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Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

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**Title 3—****Executive Order 13781 of March 13, 2017****The President****Comprehensive Plan for Reorganizing the Executive Branch**

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1. Purpose.** This order is intended to improve the efficiency, effectiveness, and accountability of the executive branch by directing the Director of the Office of Management and Budget (Director) to propose a plan to reorganize governmental functions and eliminate unnecessary agencies (as defined in section 551(1) of title 5, United States Code), components of agencies, and agency programs.

**Sec. 2. Proposed Plan to Improve the Efficiency, Effectiveness, and Accountability of Federal Agencies, Including, as Appropriate, to Eliminate or Reorganize Unnecessary or Redundant Federal Agencies.** (a) Within 180 days of the date of this order, the head of each agency shall submit to the Director a proposed plan to reorganize the agency, if appropriate, in order to improve the efficiency, effectiveness, and accountability of that agency.

(b) The Director shall publish a notice in the *Federal Register* inviting the public to suggest improvements in the organization and functioning of the executive branch and shall consider the suggestions when formulating the proposed plan described in subsection (c) of this section.

(c) Within 180 days after the closing date for the submission of suggestions pursuant to subsection (b) of this section, the Director shall submit to the President a proposed plan to reorganize the executive branch in order to improve the efficiency, effectiveness, and accountability of agencies. The proposed plan shall include, as appropriate, recommendations to eliminate unnecessary agencies, components of agencies, and agency programs, and to merge functions. The proposed plan shall include recommendations for any legislation or administrative measures necessary to achieve the proposed reorganization.

(d) In developing the proposed plan described in subsection (c) of this section, the Director shall consider, in addition to any other relevant factors:

- (i) whether some or all of the functions of an agency, a component, or a program are appropriate for the Federal Government or would be better left to State or local governments or to the private sector through free enterprise;
- (ii) whether some or all of the functions of an agency, a component, or a program are redundant, including with those of another agency, component, or program;
- (iii) whether certain administrative capabilities necessