturing source category is designated by NAICS code

⁷ Except for: (1) processes classified in NAICS Code 325222, 325314, 325413, or 325998; (2) processes subject to standards for other listed area source categories in NAICS 325; (3) certain fabricating operations; (4) manufacture of photographic film, paper, and plate where material is coated or contains chemicals (but the manufacture of the photographic chemicals is regulated); and (5) manufacture of radioactive elements or isotopes, radium chloride, radium luminous compounds, strontium, and uranium.

⁸ Feedstocks are reactants, solvents, or any other additives to the process.

⁹ "Table 1" refers to table 1 to 40 CFR part 63, subpart VVVVVV.

325212 (synthetic rubber manufacturing). Facilities in this source category manufacture synthetic rubber or vulcanizable elastomers by polymerization or copolymerization. For this source category, an elastomer is defined as a rubber-like material capable of vulcanization, such as copolymers of butadiene and styrene, copolymers of butadiene and acrylonitrile, polybutadienes, chloroprene rubbers, and isobutylene-isoprene copolymers.

The HAP emission sources at facilities subject to the CMAS NESHAP include process vents, storage tanks, equipment leaks, transfer operations, and wastewater. Additionally, some facilities have cooling towers or other heat exchangers. The GACT standards for CMAS include emission standards in the form of management practices for each CMPU as well as emission limits for certain emission sources including process vents and storage tanks. The rule also establishes management practices and other emission reduction requirements for wastewater systems and heat exchange systems.

As of May 1, 2024, the EPA identified 251 facilities in operation that are subject to the CMAS NESHAP. In addition, we are aware of 29 more facilities that would become subject to the CMAS NESHAP if EtO were to be added to table 1 to the CMAS NESHAP, as proposed (see section II.A.1 of this preamble)¹⁰. In this preamble, we referred to all 280 of these facilities collectively as “CMAS facilities.” The list of CMAS facilities located in the United States that are part of the CMAS categories with processes subject to the CMAS NESHAP is presented in the document titled *List of Facilities Subject to the CMAS NESHAP*, which is available in the docket for this rulemaking.

C. What data collection activities were conducted to support this action?

1. Facility List

The EPA used several data sources to determine the facilities that are subject to the CMAS NESHAP discussed in section II.B of this preamble. We began with the facility list from the original rulemaking for the CMAS NESHAP (74 FR 56008, October 29, 2009). This list was supplemented with information from the Office of Enforcement and Compliance Assurance’s Enforcement and Compliance History Online tool

(<https://echo.epa.gov>) as well as other facility lists from the EPA’s recent chemical sector rulemakings (e.g., HON, MON, Organic Liquid Distribution NESHAP (OLD), Ethylene Production MACT standards (EMACT standards), and Polyether Polyols Production (PEPO) NESHAP).

We also collected and considered facility specific information from the regions and/or states, if the information had not already been captured by the previous steps. For example, we obtained title V air permits from publicly available online state databases (where available). In cases where an online database was incomplete or did not exist, the EPA contacted the region and/or state for help in obtaining the air permits or determining whether a facility was subject to the CMAS NESHAP or may become subject to the CMAS NESHAP if EtO were to be added to table 1 to 40 CFR part 63, subpart VVVVVV. The EPA also conducted internet searches to determine the status of the facility (e.g., whether the facility was still open, permanently closed, and/or sold). Additional details about how the facility list was developed are provided in the document titled *List of Facilities Subject to the CMAS NESHAP*, which is available in the docket for this rulemaking.

The EPA solicits comment on the assumptions used to estimate the number of facilities anticipated to be impacted by this action.

2. Emissions Inventory

For each facility subject to the CMAS NESHAP, we gathered emissions data from the most recent version of the 2017 National Emissions Inventory (NEI), published in January 2021. Apart from the 2020 NEI (which was the first year of the COVID–19 pandemic), the 2017 NEI was the most vetted and recent publicly available data set at the time EPA began gathering information for this proposed rulemaking.¹¹

We consulted with state agencies, EPA regions, air permits, and facilities to determine whether any EtO records in the CMAS emissions inventory needed to be updated (beyond the 2017 NEI).¹² This review revealed that several facilities have either voluntarily implemented EtO emission reduction measures since 2017 or implemented

them due to state or other requirements; therefore, we made amendments to these EtO records to reflect the specific reduction measures. See appendix 1 of the document titled *Risk Assessment for the Chemical Manufacturing Area Source (CMAS) Source Categories in Support of the 2025 Technology Review for the Proposed Rule*, which is available in the docket for this rulemaking, for additional details on the analysis and methodology used to develop the CMAS emissions inventory.

3. Other Data Collection Activities

To inform our reviews of the Agency’s emission standards, we reviewed the EPA’s Reasonably Available Control Technology (RACT)/Best Available Control Technology (BACT)/Lowest Achievable Emission Rate (LAER) Clearinghouse and regulatory development efforts for similar sources published after the CMAS NESHAP was developed.

In January 2022, the EPA issued requests, pursuant to CAA section 114, to collect information from HON facilities (nine being also subject to the PEPO NESHAP) owned and operated by eight entities (i.e., corporations). This effort focused on gathering comprehensive information about process equipment, control technologies, point and fugitive emissions, and other aspects of facility operations. Additionally, the EPA requested stack testing for certain emission sources (e.g., pollutants, including EtO, for vent streams). Also, the EPA required that facilities conduct fugitive emission testing (i.e., fenceline monitoring) for any of six specific HAP they emit: benzene; 1,3-butadiene; chloroprene; EtO; ethylene dichloride; and vinyl chloride. Companies submitted responses (and follow-up responses) and testing results to the EPA during the summer and fall of 2022. Given that CMPU sources subject to the CMAS NESHAP can be similar to HON CMPU sources and PEPO sources,¹³ the EPA used the collected information to estimate environmental and cost impacts associated with some of the regulatory options considered and reflected in this proposed action. The information not claimed as CBI by respondents is provided in the document titled *Data Received from Information Collection Request for*

¹⁰ While 29 facilities were identified to become subject to CMAS NESHAP if EtO were to be added to table 1 to 40 CFR part 63, subpart VVVVVV, four of the 251 facilities currently subject to the CMAS NESHAP also emit EtO. As such, in total, there are 33 facilities emitting EtO that may be impacted by this action.

¹¹ Refer to the 2017 NEI Technical Support Document for detailed discussion on the types of review and augmentation performed for 2017 NEI (https://www.epa.gov/sites/default/files/2021-02/documents/nei2017_tsd_full_jan2021.pdf).

¹² For facilities that would become subject (or are already subject) to the CMAS NESHAP if EtO were to be added to table 1 to 40 CFR part 63, subpart VVVVVV, as proposed.

¹³ HON CMPUs and polyether polyol manufacturing process units (PMPUs) associated with the PEPO NESHAP have similar processes as CMAS CMPUs in that regardless of size, each of these process units may include chemical manufacturing equipment, heat exchange systems, process vents, storage tanks, transfer operations, and/or wastewater.

Chemical Manufacturers, which is available in the docket for this rulemaking.

D. What other relevant background information and data are available?

In proposing these amendments, we relied on certain technical reports and memoranda that the EPA developed for flares used as air pollution control devices (APCDs) in the Petroleum Refinery Sector risk and technology review (RTR) and new source performance standards (NSPS) rulemaking (80 FR 75178, December 1, 2015). The Petroleum Refinery Sector rulemaking docket is at Docket ID No. EPA-HQ-OAR-2010-0682. For completeness of the rulemaking record for this action and for ease of reference in finding these items in the publicly available Petroleum Refinery Sector rulemaking docket, we are including the most relevant flare-related technical support documents in the docket for this proposed action (Docket ID No. EPA-HQ-OAR-2024-0303) and including a list of all documents used to inform the 2015 flare provisions in the Petroleum Refinery Sector RTR and NSPS rulemaking in the document titled *Clean Air Act Section 112(d)(5) GACT Standard Analysis for Flares that Emit Ethylene Oxide and Section 112(d)(6) Technology Review for Flares Associated with Chemical Manufacturing Process Units at Area Sources Subject to the CMAS NESHP*, which is available in the docket for this rulemaking.

We are also relying on data gathered to support the rulemakings for the EMACT standards, HON, and MON, as well as memoranda documenting the technology reviews for those processes. Many of the emission sources for ethylene production facilities, HON facilities, and MON facilities are similar to CMAS facilities, and the EPA analyzed several of the control options for the CMAS NESHP that the Agency also analyzed for the rulemakings for the EMACT standards, HON, and MON. The memoranda and background technical information can be found in the Ethylene Production RTR rulemaking docket (Docket ID No. EPA-HQ-OAR-2017-0357), the HON rulemaking docket (Docket ID No. EPA-HQ-OAR-2022-0730), and the MON RTR rulemaking docket (Docket ID No. EPA-HQ-OAR-2018-0746). Additional information related to the promulgation and subsequent amendments of the CMAS NESHP is available in Docket ID No. EPA-HQ-OAR-2008-0334.

E. What are the results of the EPA's risk assessment?

As discussed in section II.A.1, the EPA conducted a human health risk assessment to determine if EtO emissions from CMAS present a threat of adverse effects to human health (e.g., a public health concern) and therefore warrant regulation via the creation of a new source category pursuant to CAA section 112(c)(3) and (5). Following the update to the IRIS value for EtO, it became apparent that emissions of EtO from CMAS could be posing a significant threat to public health. The OIG released a report in 2021 that identified potential elevated cancer risks due to EtO emissions from CMAS using data from the 2014 NATA.¹⁴ While the primary focus of the risk assessment was on EtO emissions, consistent with other risk assessments for HAPs, we estimated the MIR posed by emissions of HAP that are carcinogens from each evaluated CMAS, the hazard index (HI) for chronic exposures to HAP with the potential to cause noncancer health effects, and the hazard quotient (HQ) for acute exposures to HAP with the potential to cause noncancer health effects.¹⁵ This section summarizes the results of those analyses.

The EPA often conducts risk assessments at both the facility and source category level when investigating human health concerns and uses standard methodology for all risk assessments. However, we note that this risk assessment was completed using the emissions inventory described in section II.C.2 of this preamble. As such, there are uncertainties with the results of the risk assessment engendered by the uncertainties associated with the emissions inventory. However, given the information available, we believe the risk assessment supports our conclusion that these sources present a threat of an adverse impact on human health. Additional details on the risk assessment and exact methodology are presented in the document titled, *Risk Assessment for the Chemical Manufacturing Area Source (CMAS) Source Categories in Support of the 2025 Technology Review for the Proposed Rule*, which is available in the docket for this rulemaking.

¹⁴ The report is available at https://www.epa.gov/sites/default/files/2021-05/documents/epa_oig_20210506-21-p-0129.pdf.

¹⁵ The MIR is defined as the cancer risk associated with a lifetime of exposure at the highest concentration of HAP where people are likely to live. The HQ is the ratio of the potential HAP exposure concentration to the noncancer dose-response value; the HI is the sum of HQs for HAP.

As discussed in section II.A.1 of this preamble, the MIR posed by the evaluated sources is 800-in-1 million, driven primarily (greater than 90 percent) by EtO emissions from process vents (97 percent). Approximately 4.4 million people within 50 kilometers (km) of the evaluated CMAS are estimated to have cancer risks above 1-in-1 million and 3,600 people are estimated to have cancer risks above 100-in-1 million due to emissions from the sources. The people with risks above 100-in-1 million all reside within 10 km of the sources. The sources are estimated to result in 0.4 additional cancer cases per year, or 1 cancer case every 2.5 years. Emissions from the evaluated CMAS drive cancer risk attributable to whole facility emissions, such that the risk posed by all HAP emissions from the facilities are generally the same as the risk posed by the evaluated sources, except that emissions from whole facility emissions increase the population with risk greater than 1-in-1 million living within 50 km by 200,000 people.

The maximum chronic noncancer target organ-specific hazard index (TOSHI) for the evaluated CMAS is estimated to be 3 (for respiratory and immunological effects) at two facilities due to nickel compounds emissions from process vents at one facility and equipment leaks and fugitive emissions at the other facility. The same nickel emissions also drive the estimated maximum facility-wide TOSHI of 3. Approximately 1,500 people are estimated to have a TOSHI greater than 1 due to emissions from the evaluated CMAS.

The estimated reasonable worst-case off-site acute inhalation exposures to emissions from the CMAS categories results in an estimated maximum modeled acute noncancer HQ of 20 based on CalEPA's Chronic Reference Exposure Level for acrolein. It is important to note that when assessing acute inhalation exposures, the EPA makes conservative assumptions about emission rates, meteorology, and exposure location. We assume that an individual is present at the location of maximum exposure at the exact same hour that peak emissions occur (using a default factor of 10 from average actual annual emissions rates) and the exact same hour the reasonable worst-case air dispersion conditions (i.e., 99th percentile) occur. Together, these assumptions represent a reasonable worst-case actual exposure scenario. In most cases, it is unlikely that a person would be located at the point of maximum exposure during the time when peak emissions and reasonable

worst-case air dispersion conditions occur simultaneously. Furthermore, at the facility where the maximum HQ of 20 is estimated, the maximum exposure is modeled to occur along the fenceline of the facility at a location immediately surrounded by farmland making it more unlikely a person would be located at that point at the exact hour the peak emissions and the reasonable worst-case air dispersion conditions occur.

We also conducted a community-based risk assessment for facilities currently subject to the CMAS NESHAP or who would become subject to the CMAS NESHAP with the proposal of the new area source category (see section II.C.1 of this preamble for details on how the facility list was developed). The goal of this assessment was to estimate cancer risk from HAP emitted from all local stationary point sources for which we have emissions data. We estimated the overall inhalation cancer risk due to emissions from all stationary point sources impacting census blocks within 10 km of the CMAS facilities. Specifically, we combined the modeled impacts from category and non-category HAP sources at CMAS facilities, as well as other stationary point source HAP emissions. The results indicate that the community-level maximum individual cancer risk is 5,000-in-1 million, with all risk attributable to chromium VI emissions from an area source iron foundry. The Agency will investigate

these emissions to determine if follow-up action is necessary. We note that the 2020 NEI data (the baseline for the community-level assessment) for the facility driving the community-level MIR present an anomalously high year of chromium VI emissions compared to other years. Also, the default speciation of chromium emissions to chromium III and chromium VI emissions done by the NEI is a conservative estimate of emissions and may not be representative of the actual emissions. In addition, we note that there is additional uncertainty in non-CMAS categories emissions because they were not reviewed to the same extent as emissions from CMAS facilities. Within 10 km, the population exposed to cancer risks greater than 100-in-1 million from all nearby emissions is approximately 5,600. For comparison, approximately 3,600 people have cancer risks greater than 100-in-1 million due to emissions from the evaluated CMAS NESHAP (see table 1 of this preamble).

After the controls proposed in this action are implemented for the CMAS categories (see sections IV.A through IV.C of this preamble), including the contribution from all non-EtO HAP, the maximum individual cancer risk is estimated to be 100-in-1 million and no facilities are estimated to pose cancer risk greater than 100-in-1 million. The number of people living within 50 km of CMAS facilities with risk greater than 1-in-1 million due to emissions from the

CMAS categories will decrease from 4.4 million to 2.3 million. Chronic and acute noncancer risk is not estimated to change, although our proposal to remove the 50 parts per million by volume (ppmv) criteria as part of the definition of “metal HAP process vent” (see section IV.C.3 of this preamble) is anticipated to reduce emissions of nickel that drive the chronic noncancer risk. After implementation of the proposed controls, the community-level maximum individual cancer risk will remain unchanged at 5,000-in-1 million. The population (within 10 km of CMAS facilities) exposed to cancer risks greater than 100-in-1 million from all nearby emissions will be reduced from 5,600 people to 1,900 people; a 66 percent reduction from the baseline. The increased cancer risk for most of these 1,900 people is driven largely by emissions of chromium VI from non-CMAS facilities within 10 km of CMAS facilities.

See table 1 of this preamble for a summary of the CMAS NESHAP inhalation risk assessment results. We present the full results and methods of the risk assessment in more detail, in the document titled *Risk Assessment for the Chemical Manufacturing Area Source (CMAS) Source Categories in Support of the 2025 Technology Review for the Proposed Rule*, which is available in the docket for this rulemaking.

TABLE 1—INHALATION CANCER RISK ASSESSMENT RESULTS FOR COMMUNITIES LIVING WITHIN 10 TO 50 KM OF CMAS FACILITIES

Risk assessment	Number of facilities ¹	Maximum individual cancer risk (-in-1 million) ²	Estimated population at increased risk of cancer		Estimated annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI	Refined maximum screening acute non-cancer HQ
			>100-in-1 million	≥1-in-1 million			
Baseline (Pre-Control) Actual Emissions ³							
Source Category	248	800	3,600 (10 km) 3,600 (50 km)	2 million (10 km). 4.4 million (50 km).	0.2 (10 km) 0.4 (50 km)	3 (respiratory, immunological) ..	20
Facility-wide	279	800	3,600 (10 km) 3,600 (50 km)	2.2 million (10 km). 4.6 million (50 km).	0.2 (10 km) 0.4 (50 km)	3 (respiratory, immunological) ..	4 —
Community-based	⁵ 9,932	5,000	5,600 (10 km)	8.6 million (10 km).	0.8 (10 km) .....	.....	.....
Post-Control Emissions							
Source Category	248	100	0	1.3 million (10 km). 2.3 million (50 km).	0.1 (10 km) 0.2 (50 km)	3 (respiratory, immunological) ..	20
Facility-wide	279	100	0	1.4 million (10 km). 2.5 million (50 km).	0.1 (10 km) 0.2 (50 km)	3 (respiratory, immunological) ..	.....
Community-based	³ 9,932	5,000	1,900 (10 km)	8 million (10 km).	0.6 (10 km) .....	.....	.....

¹ Thirty-one (31) additional facilities were modeled for the CMAS whole-facility analysis compared to the CMAS categories analysis, because 279 facilities were originally identified as potentially subject to the CMAS NESHAP considering the current and proposed source categories based on permit review and/or the facility's presence in the previous rulemaking's facility list. However, upon further review, only 248 of these 279 facilities were identified as having emissions from the CMAS categories.

²Maximum individual excess lifetime cancer risk due to HAP emissions.

³Potential differences between actual emission levels and the maximum emissions allowable under EPA's standards (*i.e.*, "allowable emissions") were also evaluated for the CMAS categories. For the 248 CMAS facilities, there were 4 facilities with allowable emissions that differed from actual emissions. These emissions were evaluated and it was determined there would be no appreciable difference in the risk results; therefore, the risk results provided based on actual emissions also describe the risk assessment results based on allowable emissions.

⁴"—" Indicates where an assessment was not conducted.

⁵9,653 nearby non-CMAS facilities in addition to the 279 facilities CMAS facilities evaluated.

III. Analytical Procedures and Decision-Making

A. How do we determine GACT?

As provided in CAA section 112(d)(5), we are proposing standards representing GACT to regulate EtO emissions from equipment leaks, heat exchange systems, process vents, storage tanks, wastewater, and transfer operations located at CMAS. The statute does not set any condition precedent for issuing standards under CAA section 112(d)(5) other than that the area source category or subcategory at issue must be one that EPA listed pursuant to CAA section 112(c), which is the case here. In determining what constitutes GACT for this proposed rule, we considered the control technologies and management practices that are generally available to EtO emission sources at CMAS by examining relevant data and information, including information collected from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) and PEPO Production major source categories. We also considered the standards for major chemical manufacturing sources subject to the MON and HON (see 85 FR 49084, August 12, 2020, and 89 FR 42932, May 16, 2024, respectively) to determine if the control technologies and work practice standards for the major sources are generally available to area sources as well. Finally, we considered the costs of available control technologies and management practices on area sources.

From the information that we have collected to date in conjunction with this rulemaking, which includes information about process equipment, control technologies, point and fugitive emissions, and other aspects of facility operations at major chemical manufacturing sources, we know that area sources have the same types of emissions, emission sources, and controls as major sources. Equipment leaks, heat exchange systems, process vents, storage tanks, wastewater, and transfer operations at major and area sources are using the same control technologies. There are generally no discernible differences between the processes at area and major chemical manufacturing sources excepting size. In fact, major and area sources use similar, if not identical, control technologies and practices to manage process emissions. Therefore, the

control technologies used by chemical manufacturing major sources are generally available for CMAS.

B. How do we perform the technology review?

For the NESHAP area source GACT standard, our technology review primarily focuses on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the standards were promulgated. Where we identify such developments, we analyze their technical feasibility, estimated costs, energy implications, and non-air environmental impacts. We also consider the emission reductions associated with applying each development. This analysis informs our decision of whether it is "necessary" to revise the emissions standards. In addition, we consider the appropriateness of applying controls to new sources versus retrofitting existing sources. For this exercise, we consider any of the following to be a "development":

- Any add-on control technology or other equipment that was not identified and considered during development of the original GACT standards;
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original GACT standards) that could result in additional emissions reduction;
- Any work practice, management practice, or operational procedure that was not identified or considered during development of the original GACT standards;
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original GACT standards; and
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original GACT standards).

In addition to reviewing the practices, processes, and control technologies that were considered at the time we originally developed (or last updated) the CMAS NESHAP, we review a variety of data sources in our investigation of potential practices, processes, or

controls to consider. See sections II.C and II.D of this preamble for information on the specific data sources that were reviewed as part of the technology review.

IV. Analytical Results and Proposed Decisions

A. What are our proposed decisions regarding standards representing GACT for EtO emissions from CMAS, and what is the rationale for those decisions?

As discussed in section II.A.1 of this preamble, the EPA is proposing, pursuant to CAA section 112(c)(3) and (5), to create an area source category describing chemical manufacturing operations using EtO. Specifically, we are proposing at 40 CFR 63.11494(a)(2)(v) that you are subject to the CMAS NESHAP if you own or operate a CMPU that is located at an area source of HAP and EtO is used as a feedstock at an individual concentration greater than 0.1 percent by weight; generated as a byproduct and is present in the CMPU in any liquid stream (process or waste) at a concentration of greater than or equal to 1 part per million by weight (ppmw); generated as a byproduct and is present in the CMPU in any continuous process vent or batch process vent at a concentration greater than 1 ppmv; or is produced as a product of the CMPU. The EPA is also proposing amendments to the CMAS NESHAP pursuant to CAA section 112(d)(5) to include:

- New monitoring requirements for leaks from equipment in EtO service;
- New monitoring requirements for leaks from heat exchange systems in EtO service;
- A new emissions standard for batch and continuous process vents in EtO service;
- A new emissions standard for storage tanks in EtO service;
- New control requirements for wastewater streams in EtO service;
- Improved operational and monitoring requirements for flares that emit EtO;
- A new fence line monitoring standard related to EtO emissions; and
- A requirement that any release event from a PRD in EtO service is a deviation.

The data, analyses, results, and proposed decisions pursuant to CAA section 112(d)(5) are presented for each

emission source in sections IV.A.1 through IV.A.8 of this preamble.

The EPA considers multiple factors in assessing the costs of emission reductions.¹⁶ These factors include, but are not limited to, total capital costs, total annual costs, cost effectiveness, and annual costs compared to total annual revenues for ultimate owners of affected facilities (*i.e.*, costs to sales ratios). EtO is a highly potent carcinogen and the cost-effectiveness numbers presented in sections IV.A.1 through IV.A.8 of this preamble are within range of values that we have determined to be cost effective for highly toxic HAP. For small hard chromium electroplating, to provide an ample margin of safety to protect public health, costs of \$15,000 per pound (lb) (\$30,000,000 per ton) were finalized due to the toxicity of hexavalent chromium (see 77 FR 58227–8 and 77 FR 58239, September 19, 2012). EtO is similarly highly toxic. The cost-effectiveness values presented in sections IV.A.1 through IV.A.8 of this preamble are also within the range of cost-effectiveness for control of EtO emissions that the EPA found reasonable as part of the recent commercial sterilizers rulemaking (see 89 FR 24090, April 5, 2024). In this rulemaking, the EPA accepted costs of up to \$17,500,000/ton for existing sources in setting standards under CAA section 112(d)(5). In addition, our established methodology for assessing economic impacts of regulations indicates that the potential for adverse economic impacts begins when a costs to sales ratio exceeds three percent. According to our estimates, the anticipated annual costs of the proposed emission control options discussed below are well below three percent of annual sales for the majority of the owners of potentially impacted EtO sources.

1. Equipment Leaks in EtO Service

Emissions from equipment leaks occur in the form of gases or liquids that escape to the atmosphere through connection points (*e.g.*, threaded connectors) or through the moving parts of components such as pumps and valves. EtO emissions are released from

equipment leaks when the components are associated with equipment that contain EtO (referred to as equipment in EtO service). We provide details about equipment leaks, including how the CMAS NESHAP regulates them, in our technology review discussion (see section IV.C.1 of this preamble). For the GACT standard analysis, we evaluated a single control option for leaks from equipment in EtO service. The control option evaluated is identical to the HON standards for leaks from equipment in EtO service and similar (in terms of the technology, which is using EPA Method 21 instrument monitoring) to the control options that we evaluated in the equipment leaks technology review (see section IV.C.1 of this preamble). The EPA recently added EtO-specific requirements into the HON for equipment in EtO service that requires a more stringent monitoring frequency (*i.e.*, monthly monitoring) and lower leak definitions (*i.e.*, 100 ppmv or 500 ppmv) compared to monitoring for leaks from equipment not in EtO service. In the HON, equipment in EtO service is equipment that contains or contacts a fluid that is at least 0.1 percent by weight EtO.

As such, given the transferability of major source work practice standards to CMAS management practices due to the minimal differences between performing instrument monitoring at a major source compared to an area source, we evaluated the following option to represent GACT for equipment “in ethylene oxide service” that are located at CMAS:

- Control Option 1 (if EtO was added to table 1 to 40 CFR part 63, subpart VVVVVV): conduct monthly EPA Method 21 monitoring at a leak definition of 100 ppmv for connectors and valves in EtO service and 500 ppmv for pumps in EtO service.

We find this Control Option and the associated technologies to be “generally available” per the language of CAA section 112(d)(5). While it was not proposed in the original CMAS rulemaking, an instrument monitoring program similar to the MON was evaluated as part of the original CMAS rulemaking in 2008. In addition, conducting EPA Method 21 monitoring has been an option for the CMAS management practices since promulgation (*i.e.*, owners and operators

may perform EPA Method 21 monitoring in lieu of conducting audio, visual, and olfactory (AVO) inspections). Also, the EPA is aware of facilities that have already implemented instrument monitoring in some capacity as part of complying with other regulatory requirements or as part of a company-wide initiative to address EtO emissions. Therefore, we conclude that instrument monitoring is generally available.

We estimated the cost and emissions reductions of Control Option 1 for 33 CMAS EtO facilities. Using background information available to the EPA (including air permits and information received from various EPA regional offices), it was determined that 10 CMAS EtO facilities are already conducting instrument monitoring as part of an LDAR program for their equipment in EtO service. Based on this, there are two types of facilities for purposes of identifying their baseline LDAR program for equipment in EtO service: those that do not have an LDAR program of any kind; and those that already conduct EPA Method 21 instrument monitoring. When evaluating the cost and emissions reductions for each facility, we calculated the incremental cost and reductions to meet Control Option 1 compared to a facility’s baseline LDAR program. The memorandum *Clean Air Act Section 112(d)(5) GACT Standard Analysis for Equipment Leaks that Emit Ethylene Oxide and Section 112(d)(6) Technology Review for Equipment Leaks from Chemical Manufacturing Process Units at Area Sources Subject to the CMAS NESHAP*, which is available in the docket for this rulemaking, summarizes the baseline LDAR program for each of the 33 CMAS EtO facilities evaluated for this control option and presents details on the methodologies used in this analysis.

Table 2 of this preamble presents the nationwide impacts for requiring owners and operators of equipment in EtO service to perform EPA Method 21 monitoring in accordance with Control Option 1. Based on the costs and emission reductions, we are proposing to revise the CMAS NESHAP for equipment in EtO service to reflect Control Option 1 pursuant to CAA section 112(d)(5).

¹⁶ *Natural Resources Defense Council v. EPA*, 749 F.3d 1055, 1060 (DC Circ. April 18, 2014) (“Section 112 does not command the EPA to use a particular form of cost analysis”).

TABLE 2—NATIONWIDE EMISSIONS REDUCTIONS AND COST IMPACTS OF CONTROL OPTION 1 FOR REQUIRING EPA METHOD 21 MONITORING FOR EQUIPMENT IN EtO SERVICE AT CERTAIN FACILITIES ¹

Control option	Total capital investment (\$)	Total annualized costs w/o recovery credits (\$/yr)	Total annualized costs with recovery credits (\$/yr)	VOC emission reductions (tpy)	EtO emission reductions (tpy) ²	EtO cost effectiveness w/o recovery credits (\$/ton)	EtO cost effectiveness with recovery credits (\$/ton)
1	511,000	1,261,000	1,129,400	146	83	15,100	13,500

¹ Facilities that would either become subject to the CMAS NESHAP if EtO is added to table 1 to 40 CFR part 63, subpart VVVVVV, as proposed, or are already subject to the CMAS NESHAP and emit EtO.

² We note that EtO emission reductions from equipment leaks (and subsequent cost-effectiveness values for EtO from equipment leaks) differ from reductions expected to occur from reported emissions inventories due to use of model plants, engineering assumptions made to estimate baseline emissions, and uncertainties in how fugitive emissions may have been calculated for reported inventories compared to our model plants analysis (and are documented in the memorandum).

The EPA is proposing to define equipment leaks “in ethylene oxide service” at 40 CFR 63.11502(b), by reference to the HON (40 CFR 63.101). We are proposing Control Option 1 for equipment leaks in EtO service at 40 CFR 63.11495(a)(7). These proposed requirements would apply to all new and existing affected sources and specify that:

- All connectors in EtO service be monitored monthly at a leak definition of 100 ppmv with no skip period, and delay of repair is not allowed unless the equipment can be isolated such that it is no longer in EtO service (see 40 CFR 63.174(a)(3), (b)(3)(vi), and (g)(3), and 40 CFR 63.171(f)).

- All gas/vapor and light liquid valves in EtO service be monitored monthly at a leak definition of 100 ppmv with no skip period, and delay of repair is not allowed unless the equipment can be isolated such that it is no longer in EtO service (see 40 CFR 63.168(b)(2)(iv) and (d)(5), and 40 CFR 63.171(f)).

- All light liquid pumps in EtO service be monitored monthly at a leak definition of 500 ppmv, and delay of repair is not allowed unless the equipment can be isolated such that it is no longer in EtO service (see 40 CFR 63.163(a)(1)(iii), (b)(2)(iv), (c)(4), and (e)(7), and 40 CFR 63.171(f)).

2. Heat Exchange Systems in EtO Service

Emissions of EtO from heat exchange systems occur when a heat exchanger’s internal tubing material corrodes or cracks, allowing some process fluids to mix or become entrained with the cooling water. Pollutants (*e.g.*, EtO) in the process fluids may subsequently be released from the cooling water into the atmosphere when the water is exposed to air (*e.g.*, in a cooling tower for closed-loop systems or trenches/ponds in a once-through system). We provide more details about heat exchange systems, including how the CMAS NESHAP regulates them, in our technology review discussion (see section IV.C.2 of

this preamble). Our CMAS heat exchange system technology review (see section IV.C.2 of this preamble) identified use of the Modified El Paso Method as a development in practice for heat exchange systems with a cooling water flow rate equal to or greater than 8,000 gallons per minute (gpm). Specifically, we identified the following control option for heat exchange systems: quarterly monitoring with the Modified El Paso Method, using a leak action level defined as a total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 ppmv. This option would also require repairing a leak no later than 45 days after first identifying the leak, delay of repair within 120 days (except within no more than 30 days where a total strippable hydrocarbon concentration (as methane) in the stripping gas of 62 ppmv or higher is found), and re-monitoring at the monitoring location where the leak was identified to ensure that any leaks found are fixed.

To assess what GACT standards may be appropriate if EtO is added to table 1 to 40 CFR part 63, subpart VVVVVV, we reviewed other rulemakings to identify the level of control required for heat exchange systems emitting EtO. As part of that review, we identified one rule requiring monitoring of heat exchange systems “in ethylene oxide service.” The EPA recently added EtO-specific requirements into the HON for heat exchange systems in EtO service that require more stringent monitoring frequency (weekly instead of quarterly) and repair of leaks within 15 days from the sampling date (in lieu of the current 45-day repair requirement after receiving results of monitoring indicating a leak) (see 89 FR 42932, May 16, 2024). Additionally, delay of repair is not allowed unless there is no longer an active EtO leak once the heat exchange system is isolated and not in EtO service. A heat exchange system in EtO service means any heat exchange system in a process that cools process fluids (liquid or gas) that are 0.1 percent or greater by weight of EtO. If

knowledge exists that suggests EtO could be present in a heat exchange system, then the heat exchange system is considered to be “in ethylene oxide service” unless the procedures specified in the HON at 40 CFR 63.109 are performed to demonstrate that the heat exchange system does not meet the definition of being “in ethylene oxide service.” Examples of information that could suggest EtO could be present in a heat exchange system include calculations based on safety data sheets, material balances, process stoichiometry, or previous test results provided the results are still relevant to the current operating conditions.

Given the EtO specific requirements in the HON for heat exchange systems in EtO service and minimal operational differences between heat exchange systems operating at SOCM and CMAS facilities, we evaluated the following options in the selection of GACT for all heat exchange systems “in ethylene oxide service” that are located at CMAS:

- Control Option 1: quarterly monitoring (after an initial six months of monthly monitoring) with the Modified El Paso Method, using a leak action level defined as a total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 ppmv; reduce the allowed amount of repair time from 45 days after finding a leak to 15 days from the sampling date; and prohibit delay of repair.

- Control Option 2: same as Control Option 1, except monthly monitoring with the Modified El Paso Method instead of quarterly monitoring.

- Control Option 3: same as Control Option 1, except weekly monitoring with the Modified El Paso Method instead of quarterly monitoring. This option is required in the HON.

The Modified El Paso Method is required and in use by sources regulated under other rulemakings including, but not limited to the MON, the HON, and the Petroleum Refineries NESHAP. The method works via air stripping and use of a flame ionization detector (FID), both of which are well understood

technologies in the chemical manufacturing sector and have been in use for decades. Given the widespread use of the fundamental technologies and method in other, similar chemical manufacturing facilities, we consider use of the Modified El Paso Method to be “generally available.”

We estimated the impacts of these Control Options using information from the original CMAS rulemaking.¹⁷ We estimated that 27 of the 33 facilities that either would become subject to the CMAS NESHAP if EtO is added to table 1 to 40 CFR part 63, subpart VVVVVV or that are already subject to the CMAS NESHAP and emit EtO would be affected by Control Options 1 through 3; and we assumed each affected facility does not currently have an LDAR program for monitoring their cooling water. As part of our analysis, we also assumed all facilities monitoring quarterly for two or less heat exchange systems would elect to contract out the Modified El Paso monitoring (instead of purchasing a stripping column and FID analyzer and performing the monitoring in-house); however, facilities monitoring monthly or weekly would elect to purchase a stripping column and FID analyzer and perform in-house monitoring due to logistics. In addition, we assumed repairs could be performed by plugging a specific heat exchanger tube, and if a heat exchanger is leaking to the extent that it needs to be replaced, then it is effectively at the end of its

useful life. Therefore, we determined that the cost of replacing a heat exchanger is an operational cost that would be incurred by the facility because of routine maintenance and equipment replacement, and it is not attributable to the Control Options.

Table 3 of this preamble presents the nationwide impacts for requiring owners and operators of heat exchange systems in EtO service to use the Modified El Paso Method and repair leaks of total strippable hydrocarbon concentration (as methane) in accordance with Control Options 1 through 3. See the document titled *Clean Air Act Section 112(d)(5) GACT Standard Analysis for Heat Exchange Systems that Emit Ethylene Oxide and Section 112(d)(6) Technology Review for Heat Exchange Systems Associated with Chemical Manufacturing Process Units at Area Sources Subject to the CMAS NESHAP*, which is available in the docket for this rulemaking, for details on the assumptions and methodologies used in this analysis.

While all Control Options were identified as cost effective based on values accepted as part of other recent rulemakings regulating EtO emissions (see 89 FR 24090, April 5, 2024, for the commercial sterilizer rulemaking), the potency of EtO as a carcinogen, and historic cost-effectiveness values accepted for highly toxic HAP (such as hexavalent chromium), there are no records in the emissions inventory from

heat exchangers in EtO service. We note that leaks from heat exchange systems handling EtO can still occur, even if there are no specific emissions records in the inventory. This absence of records is likely because most facilities emitting EtO have not been required to monitor leaks in their heat exchange systems. Consequently, the impacts associated with controlling these emissions are less certain due to the lack of records. In addition, there are concerns that monthly or weekly monitoring of heat exchangers in EtO service would be significantly more burdensome for area sources than major sources. Major sources may have additional capital and personnel bandwidth to accommodate installation and operation of a stripping column and lab equipment (such as a gas chromatograph/mass spectroscopy unit) necessary for in-house analysis compared to area sources who may not have previously been subject to any monitoring of heat exchange systems. As such, based on the costs, emissions reductions, and uncertainties, we are proposing that Control Option 1 represents GACT for heat exchange systems in EtO service. However, we are soliciting comments and data on whether more frequent monitoring (*i.e.*, Control Options 2 and 3) would be appropriate for CMAS considering the proposed addition of EtO to table 1 to 40 CFR part 63, subpart VVVVVV.

TABLE 3—NATIONWIDE EMISSIONS REDUCTIONS AND COST IMPACTS OF CONTROL OPTIONS 1 THROUGH 3 FOR REQUIRING THE MODIFIED EL PASO METHOD FOR HEAT EXCHANGE SYSTEMS IN ET O SERVICE AT CERTAIN FACILITIES ¹

Control option	Total capital investment (\$)	Total annualized costs w/o recovery credits (\$/yr)	Total annualized costs with recovery credits (\$/yr)	VOC emission reductions (tpy)	EtO emission reductions (tpy)	EtO cost effectiveness w/o recovery credits (\$/ton)	EtO cost effectiveness with recovery credits (\$/ton)	EtO Incremental cost effectiveness with recovery credits (from option 1) (\$/ton)
1	122,000	157,000	117,900	43.4	24.8	6,300	4,700	.....
2	122,000	359,400	319,500	44.3	25.3	14,200	12,500	388,500
3	122,000	1,371,500	1,331,300	44.7	25.5	52,300	52,200	1,688,800

¹ Facilities that would either become subject to the CMAS NESHAP if EtO is added to table 1 to 40 CFR part 63, subpart VVVVVV, as proposed, or are already subject to the CMAS NESHAP and emit EtO.

The EPA is proposing to define a heat exchange system “in ethylene oxide service” at 40 CFR 63.11502(b), by reference to the HON (40 CFR 63.101). We are proposing Control Option 1 at 40 CFR 63.11499(e) and item 2 of table 8 to the CMAS NESHAP, by reference to the HON (40 CFR 63.104(a), (f) through (i), and (k)), to specify quarterly monitoring (after an initial six months of monthly monitoring) for leaks for all

new and existing affected sources with heat exchange systems in EtO service using the Modified El Paso Method, and if a leak is found, we are proposing owners and operators must repair the leak to below the applicable leak action level as soon as practicable, but no later than 15 days after the sample was collected with no delay of repair allowed (see 40 CFR 63.104(h)(6)).

3. Process Vents and Storage Tanks in EtO Service

Emissions of EtO can occur from several types of gas streams associated with CMAS processes, such as distillation columns, evaporator vents, and vacuum operations, as well as during vapor displacements and heating losses. CMAS storage tanks are used to store liquid and gaseous feedstocks for use in a process, as well as to store

¹⁷ EPA, 2008. *Control Options and Impacts for Cooling Tower Control Measures Chemical Manufacturing Area Source Standards*. September 5, 2008. Docket ID No. EPA-HQ-OAR-2008-0334-

0003; and EPA, 2009. *Update to the Control Options and Impacts for Heat Exchange System Control Measures for Promulgation Chemical Manufacturing Area Source Standards*. May 5,

2009. Docket ID No. EPA-HQ-OAR-2008-0334-0081.

liquid and gaseous products from a process. EtO is typically stored under pressure as a liquified gas but may also be found in small amounts in atmospheric storage tanks storing liquid products that are formed with EtO as a reactant in their production. Typical emissions from atmospheric storage tanks occur from working and breathing losses while pressure vessels are considered closed systems and, if properly maintained and operated, should have virtually no emissions. In some instances, pressurized vessels also could use a blanket of inert gas, most often nitrogen, to maintain a non-decomposable vapor space, and continuous purge of vapor space from non-loading operations could also lead to emissions from storage tanks. We provide details about process vents and storage tanks, including how the CMAS NESHAP regulates them, in our technology review discussion (see sections IV.C.3 and IV.C.4 of this preamble, respectively).

To assess what GACT standards may be appropriate, we reviewed other rulemakings to identify the level of control required for process vents and storage vessels emitting EtO. As part of that review, we identified two rules requiring stringent control of emissions from vents and process tanks “in ethylene oxide service.” The EPA recently added EtO-specific requirements into the MON and HON for process vents and storage vessels in EtO service (see 85 FR 49084, August 12, 2020, and 89 FR 42932, May 16, 2024, respectively). We note that the MON and HON use the term “storage vessel” in lieu of “storage tank” which is used in the CMAS NESHAP. According to the MON and HON, a process vent in EtO service is a process vent that contains a concentration of greater than or equal to 1 ppmv undiluted EtO when uncontrolled, and when all process vents within the process are combined, the sum of uncontrolled EtO emissions are greater than or equal to 5 pounds per year (lb/yr) (2.27 kilogram per year, kg/yr). A storage vessel in EtO service means a storage vessel of any capacity and vapor pressure storing a liquid that is at least 0.1 percent by weight of EtO. The EtO-specific standards established for the Miscellaneous Organic Chemical Manufacturing and SOCMI source categories are as follows:

- Requirements that owners and operators must reduce emissions of EtO from process vents in EtO service by either: (1) venting emissions through a closed vent system to a control device that reduces EtO by greater than or equal to 99.9 percent by weight, to a

concentration less than 1 ppmv for each process vent, or to less than 5 lb/yr for all combined process vents per CMPU; or (2) venting emissions through a closed vent system to a flare meeting certain new operating and monitoring requirements for flares; and

- Requirements that owners and operators must reduce emissions of EtO from storage tanks in EtO service by either: (1) venting emissions through a closed vent system to a control device that reduces EtO by greater than or equal to 99.9 percent by weight or to a concentration less than 1 ppmv for each storage tank vent; or (2) venting emissions through a closed vent system to a flare meeting certain new operating and monitoring requirements for flares.

Given the EtO specific requirements in the MON and HON for process vents and storage vessels in EtO service and minimal operational differences between an APCD controlling emissions from process vents or storage vessels/tanks at MON, SOCMI, and CMAS facilities, we evaluated a Control Option to represent GACT for process vents and storage tanks that are “in ethylene oxide service” that would require owners and operators at certain CMAS (*i.e.*, facilities that would either become subject to the CMAS NESHAP if EtO is added to table 1 to 40 CFR part 63, subpart VVVVVV, as proposed, or are already subject to the CMAS NESHAP and emit EtO) to reduce emissions of EtO by 99.9 percent from process vents and storage tanks that are “in ethylene oxide service” as defined by the MON and HON (*i.e.*, Control Option 1). Our evaluation considered the use of a thermal oxidizer achieving a 99.9 percent reduction of EtO emissions to control emissions from process vents and storage tanks in EtO service, as it is common for the same control device to control emissions from both emission sources at chemical plants. Control Option 1 reflects the EtO-specific requirements in the MON and HON for process vents and storage vessels in EtO service; therefore, it would apply to process vents in which the uncontrolled, undiluted EtO emissions from all process vents in a CMPU are greater than or equal to 5 lb/yr and the concentration of the uncontrolled, undiluted stream is greater than or equal to 1 ppmv. This Control Option would also apply to storage tanks of any capacity and vapor pressure storing a liquid that is at least 0.1 percent by weight of EtO.

We find this Control Option to be “generally available” per the language of CAA section 112(d)(5). Control devices include a wide array of potential technologies and so a facility may use whatever methods are available

to achieve the 99.9 percent by weight reduction in EtO emissions. Thermal oxidizers, which we assumed will be installed by facilities needing to meet the proposed standards, are used to control emissions from process vents and storage tanks at sources regulated under other rulemakings including, but not limited to, the MON and the HON and have been in use in industry for decades. In addition, the CMAS NESHAP already allows for the venting of emissions through a closed vent system to a flare for both process vents and storage tanks. Given the widespread use of a readily available control technology such as a thermal oxidizer in other, similar chemical manufacturing facilities, we consider this Control Option of proposing a 99.9 percent by weight reduction of EtO emissions from process vents and storage tanks to be “generally available.”

To determine which emission points at facilities would need additional control of EtO emissions, we reviewed the CMAS emissions inventory data (see section II.C.2 of this preamble). For each process vent and storage tank emission point record with EtO emissions in the CMAS emissions inventory, we determined whether it was controlled by a non-flare combustion device, a non-combustion control device, a non-combustion control device able to achieve 99.9 percent emissions reduction, or was uncontrolled. There are no process vent or storage tank emission point records associated with a non-flare combustion device; however, for emission point records that are controlled by a non-combustion control device, our impacts analyses assumed that none of the facilities with existing non-combustion controls would be able to achieve 99.9 percent control of EtO, unless a stack test or data provided by a state agency confirmed otherwise. Therefore, we treated non-combustion control devices unable to achieve 99.9 percent control and uncontrolled emission point records in the same manner and assumed that each would need to be controlled by a thermal oxidizer. Some facilities that would need to install a thermal oxidizer to control EtO have multiple process vent and/or storage tank emission points with EtO emissions. Rather than costing out multiple thermal oxidizers for these facilities, we assumed they would combine the streams together and install a single thermal oxidizer (to control all EtO emissions), as is commonly done at chemical plants. We also recognize that some emission points could possibly achieve a 99.9 percent reduction in EtO emissions by upgrading or installing a

new scrubber system instead of a new thermal oxidizer; and upgrading or installing a new scrubber system would likely cost less than installing a new thermal oxidizer. However, for simplicity, we only evaluated the use of a thermal oxidizer to meet the Control Option because using thermal oxidizers is common for controlling emissions from both process vents and storage tanks in EtO service at chemical plants. Ultimately, we determined that seven facilities would be impacted by Control Option 1 to reduce emissions of EtO by 99.9 percent from process vents and storage tanks that are “in ethylene oxide service” as defined by the MON and HON (1 of these 7 facilities is already subject to the CMAS NESHAP and the remaining 6 facilities would become subject to the CMAS NESHAP if EtO is

added to table 1 to 40 CFR part 63, subpart VVVVVV, as proposed). We estimated costs to install a thermal oxidizer using the EPA’s control cost template.¹⁸ Table 4 of this preamble presents the nationwide impacts of Control Option 1, requiring owners and operators to reduce emissions of EtO by 99.9 percent from process vents and storage tanks that are “in ethylene oxide service” as defined by the MON and HON. See the document titled *Clean Air Act Section 112(d)(5) GACT Standard Analysis for Process Vents and Storage Tanks that Emit Ethylene Oxide and Section 112(d)(6) Technology Review for Process Vents and Storage Tanks Associated with Chemical Manufacturing Process Units at Area Sources Subject to the CMAS NESHAP*, which is available in the docket for this

rulemaking, for details on the assumptions and methodologies used in this analysis. Based on the costs and emission reductions for Control Option 1, we are proposing to revise the CMAS NESHAP for process vents and storage tanks in EtO service to reflect Control Option 1 pursuant to CAA section 112(d)(5). The cost effectiveness of this Control Option is within the range of values that have been accepted in other recent rulemakings regulating EtO emissions such as the commercial sterilizer rulemaking (see 89 FR 24090, April 5, 2024)¹⁹ and is within the range of historic cost-effectiveness values that have been accepted for highly toxic HAP (such as hexavalent chromium).²⁰ EtO is similarly toxic due to its potency as a carcinogen. As such, we find that this Control Option is cost effective.

TABLE 4—NATIONWIDE EMISSIONS REDUCTIONS AND COST IMPACTS OF CONTROL OPTION 1 FOR REQUIRING 99.9 PERCENT CONTROL OF PROCESS VENTS AND STORAGE TANKS IN ETO SERVICE AT CERTAIN FACILITIES ¹

Control option	Total capital investment (\$)	Total annualized costs (\$/yr)	EtO emission reductions (tpy)	EtO cost effectiveness (\$/ton)
1	1,395,000	2,126,000	1.1	1,933,000

¹ Facilities that would either become subject to the CMAS NESHAP if EtO is added to table 1 to 40 CFR part 63, subpart VVVVVV, as proposed, or are already subject to the CMAS NESHAP and emit EtO.

The EPA is proposing to define a process vent “in ethylene oxide service” at 40 CFR 63.11502(b), by reference to the HON (40 CFR 63.101). We are proposing Control Option 1 for all new and existing affected sources with process vents in EtO service at 40 CFR 63.11496(j), item 4 of table 2 to the CMAS NESHAP (for batch process vents), and item 4 of table 3 to the CMAS NESHAP (for continuous process vents), by reference to the HON. These proposed requirements specify that owners and operators of process vents in EtO service must reduce emissions of EtO by venting emissions through a closed vent system to a flare in accordance with the requirements in 40 CFR 63.108 and 40 CFR 63.124 (see section IV.A.6 of this preamble for additional details regarding our proposed requirements for flares that emit EtO), or to a control device that reduces EtO by greater than or equal to 99.9 percent by weight, or to a concentration less than 1 ppmv for each process vent or to less than 5 lb/yr for all combined process vents within the

process in accordance with the requirements in 40 CFR 63.124.

The EPA is proposing to define a storage tank (vessel) “in ethylene oxide service” at 40 CFR 63.11502(b), by reference to the HON (40 CFR 63.101). We are also proposing that the exemption for “tanks storing organic liquids containing HAP only as impurities” listed in the definition of “storage tank” at 40 CFR 63.11502(b) does not apply for storage tanks in EtO service. We are also proposing Control Option 1 for storage tanks in EtO service at 40 CFR 63.11497(e) and item 5 of table 5 to the CMAS NESHAP, by reference to the HON. These proposed requirements specify that owners and operators of storage tanks in EtO service must reduce emissions of EtO by venting emissions through a closed vent system to a flare in accordance with the requirements in 40 CFR 63.108 and 40 CFR 63.124 (see section IV.A.6 of this preamble for additional details regarding our proposed requirements for flares that emit EtO), or to a control device that reduces EtO by greater than or equal to 99.9 percent by weight, or to

a concentration less than 1 ppmv for each storage tank vent in accordance with the requirements in 40 CFR 63.124.

In addition, given that 40 CFR 63.124 requires owners and operators to comply with the HON leak inspection requirements in 40 CFR 63.148 and the delay of repair provisions associated with these inspection requirements (*i.e.*, 40 CFR 63.148(e)) rely on a definition for “shutdown” that does not include batch processes, we are also proposing to substitute the use of “shutdown” with language at 40 CFR 63.11496(j)(5)(iv) and 40 CFR 63.11497(e)(5)(iv) to accommodate both continuous and batch processes. We are proposing that for 40 CFR 63.148(e), the term “shutdown” for a continuous operation, means the cessation of the unit operation for any purpose. Shutdown begins with the initiation of steps as described in a written standard operating procedure or shutdown plan to cease normal/stable operation (*e.g.*, reducing or immediately stopping feed). For batch operations, we are proposing that for 40 CFR 63.148(e), the term “shutdown” means the cessation of a

¹⁸ Refer to the file “Incinerators and Oxidizers Calculation Spreadsheet (note: updated on 1/16/2018) (xlsx)” which follows the methodology from the sixth edition of the EPA Air Pollution Control Cost Manual and can be found at the following website: <https://www.epa.gov/economic-and-cost->

analysis-air-pollution-regulations/cost-reports-and-guidance-air-pollution.

¹⁹ The EPA finalized EtO emissions standards in the RTR for sterilization facilities with costs estimated to be as much as \$17,500,000 per ton EtO.

²⁰ For small hard chromium electroplating, to provide an ample margin of safety, the EPA finalized a requirement with a cost effectiveness of \$15,000 per lb (\$30,000,000 per ton) (see 77 FR 58227–8 and FR 77 58239, September 19, 2012).

batch operation except shutdown does not apply to cessation of batch operations at the end of a campaign or between batches within a campaign when the steps taken to cease operation are normal operations.

Finally, we are also proposing to remove the option to allow use of a design evaluation in lieu of performance testing to demonstrate compliance for controlling process vents and storage tanks that are in EtO service. In addition, owners or operators that choose to control emissions with a non-flare control device would be required to conduct an initial performance test on each control device in EtO service to verify performance at the required level of control, and would also be required to conduct periodic performance testing on non-flare control devices in EtO service every 5 years (see proposed 40 CFR 63.11496(j) and 40 CFR 63.11497(e) by reference to 40 CFR 63.124).

4. Wastewater in EtO Service

EtO is emitted into the air from wastewater collection, storage, and treatment systems that are uncovered or open to the atmosphere through volatilization of the compound at the liquid surface. The rate of volatilization is related directly to the speed of the air flow over the water surface. We provide more details about wastewater streams, including how the CMAS NESHAP regulates them, in our technology review discussion (see section IV.C.5 of this preamble).

To assess what GACT standards may be appropriate for wastewater in EtO service, we reviewed other rulemakings to identify the level of control required for wastewater emitting EtO. As part of that review, we identified one rule requiring control of emissions from wastewater “in ethylene oxide service.” In the HON rulemaking, the EPA recently added EtO-specific requirements for wastewater streams in EtO service (see 89 FR 42932, May 16, 2024). These standards require owners and operators to manage and treat existing and new wastewater streams with total annual average concentration of EtO greater than or equal to 1 ppmw at any flow rate. As such, we evaluated a Control Option to represent GACT for wastewater streams that are “in ethylene oxide service” that would require owners and operators at certain CMAS (those that would either become subject to the CMAS NESHAP if EtO is added to table 1 to 40 CFR part 63, subpart VVVVVV, as proposed, or are already subject to the CMAS NESHAP and emit EtO) to comply with the HON Group 1 wastewater requirements for wastewater streams that are “in ethylene oxide

service” as defined by the HON (*i.e.*, Control Option 1).

The HON specifies performance standards for treatment processes managing Group 1 wastewater streams including performance standards for open or closed biological treatment systems or a design steam stripper with vent control. For APCDs (*e.g.*, thermal oxidizers) used to control emissions from collection system components, steam strippers, or closed biological treatment, the HON provides owners or operators several compliance options, including a 95 percent destruction efficiency standard, a 20 ppmv outlet concentration standard, or design specifications for temperature and residence time. Given the EtO specific requirements in the HON at 40 CFR 63.138(b)(3) and (c)(3) for wastewater streams in EtO service to reduce, by removal or destruction, the concentration of EtO to a level less than 1 ppmw and minimal operational differences between controlling emissions from HON CMPUs and CMAS CMPUs, we evaluated the use of steam stripping to comply with Control Option 1. While we acknowledge EtO can be biodegraded, the compound is not on table 37 to subpart G of the HON suggesting that it is not a readily biodegradable compound when using a biological treatment method, and EtO would need to be stripped out of the wastewater to meet the standard at 40 CFR 63.138(b)(3) and (c)(3). Therefore, we evaluated Control Option 1 using a steam stripper achieving a 98 percent reduction of EtO emissions (based on the fraction removed (Fr) value of EtO²¹ in table 9 to subpart G of the HON).

We find Control Option 1 to be “generally available” per the language of CAA section 112(d)(5). Steam strippers are used to control emissions from wastewater streams at sources regulated under other rulemakings including, but not limited to, the MON and the HON. In addition, steam stripping was evaluated as part of the original rulemaking and is currently a method of compliance for controlling certain CMPU wastewater streams. Given the widespread use of this control technology in other, similar chemical manufacturing facilities, and current applicability of the technology to certain CMAS wastewater streams, we consider this Control Option of proposing the use of steam strippers to control EtO emissions from wastewater to be “generally available.”

²¹ The Fr is the fraction of a HAP that is stripped from wastewater and is an indicator of the extent to which a HAP is effectively removed during the steam stripping process, which for EtO is 98 percent.

We reviewed the CMAS emissions inventory data (see section II.C.2 of this preamble) as well as air permits and determined that there are 4 CMAS facilities that have wastewater processes that use and emit EtO and therefore would be impacted by Control Option 1. To evaluate the impacts of requiring these facilities to meet Control Option 1, we used PEPO-specific wastewater data submitted in response to the EPA’s 2022 CAA section 114 request (see section II.C.3 of this preamble). We used the PEPO-specific wastewater data rather than HON-specific data because for EtO processes, CMAS CMPUs are more like PEPO PMPUs given that both CMAS CMPUs and PEPO PMPUs use EtO as a reactant (often in batch reactions to make a product), whereas HON CMPUs produce EtO and are continuous. In addition, we removed all PEPO-specific wastewater data that could not be representative of an area source (based on the amount of HAP emissions that could potentially be emitted to the atmosphere from the wastewater streams); and therefore, not representative of a CMAS facility. We estimated costs to install a steam stripper using the cost algorithm for wastewater stripper steam requirements used for the development of the HON.²² Table 5 of this preamble presents the nationwide impacts of Control Option 1, requiring owners and operators to manage and treat existing and new wastewater streams with total annual average concentration of EtO greater than or equal to 1 ppmw at any flow rate in accordance with HON Group 1 wastewater requirements. See the document titled *Clean Air Act Section 112(d)(5) GACT Standard Analysis for Wastewater Streams that Emit Ethylene Oxide and Clean Air Act Section 112(d)(6) Technology Review for Wastewater Systems Associated with Chemical Manufacturing Process Units at Area Sources Subject to the CMAS NESHAP*, which is available in the docket for this rulemaking, for details on the assumptions and methodologies used in this analysis. Based on the costs and emission reductions for Control Option 1, we are proposing to revise the CMAS NESHAP for wastewater in EtO service to reflect Control Option 1 pursuant to CAA section 112(d)(5). The

²² EPA, 1992a. *Hazardous Air Pollutant Emissions from Process Units in the Synthetic Organic Chemical Manufacturing Industry—Background Information for Proposed Standards, Volume 1B: Control Technologies*. EPA-453/D-92-016b. November 1992; and EPA, 1992b. *Hazardous Air Pollutant Emissions from Process Units in the Synthetic Organic Chemical Manufacturing Industry—Background Information for Proposed Standards, Volume 1C: Model Emission Sources*. EPA-453/D-92-016c. November 1992.

cost effectiveness of this Control Option is within the range of values that have been accepted in other recent rulemakings regulating EtO emissions, such as the commercial sterilizer

rulemaking (see 89 FR 24090, April 5, 2024)²³, and is within the range of historic cost-effectiveness values that have been accepted for highly toxic HAP (such as hexavalent chromium).²⁴

EtO is similarly toxic due to its potency as a carcinogen. As such, we find that this Control Option is cost effective.

TABLE 5—NATIONWIDE EMISSIONS REDUCTIONS AND COST IMPACTS OF CONTROL OPTION 1 FOR REQUIRING CONTROL OF WASTEWATER IN EtO SERVICE AT CERTAIN FACILITIES¹

Control option	Total capital investment (\$)	Total annualized costs (\$/yr)	EtO emission reductions (tpy) ²	EtO cost effectiveness (\$/ton)
1	12,899,400	5,471,300	8.3	659,200

¹ Facilities that would either become subject to the CMAS NESHAP if EtO is added to table 1 to 40 CFR part 63, subpart VVVVVV, as proposed, or are already subject to the CMAS NESHAP and emit EtO.

² We note that EtO emission reductions from wastewater (and subsequent cost-effectiveness values for EtO from wastewater) differ from reductions expected to occur from reported emissions inventories due to use of model plants, engineering assumptions made to estimate baseline emissions, and uncertainties in how fugitive emissions may have been calculated for reported inventories compared to our model plants analysis (and are documented in the memorandum).

The EPA is proposing to define a wastewater stream “in ethylene oxide service” at 40 CFR 63.11502(b), by reference to the HON (40 CFR 63.101). We are proposing Control Option 1 for all new and existing affected sources with wastewater streams in EtO service at 40 CFR 63.11498(c) and item 3 of table 6 to the CMAS NESHAP, by reference to the HON. These proposed requirements specify that owners and operators of wastewater in EtO service must reduce, by removal or destruction, the concentration of ethylene oxide in existing and new wastewater streams (*i.e.*, wastewater streams with total annual average concentration of EtO greater than or equal to 1 ppmw at any flow rate) to a level less than 1 ppmw as determined by the procedures specified in § 63.145(b) and in accordance with the Group 1 wastewater stream requirements of §§ 63.133 through 63.148 and the requirements referenced therein. Additionally, we are aware that some chemical manufacturing facilities dispose of certain wastewater streams that contain EtO by adding those wastewaters to the cooling water of their heat exchange systems, rather than considering those EtO-containing streams to be potential sources of wastewater. To eliminate these types of EtO emissions from wastewater being injected into heat exchange systems, we are also proposing to prohibit owners and operators from injecting water into or disposing of water through any heat exchange system in a CMPU meeting the conditions of 40 CFR 63.11494 if the water contains any amount of EtO, has been in contact with any process stream containing EtO, or the water is considered wastewater as defined in 40 CFR 63.11502 (see proposed 40 CFR

63.11495(b)(4) and items 1.c and 2 of table 8 to the CMAS NESHAP).

5. Standards for Transfer Operations That Emit EtO

The EPA includes transfer operations as part of the equipment collection that makes up a CMPU (see 40 CFR 63.11494(b)). According to the CMAS NESHAP, transfer operations involve loading liquid containing organic HAP into tank trucks and rail cars from a transfer rack. This does not include loading into other containers like cans, drums, and totes.

The CMAS NESHAP defines a transfer rack as the system used to load organic liquids into tank trucks and railcars at a single location. This system includes all necessary loading arms, pumps, meters, shutoff valves, relief valves, and other piping and equipment. Transfer equipment that do not share common piping, valves, and other equipment are considered separate transfer racks.

The CMAS NESHAP regulates transfer operations through specific management practices. According to 40 CFR 63.11495(a)(2), owners and operators must use one of the following methods to control total organic HAP emissions when transferring certain liquids (those containing any organic HAP listed in table 1 to 40 CFR part 63, subpart VVVVVV) to tank trucks or railcars: (1) submerged loading or bottom loading; (2) routing emissions to a fuel gas system or process; (3) vapor balancing back to the storage tank or another storage tank connected by a common header; or (4) venting through a closed vent system to a control device.

Since we are proposing to add EtO to table 1 to 40 CFR part 63, subpart VVVVVV, owners and operators of new and existing affected sources with

transferring liquids containing EtO to tank trucks or railcars would be subject to these same management practices. We are proposing that these management practices reflect GACT for these transfer operations. We anticipate that all facilities that may become subject to the CMAS NESHAP if EtO were to be added to table 1 to 40 CFR part 63, subpart VVVVVV already use at least one of these management practices when transferring liquids containing EtO to tank trucks or railcars. Therefore, we do not expect any additional costs from this proposed GACT standard.

The EPA is soliciting comments and data on the proposed transfer operation practices.

6. Standards for Flares That Emit EtO

As previously discussed in section IV.A.3 of this preamble, the EPA is proposing to add specific requirements for EtO to the CMAS NESHAP for batch process vents, continuous process vents, and storage tanks in EtO service. Each of these requirements mandates 99.9 percent control, reduction in concentration to less than 1 ppmw, or the use of a flare. These requirements are based on EtO-specific requirements in the MON and HON. If a flare is used to meet the MON and HON standards for process vents and storage tanks in EtO service, the owner or operator must comply with several operational and monitoring requirements that are reflective of requirements for petroleum refinery flares which address: (1) the presence of a pilot flame; (2) visible emissions; (3) flare tip velocity; (4) net heating value of flare combustion zone gas; and (5) net heating value dilution parameter (if the flare actively receives perimeter assist air). More details about these requirements are provided in our

²³ See footnote 19.

²⁴ See footnote 20.

technology review discussion (see section IV.C.6 of this preamble). As such, we evaluated the option (*i.e.*, Control Option 1) to require flares used to comply with the proposed GACT standards for process vents and storage tanks in EtO service to meet the same operational and monitoring requirements included in the MON and HON.

Control Option 1 requires various monitoring equipment (*i.e.*, hydrogen analyzers, calorimeters, and flow monitors) be installed on the flare vent gas stream header and/or steam- or air-assist header. Flares are used to control emissions from sources such as process vents and storage tanks regulated under other rulemakings including, but not limited to, the HON and the MON. The HON and MON apply to chemical manufacturing facilities and already require these types of monitoring equipment. Given the widespread use of this monitoring equipment in other, similar chemical manufacturing facilities, we consider Control Option 1, which includes the use of hydrogen analyzers, calorimeters, and flow monitors, to be “generally available” per the language of CAA section 112(d)(5).

Using information from the CMAS emissions inventory data (see section

II.C.2 of this preamble), we estimated there are only two flares at two different facilities that would be impacted by Control Option 1 (one of the facilities is already subject to the CMAS NESHAP and the other facility would become subject to the CMAS NESHAP if EtO is added to table 1 to 40 CFR part 63, subpart VVVVVV, as proposed). We estimated costs for each flare for a given facility, considering current monitoring systems already installed on each individual flare. Given that the same type of equipment is used for flares in the CMAS categories and for the petroleum refinery sector, we estimated costs for any additional monitoring systems needed based on installed costs received from petroleum refineries. If those installed costs were unavailable, we estimated costs based on vendor-purchased equipment. The baseline emission estimate and the emission reductions achieved by Control Option 1 were estimated based on the CMAS emissions inventory data (see section II.C.2 of this preamble) and current vent gas and steam flow data submitted by industry representatives.²⁵ The results of the impact estimates are summarized in table 6 of this preamble for Control Option 1. See the document titled *Clean*

Air Act Section 112(d)(5) GACT Standard Analysis for Flares that Emit Ethylene Oxide and Section 112(d)(6) Technology Review for Flares Associated with Chemical Manufacturing Process Units at Area Sources Subject to the CMAS NESHAP, which is available in the docket for this rulemaking, for details on the assumptions and methodologies used in this analysis. Based on the costs and emission reductions for Control Option 1, we are proposing to revise the CMAS NESHAP for flares used to comply with the proposed GACT standards for process vents and storage tanks in EtO service to reflect Control Option 1 pursuant to CAA section 112(d)(5). The cost-effectiveness of this Control Option is within the range of values that have been accepted in other recent rulemakings regulating EtO emissions such as the commercial sterilizer rulemaking (see 89 FR 24090, April 5, 2024)²⁶ and is within range of historic cost-effectiveness values that have been accepted for highly toxic HAP (such as hexavalent chromium).²⁷ EtO is similarly toxic due to its potency as a carcinogen. As such, we find that this Control Option is cost-effective.

TABLE 6—NATIONWIDE EMISSIONS REDUCTIONS AND COST IMPACTS OF CONTROL OPTION 1 FOR REQUIRING THE SUITE OF OPERATIONAL AND MONITORING REQUIREMENTS FOR FLARES THAT EMIT ET O AT CMAS FACILITIES ¹

Control option	Total capital investment (\$)	Total annualized costs (\$/yr)	VOC emission reductions (tpy)	EtO emission reductions (tpy)	EtO cost effectiveness (\$/ton)
1	3,770,000	960,000	12.8	1.56	606,700

¹ Facilities that would either become subject to the CMAS NESHAP if EtO is added to table 1 to 40 CFR part 63, subpart VVVVVV, as proposed, or are already subject to the CMAS NESHAP and emit EtO.

We are proposing Control Option 1 for flares at new and existing affected sources that are used to comply with the proposed GACT standards for process vents and storage tanks in EtO service at item 4.a of table 2 to the CMAS NESHAP, item 4.a of table 3 to the CMAS NESHAP, item 5.a of table 5 to the CMAS NESHAP, and 40 CFR 63.11497(f)(5), all by reference to the HON (40 CFR 63.108 and 40 CFR 63.124). These proposed requirements specify that owners and operators that choose to use a flare to comply with the proposed standards for process vents and storage tanks in EtO service as described in section IV.A.3 of this

preamble must vent emissions through a closed vent system and meet the applicable requirements for flares as specified in 40 CFR 63.670 and 63.671, including the provisions in tables 12 and 13 to 40 CFR part 63, subpart CC (*i.e.*, the suite of operational and monitoring requirements for refinery flares). In addition, we are proposing amendments to 40 CFR 63.11501(c)(2)(iii) and (c)(4)(vii) to align the recordkeeping requirements with this proposed Control Option.

We also note that we are proposing an LDAR program for equipment leaks at 40 CFR 63.11495(a)(6) and (7) (see sections IV.A.1 and IV.C.1 of this

preamble). Part of this LDAR program requires owners and operators that vent equipment leak emissions through a closed vent system to a flare used to control equipment leaks in EtO service, to comply with the same suite of operational and monitoring requirements for flares as we are proposing for flares used to comply with the proposed GACT standards for process vents and storage tanks in EtO service (see proposed 40 CFR 63.11495(a)(7)). Given that we only identified two flares in the CMAS emissions inventory data that emit EtO and we have already estimated impacts for these flares to comply with Control

²⁵ To estimate the baseline control efficiency of volatile organic compounds (VOC) and HAP anticipated by applying Control Option 1, we reviewed data submitted to the EPA in 2011 by the American Petroleum Institute (API), the American Chemistry Council (ACC), and the National

Petrochemical and Refiners Association (NPRO), now known as the American Fuels and Petrochemical Manufacturers (AFPM). This dataset includes detailed hourly operational information for 38 steam-assisted flares, characterizing different operating conditions by waste gas flow rate, steam

flow rate, waste gas composition, and duration of that operating condition.

²⁶ See footnote 19.

²⁷ See footnote 20.

Option 1, we do not expect any additional costs from this proposed GACT standard.

7. Standards for Fenceline Monitoring EtO

As discussed in section IV.C.7 of this preamble as well, fenceline monitoring is the practice by which monitors are placed around the perimeter of a facility to measure the concentration of certain pollutants. When required in conjunction with root cause analysis and corrective action, fenceline monitoring can reduce uncertainties associated with fugitive emissions estimation and characterization. This section of the preamble is limited to the discussion of fenceline monitoring for EtO. Section IV.C.7 of this preamble provides details on why we are not proposing fenceline monitoring for CMPUs using, producing, storing, or emitting other table 1 HAP.

In the promulgated amendments to the HON, the EPA finalized a new EPA method (EPA Method 327 of 40 CFR part 63, appendix A) to monitor the concentration of EtO at facility fenceline locations. EPA Method 327 provides procedures for canister sampling and analysis for measuring trace levels of targeted VOC (including organic HAP) in air. EPA Method 327 collects ambient air samples using specially prepared and pre-cleaned evacuated stainless-steel canisters. For analysis, the method specifies procedures for concentrating the target VOC (*i.e.*, EtO) in a known volume of air drawn from the canister, desorbing the target VOC from the preconcentrator, and determining the concentration of the target VOC using a gas chromatograph-mass spectrometer. The EPA continues to investigate cost-effective monitoring methods and technologies that could offer improved sensitivity, improved time resolution, or increased time integration.

As part of the HON, fenceline monitoring in combination with root cause analysis and corrective action was required for affected sources using, producing, storing, or emitting EtO. The program requires a canister sample to be collected in accordance with EPA Method 327 for one 24-hour period every five days. This monitoring frequency is necessary to ensure that all onsite processes are monitored regularly while maintaining the cost effectiveness of implementing a canister monitoring network. A sampling frequency of every 5 days also ensures that the annual average concentration derived from the fenceline data are indicative of the actual average emissions from the site by reducing the possibility that sampling occurs only during emission

spikes. Once samples are analyzed, the lowest sample value for EtO is subtracted from the highest sample value for EtO, generating a Δc . This approach subtracts the estimated contributions from background emissions that do not originate from the facility. The owner or operator would average the Δc for the most recent year of samples (73 sampling periods) to calculate an annual average Δc on a rolling basis (*i.e.*, calculate a new annual average Δc every 5 days using data from the most recent 73 sampling periods). The owner or operator would compare this rolling annual average Δc against the concentration action level for EtO. The action level for EtO established as part of the HON is 0.2 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) based on three times the representative detection limit (RDL) for EtO.

If the annual average Δc for a facility exceeds the action level, then root cause analysis and corrective action must be performed. Root cause analysis is an assessment conducted through a process of investigation to determine the primary underlying cause and other contributing causes of an exceedance of the action level. If the underlying causes of the action level exceedance are deemed to be from sources under the control of the owner or operator, the owner or operator is required to take corrective action to address the underlying cause of the exceedance and to bring the annual average Δc back below the action level as expeditiously as possible. Completion of the root cause analysis and initial corrective action is required within 45 days of determining that the annual average Δc exceeded the action level. If the owner or operator requires longer than 45 days to implement the corrective actions identified by the root cause analysis, the owner or operator is required to submit a corrective action plan no later than 60 days after completion of the root cause analysis.

After completion of the initial corrective action, if the Δc for the next three sampling periods for samples collected by EPA Method 327 are below the action level, then the corrective action is assumed to have fixed the problem, and the owner and/or operator has no further obligation for additional corrective action. However, if the Δc for the subsequent sampling periods after initial corrective action is greater than the action level, then the owner or operator must submit a corrective action plan and schedule for implementing design, operation, and maintenance changes to eliminate as quickly as possible and prevent recurrence of the primary cause and other contributing

causes to the exceedance of the action level, to reduce annual average concentrations below the action level. If the owner or operator cannot determine the root cause of the exceedance within 30 days of determining that there was an exceedance of an action level, the proposed revisions require use of real-time sampling techniques (*e.g.*, mobile gas chromatographs) to determine the root cause of the exceedance. While the action level(s) are based on annual average concentrations, once an action level is exceeded, each sampling period that exceeds the action level contributes to the Δc remaining above the action level. An investigation must be conducted to determine the root cause and, if appropriate, to correct the root cause expeditiously to bring the annual average Δc below the action level.

Given the similarities between certain sources subject to the HON and CMAS CMPUs in EtO service, the threat of adverse effect on human health (as discussed in section II.A.1 of this preamble), and the observed inconsistency between modeling the fenceline concentrations of sources subject to the HON and actual fenceline concentration measurements,²⁸ we assessed whether the same fenceline monitoring program was appropriate. We find fenceline monitoring via EPA Method 327 to be “generally available” per the language of CAA section 112(d)(5). Canister measurements for EtO have been possible since 1999 via Method TO-15. While EPA Method 327 was finalized in May 2024 as part of the revisions to the HON (see 89 FR 42932); many of the practices, media, and instrumentation necessary for the analysis have been available since 2019 via an update to Method TO-15, Method TO-15A. EPA Method 327 codifies the best practices of Method TO-15A and mandates enhanced QA/QC approaches, such as a regular validation of the sampling media, site verification for the sampling, defined sample holding times, and ongoing field and spike blanks to evaluate performance. In addition, development of logistics and practices to support EPA Method 327 laboratory analysis will also be occurring alongside other, similar chemical manufacturing rulemakings. Lastly, as a practice, placing monitors around a facility to measure fugitive emissions has been required as part of

²⁸ EPA, 2023. *Clean Air Act Section 112(d)(6) Technology Review for Fenceline Monitoring located in the SOCM Source Category that are Associated with Processes Subject to HON and for Fenceline Monitoring that are Associated with Processes Subject to Group I Polymers and Resins NESHAP*. EPA Docket ID No. EPA-HQ-OAR-2022-0730-0091.

the Petroleum Refineries NESHAP (40 CFR part 63, subpart CC) since 2018. Given the monitoring technology has been available for several decades and the methodology, while new, is an adjustment to a well understood 2019 method to ensure the validity of samples, we find EPA Method 327 to be “generally available” per the language of CAA section 112(d)(5). Both root cause analysis and corrective action already take place at facilities where large emission events occur. When an event occurs, the source will be determined and will be fixed. This is a regular part of operation and thus root cause analysis and corrective action are already available to every facility potentially impacted by the proposed fenceline monitoring management practice.

For the 33 facilities within the proposed source category, Chemical Manufacturing with Ethylene Oxide, EtO is ubiquitous and should be present in most streams associated with CMPUs in EtO service. As such, for these facilities, EtO can act as a surrogate pollutant to track and limit overall fugitive emissions of HAP at the fenceline. Therefore, using information from the CMAS emissions inventory (see section II.C.2 of this preamble), we modeled what the fenceline concentrations for EtO would be for the 33 facilities identified to use, produce, store, or emit EtO based on whole facility emissions when considering those options proposed in sections IV.A.1 through IV.A.6 and section IV.A.8. The modeling showed that 32 of the 33 facilities had EtO fenceline concentrations at or below $0.2 \mu\text{g}/\text{m}^3$, three times the RDL for EtO and the action level finalized as part of the HON. In addition, the one facility that was modeled to have a fenceline concentration greater than $0.2 \mu\text{g}/\text{m}^3$ was identified as having a high degree of uncertainty associated with their emissions inventory as the facility only reported a single EtO record. In addition to revisions made to the baseline data, post-control emission reductions were established using state permitting and approximate impacts (for additional details on facility specific adjustments to emissions, see appendix 1 of the document entitled *Risk Assessment for the Chemical Manufacturing Area Source (CMAS) Category in Support of the 2025 Technology Review for the Proposed Rule*, available in the docket for this rulemaking). While exact emission reductions cannot be calculated due to the nature of fugitive emissions and uniqueness of each root cause analysis and corrective action

performed as part of the fenceline monitoring program, we anticipate there will be EtO emission reductions associated with fenceline monitoring.

The cost of the fenceline monitoring program is shown in table 7 of this preamble. We estimated the cost required for each impacted facility to build the necessary housing for the canisters, purchase and install the canisters, and continually monitor the fenceline concentration of EtO. See the document titled *Clean Air Act Section 112(d)(5) GACT Standard Analysis and CAA Section 112(d)(6) Technology Review for Fenceline Monitoring for Chemical Manufacturing Process Units Associated with the Chemical Manufacturing Area Sources NESHAP*, which is available in the docket for this rulemaking, for additional details on the analysis and methodology associated with these costs.

Based on the costs and need to monitor for fugitive emissions of EtO, we are proposing to revise the CMAS NESHAP to require fenceline monitoring for EtO if a new or existing affected source uses, produces, stores, or emits EtO pursuant to CAA section 112(d)(5).

We are soliciting comment on the proposed fenceline monitoring program and the supporting analysis including the costs, benefits, and underlying assumptions.

TABLE 7—NATIONWIDE COST IMPACTS FOR REQUIRING FENCELINE MONITORING FOR CMAS THAT USE, PRODUCE, STORE, OR EMIT ET O AT CMAS FACILITIES¹

Number of CMAS facilities impacted	Total capital investment (\$)	Total annualized costs (\$/yr)
33	488,000	20,990,000

¹ Facilities that would either become subject to the CMAS NESHAP if EtO is added to table 1 to 40 CFR part 63, subpart VVVVVV, as proposed, or are already subject to the CMAS NESHAP and emits EtO.

We are proposing to require fenceline monitoring for CMAS using, producing, storing, or emitting EtO at 40 CFR 63.11495(a)(8) by reference to the HON (40 CFR 63.184).

A primary requirement for a fenceline monitoring system is that it provides adequate spatial coverage for determination of representative pollutant concentrations at the boundary of the facility. In an ideal scenario, owners or operators would place fenceline monitors so that any fugitive plume originating within the facility would have a high probability of intersecting one or more monitors, regardless of wind direction. Therefore,

by referencing 40 CFR 63.184(b)(3) via 40 CFR 63.11495(a)(8) we propose that each facility would place eight canisters evenly spaced on the monitoring perimeter. The monitoring perimeter may be the facility fenceline or may be inside the facility fenceline, provided all sources of EtO are contained within the perimeter. The EPA is also proposing to require that facilities move the canister sampling locations with alternating sampling periods to ensure complete spatial coverage of the facility. For facilities with perimeters less than or equal to 5,000 meters, all eight sampling points would be monitored during each sampling period. For facilities with perimeters greater than 5,000 meters but less than or equal to 10,000 meters, 16 sampling points would be required; for facilities with perimeters greater than 10,000 meters, 24 sampling points would be required. For facilities with EtO emission sources that are not contained within one contiguous area, the EPA is proposing monitoring of these secondary areas as well, with the size of the secondary area dictating the number of canisters.

In addition, we are proposing to allow the subtraction of offsite interfering sources (as they are not within the control of the owner or operator) through site-specific monitoring plans, but we are not providing this option for onsite, non-source category emissions. We based the action level on facility-wide emissions; therefore, we considered these non-source category sources in its development. Applying the fenceline standard to the whole facility will also limit emissions of EtO from all sources and provide more certainty in decisions being made as to whether the entire facility emissions align with what is expected from the EPA's analysis. It will also provide assurance to fenceline communities that emission reductions are achieved and maintained.

The EPA is also proposing, by reference to the HON at 40 CFR 63.182(e), that owners or operators report fenceline data on a quarterly basis. Each report would contain the results for each sample where the field portion of sampling is completed by the end of the quarter, as well as for associated field and method blanks (*i.e.*, each report would contain data for 18 canister sampling periods). Owners or operators would report these data electronically to the EPA within 45 days after the end of each quarterly period. See section IV.D.1 of this preamble for further discussion on electronic reporting and section IV.E.1 of this preamble for further discussion on the compliance dates being proposed.

8. PRDs in EtO Service

The CMAS NESHAP regulates PRDs through equipment leak management practices. These practices require owners and operators to conduct quarterly sensory-based inspections (using sight, sound, or smell) to ensure that equipment (including PRDs) is “sound and free of leaks.” However, these provisions do not apply to an emissions release from a PRD (see section IV.B.2 of this preamble for more detail).

The EPA is proposing an LDAR program (using EPA Method 21) for all equipment in organic HAP service (see section IV.C.1 of this preamble). Additionally, management practices for PRD releases are being proposed (see section IV.B.2 of the preamble). A 2023 study at an area source chemical manufacturing facility indicated that EtO PRD releases because of railcar switchover contributed to elevated levels of EtO at the facility’s fenceline.²⁹ If those emissions had not been released to the atmosphere, the emissions would be characterized as process vent emissions and potentially subject to the proposed provisions in section IV.A.3 of this preamble. Given that neither the equipment leaks nor the process vents analyses account for the episodic nature of PRD releases and the observed need via the 2023 study, it is reasonable to consider a management practice regulating PRDs in EtO service.

To assess appropriate GACT standards for EtO releases from PRDs, we reviewed other rulemakings and identified two rules with requirements for PRDs “in ethylene oxide service.” The EPA recently added requirements to the MON and HON making any release event from a PRD in EtO service a deviation³⁰ from the work practice standards for PRD releases (see 85 FR 49084, August 12, 2020, and 89 FR 42932, May 16, 2024, respectively).

Given these EtO specific requirements in the MON and HON for PRDs in EtO service, the minimal operational differences between PRDs at MON,

SOCMI, and CMAS facilities, and to ensure that EtO is not released to atmosphere from a PRD, we are also proposing at 40 CFR 63.11495(a)(7), by reference to the HON (40 CFR 63.165(e)(3)(v)(D)), that any release event from a PRD in EtO service at a new or existing affected source is a deviation of the standard. We do not expect any additional costs from this proposed GACT standard.

B. What are our other proposed decisions regarding GACT standards for CMAS, and what is the rationale for those decisions?

In addition to the GACT standards we are proposing for certain emission sources that emit EtO as discussed in section IV.A of this preamble, we are also proposing GACT standards for pressure vessels and PRDs as described in sections IV.B.1 and IV.B.2 of this preamble, respectively. In addition, we are proposing in section IV.B.3 of this preamble to clarify regulatory provisions for vent control bypasses for closed vent systems containing bypass lines.

1. Pressure Vessels

Pursuant to CAA section 112(d)(5), we are proposing new requirements for pressure vessels that are associated with processes subject to the CMAS NESHAP. The EPA is proposing to define pressure vessel at 40 CFR 63.11502(a), by reference to the HON (40 CFR 63.101), to mean “a storage vessel that is used to store liquids or gases and is designed not to vent to the atmosphere as a result of compression of the vapor headspace in the pressure vessel during filling of the pressure vessel to its design capacity.” To eliminate any ambiguity in applicability or control requirements, the EPA is also proposing at 40 CFR 63.11502(b) to remove the exemption for “pressure vessels designed to operate in excess of 204.9 kilopascals (kPa) and without emissions to the atmosphere” from the definition of storage tank. This longstanding exemption is ambiguous with respect to what “without emissions to the atmosphere” means. For example, most pressure vessels have relief devices that allow for venting when pressure exceeds setpoints. In many cases, these vents are routed to control devices; however, control devices are not completely effective (e.g., achieve 95-percent control), and therefore there are emissions to the atmosphere from these pressure vessels, even if they are controlled. There are also instances where other components in pressure systems may allow for fugitive releases because of leaks from fittings or cooling

systems. These events arguably are “emissions to the atmosphere” and therefore it is likely that even if the CMAS NESHAP maintained this exemption, owners and operators of pressure vessels would still have uncertainty regarding whether they were subject to substantive requirements. Therefore, the proposed revisions remove the ambiguity associated with the exemption and set new GACT standards intended to limit emissions to the atmosphere from pressure vessels storing organic HAP with capacities greater than or equal to 20,000 gallons at new and existing affected sources. We are proposing the same standards for pressure vessels of any capacity and vapor pressure storing EtO such that it can be considered to be a storage tank in EtO service. We are also clarifying in the definition of CMPU at 40 CFR 63.11494(b) that the collection of equipment that is part of a CMPU includes pressure vessels.

We estimate a pressure vessel is located at 15 of the 247 CMAS facilities given that these 15 facilities reported 1,3-butadiene emissions from processes subject to the CMAS NESHAP, and this chemical is stored in pressure vessels. We excluded CMAS facilities that may have pressure vessels storing EtO given that we are proposing more stringent standards for connectors in EtO service, gas/vapor and light liquid valves in EtO service, and light liquid pumps in EtO service (see section IV.A.1 of this preamble). Using information from a 2012 analysis that identified developments for storage vessels at chemical manufacturing facilities and petroleum refineries,³¹ we estimate a total HAP emission reduction of 2.24 tpy for all affected pressure vessels associated with processes subject to the CMAS NESHAP (assuming 10 percent of all CMAS pressure vessels storing 1,3-butadiene would have components that leak). The nationwide capital cost for the proposed pressure vessel LDAR requirements for the CMAS NESHAP is about \$3,800 and the annualized capital cost is \$3,330.

Based on the costs and emission reductions, we are proposing LDAR requirements at 40 CFR 63.11497(f) and items 6 and 7 of table 5 to the CMAS NESHAP that are based on similar non-detectable emission requirements required for closed vent systems in most chemical sector NESHAP, including but not limited to the HON and MON. We

²⁹ The study, *Assessment of chemical facility ethylene oxide emissions using mobile and multipoint monitoring*, focused on measuring the concentration of EtO at a chemical manufacturer’s fenceline. Elevated levels of EtO were measured nearest sources of ground level fugitive emissions such as wastewater outfall and during periods of irregular operation via PRD releases. The complete study can be found and read here: <https://doi.org/10.1016/j.aeaoa.2023.100214>.

³⁰ The current HON rule text does not define or use the term “deviation” and instead uses the term “violation.” Given that both the CMAS NESHAP and the MON rule text define and uses the term “deviation” to describe emissions events, we believe it is more appropriate to continue to use the term “deviation” (in lieu of “violation”) in all of the CMAS rule text.

³¹ Randall, 2012. Memorandum from Randall, D., RTI International to Parsons, N., EPA/OAQPS. *Survey of Control Technology for Storage Vessels and Analysis of Impacts for Storage Vessel Control Options*. January 20, 2012. EPA Docket ID No. EPA-HQ-OAR-2010-0871.

are proposing that these LDAR requirements for pressure vessels reflect GACT at new and existing affected sources. We did not identify any additional options beyond this for controlling emissions from pressure vessels. The requirements would apply to all new and existing affected sources and impose a standard that requires no detectable emissions at all times (*i.e.*, owners and operators would be required to meet a leak definition of 500 ppmv at each point on the pressure vessel where total organic HAP could potentially be emitted); require initial and annual leak monitoring using EPA Method 21 of 40 CFR part 60, appendix A–7; and require routing organic HAP through a closed vent system to a control device (*i.e.*, no releases to the atmosphere through a pressure vessel's PRD). These proposed LDAR requirements would also subject connectors in EtO service, gas/vapor or light liquid valves in EtO service, and light liquid pumps in EtO service to more stringent LDAR requirements under the proposed EtO equipment leak standards.

See the document titled *Clean Air Act Section 112(d)(5) GACT Standard Analysis for Pressure Vessels Associated with Processes Subject to the CMAS NESHAP*, which is available in the docket for this rulemaking, for details on the assumptions and methodologies used in this analysis.

2. PRDs

The CMAS NESHAP regulates PRDs through equipment leak management practices. These practices require owners and operators to conduct quarterly sensory-based inspections (using sight, sound, or smell) to ensure that a PRD is “sound and free of leaks” (see 40 CFR 63.11495(a)(3)). These inspections typically occur when the PRD is seated, as PRDs are designed to open only during a pressure release (*i.e.*, when the system pressure exceeds the PRD's set pressure).

The CMAS NESHAP does not explicitly regulate atmospheric pressure releases, regardless of whether they are single or multiple releases over time. Consequently, no CMAS facility is subject to numeric emission limits for PRDs that vent to the atmosphere. It is impractical to measure emissions from PRDs that release to the atmosphere, making numeric emission limits inappropriate. However, the EPA has included work practice standards that regulate atmospheric pressure releases from PRDs in other chemical sector NESHAP, such as the EMAX standards (85 FR 40386, July 6, 2020; see 40 CFR 63.1107(h)(3)), the MON (85 FR 49084,

August 20, 2020; see 40 CFR 63.2480(e)(3)), and the HON and Group I Polymers and Resins Industry (P&R I) NESHAP (89 FR 42932, May 16, 2024; see 40 CFR 63.165(e)(3)). The EPA also added PRD work practice standards to the petroleum refinery NESHAP for similar reasons (81 FR 45241, December 1, 2015; see 40 CFR 63.648(j)(3)). These PRD work practice standards (in all these listed NESHAP) require owners and operators to: (1) implement at least three prevention measures;³² (2) perform root cause analysis and corrective action if a PRD releases emissions directly to the atmosphere; and (3) monitor PRDs using a system that can identify and record the time and duration of each pressure release and notify operators when a pressure release occurs.

We assessed whether the same PRD work practice standards, already included in the previously mentioned NESHAPs, represent GACT (*i.e.*, in the form of management practices) for CMAS. These standards would regulate emissions from CMAS PRDs during a pressure release. The PRD work practice standards require monitoring systems that can alert an owner or operator when a PRD release occurs. We find this equipment to be “generally available” according to CAA section 112(d)(5). As noted, this type of monitoring equipment is already mandated under other chemical sector regulations, including the HON and the MON. Given its widespread use in similar chemical manufacturing facilities, we consider the PRD work practice standards, which include the use of monitoring systems capable of alerting an owner or operator when a PRD release occurs, to be “generally available.”

The cost for CMAS facilities to implement a management practice identical to the work practice standard in the HON and MON and install monitors for PRDs that vent to the atmosphere is based on the number of PRDs at each facility. However, we do not have actual equipment counts for CMAS facilities. To estimate the number of PRDs at CMAS facilities nationwide, we used HON-specific PRD data that was submitted in response to the EPA's 2022 CAA section 114 request (see section II.C.3 of this preamble). We calculated an average of 14 atmospheric PRDs in organic HAP service per CMAS

CMPU. Multiplying this average by the total CMAS processes nationwide (247, assuming one CMPU per CMAS facility), we estimated there are 3,458 atmospheric PRDs in organic HAP service nationwide. We excluded 33 facilities³³ from this analysis given that we anticipate that these facilities are likely to only operate PRDs in EtO service that already have PRD monitoring installed. We used work practice costs from a 2015 memorandum³⁴ on PRD impacts for petroleum refineries to estimate costs for implementing at least three prevention measures and performing root cause analysis and corrective action at CMAS facilities. Similarly, based on the HON-specific PRD data from the EPA's 2022 CAA section 114 request, we calculated an average of three atmospheric PRDs in organic HAP service per CMAS CMPU that have a monitoring system installed capable of identifying releases and recording the time and duration of each pressure release. Therefore, multiplying the average of 11 (14 atmospheric PRDs less the three that already have monitoring systems installed) atmospheric PRDs in organic HAP service per CMAS CMPU that do not have a monitoring system by the total CMAS processes nationwide (247, assuming one CMPU per CMAS facility), we estimated that of the 3,458 PRDs in organic HAP service nationwide, 2,717 PRDs in organic HAP service nationwide vent to the atmosphere without a device or monitoring system capable of identifying releases and recording the time and duration of each pressure release. We then used PRD monitor costs from a 2017 memorandum³⁵ on PRD options for off-site waste and recovery operations to estimate the costs for installing PRD monitors at CMAS facilities. Based on our cost assumptions, the nationwide capital cost for complying with the PRD work practice requirements for the CMAS NESHAP (in the form of management practices) is \$15.9 million, with annualized capital costs of \$4.7 million. This translates to approximately \$64,300 in total capital investment and \$19,200 in total annual cost per CMAS

³³ These facilities are already subject to, or may become subject to, the CMAS NESHAP if EtO were to be added to table 1 to 40 CFR part 63, subpart VVVVVV.

³⁴ EPA, 2015. Coburn, Jeff, RTI International. *Pressure Relief Device Control Option Impacts for Final Refinery Sector Rule*. July 30, 2015. EPA Docket ID No. EPA-HQ-OAR-2010-0682.

³⁵ EPA, 2017. Carey, Angela, EPA/OAQPS. *Pressure Relief Device Control Options and Impacts for Off-Site Waste and Recovery Operations (OSWRO)*. June 26, 2017. EPA Docket ID No. EPA-HQ-OAR-2012-0360.

³² Examples of prevention measures include the following: Flow indicators, level indicators, temperature indicators, pressure indicators, routine inspection and maintenance programs, operator training, inherently safer designs, safety instrumentation systems, deluge systems, and staged relief systems where the initial PRD discharges to a control system.

facility. We are unable to estimate HAP reductions from requiring owners and operators to comply with these management practices because PRD pressure releases can occur as single or multiple events over time. In other words, these releases can result from system overpressure caused by operator error, malfunctions such as power or equipment failures, or other unexpected causes that necessitate immediate venting of gas from process equipment to prevent safety hazards or equipment damage; all of which are too difficult to predict. Even so, we anticipate that implementing these additional PRD management practices, along with the proposed equipment leak LDAR program for PRDs (see section IV.C.1 of this preamble), will achieve significantly greater emission reductions than the equipment leak management practices currently required by the CMAS NESHAP.

As such, pursuant to CAA section 112(d)(5), we are proposing new requirements for PRDs that are associated with processes subject to the CMAS NESHAP. We are proposing PRD management practices for all new and existing affected sources at 40 CFR 63.11495(a)(6), by reference to the HON (40 CFR 63.165(e)(1) through (8)), that require owners and operators to: (1) operate each PRD in organic HAP gas or vapor service with an instrument reading of less than 500 ppm above background as measured by the method specified in 40 CFR 63.180(c); (2) conduct instrument monitoring no later than 5 calendar days after the PRD returns to organic HAP gas or vapor service following a pressure release to verify that the PRD is operating with an instrument reading of less than 500 ppm, or if applicable, install a replacement disk as soon as practicable after a pressure release, but no later than 5 calendar days after the pressure release; (3) implement at least three prevention measures; (4) perform root cause analysis and corrective action if a PRD releases emissions directly to the atmosphere; and (5) monitor PRDs using a system that can identify and record the time and duration of each pressure release and notify operators when a pressure release occurs. The EPA is also proposing to define “pressure relief device or valve” at 40 CFR 63.11502(a), by reference to the HON (40 CFR 63.101), to mean “a valve, rupture disk, or similar device used only to release an unplanned, nonroutine discharge of gas from process equipment in order to avoid safety hazards or equipment damage. A PRD discharge can result from an operator error, a malfunction

such as a power failure or equipment failure, or other unexpected cause. Such devices include conventional, spring-actuated relief valves, balanced bellows relief valves, pilot-operated relief valves, rupture disks, and breaking, buckling, or shearing pin devices. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.” In addition, the EPA is proposing to define “pressure release” at 40 CFR 63.11502(a), by reference to the HON (40 CFR 63.101), to mean “the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device. This release can be one release or a series of releases over a short time period.”

See the document titled *Clean Air Act Section 112(d)(5) GACT Standard Analysis for Pressure Relief Devices Associated with Processes Subject to the CMAS NESHAP*, which is available in the docket for this rulemaking, for details on the assumptions and methodologies used in this analysis. We solicit comments on the proposed management practice for PRDs and assumptions associated with the analysis.

3. Closed Vent System Containing Bypass Lines

For a closed vent system containing bypass lines that can divert the stream away from the APCD to the atmosphere, the CMAS NESHAP requires the owner or operator to either: (1) install, maintain, and operate a continuous parametric monitoring system for flow on the bypass line that is capable of detecting whether a vent stream flow is present at least once every hour, or (2) secure the bypass line valve in the non-diverting position with a car-seal or a lock-and-key type configuration. Under option 2, the CMAS NESHAP also requires owners or operators to inspect the seal or closure mechanism at least once per month to verify the valve is maintained in the non-diverting position (e.g., for more details see items 1.a and 1.b of tables 2 and 3 to the CMAS NESHAP and items 1.b and 1.c of table 5 to the CMAS NESHAP, which all reference provisions in 40 CFR part 63, subpart SS that ultimately point to bypass monitoring requirements in 40 CFR 63.983(a)(3)). To expressly prohibit bypassing an APCD at affected sources, as implied by option 2, we are proposing that an owner or operator may not bypass the APCD at any time and that a bypass is a violation (see proposed 40 CFR 63.11495(e)), and owners and operators must estimate,

maintain records, and report the quantity of organic HAP released (see proposed 40 CFR 63.11501(c)(10) and (d)(10)). We are proposing these revisions to ensure continuous compliance with the GACT standards because bypassing an APCD could result in a release of regulated organic HAP to the atmosphere that would be required to be controlled under the existing GACT standards in the CMAS NESHAP. We are also proposing that the use of a cap, blind flange, plug, or second valve on open-ended valves or lines (following the requirements specified in 40 CFR 60.482–6(a)(2), (b), and (c) or following requirements codified in another regulation that are the same as 40 CFR 60.482–6(a)(2), (b), and (c)) is sufficient to prevent a bypass. We solicit comments on these proposed revisions.

In addition, we are proposing to remove the 40 CFR 63.107(h)(9) exemption for “a gas stream exiting an analyzer” from the definition of continuous process vent at 40 CFR 63.11502(b) and we are proposing at 40 CFR 63.11495(e) to not exempt analyzer vents from the bypass requirements. As such, we are proposing to require that these kinds of vents meet the standards applicable to process vents at all times. Analyzer vents, or “onstream analyzers,” generally refer to sampling systems that directly feed to an analyzer located at a process unit and venting is expected to be routine (continuous or daily intermittent venting). We also note that sampling connection systems for CMPUs will be required to be part of a closed loop, closed purge, or closed vent system under our proposed equipment leak standards (e.g., 40 CFR 63.166(a), see section IV.C.1 of this preamble for further details). In these applications, the analyzer vent would not be a bypass of emissions subject to the requirements in 40 CFR 63.11495 through 63.11498, rather the analyzer vent would be a process vent itself, thus engineering calculations would be used to determine if this vent is a process vent requiring control as specified in tables 2 through 4 to the CMAS NESHAP. In rare instances, the owner or operator may classify a release point on a gaseous vent system associated with a CMPU as an “analyzer vent”. In this case, the analyzer vent when open acts as a bypass line (allowing direct atmospheric release) of a process vent stream. These examples demonstrate that depending on the circumstance, an analyzer vent could be construed as a process vent or a bypass line. Thus, we see no reason to categorically allow use of analyzer vents to bypass controls required for

emissions subject to the requirements in 40 CFR 63.11495 through 63.11498.

C. What are the results and proposed decisions based on our technology review, and what is the rationale for those decisions?

As described in section III.B of this preamble, the technology review for the CMAS NESHAP focused on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the NESHAP was promulgated in 2009. In conducting the technology review, we reviewed various sources of information related to the emissions from chemical manufacturing operations and other relevant information such as control technologies applied, management practices used, processes, and monitoring approaches. Through searches of these data sources, we identified, evaluated, and considered several developments in practices, processes, or control technologies. As discussed below, these include developments and improvements that could result in the addition of emission limits, management practices, and other emission reduction requirements, as well as revised compliance assurance measures. We analyzed costs and emissions reductions for each emission source and determined cost-effectiveness (annualized cost per ton of emissions reduction) on a HAP basis. The data, analyses, results, and proposed decisions pursuant to CAA section 112(d)(6) are presented for each emission source in sections IV.C.1 through IV.C.7 of this preamble.

Based on this review, the EPA is proposing amendments to the CMAS NESHAP pursuant to CAA section 112(d)(6) that improve monitoring of leaks from equipment and heat exchange systems and revises the definition of “metal HAP process vent.” We are not proposing any changes to the CMAS NESHAP for storage tanks and wastewater based on our technology review given that we did not identify any cost-effective developments in practices, processes, or control technologies for these emission sources that achieve a greater HAP emission reduction beyond the emission reduction already required by the CMAS NESHAP.

1. Equipment Leaks

Emissions from equipment leaks occur in the form of gases or liquids that escape to the atmosphere through connection points (e.g., threaded connectors) or through the moving parts of different components (e.g., agitators,

compressors, PRDs, pumps, valves) and certain types of process equipment. Each component type has a unique manner in which emissions are released (e.g., connectors may leak if the threads become damaged or corroded or if not tightened sufficiently, pumps can leak at the point of contact between the moving shaft and stationary casing, valves can leak through the seal around the valve stem).

The CMAS NESHAP requires that facilities conduct quarterly inspections of process vessels and equipment for each CMPU in organic HAP service or metal HAP service. Equipment is defined as “each pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, connector, and instrumentation system in or associated with a CMPU.” The inspections rely on AVO detection methods to determine whether process vessels and equipment are free of leaks. The CMAS NESHAP also allows instrument monitoring (i.e., use EPA Method 21 with a leak definition of 500 ppmv) in lieu of AVO methods; or, facilities may use EPA Method 21 to confirm the presence of HAP for leaks identified using AVO methods.

To identify developments in practices, processes, and control technologies since the GACT standards were established, we reviewed subsequent regulatory efforts. After reviewing multiple regulations, we identified developments in LDAR program practices in the form of specific leak definitions and monitoring frequencies for LDAR programs that use EPA Method 21 monitoring that are different than those evaluated during the original CMAS rulemaking. We used the HON and MON as initial points of reference to identify developments, since these rules apply to major source chemical manufacturing facilities which are similar to CMAS facilities. The HON and MON require EPA Method 21 monitoring for specific components at varying leak definitions (from 500 ppmv to 10,000 ppmv) and frequencies (monthly monitoring to monitoring every 4 years if few leaks are identified). We also reviewed the Gasoline Distribution area source rule, which recently undertook a similar technology review for equipment leaks where the EPA finalized an LDAR program that requires annual monitoring using EPA Method 21 at a leak definition of 10,000 ppmv in lieu of only AVO methods. We used the Gasoline Distribution LDAR program, which requires annual monitoring at a leak definition of 10,000 ppmv, as the starting option (i.e., Control Option 1). We then considered

two additional options that would impose more stringent requirements that would allow us to assess the impacts of more frequent monitoring (i.e., Control Option 2 requiring semiannual monitoring) and a lower leak definition (i.e., Control Option 3 requiring a leak definition of 500 ppmv). We also evaluated the key component types for the LDAR programs (i.e., connectors, valves, pumps) and did not consider an option where connectors were not monitored. The following summarize the three equipment leak control options that we evaluated for this technology review:³⁶

- Control Option 1 (for connectors in gas and vapor (G/V) service or in light liquid (LL) service, valves in G/V or LL service, and pumps in LL service): monitor all components annually using EPA Method 21 and a leak definition of 10,000 ppmv.

- Control Option 2 (for connectors in G/V or LL service, valves in G/V or LL service, and pumps in LL service): monitor all components semiannually using EPA Method 21 and a leak definition of 10,000 ppmv.

- Control Option 3 (for connectors in G/V or LL service, valves in G/V or LL service, and pumps in LL service): monitor all components annually using EPA Method 21 and a leak definition of 500 ppmv.

To estimate the costs and emission reductions, we assumed that 247 CMAS facilities currently follow the CMAS requirement of performing quarterly AVO inspections and are impacted by this technology review. For simplicity, we excluded 4 other CMAS facilities from our analysis that may have equipment leaks in EtO service; and instead, we included them in our GACT analysis discussed in section IV.A.1 of this preamble. To get the nationwide impacts of each Control Option, we estimated the cost and reductions for a model CMAS facility to implement each of the three control options and multiplied the model facility results by 247. The memorandum *Clean Air Act Section 112(d)(5) GACT Standard Analysis for Equipment Leaks that Emit Ethylene Oxide and Section 112(d)(6) Technology Review for Equipment Leaks from Chemical Manufacturing Process Units at Area Sources Subject to the CMAS NESHAP*, which is available in the docket for this rulemaking, presents

³⁶ Each equipment leak control option that we evaluated also includes the HON LDAR requirements specified in 40 CFR 63.164 for compressors, 40 CFR 63.166 for sampling connection systems, 40 CFR 63.167 for open-ended valves or lines, 40 CFR 63.169 for equipment in heavy liquid service, 40 CFR 63.173 for agitators in G/V or LL service.

details on the assumptions and methodologies used in this analysis.

Table 8 of this preamble presents the nationwide impacts for requiring owners and operators to perform EPA Method 21 monitoring in accordance

with Control Options 1–3. Based on the costs and emission reductions, we are proposing to revise the CMAS NESHAP for equipment in HAP service to reflect Control Option 1 pursuant to CAA section 112(d)(6). Control Options 2 and

3 have incremental costs and emission reductions (*i.e.*, incremental to Control Option 1) that are not cost effective and we are not proposing to revise the CMAS NESHAP to reflect either of these options.

TABLE 8—NATIONWIDE EMISSIONS REDUCTIONS AND COST IMPACTS OF CONTROL OPTIONS 1–3 FOR REQUIRING EPA METHOD 21 MONITORING FOR EQUIPMENT LEAKS AT CMAS FACILITIES

Control option	Total capital investment (\$)	Total annualized costs w/o recovery credits (\$/yr)	Total annualized costs with recovery credits (\$/yr)	VOC emission reductions (tpy)	HAP emission reductions (tpy)	HAP cost effectiveness w/o recovery credits (\$/ton)	HAP cost effectiveness with recovery credits (\$/ton)	HAP incremental cost effectiveness with recovery credits (from option 1) (\$/ton)
1	2,499,600	2,220,500	862,000	1,510	151	14,700	5,700	
2	2,499,600	3,109,700	1,516,600	1,772	177	17,600	8,600	25,000
3	2,499,600	3,465,400	1,968,600	1,662	166	20,900	11,800	72,700

We are proposing Control Option 1 for equipment leaks at 40 CFR 63.11495(a)(6). To effectively incorporate Control Option 1 into the CMAS NESHAP, we specify at proposed 40 CFR 63.11495(a)(6) that owners and operators of new and existing affected sources with equipment in organic HAP service must conduct annual leak detection monitoring of all pumps in light liquid service, valves in gas/vapor service and in light liquid service, and connectors in gas/vapor service and in light liquid service by the method specified in 40 CFR 63.180(b)(1) through (3), with certain exceptions (*e.g.*, pumps, valves, and connectors that are unsafe to monitor may be exempt). We also specify at proposed 40 CFR 63.11495(a)(6) that a leak from any of these types of equipment is detected if the instrument reading equals or exceeds 10,000 ppmv and a first attempt at repair must be made no later than 5 calendar days after a leak is detected. Also, we are proposing that equipment must be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as allowed in the HON for delay of repair at 40 CFR 63.171. Additionally, we are proposing at 40 CFR 63.11495(a)(6) the HON LDAR requirements for compressors (*i.e.*, 40 CFR 63.164), sampling connection systems (*i.e.*, 40 CFR 63.166), open-ended valves or lines (*i.e.*, 40 CFR 63.167), equipment in heavy liquid service (*i.e.*, 40 CFR 63.169), and agitators in G/V or LL service (*i.e.*, 40 CFR 63.173). We note that we are also proposing the HON LDAR requirements for PRDs (*i.e.*, 40 CFR 63.165) which are discussed in section IV.B.2 of this preamble, and the HON fenceline monitoring requirements (*i.e.*, 40 CFR 63.184) which are discussed in sections

IV.A.7 and IV.C.7 of this preamble, respectively.

2. Heat Exchange Systems

Heat exchangers are devices or collections of devices used to transfer heat from process fluids to another process fluid (typically water) without intentional direct contact of the process fluid with the cooling fluid (*i.e.*, non-contact heat exchanger). There are two types of heat exchange systems: closed-loop recirculation systems and once-through systems. Closed-loop recirculation systems use a cooling tower to cool the heated water leaving the heat exchanger and then return the newly cooled water to the heat exchanger for reuse. Once-through systems typically use surface freshwater (*e.g.*, from a nearby river) as the influent cooling fluid to the heat exchangers, and the heated water leaving the system is then discharged from the facility. At times, the internal tubing material of a heat exchanger can corrode or crack, allowing some process fluids to mix or become entrained with the cooling water. Pollutants in the process fluids may subsequently be released from the cooling water into the atmosphere when the water is exposed to air (*e.g.*, in a cooling tower for closed-loop systems or trenches/ponds in a once-through system).

The CMAS NESHAP at 40 CFR 63.11502(a), by reference to the HON (40 CFR 63.101), defines a heat exchange system as “a device or collection of devices used to transfer heat from process fluids to water without intentional direct contact of the process fluid with the water (*i.e.*, non-contact heat exchanger) and to transport and/or cool the water in a closed-loop recirculation system (cooling tower system) or a once-through system (*e.g.*, river or pond water).” Pursuant to the

recent technology review for the HON (see 79 FR 25080, May 16, 2024), the definition also clarifies that: (1) For closed-loop recirculation systems, the heat exchange system consists of a cooling tower, all CMPU heat exchangers that are in organic HAP service serviced by that cooling tower, and all water lines to and from these process unit heat exchangers; (2) for once-through systems, the heat exchange system consists of all heat exchangers that are in organic HAP service, servicing an individual CMPU and all water lines to and from these heat exchangers; (3) sample coolers or pump seal coolers are not considered heat exchangers and are not part of the heat exchange system; and (4) intentional direct contact with process fluids results in the formation of a wastewater.

The current CMAS NESHAP requirements for heat exchange systems at 40 CFR 63.11499, by reference to the HON (40 CFR 63.104), includes an LDAR program for owners or operators of certain heat exchange systems (*i.e.*, those not meeting one or more of the conditions in 40 CFR 63.104(a)) with a cooling water flow rate equal to or greater than 8,000 gpm. The LDAR program specifies that owners or operators must monitor heat exchange systems for leaks of process fluids into cooling water and take actions to repair detected leaks within 45 days; and owners or operators may delay the repair of leaks if they meet the applicable criteria in 40 CFR 63.104. The CMAS NESHAP allows owners or operators to use any method listed in 40 CFR part 136 to sample cooling water for leaks for the HAP listed in table 4 to 40 CFR part 63, subpart F (for recirculating systems) and table 9 to 40 CFR part 63, subpart G (for once-through systems) (and other

representative substances such as total organic compounds (TOC) or VOC that can indicate the presence of a leak can also be used). A leak in the heat exchange system is detected if the exit mean concentration of HAP (or other representative substance) in the cooling water is at least 1 ppmw or 10 percent greater than (using a one-sided statistical procedure at the 0.05 level of significance) the entrance mean concentration of HAP (or other representative substance) in the cooling water. Furthermore, the CMAS NESHAP allows owners or operators to monitor for leaks using a surrogate indicator (e.g., ion-specific electrode monitoring, pH, conductivity), provided that certain criteria in 40 CFR 63.104(c) are met. The CMAS NESHAP requires quarterly monitoring for heat exchange systems. The leak monitoring frequencies are the same whether water sampling and analysis or surrogate monitoring is used to identify leaks.

For heat exchange systems at CMAS CMPUs with a cooling water flow rate less than 8,000 gpm that are not meeting one or more of the conditions in 40 CFR 63.104(a), owners and operators must develop and operate in accordance with a heat exchange system inspection plan that describes the inspections to be performed at least once per quarter. Inspections must provide evidence of hydrocarbons in the cooling water and may include checks for visible floating hydrocarbon on the water, hydrocarbon odor, discolored water, and/or chemical addition rates. Owners and operators of these heat exchange systems must also perform repairs to eliminate the leak within 45 calendar days after indications of the leak are identified but may delay the repair if a reason is documented in the next semiannual compliance report. As an alternative to the requirements described in this paragraph, owners and operators of heat exchange systems at CMAS CMPUs with a cooling water flow rate less than 8,000 gpm can choose to comply with the LDAR monitoring options specified for heat exchange systems with a cooling water flow rate equal to or greater than 8,000 gpm.

As part of our technology review, we reviewed the criteria in 40 CFR 63.11495(b) and 40 CFR 63.11499(a) (i.e., the reference to the exemptions listed in the HON at 40 CFR 63.104(a)), to see if these exemptions were still reasonable to maintain. We identified two criteria in 40 CFR 63.104 dealing with once-through heat exchange systems meeting certain NPDES permit conditions (i.e., 40 CFR 63.104(a)(3) and (4)) that warranted further assessment. Once-through heat exchange systems

typically have systems open to the air (e.g., open sewer lines, trenches, and ponds) that are used to transport used cooling water to a discharge point (e.g., an outfall) of a facility. This cooling water can also be mixed with other sources of water (e.g., cooling water used in once-through heat exchange systems in non-CMAS processes, stormwater, treated wastewater, etc.) in sewers, trenches, and ponds prior to discharge from the plant. If this point of discharge from the plant is into a “water of the United States,” the facility is required to have a NPDES permit and to meet certain pollutant discharge limits. In reviewing the requirements of 40 CFR 63.104(a)(3), we find that there is a clear disconnect between having a NPDES permit that meets certain allowable discharge limits (i.e., 1 ppmw or less above influent concentration, or 10 percent or less above influent concentration, whichever is greater) at the discharge point of a facility (e.g., outfall) versus being able to adequately identify a leak from a once-through heat exchange system given that these systems are open to the atmosphere prior to this discharge point and, therefore, any volatile HAP leaking from a once-through heat exchange system would likely be emitted to the atmosphere prior to the NPDES outfall. Similarly, while the requirements of 40 CFR 63.104(a)(4) allow facilities with once-through heat exchange systems that have certain requirements (i.e., the requirements of 40 CFR 63.104(a)(3) and (4)) incorporated into their NPDES permit to not comply with the requirements of 40 CFR 63.104(b) and (c), we find this exemption to be problematic. Specifically, the NPDES requirements at 40 CFR 63.104(a)(4) lack the specificity of where a sample must be taken to adequately find and quantify a leak from a once-through heat exchange system (e.g., just prior to the outfall from the plant versus from the exit of the once-through heat exchange system prior to being open to atmosphere), what concentration and/or mass emissions rate constitutes a leak that must be fixed, how quickly a leak must be fixed, what pollutants must be adequately accounted for, and what test method(s)/surrogates facilities are allowed. As such, we find 40 CFR 63.104(a)(4) to be inadequate in terms of being able to detect and repair leaks that are at least as equivalent to those that would be identified if once-through heat exchange systems were complying with 40 CFR 63.104(b) or (c) instead.

Therefore, for purposes of demonstrating continuous compliance with the underlying GACT standard, we

are proposing at 40 CFR 63.11495(b) and 40 CFR 63.11499(d) and (e) to remove the exemptions for once-through heat exchange systems meeting certain NPDES permit conditions at 40 CFR 63.104(a)(3) and (4) and to instead require facilities to monitor the cooling water for the presence of leaks.

Our technology review also identified one development in LDAR practices and processes for heat exchange systems: the use of the Modified El Paso Method³⁷ to monitor for leaks. The EPA identified the Modified El Paso Method, which is included in the HON, MON, EMACT standards, the Petroleum Refinery Sector rule, and in our review of the RACT/BACT/LAER clearinghouse database. The Texas Commission on Environmental Quality (TCEQ) also requires the method for facilities complying with TCEQ’s highly reactive volatile organic compound (HRVOC) rule (i.e., 30 Texas Administrative Code Chapter 115, Subchapter H, Division 3). The Modified El Paso Method measures a larger number of compounds than the current methods required in the CMAS NESHAP and is more effective in identifying leaks. For LDAR programs applied to heat exchange systems, the compliance monitoring option, leak definition, and frequency of monitoring for leaks are all important considerations affecting emission reductions by identifying when there is a leak and when to take corrective actions to repair the leak. Therefore, we evaluated the Modified El Paso Method for use at CMAS facilities as described below, including an assessment of appropriate leak definitions and monitoring frequencies.

To identify an appropriate Modified El Paso Method leak definition for facilities subject to the CMAS NESHAP, we identified five rules (i.e., TCEQ HRVOC rule, the HON, the MON, the EMACT standards, and the Petroleum Refinery Sector rule) all of which incorporate this monitoring method and have leak definitions corresponding to the use of this methodology. We also reviewed data submitted in response to a CAA section 114 request for the Ethylene Production RTR where facilities performed sampling using the Modified El Paso Method.

The TCEQ HRVOC rule, the HON, the MON, EMACT standards, and the

³⁷ The Modified El Paso Method uses a dynamic or flow-through system for air stripping a sample of the water and analyzing the resultant off-gases for VOC using an FID analyzer. The method is described in detail in appendix P of the TCEQ’s Sampling Procedures Manual: *The Air Stripping Method (Modified El Paso Method) for Determination of Volatile Organic Compound (VOC) Emissions from Water Sources*. Appendix P is included in the docket for this rulemaking.

Petroleum Refinery Sector rule have leak definitions of total strippable hydrocarbon concentration (as methane) in the stripping gas ranging from 3.1 ppmv to 6.2 ppmv. In addition, sources subject to the HON, the MON, EACT standards, or the Petroleum Refinery Sector rule must repair a leak no later than 45 days after first identifying the leak, and also may not delay the repair of leaks for more than 30 days where, during subsequent monitoring, owners or operators find a total strippable hydrocarbon concentration (as methane) in the stripping gas of 62 ppmv or higher. In reviewing the Ethylene Production RTR CAA section 114 data, we identified a clear delineation in the hydrocarbon mass emissions data at 6.1 ppmv of total strippable hydrocarbon (as methane) in the stripping gas. Taking into account the range of actionable leak definitions in use by other rules that require use of the Modified El Paso Method currently (*i.e.*, 3.1 ppmv to 6.2 ppmv of total strippable hydrocarbon (as methane) in the stripping gas), and the magnitude of emissions for leaks as a result of total strippable hydrocarbon (as methane) in the stripping gas above 6.1 ppmv, we chose to evaluate a leak definition at the upper end of identified actionable leak definitions in our analysis. Thus, we evaluated the Modified El Paso Method leak definition of 6.2 ppmv of total strippable hydrocarbon concentration (as methane) in the stripping gas for both new and existing heat exchange systems, along with the requirement to repair a leak no later than 45 days after first identifying the leak, and not allowing delay of repair of leaks for more than 30 days where, during subsequent monitoring, a total strippable hydrocarbon concentration (as methane) in the stripping gas of 62 ppmv or higher is found.

We also considered more stringent monitoring frequencies. Both the

Petroleum Refinery Sector rule, which includes monthly monitoring for existing sources under certain circumstances, and the TCEQ HRVOC rule, which includes continuous monitoring provisions for existing and new sources, have more stringent monitoring frequencies.

Based on this technology review, we identified the following two Control Options as developments in practices for heat exchanger systems at CMAS facilities:

- Control Option 1 (for heat exchange systems with a cooling water flow rate equal to or greater than 8,000 gpm): quarterly monitoring with the Modified El Paso Method, using a leak action level defined as a total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 ppmv (with the requirement to repair a leak no later than 45 days after first identifying the leak, and allow delay of repair up to 120 days except no more than 30 days where a total strippable hydrocarbon concentration (as methane) in the stripping gas of 62 ppmv or higher is found). This option would also require re-monitoring at the monitoring location where the leak was identified to ensure that any leaks found are fixed.

- Control Option 2: same as Control Option 1, except monthly monitoring with the Modified El Paso Method instead of quarterly monitoring.

We then estimated the impacts of these Control Options. Using information from the original CMAS rulemaking,³⁸ we estimated 51 of 247 CMAS facilities would be affected by Control Options 1 and 2; and we assumed these facilities already conduct water sampling. For simplicity, we excluded 4 other CMAS facilities from our analysis that may have a heat exchange system in EtO service; and instead, we included them in our GACT analysis discussed in section IV.A.2 of this preamble. As part of our analysis,

we also assumed all facilities monitoring quarterly for two or less heat exchange systems would elect to contract out the Modified El Paso monitoring (instead of purchasing a stripping column and FID analyzer and performing the monitoring in-house); however, facilities monitoring monthly would elect to purchase a stripping column and FID analyzer and perform in-house El Paso monitoring due to logistics. In addition, we assumed repairs could be performed by plugging a specific heat exchanger tube, and if a heat exchanger is leaking to the extent that it needs to be replaced, then it is effectively at the end of its useful life. Therefore, we determined that the cost of replacing a heat exchanger is an operational cost that would be incurred by the facility because of routine maintenance and equipment replacement, and it is not attributable to the Control Options.

Table 9 of this preamble presents the nationwide impacts for requiring owners and operators to use the Modified El Paso Method and repair leaks of total strippable hydrocarbon concentration (as methane) in accordance to Control Options 1 and 2. See the document titled *Clean Air Act Section 112(d)(5) GACT Standard Analysis for Heat Exchange Systems that Emit Ethylene Oxide and Section 112(d)(6) Technology Review for Heat Exchange Systems Associated with Chemical Manufacturing Process Units at Area Sources Subject to the CMAS NESHAP*, which is available in the docket for this rulemaking, for details on the assumptions and methodologies used in this analysis. Based on the costs and emission reductions for the identified Control Options, we are proposing to revise the CMAS NESHAP for heat exchange systems to reflect Control Option 1 pursuant to CAA section 112(d)(6).

TABLE 9—NATIONWIDE EMISSIONS REDUCTIONS AND COST IMPACTS OF CONTROL OPTIONS 1 AND 2 FOR REQUIRING THE MODIFIED EL PASO METHOD FOR HEAT EXCHANGE SYSTEMS AT CMAS FACILITIES

Control option	Total capital investment (\$)	Total annualized costs w/o recovery credits (\$/yr)	VOC emission reductions (tpy)	HAP emission reductions (tpy)	HAP cost effectiveness w/o recovery credits (\$/ton)	Total annualized costs with recovery credits (\$/yr)	HAP cost effectiveness with recovery credits (\$/ton)
1	0	57,100	44.6	4.46	12,800	16,900	3,800
2	1,046,400	214,200	46.1	4.61	46,500	172,700	37,500

³⁸EPA, 2008. *Control Options and Impacts for Cooling Tower Control Measures Chemical Manufacturing Area Source Standards*. September 5, 2008. Docket ID No. EPA-HQ-OAR-2008-0334-

0003; and EPA, 2009. *Update to the Control Options and Impacts for Heat Exchange System Control Measures for Promulgation Chemical Manufacturing Area Source Standards*. May 5,

2009. Docket ID No. EPA-HQ-OAR-2008-0334-0081.

We are proposing Control Option 1 at 40 CFR 63.11499(d) and item 1.c of table 8 to the CMAS NESHAP, by reference to the HON (40 CFR 63.104(a) and (f) through (l)), to specify quarterly monitoring for existing and new heat exchange systems (after an initial 6 months of monthly monitoring) using the Modified El Paso Method and a leak definition of 6.2 ppmv of total strippable hydrocarbon concentration (as methane) in the stripping gas. Owners and operators of new and existing affected sources would be required to repair the leak to reduce the concentration or mass emissions rate to below the leak action level as soon as practicable, but no later than 45 days after identifying the leak. We are also proposing at 40 CFR 63.11499(d) and item 1.c of table 8 to the CMAS NESHAP, by reference to the HON, a delay of repair action level of total strippable hydrocarbon concentration (as methane) in the stripping gas of 62 ppmv, that if exceeded during leak monitoring, would require immediate repair (*i.e.*, the leak found cannot be put on delay of repair and would be required to be repaired within 30 days of the monitoring event). This would apply to both monitoring heat exchange systems and individual heat exchangers by replacing the use of any 40 CFR part 136 water sampling method with the Modified El Paso Method and removing the option that allows for use of a surrogate indicator of leaks. We are also proposing at 40 CFR 63.11499(d) and item 1.c of table 8 to the CMAS NESHAP, by reference to the HON, that repair include re-monitoring at the monitoring location where a leak is identified to ensure that any leaks found are fixed. We are proposing that none of these proposed requirements would apply to heat exchange systems that have a maximum cooling water flow rate of less than 8,000 gallons per minute because owners and operators of smaller heat exchange systems would be disproportionately affected and forced to repair leaks with a much lower potential HAP emissions rate than owners and operators of heat exchange systems with larger recirculation rate systems.

3. Process Vents

A process vent is a gas stream that is discharged during the operation of a particular unit operation (*e.g.*, separation processes, purification processes, mixing processes, reaction processes). The gas stream(s) may be routed to other unit operations for additional processing (*e.g.*, a gas stream from a reactor that is routed to a distillation column for separation of products), sent to one or more recovery

devices, sent to a process vent header collection system (*e.g.*, blowdown system) and APCD (*e.g.*, flare, thermal oxidizer, carbon adsorber), and/or vented to the atmosphere. Process vents may be generated from continuous and/or batch operations, as well as from other intermittent types of operations (*e.g.*, maintenance operations). If process vents are required to be controlled prior to discharge to the atmosphere to meet an applicable emissions standard, then they are typically collected and routed to an APCD through a closed vent system.

The CMAS NESHAP defines batch process vents as a vent from a CMPU or vents from multiple CMPUs within a process that are manifolded together into a common header, through which a HAP-containing gas stream is, or has the potential to be, released to the atmosphere. Batch process vents include vents from batch operations and vents with intermittent flow from continuous operations that are not combined with any stream that originated as a continuous gas stream from the same continuous process. Batch process vents at existing affected sources are subject to controls if the total organic HAP emissions from all batch process vents combined are greater than or equal to 10,000 lb/yr. Owners and operators have three options for controlling batch process vents meeting the criteria: (1) reduce collective uncontrolled total organic HAP emissions from the sum of all batch process vents by greater than or equal to 85 percent by weight or to less than or equal to 20 ppmv by routing emissions through a closed vent system to any combination of control devices (except a flare); (2) route emissions from batch process vents containing greater than or equal to 85 percent of the uncontrolled total organic HAP through a closed vent system to a flare; or (3) comply with the alternative standard specified in 40 CFR 63.2505, which requires owners and operators to achieve specified outlet concentrations for TOC and total hydrogen halides and halogens on a continuous basis (both emission limits are 20 ppmv for combustion devices, and 50 ppmv for non-combustion devices). The requirements for batch process vents at new affected sources are the same, except instead of 85 percent control, the CMAS NESHAP requires 90 percent control.

The CMAS NESHAP currently defines “continuous process vents” using the definition of “process vent” in the HON (40 CFR part 63, subpart F), but includes a few caveats that address any references to the HON. In other words,

a “continuous process vent” is the point of discharge to the atmosphere (or the point of entry into a control device, if any) of a gas stream if the gas stream has the characteristics specified in 40 CFR 63.107(b) through (h), or meets the criteria specified in 40 CFR 63.107(i). Additionally, any references to “air oxidation reactors, distillation units, or reactors” in the HON process vent definition, instead mean “any continuous operation” within the context of the “continuous process vent” definition in the CMAS NESHAP. The definition of “continuous process vent” in the CMAS NESHAP also requires a separate determination for the emissions from each CMPU, even if emission streams from two or more CMPUs are combined prior to discharge to the atmosphere or to a control device. Continuous process vents at both existing and new affected sources with a total resource effectiveness (TRE) index value³⁹ less than or equal to 1.0 are subject to controls and have three options to meet this requirement. Owners and operators can either: (1) reduce emissions of total organic HAP by greater than or equal to 95 percent by weight (85 percent by weight for periods of startup or shutdown) or to less than or equal to 20 ppmv by routing emissions through a closed vent system to any combination of control devices (except a flare); (2) reduce emissions of total organic HAP by routing all emissions through a closed vent system to a flare; or (3) comply with the alternative standard specified in 40 CFR 63.2505. Continuous process vents at both existing and new affected sources with a TRE index value greater than 1.0 but less than or equal to 4.0 may comply with the operating, monitoring, recordkeeping, and reporting requirements of 40 CFR 63.982(e) if a recovery device is used to maintain a

³⁹ The TRE index value is a measure of the supplemental total resource requirement per unit VOC (or HAP) reduction. It takes into account all the resources which are expected to be used in VOC (or HAP) control by thermal oxidation and provides a dimensionless measure of resource burden based on cost effectiveness. Resources include supplemental natural gas, labor, and electricity. Additionally, if the off-gas contains halogenated compounds, resources will also include caustic and scrubbing and quench makeup water. For the CMAS NESHAP, the TRE index value is derived from the cost effectiveness associated with HAP control by a flare or thermal oxidation, and is a function of vent stream flowrate, vent stream net heating value, hourly emissions, and a set of coefficients. The TRE index value was first introduced in an EPA document titled: *Guideline Series for Control of Volatile Organic Compound (VOC) Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry (SOCMI)*, which is available in the docket for this action (Docket ID No. EPA-HQ-OAR-2024-0303).

TRE greater than 1.0 but less than or equal to 4.0.

Additionally, both batch and continuous process vents have different requirements under the CMAS NESHAP if the process vent stream is halogenated. Halogenated batch and continuous process vent streams at new or existing sources that are controlled through combustion must also use halogen scrubbers to: (1) reduce overall emissions of hydrogen halide and halogen HAP after the combustion device by greater than or equal to 95-percent, to less than or equal to 0.45 kilogram per hour (kg/hr), or to a concentration less than or equal to 20 ppmv; or (2) reduce the halogen atom mass emission rate before the combustion device to less than or equal to 0.45 kg/hr or to a concentration less than or equal to 20 ppmv.

The CMAS NESHAP also defines metal HAP process vents as the point of discharge to the atmosphere (or inlet to a control device, if any) of a metal HAP-containing gas stream from any CMPU at an affected source containing at least 50 ppmv metal HAP (see 40 CFR 63.11502(b)). The metal HAP concentration may be determined using any of the following: process knowledge, an engineering assessment, or test data. For purposes of the CMAS NESHAP, metal HAP are the compounds containing metals listed as HAP in section 112(b) of the CAA. Metal HAP process vents at both existing and new affected sources with total metal HAP emissions greater than or equal to 400 lb/yr are subject to controls. Owners and operators must reduce collective uncontrolled emissions of total metal HAP emissions by greater than or equal to 95 percent by weight by routing emissions from a sufficient number of the metal process vents through a closed vent system to any combination of control devices.

We are proposing to make a change to the definition of “metal HAP process vent” at 40 CFR 63.11502(b). In 2012, as part of a response to a petition for reconsideration, the EPA added the 50 ppmv threshold to the definition of “metal HAP process vent” at 40 CFR 63.11502(b).⁴⁰ This threshold was

included because two commenters argued it was necessary to better represent GACT, based on their sulfuric acid regeneration units already achieving over 95 percent reduction in metal HAP. However, the EPA did not conduct any analysis to justify this addition. We believe the threshold is inappropriate and has allowed process vents previously subject to control to freely emit metal HAP. We identified a facility through the emissions inventory (see section II.C of this preamble) that is currently subject to the CMAS NESHAP. This facility reported emitting 1.99 tpy of nickel compounds from process vents. Since the facility emits more than 400 lb/year of metal HAP, the provisions in table 4 of 40 CFR part 63, subpart VVVVVV should apply. However, if these standards were applied, it would suggest that the facility was emitting nearly 40 tpy of nickel compounds uncontrolled. This amount of nickel seems unrepresentative of the source. It is more likely that, due to the 50 ppmv threshold, the facility determined it was not required to control the metal HAP process vents. Additionally, we note that this facility was included in the original rulemaking’s facility list, so the impacts of installing controls have already been considered.

We are now proposing to remove the 50 ppmv threshold from the definition of “metal HAP process vent” at 40 CFR 63.11502(b). We believe this concentration-based threshold is unnecessary because the CMAS NESHAP already has a mass-based metal HAP threshold. Specifically, if the total uncontrolled metal HAP emissions from all metal HAP process vents from a CMPU are less than 400 lb/yr, then owners and operators are only subject to recordkeeping requirements, not the metal HAP process vent standards in table 4 of the CMAS NESHAP.

In addition to being a necessary revision made as part of CAA section 112(d)(6), the standards were originally promulgated as part of the Area Source Program under the Urban Air Toxics Strategy to ensure greater than 90 percent of emissions of the 30 urban

HAP were subject to regulation. In setting the 50 ppmv threshold, vents that were previously subject to regulation may have been improperly exempted from the standards that were established to address those emissions. By proposing to remove the 50 ppmv threshold and returning the definition to its originally promulgated state, the standards will once again apply to those metal HAP vents previously subject as part of the original rulemaking.

As part of our technology review, we also examined subsequent regulatory development efforts and found that the EPA recently evaluated emission reduction options for continuous process vents subject to the HON, including the removal of the TRE concept in its entirety from the NESHAP or revising the TRE index value threshold from 1.0 to 5.0. The EPA determined that removing the TRE concept in its entirety from the HON was cost effective and finalized this in that rule (see 89 FR 42932, May 16, 2024). It is reasonable to consider removing the TRE concept in its entirety from the CMAS NESHAP given that CMPU sources subject to the CMAS NESHAP are similar to CMPU sources that are subject to the HON; however, we do not have data representative of CMAS continuous process vents to evaluate this option. In other words, none of the continuous process vent data that the EPA used in the HON rulemaking are representative of an area source; and therefore, not representative of a CMAS facility. For further information, see the document titled *Clean Air Act Section 112(d)(5) GACT Standard Analysis for Process Vents and Storage Tanks that Emit Ethylene Oxide and Section 112(d)(6) Technology Review for Process Vents and Storage Tanks Associated with Chemical Manufacturing Process Units at Area Sources Subject to the CMAS NESHAP*, which is available in the docket for this rulemaking. We solicit comment and data on whether removing the TRE concept in its entirety is feasible for continuous process vents from CMAS CMPUs.

Except for the proposed change to the definition of “metal HAP process vent” and the TRE options we could not evaluate due to insufficient data on CMAS continuous process vents, we found no additional practices, processes, or control technologies beyond those already required by the CMAS NESHAP for process vents. Our review did not reveal any other developments in emissions reduction practices for CMAS process vents that are any more stringent than the GACT standards in the CMAS NESHAP.

⁴⁰ On January 30, 2012, the EPA proposed revisions to several provisions of the CMAS NESHAP (see 77 FR 4522). The proposed revisions were made, in part, in response to a petition for reconsideration received by the Administrator following the original promulgation of the October 29, 2009, final rule. In the proposed rule revisions, the EPA solicited comment on whether the definition of “metal HAP process vent” was applicable to all types of equipment from which metal HAP are emitted. The original rule defined a metal HAP process vent as “the point of discharge to the atmosphere (or inlet to a control device, if

any) of a metal HAP containing gas stream from any CMPU at an affected source,” regardless of the concentration of metal HAP in the stream. Based on two commenters’ requests, the EPA revised the definition of “metal HAP process vent” in the final rule revisions (77 FR 75740, December 21, 2012), to include only those streams which contain at least 50 ppmv metal HAP. The EPA also revised the final rule to state that process vents from CMPUs that only contain metal HAP in a liquid solution or other form that will not result in particulate emissions of metal HAP (e.g., metal HAP that is in ingot, paste, slurry or moist pellet form or other form) are not required to comply with the metal HAP process vent requirements.

Therefore, we are not proposing any other changes to the CMAS NESHAP for process vents pursuant to CAA section 112(d)(6).

4. Storage Tanks

Storage tanks are used to store liquid and gaseous feedstocks for use in a process, as well as to store liquid and gaseous products from a process. Most CMAS storage tanks are designed for operation at atmospheric or near atmospheric pressures; pressure vessels are used to store compressed gases and liquefied gases. Atmospheric storage tanks are typically cylindrical with a vertical orientation, and they are constructed with either a fixed roof or a floating roof. Some, generally small, atmospheric storage tanks are oriented horizontally. Pressure vessels are either spherical or horizontal cylinders. As discussed in section IV.B.1 of this preamble, we are proposing new GACT standards for pressure vessels.

The CMAS NESHAP requires owners and operators to control emissions from storage tanks with: (1) capacities greater than or equal to 40,000 gallons storing a liquid with a maximum true vapor pressure (MTVP) greater than or equal to 5.2 kPa but less than 76.6 kPa; (2) capacities greater than or equal to 20,000 gallons and less than 40,000 gallons storing a liquid with a MTVP greater than or equal to 27.6 kPa and less than 76.6 kPa; and (3) capacities greater than or equal to 20,000 gallons storing a liquid with a MTVP greater than or equal to 76.6 kPa. Owners and operators of storage tanks meeting any of these criteria are required to reduce total organic HAP emissions by greater than or equal to 95 percent by weight by operating and maintaining a closed vent system and control device (other than a flare), reduce total HAP emissions by operating and maintaining a closed vent system and a flare, vapor balance, or route emissions to a fuel gas system or process. Owners and operators of storage tanks meeting the first two sets of capacity and MTVP criterion can also comply with the requirements of 40 CFR part 63, subpart WW which requires owners and operators to operate and maintain an external floating roof (EFR) or internal floating roof (IFR) according to specific monitoring, recordkeeping, and reporting standards.

Additionally, storage tanks within the capacity and MTVP thresholds listed in the preceding paragraph have different requirements under the CMAS NESHAP if the storage tank emits a halogenated vent stream. Halogenated storage tank vent streams at new or existing sources that are controlled through a combustion device must also use a

halogen reduction device to: (1) reduce emissions of hydrogen halide and halogen HAP after the combustion device by greater than or equal to 95-percent, to less than or equal to 0.45 kg/hr, or to a concentration less than or equal to 20 ppmv; or (2) reduce the halogen atom mass emission rate before the combustion device to less than or equal to 0.45 kg/hr or to a concentration less than or equal to 20 ppmv.

We did not identify any practices, processes, or control technologies beyond those already required by the CMAS NESHAP for storage tanks. Our review did not reveal any developments in emissions reduction practices for CMAS storage tanks that are any more stringent than the GACT standards in the CMAS NESHAP. Therefore, we are not proposing any changes to the CMAS NESHAP for storage tanks pursuant to CAA section 112(d)(6). As part of our technology review, we examined subsequent regulatory development efforts and found that the EPA recently evaluated emission reduction options for storage vessels⁴¹ subject to the HON, including revising capacity and MTVP thresholds, requiring certain IFR controls pursuant to 40 CFR part 63, subpart WW, and requiring the conversion of EFRs to IFRs through use of geodesic domes. The EPA determined that revising capacity and MTVP thresholds and requiring certain IFR controls pursuant to 40 CFR part 63, subpart WW was cost effective for HON storage vessels and finalized this in the rule (see 89 FR 42932, May 16, 2024). It is reasonable to consider these Control Options for the CMAS NESHAP given that CMPU sources subject to the CMAS NESHAP are similar to CMPU sources that are subject to the HON; however, we do not have data representative of CMAS storage tanks to evaluate these options. In other words, none of the storage vessel data that the EPA used in the recent HON rulemaking are representative of an area source; and therefore, not representative of a CMAS facility. Even still, we note that the CMAS NESHAP already includes complying with 40 CFR part 63, subpart WW as an option. Additionally, the EPA found the option of converting EFRs to IFRs through the use of geodesic domes to not be cost effective for HON storage vessels; therefore, we anticipate this option would likewise not be cost effective for CMAS storage tanks. For further information, see the document titled *Clean Air Act Section 112(d)(5) GACT Standard Analysis for Process Vents and Storage Tanks that Emit*

⁴¹ The HON uses the term “storage vessel” in lieu of “storage tank” like the CMAS NESHAP.

Ethylene Oxide and Section 112(d)(6) Technology Review for Process Vents and Storage Tanks Associated with Chemical Manufacturing Process Units at Area Sources Subject to the CMAS NESHAP, which is available in the docket for this rulemaking.

5. Wastewater

HAP are emitted into the air from wastewater collection, storage, and treatment systems that are uncovered or open to the atmosphere through volatilization of the compound at the liquid surface. Emissions occur by diffusive or convective means, or both. Diffusion occurs when organic pollutant concentrations at the water surface are much higher than ambient concentrations. The organic pollutants volatilize, or diffuse into the air, to reach equilibrium between the aqueous and vapor phases. Convection occurs when air flows over the water surface, sweeping organic vapors from the water surface into the air. The rate of volatilization is related directly to the speed of the air flow over the water surface.

The CMAS NESHAP defines wastewater to mean water that is discarded from a CMPU or control device and that contains at least 5 ppmw of any HAP listed in table 9 to 40 CFR part 63, subpart G and has an annual average flow rate of 0.02 liters per minute (lpm). Wastewater means both process wastewater⁴² and maintenance wastewater⁴³ that is discarded from a CMPU or control device.

For each wastewater stream containing partially soluble HAP at a concentration greater than or equal to

⁴² Process wastewater means wastewater which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. Examples are product tank drawdown or feed tank drawdown; water formed during a chemical reaction or used as a reactant; water used to wash impurities from organic products or reactants; water used to cool or quench organic vapor streams through direct contact; and condensed steam from jet ejector systems pulling vacuum on vessels containing organics.

⁴³ Maintenance wastewater means wastewater generated by the draining of process fluid from components in the CMPU into an individual drain system in preparation for or during maintenance activities. Maintenance wastewater can be generated during planned and unplanned shutdowns and during periods not associated with a shutdown. Examples of activities that can generate maintenance wastewater include descaling of heat exchanger tubing bundles, cleaning of distillation column traps, draining of pumps into an individual drain system, and draining of portions of the CMPU for repair. Wastewater from routine cleaning operations occurring as part of batch operations is not considered maintenance wastewater.

10,000 ppmw that also has separate organic and water phases, the CMAS NESHAP requires owners and operators to use a decanter, steam stripper, thin film evaporator, or distillation unit to separate the water phase from the organic phase(s); and the organic layer must be recycled to a process, used as a fuel, or disposed of as hazardous waste either onsite or offsite. The CMAS NESHAP also provides an alternative compliance option that allows owners and operators to hard-pipe the entire stream to onsite treatment as a hazardous waste or to a point of transfer to onsite or offsite hazardous waste treatment. For single phase wastewater streams and the aqueous phase for two phase streams, the CMAS NESHAP requires the wastewater streams be sent to a wastewater treatment process.

As part of our technology review, we found that many of the NESHAP for different chemical manufacturing source categories (e.g., the HON, MON, and PEPO NESHAP) require treatment of wastewater streams that meet certain flow and HAP concentration levels. These standards require either the use of a treatment unit that meets specified design criteria or that achieves specified destruction efficiencies for the HAP in the wastewater. They also typically require the use of covers and other techniques to suppress emissions from the wastewater conveyance system and treatment units. During the original CMAS rulemaking (74 FR 56008, October 29, 2009), the EPA evaluated treating CMAS wastewater streams using controls that meet the HON requirements; however, the EPA found the option to not be cost effective.⁴⁴ We find no reason for the HON requirements to be any more cost effective today compared to the cost effectiveness that was determined in 2008. Therefore, we are not proposing any changes to the CMAS NESHAP for wastewater pursuant to CAA section 112(d)(6).

6. Flares

The CMAS NESHAP allows for the use of a flare to control emissions (except halogenated emissions) from batch process vents, continuous process vents, and/or storage tanks. The CMAS NESHAP points to the flare requirements specified in 40 CFR part 63, subpart SS which requires owners and operators to conduct a flare compliance assessment to demonstrate

initial compliance, and continuously monitor applicable operating parameters in accordance with 40 CFR 63.11 to demonstrate continuous compliance. Although GACT for batch process vents is emission reductions of 85 percent by weight (for existing) and 90 percent by weight (for new); for continuous process vents is 95 percent by weight (except 85 percent by weight for startup and shutdown); and for storage tanks is 95 percent by weight, the available data at the time the CMAS NESHAP was promulgated suggested that flares meeting these design and operating requirements of 40 CFR 63.11 would achieve a minimum destruction efficiency of no less than 98 percent by weight emissions control. However, more recent studies on flare performance⁴⁵ indicate that the requirements in 40 CFR 63.11 are inadequate to ensure 98 percent by weight control. These studies compelled the EPA to finalize a suite of operational and monitoring requirements for refinery flares on December 1, 2015 (80 FR 75178–75354; see 40 CFR 63.670 and 40 CFR 63.671) including requirements addressing: (1) the presence of a pilot flame; (2) visible emissions; (3) flare tip velocity; (4) net heating value of flare combustion zone gas; and (5) net heating value dilution parameter (if the flare actively receives perimeter assist air). The EPA determined that this suite of operational and monitoring requirements for flares is necessary to ensure the level of destruction efficiency needed to conform with the petroleum refineries NESHAP. Importantly, given that the flare dataset that formed the underlying basis of the new standards for refinery flares also included flares at olefin and other petrochemical plants, the EPA also revised the suite of operational and monitoring requirements for flares in other chemical manufacturing source categories, including the EMACT standards (85 FR 40386, July 6, 2020; see 40 CFR 63.1103(e)(4)), the Organic Liquids Distribution (OLD) NESHAP (85 FR 40740, July 7, 2020; see 40 CFR 63.2380(a)), the MON (85 FR 49084, August 20, 2020; see 40 CFR 63.2450(e)(5)), and the HON and P&R I NESHAP (89 FR 42932, May 16, 2024; see 40 CFR 63.108 and 63.508, respectively). The EPA did this for the same reason as was done for the petroleum refineries NESHAP, to ensure

the level of destruction efficiency needed to conform with each NESHAP.

We acknowledge that none of the performance standards in the CMAS NESHAP are as stringent as 98 percent by weight emissions control; however, under CAA section 112(d)(6), we still evaluated the option (i.e., Control Option 1) to require all flares at CMAS facilities to comply with the same suite of flare operational and monitoring requirements included in the petroleum refineries NESHAP, EMACT standards, OLD NESHAP, MON, HON, and P&R I and Group II Polymers and Resins NESHAP. The monitoring equipment needed to comply with the suite of flare operational and monitoring requirements (i.e., hydrogen analyzers, calorimeters, and flow monitors) were not identified or considered during development of the original GACT standards; therefore, we consider this a development under this technology review. Additionally, we believe the suite of flare operational and monitoring requirements could be relevant to the CMAS NESHAP due to the similarities between processes at chemical manufacturing plants, regardless of size.

Using information from the CMAS emissions inventory data (see section II.C.2 of this preamble), we estimated there are 22 flares at 20 CMAS facilities that would be affected by Control Option 1 (we did not identify any other flares in the CMAS emissions inventory). To avoid double counting, we excluded two of the 22 flares from our analysis that emit EtO; and instead, we included them in our GACT analysis discussed in section IV.A.6 of this preamble. We estimated costs for each flare for a given facility, considering current monitoring systems already installed on each individual flare. Given that the same type of equipment is used for flares in the CMAS categories and for the petroleum refinery sector, we estimated costs for any additional monitoring systems needed based on installed costs received from petroleum refineries and, if installed costs were unavailable, we estimated costs based on vendor-purchased equipment. The baseline emission estimate and the emission reductions achieved by Control Option 1 were estimated based on the CMAS emissions inventory data (see section II.C.2 of this preamble) and current vent gas and steam flow data submitted by industry representatives.⁴⁶

⁴⁴ See 73 FR 58352, October 6, 2008. “We are proposing that [wastewater] controls needed to meet more stringent emission limits like those required by the HON do not represent GACT for either subcategory because the costs are unreasonable.”

⁴⁵ For a list of studies, refer to the technical report titled *Parameters for Properly Designed and Operated Flares*, in Docket ID Item No. EPA–HQ–OAR–2010–0682–0191. This document can also be found at <https://www.epa.gov/stationary-sources-air-pollution/review-peer-review-parameters-properly-designed-and-operated-flares>.

⁴⁶ To estimate the baseline control efficiency of VOC and HAP anticipated by applying Control Option 1, we reviewed data submitted to the EPA in 2011 by the API, the ACC, and the NPRA, now known as the AFPM. This dataset includes detailed hourly operational information for 38 steam-assisted flares, characterizing different operating

The results of the impact estimates for Control Options 1 are summarized in table 10 of this preamble. See the document titled *Clean Air Act Section 112(d)(5) GACT Standard Analysis for Flares that Emit Ethylene Oxide and Section 112(d)(6) Technology Review for*

Flares Associated with Chemical Manufacturing Process Units at Area Sources Subject to the CMAS NESHAP, which is available in the docket for this rulemaking, for details on the assumptions and methodologies used in this analysis. We determined that

Control Option 1 is not cost effective and are not proposing to revise the CMAS NESHAP to reflect the requirements of this option pursuant to CAA section 112(d)(6).

TABLE 10—NATIONWIDE EMISSIONS REDUCTIONS AND COST IMPACTS OF CONTROL OPTION 1 FOR REQUIRING THE SUITE OF OPERATIONAL AND MONITORING REQUIREMENTS FOR FLARES AT CMAS FACILITIES

Control option	Total capital investment (\$)	Total annualized costs (\$/yr)	VOC emission reductions (tpy)	HAP emission reductions (tpy)	HAP cost effectiveness (\$/ton)
1	26,000,000	6,160,000	1,114	89.4	68,200

7. Fenceline Monitoring

Fenceline monitoring refers to the placement of monitors along the perimeter of a facility to measure pollutant concentrations. Coupled with requirements for root cause analysis and corrective action upon triggering an actionable level, this management practice is a development in practices considered under CAA section 112(d)(6) for the purposes of managing fugitive emissions. The measurement of pollutant concentrations and comparison to concentrations estimated from mass emissions via dispersion modeling is used to verify emission estimates from a facility's emissions inventory. If concentrations at the fenceline are greater than expected, potential causes may include underreported or unknown emissions, leaking equipment, or other issues, usually related to ground-level fugitive emissions. Fenceline monitoring also provides information on the location of potential emissions sources because it provides complete spatial coverage of a facility. Further, when used with a mitigation strategy, such as root cause analysis and corrective action upon exceedance of an action level, fenceline monitoring can be effective in reducing emissions and reducing the uncertainty associated with emissions estimation and characterization. Finally, public reporting of fenceline monitoring data provides public transparency and greater visibility, leading to more focus and effort in reducing emissions.

The EPA has successfully applied fenceline monitoring to the petroleum refineries source category as a technique to manage and reduce benzene

emissions from fugitive emissions sources such as storage vessels, wastewater treatment systems, and leaking equipment. In 2015, the EPA promulgated the RTR for the petroleum refineries source category and required that refineries install and operate fenceline monitors following EPA Method 325 A/B to monitor benzene emissions. Additionally, the 2015 rule required that refineries conduct a root cause analysis to identify sources of high fenceline monitoring readings (*i.e.*, above an annual action level) and then develop a corrective action plan to address the sources and reduce emissions to a level that will bring fenceline monitoring concentrations below the action level.⁴⁷ To date, the EPA has received fenceline monitoring data from petroleum refineries for more than 5 years.⁴⁸ These data show that petroleum refinery fenceline concentrations have dropped by an average of 30 percent since the inception of the monitoring program requirements and illustrate that fenceline monitoring is an effective tool in reducing emissions and preserving emission reductions on an ongoing basis for these sources.

Additionally, in 2024, the EPA promulgated amendments to the HON (40 CFR part 63, subpart H) and the P&R I NESHAP (40 CFR part 63, subpart U) that included work practice standards requiring owners and operators to conduct fenceline monitoring for any of six specific HAP (*i.e.*, benzene; 1,3-butadiene; ethylene dichloride; vinyl chloride; EtO; and chloroprene) if their affected source uses, produces, stores, or emits any of them, and conduct root cause analysis and corrective action

upon exceeding the annual average concentration action level established for each HAP. The final HON and P&R I NESHAP amendments require owners and operators to conduct passive diffusive tube fenceline monitoring for benzene, 1,3-butadiene, chloroprene, and ethylene dichloride in accordance with EPA Methods 325A/B of 40 CFR part 63, appendix A, and to use canister sampling in accordance with EPA Method 327 of 40 CFR part 63, appendix A, for EtO and vinyl chloride.⁴⁹

Given the similarities between CMAS CMPUs and sources subject to the HON or P&R I NESHAP, we evaluated the application of fenceline monitoring as a development in practices, processes, and control technologies pursuant to CAA section 112(d)(6). Non-EtO pollutants for which there are established EPA Methods to measure fenceline concentrations and which are one of the fifteen urban HAP regulated as part of the CMAS NESHAP include 1,3-butadiene, 1,3-dichloropropene, ethylene dichloride, and chloroform. We reviewed the 2017 NEI to determine whether CMAS facilities reported emissions of 1,3-butadiene, chloroform, 1,3-dichloropropene, and ethylene dichloride. Based on this review, we determined that at most CMAS facilities that emit 1,3-butadiene, chloroform, 1,3-dichloropropene, and ethylene dichloride, small amounts of these HAP are emitted from fugitive sources. Most of the reported emissions are attributed to non-source category emission sources. Based on this information, the EPA is not proposing to implement a fenceline monitoring program for non-EtO pollutants under CAA section 112(d)(6). However, we are proposing a

conditions by waste gas flow rate, steam flow rate, waste gas composition, and duration of that operating condition.

⁴⁷ 40 CFR 63.658(f)–(h).

⁴⁸ Quarterly fenceline monitoring reports are available through the EPA's WebFIRE database at

<https://cfpub.epa.gov/webfire/>. The EPA has also developed a dashboard to improve public access to this data. The dashboard is available at https://awsedap.epa.gov/public/extensions/Fenceline_Monitoring/Fenceline_Monitoring.html?sheet=MonitoringDashboard.

⁴⁹ In the same action (see 89 FR 42932, May 16, 2024), the EPA also finalized EPA Method 327 of 40 CFR part 63, appendix A, as a canister sampling and analysis method that provides procedures for measuring trace levels of targeted VOC (including organic HAP) in ambient air.

fenceline monitoring program to limit fugitive EtO emissions under CAA section 112(d)(5), as discussed in section IV.A.7 of this preamble and in further detail in the document titled *Clean Air Act Section 112(d)(5) GACT Standard Analysis and CAA Section 112(d)(6) Technology Review for Fenceline Monitoring for Chemical Manufacturing Process Units Associated with the Chemical Manufacturing Area Sources NESHAP* available in the docket for this action.

D. What other actions are we proposing, and what is the rationale for those actions?

In addition to the proposed GACT standards pursuant to CAA 112(d)(5) (see sections IV.A and IV.B of this preamble) and our proposed actions on the CAA 112(d)(6) review (see section IV.C of this preamble), we are also proposing other changes to the CMAS NESHAP, including: revisions to the recordkeeping and reporting requirements to require the use of electronic reporting of certain reports; performance testing once every 5 years for batch and continuous process vents to demonstrate compliance with emission limits; and corrections to section reference errors and other minor editorial revisions. Our rationale and proposed changes related to these issues are discussed below.

1. Electronic Reporting

The EPA is proposing that owners and operators subject to the CMAS NESHAP submit electronic copies of required notification of compliance status reports, performance test reports, flare management plans, and periodic reports (including fenceline monitoring reports) through the EPA's Central Data Exchange using the Compliance and Emissions Data Reporting Interface (CEDRI) (see proposed edits to 40 CFR 63.11496(f)(3)(ii) for notification of compliance status reports associated with the HAP metals emissions limit, proposed 40 CFR 63.11501(b) for notification of compliance status reports, 40 CFR 63.11496(g)(1)(iv) for performance test reports, 40 CFR 63.11501(d) for semiannual compliance reports, and references to flare requirements which include flare management plans in proposed entries 4.a to tables 2 and 3 to subpart VVVVVV of part 63 and proposed entry 5.a to table 5 to subpart VVVVVV of part 63). A description of the electronic data submission process is provided in the document titled *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for*

Hazardous Air Pollutants (NESHAP) Rules, available in the docket for this action.

The proposed rule requires that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website⁵⁰ at the time of the test be submitted in the format generated through the use of the ERT or an electronic file consistent with the xml schema on the ERT website, and other performance test results be submitted in portable document format (PDF) using the attachment module of the ERT. Flare management plans would be uploaded as a PDF file.

For semiannual compliance reports (including fenceline monitoring reports), the proposed rules require that owners and operators use an appropriate spreadsheet template to submit information to CEDRI. A draft version of the proposed templates for these reports is included in the docket for this action.⁵¹ The EPA specifically requests comment on the content, layout, and overall design of the templates. We are proposing owners and operators begin using the templates for semiannual compliance reports other than fenceline reports within 3 years of the publication date of the final rule in the **Federal Register**, or after the reporting template for the subpart has been available on the CEDRI website for 1 year, whichever date is later. Owners and operators would begin using the templates for fenceline monitoring reports starting when the first fenceline monitoring report is due.

The electronic submittal of the reports addressed in these proposed rulemakings will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, Tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA.⁵² Electronic

⁵⁰ <https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>.

⁵¹ See part 63, subpart VVVVVV, 63.11501(d) semiannual compliance.xlsx available in the docket for this action.

⁵² We are proposing at 40 CFR 63.11503(b)(5) that the approval to an alternative to any electronic reporting to the EPA proposed for the CMAS NESHAP cannot be delegated to state, local, or Tribal agencies.

reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan⁵³ to implement Executive Order 13563 and is in keeping with the EPA's Agency-wide policy⁵⁴ developed in response to the White House's Digital Government Strategy.⁵⁵ For more information on the benefits of electronic reporting, see the document titled *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules*, referenced earlier in this section.

2. Affirmative Defense

As part of the December 21, 2012, CMAS NESHAP final rule (see 77 FR 75740), the EPA included the ability to assert an affirmative defense to civil penalties for violations caused by malfunctions (see 40 CFR 63.11501(e)) in an effort to create a system that incorporated some flexibility, recognizing that there is a tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances entirely beyond the control of the source. Although the EPA recognized that its case-by-case enforcement discretion provides sufficient flexibility in these circumstances, it included the affirmative defense provision to provide a more formalized approach and more regulatory clarity. See *Weyerhaeuser Co. v. Costle*, 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal case-by-case enforcement discretion approach is adequate); but see *Marathon Oil Co. v. EPA*, 564 F.2d 1253, 1272–73 (9th Cir. 1977) (requiring a more formalized approach to consideration of “upsets beyond the control of the permit holder.”). Under the EPA's regulatory

⁵³ EPA's Final Plan for Periodic Retrospective Reviews, August 2011. Available at: <https://www.regulations.gov/document?D=EPA-HQ-OA-2011-0156-0154>.

⁵⁴ E-Reporting Policy Statement for EPA Regulations, September 2013. Available at: <https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf>.

⁵⁵ Digital Government: Building a 21st Century Platform to Better Serve the American People, May 2012. Available at: <https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html>.

affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed. However, the court vacated the affirmative defense in one of the EPA's CAA section 112 regulations. *NRDC v. EPA*, 749 F.3d 1055 (D.C. Cir., 2014) (vacating affirmative defense provisions in the CAA section 112 rule establishing emission standards for Portland cement kilns). The court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the CAA, the authority to determine civil penalty amounts in such cases lies exclusively with the courts, not the EPA. Specifically, the court found: "As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.'" See *NRDC*, 749 F.3d at 1063 ("[U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA.").⁵⁶ In light of *NRDC*, the EPA is proposing to remove all of the regulatory affirmative defense provisions from the CMAS NESHAP at 40 CFR 63.11501(e) in its entirety and the definition of "affirmative defense" at 40 CFR 63.11502(b). As explained above, if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate. Further, as the court recognized, in an EPA or citizen enforcement action, the court has the discretion to consider any defense raised and determine whether penalties are appropriate. *Cf. NRDC*, 749 F.3d at 1064 (arguments that violation was caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same is true for the presiding officer in EPA administrative enforcement actions.⁵⁷

⁵⁶ The court's reasoning in *NRDC* focuses on civil judicial actions. The court noted that "EPA's ability to determine whether penalties should be assessed for CAA violations extends only to administrative penalties, not to civil penalties imposed by a court." *Id.*

⁵⁷ Although the *NRDC* case does not address the EPA's authority to establish an affirmative defense to penalties that are available in administrative enforcement actions, we are not including such an affirmative defense in the proposed rule. As explained above, such an affirmative defense is not necessary. Moreover, assessment of penalties for violations caused by malfunctions in administrative proceedings and judicial proceedings should be consistent. *Cf. CAA* section 113(e) (requiring both the Administrator and the court to take specified criteria into account when assessing penalties).

The EPA previously proposed to remove the affirmative defense provisions from the CMAS NESHAP as part of the Removal of Affirmative Defense Provisions from Specified New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants action (see 89 FR 52425, June 24, 2024). We now propose the removal of these provisions as part of this action. We are soliciting comment on our proposal to remove the affirmative defense provisions from the CMAS NESHAP as part of this rulemaking. Comments previously submitted on the Removal of Affirmative Defense Provisions from Specified New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants proposal will not be considered as part of this action and must be submitted to the docket for this action (Docket ID No. EPA-HQ-OAR-2024-0303) in order to be considered.

3. Technical and Editorial Changes

We are proposing several technical amendments and definition revisions to improve the clarity and enforceability of certain provisions in the CMAS NESHAP. This section of the preamble described these additional proposed revisions and our rationale.

a. Certain Definitions That Refer to the HON

We note that to remove redundancy and improve consistency, the EPA recently finalized moving all of the definitions from NESHAP subpart G (*i.e.*, 40 CFR 63.111) into the definition section of NESHAP subpart F (*i.e.*, 40 CFR 63.101) (see 89 FR 42932, May 16, 2024). Given that the CMAS NESHAP directly references these subparts for certain definitions (see 40 CFR 63.11502(a)), we are proposing to revise the phrasing used in 40 CFR 63.11502(a) to point to NESHAP subpart F in instances where a definition in the CMAS NESHAP points to NESHAP subpart G. We are also proposing editorial changes in 40 CFR 63.11502(b) that clarify references in the CMAS NESHAP definition of "point of determination" to properly cite the correct HON subpart.

b. Performance Testing

The EPA is proposing at 40 CFR 63.11496(g)(1)(iii) and 40 CFR 63.11497(g)(1)(iii) performance testing once every 5 years to demonstrate compliance with organic HAP emission limits for batch and continuous process vents and storage tanks (for owners and operators that route emissions to a control device other than a flare).

Similarly, we are also proposing at 40 CFR 63.11496(f)(3)(iv), (4), and (5) performance testing once every 5 years to demonstrate compliance with the metal HAP emission limit for batch and continuous process vents. We determined that periodic emission testing should be required to help ensure continuous compliance. Currently, facilities conduct a one-time performance test, engineering assessment, or design evaluation and then monitor operating parameters. A design evaluation (in lieu of performance testing) is currently allowed at 40 CFR 63.11496(g)(2) for determining initial compliance with a percent reduction or outlet concentration process vent organic HAP emission limit. A design evaluation (in lieu of performance testing) is also currently allowed at 40 CFR 63.985(b)(1)(i) (via items 1.b, 2.a, and 3.a of table 5 to the CMAS NESHAP) for determining initial compliance with a percent reduction or outlet concentration storage tank organic HAP emission limit. An engineering assessment (in lieu of performance testing) is currently allowed at 40 CFR 63.11496(f)(3)(ii) for determining initial compliance with the percent reduction process vent metal HAP emission limit. However, we are proposing to remove the design evaluation option at 40 CFR 63.11496(g)(2) and table 5 to the CMAS NESHAP, and the engineering assessment option at 40 CFR 63.11496(f)(3)(ii), and instead, require on-going performance tests at proposed 40 CFR 63.11496(f)(3)(iv), (4), and (5), and 40 CFR 63.11496(g)(1)(iii) (for owners and operators using a control device other than a flare to comply with the emission limits and other requirements for batch and continuous process vents) and 40 CFR 63.11497(g)(1)(iii) (for owners and operators using a control device other than a flare to comply with the emission limits and other requirements for storage tanks). We are proposing that the on-going performance tests be conducted at a minimum frequency of once every 5 years to supplement the parameter monitoring and to ensure that emission controls continue to operate as demonstrated during the initial performance test. We are soliciting comment and data on whether design evaluations and engineering assessments are appropriate for demonstrating compliance for certain APCDs.

We are also proposing to add a performance testing requirement at 40 CFR 63.11496(g)(1)(iii) and 40 CFR 63.11497(g)(1)(iii) intended to replace a

portion of the performance testing requirements of 40 CFR 63.997(e)(1)(i). The proposal does not include the language that precludes startup and shutdown periods from being considered “representative” for purposes of performance testing, and instead allows performance testing during periods of startup or shutdown if specified by the Administrator. In addition, as specified in 40 CFR 63.997(e)(1)(i), performance tests should not be conducted during malfunctions because conditions during malfunctions are often not representative of normal operating conditions. The EPA is also

proposing to add language at 40 CFR 63.11496(g)(1)(iii) and 40 CFR 63.11497(g)(1)(iii) that requires the owner or operator maintain records of process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent the entire range of normal operation, including operational conditions for maximum emissions if such emissions are not expected during maximum production.

c. Other Editorial and Technical Corrections

The EPA is proposing additional changes that address technical and editorial corrections for the CMAS NESHAP. The most significant of these corrections are summarized in table 11 of this preamble. Please see the document *Proposed Regulation Edits for 40 CFR part 63 Subpart VVVVVV: National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources*, available in the docket for this rulemaking, to review all of the proposed technical and editorial corrections.

TABLE 11—PROPOSED TECHNICAL AND EDITORIAL CORRECTIONS FOR THE CMAS NESHAP (NOT DISCUSSED ELSEWHERE IN THIS PREAMBLE)

Provision	Issue summary	Proposed revision
40 CFR 63.11494(c)(2)(iv)	Provision refers to specific NAICS codes but does not specify which version (<i>i.e.</i> , year) to use.	The EPA is proposing to add language to specify the 2007 version of the NAICS code.
40 CFR 63.11495(d)	Provision does not include all language on the general duty to minimize emissions.	The EPA is proposing to add the sentence “The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved.”
40 CFR 63.11496(g)(5)	Provision is redundant to the language at 40 CFR 63.11496(i).	The EPA is proposing to remove the provision to eliminate redundancy and reduce confusion with how the standards are applied.
40 CFR 63.11497(a)	Provision does not contain a heading; therefore, is inconsistent with other paragraphs within the section.	The EPA is proposing to add the heading: “Organic HAP emissions from storage tanks” for consistency with the rest of the paragraphs included in the section.
40 CFR 63.11497(c)	Provision does not contain a heading; therefore, is inconsistent with other paragraphs within the section.	The EPA is proposing to add the heading: “SSM provisions” for consistency with the rest of the paragraphs included in the section.
40 CFR 63.11498(b)	Provision provides an exemption for certain wastewater streams during periods of startup and shutdown.	Given that in the October 29, 2009, final rule the EPA removed the exemption from emissions standards for periods of SSM in accordance with a decision of the United States Court of Appeals for the District of Columbia Circuit, <i>Sierra Club v. EPA</i> , 551 F.3d 1019 (D.C. Cir. 2008), cert. denied, 130 S. Ct. 1735 (U.S. 2010), the EPA is proposing to remove the sentence “The requirements in Item 2 of table 6 to this subpart do not apply during periods of startup or shutdown.”
40 CFR 63.11500(a)(2)	Provision contains a cross reference error to table 4 in 40 CFR part 63, subpart VVVVVV.	The EPA is proposing to correct the reference to table 4 with a reference to table 5.
40 CFR 63.11500(b)	Provision refers to certain NSPS but does not include the most recent promulgated versions of certain NSPS.	The EPA is proposing to add NSPS subparts VVa, VVb, IIIa, NNNa, and RRRa to allow owners and operators to comply with any of the requirements in these rules that are at least as stringent as the corresponding requirements in the CMAS NESHAP to constitute compliance with the CMAS NESHAP.
40 CFR 63.11501(c)(1)(vii) and (viii) and (d)(1) and (8).	Certain provisions are specific to malfunctions and are being clarified to include any deviation. Also, the deviation reporting provision does not specify all the information to be reported.	The EPA is proposing to revise the malfunction and deviation recordkeeping and reporting requirements to clarify what must be maintained as records and reported.
40 CFR 63.11501(d)	Provision does not specify how to report basic facility information.	The EPA is proposing to clarify that all semiannual compliance reports must contain the company name and address (including county), as well as the beginning and ending dates of the reporting period.
40 CFR 63.11501(d)	Provision allows facilities to skip semiannual reporting for periods where no events described by 40 CFR 63.11501(d)(1)–(8) occur.	The EPA is proposing to remove this exemption as it contradicts the General Provisions at 40 CFR 63.10(e)(3)(v) and revise the paragraph to include a reference to 40 CFR 63.10(e)(3)(v).
40 CFR 63.11501(d)(1)	Provision does not specify what information to collect when a deviation occurs.	The EPA is proposing to clarify that owners and operators must report the start date, start time, duration in hours, cause, a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, actions taken to minimize emissions, and any corrective action taken to return the affected unit to its normal or usual manner of operation for each deviation from the standards.
40 CFR 63.11502(b)	The definition of “batch process vent” does not consider the impacts of the proposed ETO standards.	The EPA is proposing to update the definition to clarify that the exemption that “emission streams from emission episodes that are undiluted and uncontrolled containing less than 50 ppmv HAP are not part of any batch process vent” does not apply to batch process vents in ETO service.
40 CFR 63.11502(b)	The definition of “continuous process vent” does not consider the impacts of the proposed ETO standards.	The EPA is proposing to clarify that the 0.005 weight percent total organic HAP criteria at 40 CFR 63.107(d) does not apply for continuous process vents in ETO service.

TABLE 11—PROPOSED TECHNICAL AND EDITORIAL CORRECTIONS FOR THE CMAS NESHAP (NOT DISCUSSED ELSEWHERE IN THIS PREAMBLE)—Continued

Provision	Issue summary	Proposed revision
40 CFR 63.11502(b)	The definition of “continuous process vent” improperly relies on the control criteria of the HON as detailed at 40 CFR 63.107(i).	The EPA is proposing to replace the references to 40 CFR 63.107(i) with a similar provision that relies on the requirements of table 3 in 40 CFR part 63, subpart VVVVVV.
40 CFR 63.11502(b)	The definition of “in organic HAP service” does not consider the impact of the proposed EtO standards for equipment leaks and the proposed LDAR program for all equipment leaks, nor does it consider that the proposed term for “heat exchange system” uses the phrase “in organic HAP service”.	The EPA is proposing to revise the definition to specify that any piece of equipment in EtO service is also in organic HAP service and establish that, for the proposed LDAR programs associated with equipment and heat exchange systems, in organic HAP service means “that a piece of equipment or heat exchange system either contains or contacts a fluid (liquid or gas) that is at least 5 percent by weight of total organic HAP’s as determined according to the provisions of 40 CFR 63.180(d).” The EPA is also proposing to clarify that for purposes of the definition of “heat exchange system”, the term “equipment” in § 63.180(d) includes heat exchange systems.
40 CFR 63.11502(b)	The definition of “process vessel” is contradictory with the definition of “continuous process vent.”	The EPA is proposing to revise the definition of “process vessel” to remove reactors and distillation units from the list of provided examples given that reactors and distillation units are a source of continuous process vents (<i>i.e.</i> , some, or all, of a gas stream originates “as a continuous flow from an air oxidation reactor, distillation unit, or reactor during operation of the chemical manufacturing process unit”).
40 CFR 63.11502(b)	The definition of “wastewater” does not consider the impact of the proposed EtO standards.	The EPA is proposing to specify that the phrase “and that contains at least 5 ppmw of any HAP listed in table 9 to subpart G of this part and has an annual average flow rate of 0.02 liters per minute” does not apply to wastewater in ethylene oxide service.
Table 9 to subpart VVVVVV of Part 63.	Entries include language specific to malfunctions.	The EPA is proposing to revise the entries for 63.10(b)(2)(ii), (c)(10), (c)(11), and (d)(5) to reflect the changes to the malfunction and deviation recordkeeping and reporting requirements.
Table 9 to subpart VVVVVV of Part 63.	Entries do not consider EtO specific monitoring requirements.	The EPA is proposing to update table 9 to the CMAS NESHAP to specify which General Provisions do not apply for EtO specific sources to be consistent with the proposed EtO standards.
Various	Rule contains incorrect phrases, does not contain certain phrases, or incorrectly cross references other provisions.	The EPA is proposing to make editorial corrections where necessary including, but not limited to, adding missing words, correcting errors, updating acronyms, and correcting cross references.

E. What compliance dates are we proposing, and what is the rationale for the proposed compliance dates?

The proposed amendments in this rulemaking for adoption under CAA section 112(d)(5) and (6) (see sections IV.A through IV.C of this preamble) are subject to the compliance deadlines outlined in the CAA under section 112(i). For all the EtO requirements we are proposing under CAA section 112(d)(5) (see section IV.A of this preamble), we are proposing at 40 CFR 63.11494(l) that existing affected sources and affected sources that were new sources under the current CMAS NESHAP (*i.e.*, they commenced construction or reconstruction after October 6, 2008 and on or before January 22, 2025) must comply with all of the amendments no later than 2 years after the effective date of the final rule or upon startup, whichever is later. For all the non-EtO requirements we are proposing under CAA section 112(d)(5) and all the requirements we are proposing under CAA section 112(d)(6) (see sections IV.B and IV.C of this preamble, respectively), we are proposing at 40 CFR 63.11494(k) that

existing affected sources and affected sources that were new sources under the current CMAS NESHAP (*i.e.*, they commenced construction or reconstruction after October 6, 2008 and on or before January 22, 2025) must comply with all of the amendments no later than 3 years after the effective date of the final rule or upon startup, whichever is later.

For fenceline monitoring (see section IV.A.7 of this preamble), we are proposing at 40 CFR 63.11494(m) that owners and operators of all existing affected sources and all affected sources that were new under the current rule (*i.e.*, sources that commenced construction or reconstruction after October 6, 2008, and on or before January 22, 2025) must begin fenceline monitoring 2 years after the effective date of the final rule and, starting 3 years after the effective date of the final rule, perform root cause analysis and apply corrective action requirements upon exceedance of an annual average concentration action level.

For existing sources, CAA section 112(i) provides that the compliance date shall be as expeditious as practicable, but no later than 3 years after the

effective date of the standard (“Section 112(i)(3)’s three-year maximum compliance period applies generally to any emission standard . . . promulgated under [section 112].” *Association of Battery Recyclers v. EPA*, 716 F.3d 667, 672 (D.C. Cir. 2013)). In determining what compliance period is as expeditious as practicable, we consider the amount of time needed to plan and construct projects and change operating procedures. As provided in CAA section 112(i) and 5 U.S.C. 801(3), all new affected sources that commenced construction or reconstruction after January 22, 2025 would be required to comply with these requirements upon the effective date of the final rule or upon startup, whichever is later (see proposed 40 CFR 63.11494(h) and (j)).

1. Rationale for Proposed Compliance Dates of Proposed CAA Section 112(d)(5) and (6) Amendments

Many of the GACT requirements that we are proposing under CAA section 112(d)(5) address emissions of EtO from equipment leaks, heat exchange systems, process vents, storage tanks, and wastewater at CMAS processes (see sections IV.A.1 through IV.A.4 of this

preamble). The proposed provisions will require time to plan, purchase, and install equipment for EtO control. For example, for CMAS process vents in EtO service (see section IV.A.3 of this preamble for additional details), if the affected source cannot demonstrate 99.9 percent control of EtO emissions, or reduce EtO emissions to less than 1 ppmv (from each process vent) or 5 lb/yr (for all combined process vents), then the owner or operator would need to install a new control system, improve their existing control system, or otherwise reduce emissions. In addition, we are proposing a suite of operational and monitoring requirements for flares that emit EtO (see section IV.A.6 of this preamble). We anticipate that the proposed provisions for flares that emit EtO (used to control EtO emissions from process vents and storage tanks) would require the installation of new monitoring equipment, and we project owners and operators would need to install new control systems to monitor and adjust assist gas (air or steam) addition rates. Similar to the addition of new monitoring equipment and control systems, these new monitoring requirements for flares that emit EtO would require engineering evaluations, solicitation and review of vendor quotes, contracting and installation of the equipment, and operator training. Installation of new monitoring and control equipment on flares will require the flare to be taken out of service. Depending on the configuration of the flares and flare header system, taking the flare out of service may also require a significant portion of the CMPU to be shutdown. Therefore, we are proposing a compliance date of 2 years after the publication date of the final rule, or upon startup, whichever is later, to comply with the proposed EtO requirements for all existing affected sources and all new affected sources under the current rules that commenced construction or reconstruction after October 6, 2008, and on or before January 22, 2025. For all new affected sources that commence construction or reconstruction after January 22, 2025, we are proposing owners or operators comply with the EtO requirements upon the effective date of the final rule or upon startup, whichever is later. We are soliciting comment on whether an alternate compliance timeframe (*i.e.*, shorter or longer than the proposed 2 years) would be more appropriate for the EtO requirements established pursuant to CAA section 112(d)(5).

Compliance dates for the fenceline monitoring provisions proposed under CAA section 112(d)(5) consider the

amount of time that it will take owners and operators to develop their siting plans and secure the capabilities to conduct the monitoring and analyze the results. For fenceline monitoring, the compliance timeline also must consider time to allow commercial labs to conduct the needed method development, expand capacity, and develop the logistics needed to meet the requirements in the final rule. In addition, time is needed to read and assess the new fenceline monitoring requirements; prepare sampling and analysis plans; develop and submit site-specific monitoring plans; identify representative, accessible, and secure monitoring locations for offsite monitors and obtain permission from the property owner to both place and routinely access the monitors; make any necessary physical improvements to fencelines to be able to site monitors, including construction of access roads, physical fencing, and potential drainage improvements; and obtain approval of any necessary capital expenditures. Therefore, we are proposing that owners and operators of all existing sources and all new affected sources under the current rules that commenced construction or reconstruction after October 6, 2008, and on or before January 22, 2025 must begin fenceline monitoring 2 years after the publication date of the final rule and must perform root cause analysis and apply corrective action requirements upon exceedance of an annual average concentration action level starting 3 years after the publication date of the final rule. For all new affected sources that commence construction or reconstruction after January 22, 2025, we are proposing that owners or operators begin fenceline monitoring upon the effective date of the final rule or upon startup, whichever is later. We are also proposing to require quarterly reporting of fenceline results beginning 1 year after monitoring begins for such sources.

For PRDs, we are establishing management practices in the CMAS NESHAP under CAA section 112(d)(5) that require a process hazard analysis and implementation of a minimum of three redundant measures to prevent atmospheric releases (see section IV.B.2 of this preamble). Alternately, owners or operators may elect to install closed vent systems to route these PRDs to a flare, drain (for liquid thermal relief valves), or other control system. We anticipate that sources will need to identify the most appropriate preventive measures or control approach; design, install, and test the system; install necessary process instrumentation and

safety systems; and may need to time installations with equipment shutdown or maintenance outages. Therefore, for all existing affected sources, and all new affected sources under the current CMAS NESHAP that commenced construction or reconstruction after October 6, 2008, and on or before January 22, 2025, we are proposing a compliance date of 3 years from the publication date of the final rule (or upon startup, whichever is later) for owners or operators to comply with the management practices for atmospheric PRD releases. For all new affected sources that commence construction or reconstruction after January 22, 2025, we are proposing owners or operators comply with the management practices for atmospheric PRD releases upon the effective date of the final rule or upon startup, whichever is later.

Other amendments we are proposing under CAA section 112(d)(5) include LDAR requirements for pressure vessels (see section IV.B.1 of this preamble). We are also proposing new LDAR requirements under CAA section 112(d)(6) for equipment leaks in organic HAP service and heat exchange systems with cooling water flow rates greater than 8,000 gpm (see section IV.C.1 of this preamble). We project some owners and operators would require engineering evaluations, solicitation and review of vendor quotes, contracting and installation of monitoring equipment, and operator training. In addition, facilities will need time to read and understand the amended rule requirements and update standard operating procedures. Also, any of these proposed provisions may require additional time to plan, purchase, and install equipment for emissions control; and even if not, the EPA recognizes the confusion that multiple different compliance dates for individual requirements would create and the additional burden such an assortment of dates would impose. Lastly, other recent rulemakings are requiring updates to LDAR provisions for hundreds of sources not previously required to do EPA Method 21 monitoring (see the Gasoline Distribution NESHAP, 89 FR 39304 May 8, 2024). As such, the demand on contractor support may be greater than can be immediately accommodated. Therefore, for all existing affected sources, and all new affected sources under the current rules that commenced construction or reconstruction after October 6, 2008, and on or before January 22, 2025, we are proposing a compliance date of 3 years from the publication date of the final rule (or upon startup, whichever is

later) for owners or operators to comply with these other proposed amendments. For all new affected sources that commence construction or reconstruction after January 22, 2025, we are proposing owners or operators comply with these other proposed amendments upon the effective date of the final rule or upon startup, whichever is later.

2. Rationale for Proposed Compliance Dates of Other Proposed Amendments

We are proposing electronic reporting requirements (see section IV.D.1 of this preamble), and we anticipate that facilities would need some time to successfully accomplish these reporting revisions including time to read and understand the amended rule requirements, to make any necessary adjustments (including adjusting standard operating procedures), and to convert reporting mechanisms and install necessary hardware and software. From our assessment of the timeframe needed for compliance with the new proposed electronic reporting requirements for flare management plans and periodic reports, the EPA considers a period of 3 years after the publication date of the final rule to be the most expeditious compliance period practicable. Thus, we are proposing that all existing affected sources, and all new affected sources under the current rule that commenced construction or reconstruction after October 6, 2008, and on or before January 22, 2025 be in compliance with these revised requirements upon initial startup or within 3 years of the publication date of the final rule, whichever is later. For all new affected sources that commence construction or reconstruction after January 22, 2025, we are proposing owners or operators comply with these revised requirements upon the effective date of the final rule or upon startup, whichever is later. However, we are proposing at 40 CFR 63.11496(g)(1)(iv) to provide 60 days after the publication date of the final rule (or upon startup, whichever is later) for owners or operators of all affected sources to comply with the requirement to submit performance test reports electronically following the procedure specified in 40 CFR 63.9(k). We are also proposing at 40 CFR 63.11501(b) to provide 60 days after the publication date of the final rule (or upon startup, whichever is later) for owners or operators of all affected sources to submit all subsequent Notification of Compliance Status reports in PDF format electronically following the procedure specified in 40 CFR 63.9(k).

V. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

We estimate that there are 251 facilities subject to the CMAS NESHAP. There are another 29 facilities that would become subject to the rule if EtO were to be added to table 1 to 40 CFR part 63, subpart VVVVVV, as proposed. The list of facilities is available in the document titled *List of Facilities Subject to the CMAS NESHAP*, which is available in the docket for this rulemaking.

B. What are the air quality impacts?

This proposed action would reduce HAP and VOC emissions from CMAS emission sources. We estimate that the proposed amendments to the NESHAP would reduce overall HAP emissions, not including EtO emission reductions, from CMAS by approximately 158 tpy. In addition, the EPA estimates reductions of approximately 4.6 tpy of EtO emissions based on the emissions inventories. With respect to secondary impacts on non-HAP pollutants, the EPA estimates that the proposed amendments would reduce VOC emissions by 1,557 tpy and on net would reduce emissions of methane by 251 tpy.

The EPA also estimates that the proposed action would result in secondary impacts for greenhouse gas emissions and criteria air pollutant emissions. The increased electricity and natural gas use to power some of the proposed controls would increase emissions of several pollutants, including an estimated increase of 36 tpy of carbon monoxide (CO), 57,000 tpy of carbon dioxide (CO₂), 43 tpy of nitrogen oxides (NO_x) (including 0.97 tpy of nitrous oxide (N₂O)), 3 tpy of particulate matter (PM_{2.5}), and 0.26 tpy of sulfur dioxide (SO₂). On net, after accounting for the methane emission reductions and the increases in CO₂ and N₂O emissions, this proposed rule would increase GHG emissions on a CO₂-equivalent basis (CO₂e) by an estimated 50,000 tpy. More information about the estimated emission reductions and secondary impacts of this proposed action for the CMAS NESHAP can be found in the documents titled *Economic Impact Analysis and Secondary Impacts for Flares, Thermal Oxidizers, and Wastewater Controls for the CMAS NESHAP*, which are available in the docket for this action; and in documents referenced in sections IV.A through IV.C of this preamble. The EPA solicits comments on the quantitative aspects of the emissions reductions and secondary impacts of this proposed action.

C. What are the cost impacts?

The EPA estimates the cost of the requirements in this proposed action would be approximately \$37.6 million (in 2022 dollars for the entire period of analysis) in total capital costs and \$36.4 million in total annual costs (including product recovery), based on our analyses of the proposed actions described in sections IV.A through IV.C of this preamble. The 'total annual costs' are the sum of the annualized capital costs and other annual costs (e.g., operating and maintenance costs, recordkeeping and reporting costs). To obtain annualized capital costs, a capital recovery factor is multiplied by the capital costs. The capital recovery factor is based on the lifetime of the capital equipment as well as the interest rate. The total annual cost of the proposed action without including the value of product recovery is estimated to be about \$38 million. Thus, product recovery accounts for about \$1.6 million in annual cost savings, or about four percent of the total annual costs without product recovery.

D. What are the economic impacts?

The economic impacts of this proposal, including the small entity impact analysis, are discussed in greater detail in the document titled *Economic Impact Analysis*, which is available in the docket for this action.

As part of fulfilling the analytical requirements of Executive Orders 12866 as amended by Executive Order 14094, the EPA presents estimates of the present value (PV) of the costs over the 15-year analytical period from 2027 to 2041. Costs are in 2022 dollars and discounted to 2027 at a two percent discount rate per the recommendation in OMB Circular A–4. The EPA also presents the equivalent annualized value (EAV) at a two percent discount rate. The EAV takes the non-uniform stream of costs (i.e., different costs in different years) and converts them into a single annual value that, if paid each year from 2027 to 2041, would equal the original stream of values in PV terms.

The PV of the costs over the 15-year period from 2027 to 2041 without including the value of product recovery is estimated to be \$495 million at a two percent discount rate and the EAV is \$38.5 million. The PV of the costs including the value of product recovery is estimated to be \$474 million at a two percent discount rate and the EAV is \$37 million.

This proposed action impacts 58 small entities, which own a total of 64 CMAS facilities. The EPA evaluates economic impacts of rulemakings on

small entities by examining total annual cost estimates compared to the annual revenues of the companies (*i.e.*, entities) that are the ultimate owners of the facilities affected by the rule. The EPA estimates cost-to-sales ratios, which are the total annual costs estimated for each entity divided by the entity's annual revenues. This ratio provides a measure of the direct economic impact to ultimate owners of CMAS facilities.

The EPA estimates the average cost-to-sales ratio for small entities impacted by the proposal will be 0.3 percent with a maximum cost-to-sales ratio estimated at 5.5 percent, not considering the value of product recovery due to compliance (*i.e.*, the cost savings). With product recovery, the EPA estimates that the average cost-to-sales ratio for small entities impacted by the proposal will be 0.3 percent with a maximum cost-to-sales ratio of 5.4 percent. We estimate that about nine percent of impacted small entities (five small entities out of a total of 58) will incur total annual costs greater than one percent of their annual revenue, and two percent of small entities (one small entity in total) will incur total annual costs greater than three percent of their annual revenue. The number of entities with a one percent or greater cost-to-sales ratio falls to three entities, or five percent of all small entities, when the total annual cost estimates include the value of product recovery, and one entity has a cost-to-sales ratio that remains above three percent. The EPA does not anticipate that this proposed action will have a substantial impact on a significant number of small entities. The EPA also does not expect this proposed action to have significant market impacts or employment impacts.

It is important to note that the small entities that own facilities affected by the proposed EtO standards have relatively higher estimated cost-to-sales ratios, with an average cost-to-sales ratio of 3 percent for the three EtO facilities that are owned by small entities. The small entity with the maximum cost-to-sales ratio of 5.5 percent owns a facility affected by the proposed EtO standards. These three small entities also have smaller average annual revenues compared to the whole population of small entities, averaging \$47 million in annual revenues compared to \$230 million for all small entities. For additional details on the costs of this proposed rulemaking, please see the document titled *Economic Impact Analysis*, available in the docket for this action.

E. What are the benefits?

The EPA did not monetize the benefits from the estimated emission reductions of HAP associated with this proposed action. The EPA currently does not have sufficient methods to monetize benefits associated with HAP reductions and risk reductions for this rulemaking. However, we estimate that the final rule amendments would reduce EtO emissions by 4.6 tpy and expect that these reductions will lower the risk of adverse health effects, including cancer, for individuals in communities near CMAS facilities. For additional information on the nonmonetized benefits of this rulemaking and a qualitative discussion of the health risks associated with exposure to EtO and several other HAP, please see the document titled *Economic Impact Analysis*, available in the docket for this action. The EPA solicits comments on the benefits of HAP reductions discussed in this section.

The secondary emissions impacts estimated for this proposed action include net reductions in VOC and methane emissions, and increases in emissions of PM_{2.5}, SO₂, NO_x (including N₂O), CO₂, and CO. The EPA was not able to monetize the health and environmental impacts associated with the estimated changes in criteria air pollutant emissions for this proposed rule, which include increased PM_{2.5} and PM_{2.5} precursor emissions and changes in VOC and NO_x emissions, which impact the formation of ground-level ozone.

The EPA provided monetized estimates of the impacts associated with the methane emissions reductions and the net increases in CO₂ and N₂O emissions using the EPA's social cost of greenhouse gas (SC-GHG) estimates. The estimated climate benefits are negative on net. The PV of the climate benefits for the 15-year period from 2027 to 2041 is estimated to be negative \$195 million in 2022 dollars discounted at a two percent rate, and the EAV is estimated to be negative \$15 million.

F. What analysis of environmental justice did we conduct?

For purposes of analyzing regulatory impacts, the EPA relies upon its June 2016 "Technical Guidance for Assessing Environmental Justice in Regulatory Analysis," which provides recommendations that encourage analysts to conduct the highest quality analysis feasible, recognizing that data limitations, time, resource constraints, and analytical challenges will vary by media and circumstance. The Technical

Guidance states that a regulatory action may involve potential environmental justice (EJ) concerns if it could: (1) create new disproportionate impacts on communities with EJ concerns; (2) exacerbate existing disproportionate impacts on communities with EJ concerns; or (3) present opportunities to address existing disproportionate impacts on communities with EJ concerns through this action under development.

The EPA's EJ technical guidance states that "[t]he analysis of potential EJ concerns for regulatory actions should address three questions: (1) Are there potential EJ concerns associated with environmental stressors affected by the regulatory action for population groups of concern in the baseline? (2) Are there potential EJ concerns associated with environmental stressors affected by the regulatory action for population groups of concern for the regulatory option(s) under consideration? (3) For the regulatory option(s) under consideration, are potential EJ concerns created or mitigated compared to the baseline?"⁵⁸

The EJ analysis is presented for the purpose of providing the public with as full as possible an understanding of the potential impacts of this proposed action. The EPA notes that analysis of such impacts is distinct from the determinations proposed in this action under CAA section 112, which are based solely on the statutory factors the EPA is required to consider under that section.

To examine the potential for EJ concerns, the EPA conducted three different demographic analyses: a proximity analysis, a baseline cancer risk-based analysis (*i.e.*, before implementation of any controls required by this proposed action), and a post-control cancer risk-based analysis (*i.e.*, after implementation of the controls required by this proposed action). The proximity demographic analysis is an assessment of individual demographic groups in the total population living within 10 km (~6.2 miles) and 50 km (~31 miles) of the facilities. The baseline risk-based demographic analysis is an assessment of risks to individual demographic groups in the population living within 10 km and 50 km of the facilities prior to the implementation of any controls required by this proposed action ("baseline"). The post-control risk-based demographic analysis is an assessment of risks to individual

⁵⁸ "Technical Guidance for Assessing Environmental Justice in Regulatory Analysis", U.S. EPA, June 2016. Quote is from Section 3—Key Analytic Considerations, page 11.

demographic groups in the population living within 10 km and 50 km of the facilities after implementation of the controls required by this proposed action (“post-control”). The risk-based demographic analyses were performed for the following three different HAP emissions scenarios (described in sections V.F.1 through V.F.3 of this preamble): CMAS categories HAP emissions (10 km and 50 km), CMAS whole-facility HAP emissions (10 km and 50 km), and CMAS community HAP emissions (10 km only).

1. CMAS Categories Demographics

For the CMAS categories, the EPA examined the potential for the 247 CMAS facilities (for which the EPA had HAP emissions inventories from the CMAS categories) to pose concerns to communities living in proximity to facilities, both in the baseline and under the control option established in this proposed action. Specifically, to examine the potential for EJ concerns, the EPA conducted three different demographic analyses of the populations living within 10 km and 50 km of the CMAS facilities: a proximity analysis, baseline cancer and noncancer risk-based analyses (*i.e.*, before implementation of any controls required by this proposed action), and post-control cancer and noncancer risk-based analyses (*i.e.*, after implementation of the controls required by this proposed action). In this preamble, we focus on the results from the demographic analyses using a 10 km radius because this area captures the majority of the population with higher cancer risks due to HAP emissions from CMAS facilities. Specifically, 100 percent of the population with baseline cancer risks greater than or equal to 50-in-1 million and with noncancer hazard indices greater than 1 from emissions associated with the CMAS categories live within 10 km of the CMAS facilities. The methodology and detailed results of the demographic analysis, including the demographic analyses for populations living within 10 km and 50 km of facilities, are presented in the document titled *Analysis of Demographic Factors for Populations Living Near Chemical Manufacturing Area Source (CMAS) Facilities—Source Category Analysis of Proposed Amendments*, which is available in the docket for this rulemaking. The following paragraphs briefly summarize the results of these demographic analyses.

For all three demographic analyses, the affected populations (*i.e.*, those living within 10 km of the facilities) are compared to the national population.

The total population, population percentages, and population count for each demographic group for the entire U.S. population are shown in the column titled “Nationwide Average for Reference” in tables 11 through 13 of this preamble. These national data are provided as a frame of reference to compare the results of the proximity analysis, the baseline cancer and noncancer risk-based analyses, and the post-control cancer and noncancer risk-based analysis. The column titled “Proximity Analysis for Population living within 10 km of CMAS Facilities” in tables 11 through 13 of this preamble shows the share and count of people for each of the demographic categories for the total population living within 10 km (~6.2 miles) of CMAS facilities. These are the results of the proximity analysis and are repeated in tables 11 through 13 of this preamble for ease of comparison to the risk-based analyses discussed later.

The results of the proximity analysis indicate that a total of 33.7 million people live within 10 km of the 247 CMAS facilities analyzed.⁵⁹ The percent of the population living within 10 km of the CMAS facilities is above the corresponding national average for the following demographic groups: Black, Hispanic or Latino, Other/Multiracial, people living below the poverty level, people living below two times the poverty level, people over the age of 25 without a high school diploma, and linguistic isolation. The results of the proximity analysis indicate that the proportion of other demographic groups living within 10 km of CMAS facilities is similar to or below the national average.

The baseline cancer risk-based demographic analysis focuses on populations that have higher cancer risks. The baseline risk-based demographic analysis results are shown in the “baseline” column of tables 11 through 13 of this preamble. This analysis focused on the populations living within 10 km (~6.2 miles) of the CMAS facilities with estimated cancer risks greater than or equal to 1-in-1 million resulting from emissions from CMAS categories (table 11 of this preamble), greater than or equal to 50-in-1 million (table 12 of this preamble), and greater than 100-in-1 million (table 13 of this preamble).

The results of the cancer risk-based demographic analysis indicate that a total of 2 million people living within

10 km of 76 of the CMAS facilities analyzed have a cancer risk greater than or equal to 1-in-1 million from CMAS HAP emissions. The percent of the population living within 10 km of these CMAS facilities with cancer risks greater than or equal to 1-in-1 million is above the corresponding national average for the following demographic groups: Black, Hispanic or Latino, people living below the poverty level, people living below two times the poverty level, people over 25 without a high school diploma, and linguistic isolation. The percent of the population with cancer risks greater than or equal to 1-in-1 million that are Black (25 percent) is higher than in the proximity analysis (19 percent) and is approximately two times higher than the national average (12 percent). The percent of the population with cancer risks greater than or equal to 1-in-1 million that are Hispanic/Latino (25 percent) is higher than in the proximity analysis (21 percent) and the national average (19 percent).

The results of the cancer risk-based demographic analysis indicate that a total of 36,100 people living within 10 km of 15 of the CMAS facilities analyzed have cancer risks greater than or equal to 50-in-1 million from CMAS HAP emissions. The percent of the population living within 10 km of these CMAS facilities with cancer risks greater than or equal to 50-in-1 million is above the corresponding national average for the following demographic groups: Hispanic or Latino, people living below the poverty level, people living below two times the poverty level, people over 25 without a high school diploma, and linguistic isolation. The percent of the population with cancer risks greater than or equal to 50-in-1 million that are Black is at the national average (12 percent), which is a lower percentage than for the proximity analysis (19 percent). The percent of the population with cancer risks greater than or equal to 50-in-1 million that are Hispanic/Latino (40 percent) is about two times that in the proximity analysis (21 percent) and the national average (19 percent).

The results of the cancer risk-based demographic analysis indicate that a total of 3,600 people living within 10 km of 4 of the CMAS facilities analyzed have a cancer risk greater than 100-in-1 million from CMAS HAP emissions. The percent of the population living within 10 km of these CMAS facilities with cancer risks greater than 100-in-1 million is above the corresponding national average for the following demographic groups: Hispanic or Latino, people living below the poverty

⁵⁹ There are 248 CMAS facilities with emissions data specific to the categories, however, one facility has no population living within 10 km and thus was not included in the EJ analysis.

level, people living below two times the poverty level, and people over 25 without a high school diploma. The percent of the population with cancer risks greater than 100-in-1 million that are Black (5 percent) is well below the national average (12 percent). The percent of the population with cancer risks greater than 100-in-1 million that are Hispanic/Latino (34 percent) is over 1.5 times greater than in the proximity analysis (21 percent) and nearly double the national average (19 percent).

The results of the noncancer risk-based demographic analysis indicate that a total of 1,500 people living within 10 km of 2 CMAS facilities analyzed have a respiratory hazard index greater than 1 from CMAS HAP emissions. The percent of the population living within 10 km of these CMAS facilities with respiratory hazard index greater than 1 is above the corresponding national average for the following demographic groups: Hispanic or Latino (90 percent for the source categories compared to 19 percent nationwide), people living in linguistic isolation (15 percent for the source categories compared to 5 percent nationwide), people 25 years old and older without a high school diploma (33 percent for the source categories compared to 12 percent nationwide), people living below twice the poverty level (44 percent for the source categories compared to 29 percent nationwide), and people living below the poverty level (24 percent for the source categories compared to 13 percent nationwide).

The results of the noncancer risk-based demographic analysis indicate that a total of 1,300 people living within

10 km of 2 CMAS facilities analyzed have an immunological hazard index greater than 1 from CMAS HAP emissions. The demographic results indicate that the percentage of the population potentially impacted by CMAS emissions is greater than its corresponding nationwide percentage for the following demographic groups: Hispanic or Latino (90 percent for the source category compared to 19 percent nationwide), people living in linguistic isolation (16 percent for the source category compared to 5 percent nationwide), people 25 years old and older without a high school diploma (33 percent for the source category compared to 12 percent nationwide), people living below twice the poverty level (44 percent for the source category compared to 29 percent nationwide), and people living below the poverty level (24 percent for the source category compared to 13 percent nationwide).

The post-control risk-based demographic analysis shows that the controls required by this proposed action will notably reduce the number of people who are exposed to cancer risks resulting from emissions from the CMAS categories at all risk levels. The results of the post-control risk-based demographics analysis are in the columns titled "Post-Control" of tables 11 through 13 of this preamble. At greater than or equal to a cancer risk of 1-in-1 million, the number of individuals exposed will decrease from 2.1 million to 1.4 million. The demographic composition of those individuals exposed to cancer risk greater than or equal to 1-in-1 million post-control is similar to the

demographic composition of the individuals exposed to a cancer risk of 1-in-1 million at baseline. The number of individuals exposed to cancer risk greater than or equal to 50-in-1 million will decrease from 36,100 to 4,400.

The percent of the population living within 10 km of these CMAS facilities with post-control cancer risks greater than or equal to 50-in-1 million is above the corresponding national average for the following demographic groups: Hispanic or Latino, Age 0–17, people living below poverty, people living below two times poverty, those over 25 without a high school diploma, and linguistic isolation. The percent of the population with post-control cancer risks greater than or equal to 50-in-1 million that are Hispanic or Latino (66 percent) is over three times the national average (19 percent), with 98 percent of this Hispanic or Latino population living around two CMAS facilities (one in Illinois and one in Kansas).

After control is implemented, the number of people who are exposed to cancer risks greater than 100-in-1 million resulting from emissions from the CMAS categories will decrease from 3,600 to zero. Therefore, there are no disparities among demographic groups at this risk level. The actions of this proposed rulemaking will improve human health of current and future populations that live near these facilities.

The post-control noncancer risk demographic results are the same as those for the baseline scenario because the controls being proposed in this action do not directly reduce the nickel emissions that drive the noncancer risk.

TABLE 11—SOURCE CATEGORIES: COMPARISON OF BASELINE AND POST-CONTROL DEMOGRAPHICS OF POPULATIONS WITH CANCER RISK GREATER THAN OR EQUAL TO 1-IN-1 MILLION LIVING WITHIN 10 KM OF CMAS FACILITIES TO THE NATIONAL AVERAGE AND THE PROXIMITY DEMOGRAPHICS

Demographic group	Nationwide average for reference	Proximity analysis for total population living within 10 km of CMAS facilities	Cancer risk $\geq$ 1-in-1 million within 10 km of CMAS facilities	
			Baseline	Post-control
Total Population	330M	33.7M	2.1M	1.4M
Number of Facilities .....	.....	247	76	71
Race and Ethnicity by Percent [Number of People]				
White	60% [196M]	49% [16.7M]	45% [925K]	40% [564K]
Black	12% [40M]	19% [6.5M]	25% [513K]	26% [377K]
American Indian and Alaskan Native	0.6% [2.1M]	0.2% [75K]	0.2% [4.1K]	0.2% [2.5K]
Hispanic or Latino (white and nonwhite)	19% [63M]	21% [7.1M]	25% [514K]	28% [404K]
Other and Multiracial	9% [29M]	10% [3.4M]	6% [119K]	5% [78K]

TABLE 11—SOURCE CATEGORIES: COMPARISON OF BASELINE AND POST-CONTROL DEMOGRAPHICS OF POPULATIONS WITH CANCER RISK GREATER THAN OR EQUAL TO 1-IN-1 MILLION LIVING WITHIN 10 KM OF CMAS FACILITIES TO THE NATIONAL AVERAGE AND THE PROXIMITY DEMOGRAPHICS—Continued

Demographic group	Nationwide average for reference	Proximity analysis for total population living within 10 km of CMAS facilities	Cancer risk ≥1-in-1 million within 10 km of CMAS facilities	
			Baseline	Post-control
Age By Percent [Number of People]				
Age 0 to 17 years	22% [74M]	22% [7.4M]	24% [492K]	24% [339K]
Age 18 to 64 years	62% [203M]	63% [21.3M]	62% [1.3M]	62% [881K]
Age ≥65 years	16% [53M]	15% [5M]	14% [301K]	14% [205K]
Income by Percent [Number of People]				
Below Poverty Level	13% [42M]	14% [4.7M]	15% [318K]	17% [240K]
Below 2x Poverty Level	30% [100M]	31% [10.4M]	36% [750K]	39% [554K]
Education by Percent [Number of People]				
Over 25 and without a High School Diploma	12% [38M]	13% [4.3M]	15% [306K]	16% [232K]
Linguistically Isolated by Percent [Number of People]				
Linguistically Isolated	5% [17M]	6% [2.1M]	6% [123K]	7% [102K]

Notes:

- Nationwide population and demographic percentages are based on Census' 2016–2020 American Community Survey (ACS) 5-year block group averages. Total population count is based on 2020 Decennial Census block population.
- To avoid double counting, the “Hispanic or Latino” category is treated as a distinct demographic category. A person who identifies as Hispanic or Latino is counted as Hispanic or Latino, regardless of race.
- The number of facilities represents facilities with a cancer MIR above level indicated. When the MIR was located at a user assigned receptor at an individual residence and not at a census block centroid, we were unable to estimate population and demographics for that facility.
- The sum of individual populations with a demographic category may not add up to total due to rounding. K = Thousands, M = Millions.

TABLE 12—SOURCE CATEGORIES: COMPARISON OF BASELINE AND POST-CONTROL DEMOGRAPHICS OF POPULATIONS WITH CANCER RISK GREATER THAN OR EQUAL TO 50-IN-1 MILLION LIVING WITHIN 10 KM OF CMAS FACILITIES TO THE NATIONAL AVERAGE AND THE PROXIMITY DEMOGRAPHICS

Demographic group	Nationwide average for reference	Proximity analysis for total population living within 10 km of CMAS facilities	Cancer risk $\geq$ 50-in-1 million within 10 km of CMAS facilities	
			Baseline	Post-control
Total Population	330M	33.7M	36K	4.4K
Number of Facilities .....	.....	247	15	8
Race and Ethnicity by Percent [Number of People]				
White	60% [196M]	49% [16.7M]	39% [14K]	28% [1.2K]
Black	12% [40M]	19% [6.5M]	12% [4.5K]	4% [200]
American Indian and Alaskan Native	0.6% [2.1M]	0.2% [75K]	0.1% [<100]	0.0% [<100]
Hispanic or Latino (white and nonwhite)	19% [63M]	21% [7.1M]	40% [14.4K]	66% [2.9K]
Other and Multiracial	9% [29M]	10% [3.4M]	8% [2.9K]	2% [<100]
Age By Percent [Number of People]				
Age 0 to 17 years	22% [74M]	22% [7.4M]	30% [11K]	34% [1.5K]

TABLE 12—SOURCE CATEGORIES: COMPARISON OF BASELINE AND POST-CONTROL DEMOGRAPHICS OF POPULATIONS WITH CANCER RISK GREATER THAN OR EQUAL TO 50-IN-1 MILLION LIVING WITHIN 10 KM OF CMAS FACILITIES TO THE NATIONAL AVERAGE AND THE PROXIMITY DEMOGRAPHICS—Continued

Demographic group	Nationwide average for reference	Proximity analysis for total population living within 10 km of CMAS facilities	Cancer risk ≥ 50 -in-1 million within 10 km of CMAS facilities	
			Baseline	Post-control
Age 18 to 64 years	62% [203M]	63% [21.3M]	60% [22K]	59% [2.6K]
Age ≥ 65 years	16% [53M]	15% [5M]	10% [3.7K]	7% [300]
Income by Percent [Number of People]				
Below Poverty Level	13% [42M]	14% [4.7M]	21% [7.5K]	23% [1K]
Below 2x Poverty Level	30% [100M]	31% [10.4M]	49% [18K]	47% [2.1K]
Education by Percent [Number of People]				
Over 25 and without a High School Diploma	12% [38M]	13% [4.3M]	27% [10K]	30% [1.3K]
Linguistically Isolated by Percent [Number of People]				
Linguistically Isolated	5% [17M]	6% [2.1M]	13% [4.5K]	11% [500]

Notes:

- Nationwide population and demographic percentages are based on Census' 2016–2020 ACS 5-year block group averages. Total population count is based on 2020 Decennial Census block population.
- To avoid double counting, the "Hispanic or Latino" category is treated as a distinct demographic category. A person who identifies as Hispanic or Latino is counted as Hispanic or Latino, regardless of race.
- The number of facilities represents facilities with a cancer MIR above level indicated. When the MIR was located at a user assigned receptor at an individual residence and not at a census block centroid, we were unable to estimate population and demographics for that facility.
- The sum of individual populations with a demographic category may not add up to total due to rounding. K = Thousands, M = Millions.

TABLE 13—SOURCE CATEGORIES: COMPARISON OF BASELINE AND POST-CONTROL DEMOGRAPHICS OF POPULATIONS WITH CANCER RISK GREATER THAN 100-IN-1 MILLION LIVING WITHIN 10 KM OF CMAS FACILITIES TO THE NATIONAL AVERAGE AND THE PROXIMITY DEMOGRAPHICS

Demographic group	Nationwide average for reference	Proximity analysis for total population living within 10 km of CMAS facilities	Cancer risk >100 -in-1 million within 10 km of CMAS facilities	
			Baseline	Post-control
Total Population	330M	33.7M	3.6K	0
Number of Facilities		247	4	0
Race and Ethnicity by Percent [Number of People]				
White	60% [196M]	49% [16.7M]	58% [2.1K]	0% 0
Black	12% [40M]	19% [6.5M]	5% [200]	0% 0
American Indian and Alaskan Native	0.6% [2.1M]	0.2% [75K]	0.1% [<100]	0.0% 0
Hispanic or Latino (white and nonwhite)	19% [63M]	21% [7.1M]	34% [1.2K]	0% 0
Other and Multiracial	9% [29M]	10% [3.4M]	3% [100]	0% 0
Age By Percent [Number of People]				
Age 0 to 17 years	22% [74M]	22% [7.4M]	34% [1.2K]	0% 0
Age 18 to 64 years	62% [203M]	63% [21.3M]	55% [2K]	0% 0
Age ≥ 65 years	16% [53M]	15% [5M]	11% [400]	0% 0

TABLE 13—SOURCE CATEGORIES: COMPARISON OF BASELINE AND POST-CONTROL DEMOGRAPHICS OF POPULATIONS WITH CANCER RISK GREATER THAN 100-IN-1 MILLION LIVING WITHIN 10 KM OF CMAS FACILITIES TO THE NATIONAL AVERAGE AND THE PROXIMITY DEMOGRAPHICS—Continued

Demographic group	Nationwide average for reference	Proximity analysis for total population living within 10 km of CMAS facilities	Cancer risk >100-in-1 million within 10 km of CMAS facilities	
			Baseline	Post-control
Income by Percent [Number of People]				
Below Poverty Level	13% [42M]	14% [4.7M]	15% [500]	0% 0
Below 2x Poverty Level	30% [100M]	31% [10.4M]	42% [1.5K]	0% 0
Education by Percent [Number of People]				
* * * *		*		*
Over 25 and without a High School Diploma	12% [38M]	13% [4.3M]	23% [800]	0% 0
Linguistically Isolated by Percent [Number of People]				
Linguistically Isolated	5% [17M]	6% [2.1M]	5% [200]	0% 0

Notes:

- Nationwide population and demographic percentages are based on Census' 2016–2020 ACS 5-year block group averages. Total population count is based on 2020 Decennial Census block population.
- To avoid double counting, the “Hispanic or Latino” category is treated as a distinct demographic category. A person who identifies as Hispanic or Latino is counted as Hispanic or Latino, regardless of race.
- The number of facilities represents facilities with a cancer MIR above level indicated. When the MIR was located at a user assigned receptor at an individual residence and not at a census block centroid, we were unable to estimate population and demographics for that facility.
- The sum of individual populations with a demographic category may not add up to total due to rounding. K = Thousands, M = Millions.

2. CMAS NESHAP Whole-Facility Demographics

As described in section II.E of this preamble and the document titled *Risk Assessment for the Chemical Manufacturing Area Source (CMAS) Source Categories in Support of the 2025 Technology Review for the Proposed Rule*, which is available in the docket for this rulemaking, we assessed the facility-wide (or “whole-facility”) risks as part of a risk assessment for 278 CMAS facilities, accounting for HAP emissions from the entire facility and not just those resulting from CMAS categories as discussed in the section V.F.1 of this preamble.⁶⁰ The whole-facility risk analysis includes all sources of HAP emissions at each facility as reported in the emissions inventory developed using the NEI (described in section II.C.2 of this proposed rule). The following discussion of the whole-facility demographic analysis is focused on post-control risks.

The whole-facility demographic analysis is an assessment of individual demographic groups in the total population living within 10 km (~6.2 miles) and 50 km (~31 miles) of the facilities. In this preamble, we focus on the results from the demographic

analyses using a 10 km radius because this area captures the majority of the population with higher cancer and noncancer risks due to HAP emissions from CMAS facilities. Specifically, 100 percent of the population with baseline cancer risks greater than or equal to 50-in-1 million and with noncancer hazard indices greater than 1 from emissions from the CMAS categories live within 10 km of the CMAS facilities. The results of the whole-facility demographic analysis for populations living within 10 km and 50 km of CMAS facilities are included in the document titled *Analysis of Demographic Factors for Populations Living Near Chemical Manufacturing Area Source (CMAS) Facilities: Whole Facility Analysis of Proposed Amendments* which is available in the docket for this rulemaking.

The whole-facility demographic analysis post-control results are shown in table 14 of this preamble. This analysis focused on the populations living within 10 km of the CMAS facilities with estimated whole-facility post-control cancer risks greater than or equal to 1-in-1 million, greater than or equal to 50-in-1 million, and greater than 100-in-1 million, as well as with estimated whole-facility post-control noncancer hazard indices greater than 1.

The risk analysis indicated that all emissions from the CMAS facilities, after the reductions imposed by the proposed rule, expose a total of about 1.65 million people living around 80 facilities to a cancer risk greater than or equal to 1-in-1 million, 5,600 people living around 10 facilities to a cancer risk greater than or equal to 50-in-1 million, and zero people to a cancer risk greater than 100-in-1 million. The risk analysis indicated that all emissions from the CMAS facilities, after the reductions imposed by the proposed rule, expose a total of about 1,700 people to a respiratory hazard index greater than 1 and about 1,700 people to an immunological hazard index greater than 1 (both values unchanged from baseline).

When the CMAS whole-facility populations are compared to the CMAS categories populations in the post-control scenarios, we see 250,000 additional people with risks greater than or equal to 1-in-1 million, 1,200 additional people with risks greater than or equal to 50-in-1 million, zero additional people with risks greater than 100-in-1 million, 200 additional people with respiratory hazard indices greater than 1, and 200 additional people with immunological hazard indices greater than 1.

⁶⁰ See footnote 60.

The demographic distribution of the whole-facility population with post-control cancer risks greater than or equal to 1-in-1 million is almost identical to the distribution of the source category population with post-control cancer risks greater than or equal to 1-in-1 million. Therefore, the whole-facility population with post-control cancer risks greater than or equal to 1-in-1 million has disproportionately high representation from Blacks, Hispanics and Latinos, people living below the poverty level, people living below two times the poverty level, those over 25 without a high school diploma, and those that are linguistically isolated.

The population with post-control cancer risks greater than or equal to 50-in-1 million in the whole-facility analysis is almost identical to the distribution of the source category population with post-control cancer risks greater than or equal to 50-in-1 million. Therefore, the whole-facility population with post-control cancer risks greater than or equal to 50-in-1 million has disproportionately high representation from Hispanics and Latinos, people living below the poverty

level, people living below two times the poverty level, those over 25 without a high school diploma, and those that are linguistically isolated. As such, the Hispanic and Latino population is still disproportionately represented at 69 percent, which is well above the national average of 19 percent.

Based on results from the whole-facility emissions analysis, there are zero people with post-control risks greater than 100-in-1 million.

The population with post-control respiratory hazard indices greater than 1 in the whole-facility analysis is almost identical to the distribution of the source category population with baseline and post-control respiratory hazard indices greater than 1. Therefore, the whole-facility population with post-control respiratory hazard indices greater than 1 has disproportionately high representation from Hispanics or Latinos, people living below the poverty level, people living below two times the poverty level, those over 25 without a high school diploma, and those who are linguistically isolated. As such, the Hispanic and Latino population is disproportionately represented at 90 percent, which is well above the

national average of 19 percent, and people living below the poverty level are disproportionately represented at 24 percent, which is nearly twice the national average of 13 percent.

The population with post-control immunological hazard indices greater than 1 in the whole-facility analysis is almost identical to the distribution of the source category population with baseline and post-control immunological hazard indices greater than 1. Therefore, the whole-facility population with post-control immunological hazard indices greater than 1 has disproportionately high representation from Hispanics or Latinos, people living below the poverty level, people living below two times the poverty level, those over 25 without a high school diploma, and those who are linguistically isolated. As such, the Hispanic and Latino population is disproportionately represented at 90 percent, which is well above the national average of 19 percent, and people living below the poverty level are disproportionately represented at 24 percent, which is nearly twice the national average of 13 percent.

TABLE 14—WHOLE-FACILITY: WHOLE-FACILITY POST-CONTROL DEMOGRAPHICS FOR CMAS FACILITIES BY RISK LEVEL FOR POPULATIONS LIVING WITHIN 10 KM OF FACILITIES

Demographic group	Nationwide average for reference	Whole-facility post-control cancer risk for populations within 10 km of CMAS facilities		
		≥1-in-1 million	≥50-in-1 million	>100-in-1 million
Total Population	330M	1,651,083	5,625	0
Number of Facilities .....	.....	80	10	0
Race and Ethnicity by Percent [Number of People]				
White	60% [196M]	41% [670K]	24% [1.4K]	0% 0
Black	12% [40M]	26% [436K]	5% [300]	0% 0
American Indian and Alaskan Native	0.6% [2.1M]	0.2% [3K]	0.0% [<100]	0.0% 0
Hispanic or Latino (white and nonwhite)	19% [63M]	27% [450K]	69% [4K]	0% 0
Other and Multiracial	9% [29M]	6% [91K]	1% [<100]	0% 0
Age By Percent [Number of People]				
Age 0 to 17 years	22% [74M]	24% [393K]	33% [2K]	0% 0
Age 18 to 64 years	62% [203M]	62% [1M]	58% [3.3K]	0% 0
Age ≥65 years	16% [53M]	14% [234K]	8% [500]	0% 0
Income by Percent [Number of People]				
Below Poverty Level	13% [42M]	17% [281K]	24% [1.3K]	0% 0

TABLE 14—WHOLE-FACILITY: WHOLE-FACILITY POST-CONTROL DEMOGRAPHICS FOR CMAS FACILITIES BY RISK LEVEL FOR POPULATIONS LIVING WITHIN 10 KM OF FACILITIES—Continued

Demographic group	Nationwide average for reference	Whole-facility post-control cancer risk for populations within 10 km of CMAS facilities		
		≥1-in-1 million	≥50-in-1 million	>100-in-1 million
Below 2x Poverty Level	30% [100M]	39% [637K]	45% [2.6K]	0% 0
Education by Percent [Number of People]				
Over 25 and without a High School Diploma	12% [38M]	16% [262K]	28% [1.6K]	0% 0
Linguistically Isolated by Percent [Number of People]				
Linguistically Isolated	5% [17M]	7% [109K]	11% [600]	0% 0

Notes:

- Nationwide population and demographic percentages are based on Census' 2016–2020 ACS 5-year block group averages. Total population count is based on 2020 Decennial Census block population.
- To avoid double counting, the “Hispanic or Latino” category is treated as a distinct demographic category. A person who identifies as Hispanic or Latino is counted as Hispanic or Latino, regardless of race.
- The number of facilities represents facilities with a cancer MIR above level indicated. When the MIR was located at a user assigned receptor at an individual residence and not at a census block centroid, we were unable to estimate population and demographics for that facility.
- The sum of individual populations with a demographic category may not add up to total due to rounding. K = Thousands, M = Millions.

3. CMAS NESHAP Community Demographics

As described in section II.E of this preamble and the document titled *Risk Assessment for the Chemical Manufacturing Area Source (CMAS) Source Categories in Support of the 2025 Technology Review for the Proposed Rule*, which is available in the docket for this rulemaking, we assessed the community risks as part of a discretionary risk assessment for 278 CMAS facilities.⁶¹ The community risks include HAP emissions from all stationary point sources for which we have emissions data within 10 km of the CMAS facilities identified in section II.C.1 of this preamble. The following discussion of the community risk analysis is focused on post-control risks. This community demographic analysis characterizes the remaining risks communities face after implementation of the controls required in this proposal.

The community demographic analysis is an assessment of individual demographic groups in the total population living within 10 km (~6.2 miles) of the CMAS facilities. The community risk assessment and demographics were only conducted at the 10 km radius because, based on emissions from the CMAS categories, this distance includes 100 percent of the population with cancer risks greater than or equal to 50-in-1 million. The full results of the community demographic analysis are in the document titled

Analysis of Demographic Factors for Populations Living Near Chemical Manufacturing Area Source (CMAS) Facilities: Community-Based Assessment which is available in the docket for this rulemaking.

The community demographic analysis post-control results are shown in table 15 of this preamble. The following discussion of the community demographic analysis is focused on the populations living within 10 km of the CMAS facilities with estimated community post-control cancer risks greater than or equal to 1-in-1 million, greater than or equal to 50-in-1 million, and greater than 100-in-1 million. The risk analysis indicated that all emissions from all facilities within 10 km of the CMAS facilities, after the reductions imposed by the proposed rule, expose a total of about 8 million people living around 242 facilities to a cancer risk greater than or equal to 1-in-1 million, 65,000 people living around 66 facilities to a cancer risk greater than or equal to 50-in-1 million, and about 1,900 people living around nine facilities to a cancer risk greater than 100-in-1 million.

When the CMAS community populations are compared to the CMAS categories populations in the post-control scenarios, we see 6.6 million additional people with cancer risks greater than or equal to 1-in-1 million, 61,000 additional people with cancer risks greater than or equal to 50-in-1 million, and 1,900 additional people with cancer risks greater than 100-in-1 million.

The demographic distribution of the community population with cancer risks greater than or equal to 1-in-1 million is similar to the category population and the whole-facility population with cancer risks greater than or equal to 1-in-1 million in the post-control scenario. Therefore, the community population with post-control cancer risks greater than or equal to 1-in-1 million has disproportionately high representation from Blacks, Hispanics and Latinos, people living below the poverty level, people living below two times the poverty level, those over 25 without a high school diploma, and those living in linguistic isolation.

The population with cancer risks greater than or equal to 50-in-1 million in the community analysis has a different demographic distribution than the source category population with cancer risks greater than or equal to 50-in-1 million in the post-control scenario. The percent of the population that is Black with risks greater than or equal to 50-in-1 million is lower for the community post-control analysis (19 percent) versus the category and whole-facility post-control analyses (26 percent). For the community post-control assessment, the percentage of the population with cancer risks greater than or equal to 50-in-1 million that is below the poverty level (13 percent) and below two times the poverty level (27 percent) is equal to or below their corresponding national averages (13 percent and 30 percent, respectively).

⁶¹ See footnote 60.

The percentage of the population that is over 25 years old without a high school diploma (14 percent) is above the national average (12 percent) for community post-control population.

Based on results from the community emissions analysis, there are about 1,900 people with post-control cancer risks greater than 100-in-1 million. The CMAS categories emissions analysis indicated that there are no people with post-control cancer risks greater than 100-in-1 million. The increased cancer

risk for most of these 1,900 people is driven largely by emissions of chromium VI from non-CMAS facilities within 10 km of CMAS facilities.

The percent of the population in the community analysis with post-control cancer risks greater than 100-in-1 million that is Black (15 percent) and Hispanic or Latino (21 percent) are above their corresponding national averages (12 percent and 19 percent, respectively). The percent of the population in the community analysis

with a post control cancer risk greater than 100-in-1 million that is below the poverty level (14 percent) and below two times the poverty level (36 percent) are above their corresponding national averages (13 percent and 30 percent, respectively). The percent of the population in the community analysis with a post control cancer risk greater than 100-in-1 million that is over 25 years old without a high school diploma (21 percent) is above the national average (12 percent).

TABLE 15—COMMUNITY: COMMUNITY POST-CONTROL DEMOGRAPHICS FOR CMAS FACILITIES BY RISK LEVEL FOR POPULATIONS LIVING WITHIN 10 KM OF FACILITIES

Demographic group	Nationwide average for reference	Whole-facility post-control cancer risk for populations within 10 km of CMAS facilities		
		≥1-in-1 million	≥50-in-1 million	>100-in-1 million
Total Population	330M	8M	65K	2K
Number of Facilities .....	.....	242	66	9
Race and Ethnicity by Percent [Number of People]				
White	60% [196M]	40% [3.2M]	49% [32K]	64% [1.2K]
Black	12% [40M]	22% [1.8M]	19% [12K]	15% [300]
American Indian and Alaskan Native	0.6% [2.1M]	0.2% [16K]	0.3% [200]	0.1% [<100]
Hispanic or Latino (white and nonwhite)	19% [63M]	30% [2.4M]	29% [19K]	21% [400]
Other and Multiracial	9% [29M]	8% [654K]	4% [2.5K]	1% [<100]
Age By Percent [Number of People]				
Age 0 to 17 years	22% [74M]	23% [1.9M]	25% [16K]	25% [500]
Age 18 to 64 years	62% [203M]	63% [5M]	64% [42K]	62% [1.2K]
Age ≥ 65 years	16% [53M]	14% [1.1M]	11% [7.4K]	13% [300]
Income by Percent [Number of People]				
Below Poverty Level	13% [42M]	18% [1.4M]	13% [8.6K]	14% [300]
Below 2x Poverty Level	30% [100M]	38% [3.1M]	27% [18K]	36% [700]
Education by Percent [Number of People]				
Over 25 and without a High School Diploma	12% [38M]	18% [1.4M]	14% [9.1K]	21% [400]
Linguistically Isolated by Percent [Number of People]				
Linguistically Isolated	5% [17M]	8% [598K]	5% [3.3K]	3% [<100]

Notes:

- Nationwide population and demographic percentages are based on Census' 2016–2020 ACS 5-year block group averages. Total population count is based on 2020 Decennial Census block population.
- To avoid double counting, the “Hispanic or Latino” category is treated as a distinct demographic category. A person who identifies as Hispanic or Latino is counted as Hispanic or Latino, regardless of race.
- The number of facilities represents facilities with a cancer MIR above level indicated. When the MIR was located at a user assigned receptor at an individual residence and not at a census block centroid, we were unable to estimate population and demographics for that facility.
- The sum of individual populations with a demographic category may not add up to total due to rounding. K = Thousands, M = Millions.

G. What analysis of children's environmental health did we conduct?

This action proposes to reduce HAP emissions including those emissions from EtO. In addition, the EPA's policy on Children's Health⁶² also applies to this action. Accordingly, we have evaluated the environmental health or safety effects of EtO emissions and exposures on children.

Because EtO is mutagenic (*i.e.*, it can act directly on deoxyribonucleic acid and cause chromosome damage), children are expected to be more susceptible to its harmful effects. To take this into account, as part of the risk assessment performed in support of this rulemaking, the EPA followed its guidelines⁶³ and applied age-dependent adjustment factors (ADAFs) to the inhalation unit risk estimate for childhood exposures (from birth up to 16 years of age). With the ADAF applied to account for greater susceptibility of children, the adjusted EtO inhalation unit risk estimate is 5×10^{-3} per $\mu\text{g}/\text{m}^3$. It should be noted that because EtO is mutagenic, the associated emission reductions proposed in this preamble will be particularly beneficial to children. The results of the risk assessment are contained in section II.E of this preamble and further documented in the risk report *Risk Assessment for the Chemical Manufacturing Area Source (CMAS) Source Category in Support of the 2025 Technology Review for the Proposed Rule* which is available in the docket for this rulemaking.

VI. Request for Comments

We solicit comments on all aspects of this proposed action. In addition to general comments on this proposed action, we are also interested in additional data that may improve the risk assessments, economic impact analysis, and other analyses including our assumptions and estimates discussed in sections IV.A through IV.C of this preamble. We are specifically interested in receiving any information and data regarding developments, limitations, or related general considerations in practices, processes, and control technologies that reduce HAP emissions. We solicit comment on the effectiveness of these proposed requirements on reducing ethylene

oxide emissions, any capital and annual costs that we did not account for, the time that is needed to come into compliance with the proposed requirements, or any other potential barriers to or impacts of imposing these requirements. We request comment on additional information on costs, emissions, product recovery, and potential broader impacts to markets including impacts small businesses and entities. We request comment on how to address the non-monetized costs and benefits of the proposed rule. We request estimates of any potential loss of production while bringing facilities into compliance and forgone returns due to displaced investment.

We are requesting comments and data on risks and impacts (both direct and indirect) of these proposed requirements on specific critical industries such as production of active pharmaceutical ingredients. We are interested in comments and data around the extent of the costs of compliance with the proposed rule to manufacturers of pharmaceuticals or other critical medical products, including any potential impacts to the public health industrial base, drug shortages, or other supply chain issues. We are also interested in proposals for alternative mitigation strategies or technologies.

We request comment on data, methods, and approaches to monetize non-fatal cancer, non-cancer health effects, and other benefits of reducing exposure to ethylene oxide and other table 1 HAP.

In addition, we are requesting comment and data on if more frequent heat exchange system monitoring periods, namely continued monthly monitoring and/or weekly monitoring, are appropriate for CMAS (see section IV.A.2 of this preamble). As mentioned in section IV.C.3 of this preamble, we also request comment and data on whether the removal of the TRE concept is feasible for CMAS facilities. With respect to design evaluations and engineering assessments, we are soliciting comment and data on whether they are appropriate for demonstrating compliance for certain APCDs. Also, we are soliciting comment on whether an alternative compliance timeline for the EtO requirements, as discussed in section IV.E.1 of this preamble is appropriate.

VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is a "significant regulatory action" as defined in Executive Order 12866, as amended by Executive Order 14094. Accordingly, the EPA submitted this action to the OMB for Executive Order 12866 review. Documentation of any changes made in response to the Executive Order 12866 review is available in the docket. The EPA conducted an economic impact analysis for this proposal in a document titled *Economic Impact Analysis*, which is available in the docket for this action.

B. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2323.09. You can find a copy of the ICR in the docket for this rulemaking, and it is briefly summarized here.

The EPA is proposing amendments to the CMAS NESHAP that revise provisions pertaining to emissions from PRDs, pressure vessels, heat exchange systems, and equipment leaks. The EPA is also proposing requirements pertaining to EtO emissions from process vents, storage vessels, heat exchange systems, equipment leaks, and wastewater. In addition, the EPA is proposing amendments to the NESHAP for CMAS that revise provisions pertaining to emissions during periods of SSM, add requirements for electronic reporting of periodic reports and performance test results, fence-line monitoring, and make other minor clarifications and corrections. This information will be collected to ensure compliance with the CMAS NESHAP.

Respondents/affected entities:

Owners or operators of CMAS facilities.

Respondent's obligation to respond:

Mandatory (40 CFR part 63, subpart VVVVVV).

Estimated number of respondents: 280.

Frequency of response: Initially, quarterly, and semiannually.

Total estimated burden: Average annual recordkeeping and reporting burden is 25,300 hours (per year) to comply with the proposed amendments in the CMAS NESHAP. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: Average annual cost is \$25,500,000 (per year) which includes \$23,000,000 annualized capital and operations and maintenance costs,

⁶² Children's Health Policy available at: <https://www.epa.gov/children/childrens-health-policy-and-plan>.

⁶³ U.S. EPA. 2005. *Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens*. U.S. EPA, Washington, DC, EPA/630/R-03/003F. https://www.epa.gov/sites/default/files/201309/documents/childrens_supplement_final.pdf.

to comply with the proposed amendments in the CMAS NESHAP.

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 OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rulemaking. The EPA will respond to any ICR-related comments in the final rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs using the interface at <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function. OMB must receive comments no later than February 21, 2025.

C. Regulatory Flexibility Act (RFA)

I certify that the proposed rule in this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small businesses within the CMAS categories. The Agency has determined that the 58 small entities affected by this action may experience an average impact of total annual costs being 0.32 percent of their annual revenues, not including product recovery, or 0.29 percent on average when product recovery from compliance is included. Five of these 58 small entities are estimated to experience total annual costs above one percent of annual revenues when not including product recovery (three small entities when product recovery is included), and one small entity had estimated annual costs exceeding three percent of annual revenues regardless of whether product recovery is included. The percentage of impacted small entities estimated to experience total annual costs greater than one or three percent of their annual revenues is small and therefore this action will not have significant impacts on a substantial number of small entities. Details of the analysis for the proposed rule are presented in the document titled *Economic Impact Analysis*, which is available in the docket for this action.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The costs involved in this action are estimated not to exceed \$183 million in 2023\$ (\$100 million in 1995\$ adjusted for inflation using the GDP implicit price deflator) or more in any one year.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Tribal Governments

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized Tribal governments, nor preempt tribal law. We have identified two facilities located on Tribal lands that will potentially be impacted by this rulemaking, one of which emits EtO. Consistent with the EPA Policy on Coordination and Consultation with Indian Tribes, the EPA will provide tribal officials the opportunity to provide meaningful and timely input early in the development of this action through multiple outreach activities such as Tribal partnership calls, webinars, and offers for government-to-government consultation with potentially impacted Tribes and other Tribes as requested.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 directs federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, though the EPA believes the safety risks addressed by this action do present a disproportionate risk to children. This action's assessments of potential impacts to human health are contained in section II.E of this preamble and in greater detail in the document titled *Risk Assessment for the*

Chemical Manufacturing Area Source (CMAS) Source Categories in Support of the 2025 Technology Review for the Proposed Rule, which is available in the docket for this rulemaking. In addition, the EPA's *Policy on Children's Health* applies to this action. Information on how the Policy was applied is available in section V.G of this preamble.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The overall economic impact of this proposed rule should be minimal for CMAS and their parent companies (which are engaged in the energy sector).

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This proposed action involves technical standards. Therefore, the EPA conducted searches for the CMAS NESHAP through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute. We also conducted a review of voluntary consensus standards (VCS) organizations and accessed and searched their databases. We conducted searches for EPA Methods 5, 5D, 21, and 29 of 40 CFR part 60, appendix A. During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA ordered a copy of the standard and reviewed it as a potential equivalent method. We reviewed all potential standards to determine the practicality of the VCS for this rulemaking. This review requires significant method validation data that meet the requirements of EPA Method 301 for accepting alternative methods or scientific, engineering, and policy equivalence to procedures in the EPA reference methods. The EPA may reconsider determinations of impracticality when additional information is available for particular VCS.

We did not identify any applicable voluntary consensus standards for EPA Methods 5D and 21. However, the EPA proposes to incorporate by reference VCS ASTM D6784–24, "Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury Gas Generated from Coal-Fired Stationary

Sources (Ontario Hydro Method)” as an acceptable alternative to EPA Method 29 (referenced in the CMAS NESHAP at 40 CFR 63.11496(f)(3)(iii)) with the following caveats. This ASTM procedure has been approved by the EPA as an alternative to EPA Method 29 only when the target compound is mercury; and applies to concentrations approximately 0.5 to 100 µg/m³. This test method was developed initially for the measurement of mercury in coal-fired power plants; however, it has also been extensively used on other stationary combustion sources including sources having a flue gas composition with high levels of hydrochloric acid and low levels of sulfur dioxide. The test method includes equipment and procedures for obtaining samples from effluent ducts and stacks, equipment and procedures for laboratory analysis, and procedures for calculating results of elemental, oxidized, particle-bound, and total mercury emissions. ASTM D6784–24 is available at ASTM International, 1850 M Street NW, Suite 1030, Washington, DC 20036. See <https://www.astm.org/>. The standard is available to everyone at a cost determined by the ASTM (\$90). The ASTM also offers memberships or subscriptions that allow unlimited access to their methods. The cost of obtaining these methods is not a significant financial burden, making the methods reasonably available to stakeholders.

While the EPA identified 7 other VCS as being potentially applicable, the Agency decided not to use them because these methods are impractical as alternatives because of the lack of equivalency, documentation, validation data and other important technical and policy considerations. The EPA documented the search and review results in the document titled *Voluntary Consensus Standard Results for Technology Review of the National*

Emissions Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources, which is available in the docket for this rulemaking. Additional information for the VCS search and determinations can be found in this document. The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable VCS and to explain why such standards should be used in this regulation.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

The EPA believes that the human health or environmental conditions that exist prior to this action result in or have the potential to result in disproportionate and adverse human health or environmental effects on communities with EJ concerns. For this rulemaking, we conducted a proximity demographic analysis as well as baseline and post-control demographic risk analyses for the source category and whole facility. The analysis identified that 33.7 million people live within 10 km of the 247 CMAS facilities analyzed. The percent of the population living within 10 km of the CMAS facilities is above the corresponding national average for the following demographic groups: Black, Hispanic or Latino, Other/Multiracial, people living below the poverty level, people living below two times the poverty level, people over the age of 25 without a high school diploma, and linguistic isolation. More details on this analysis are provided in section V.F.1 of this preamble.

For existing sources, the EPA believes that this action is likely to reduce existing disproportionate and adverse

effects on communities with EJ concerns. Groups experiencing baseline disparities are expected to see reduced exposures due to the proposed level of control for those processes emitting EtO and proposed management practices to control fugitive emissions from sources of HAP. In addition, this action proposes fence-line monitoring for EtO to ensure proper function of those management practices. If the proposed changes are implemented, we expect no people would be exposed to cancer risk levels greater than 100-in-1 million due to emissions from the CMAS categories. However, for individuals exposed to cancer risk less than 100-in-1 million, disparities remain in the proportion of different groups facing elevated risk. The controls proposed for this action do not reduce the risk of noncancer health impacts and thus the disparities remain the same. For more information on the controls proposed in this action, please refer to sections IV.A through IV.D of this preamble.

For new sources, the EPA believes that it is not practicable to assess whether this action is likely to result in new disproportionate and adverse effects on communities with EJ concerns, because it is not possible to know the location of any future new sources.

The information supporting this Executive Order review is contained in section V.F of this preamble.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Jane Nishida,

Acting Administrator.

[FR Doc. 2025–00685 Filed 1–21–25; 8:45 am]

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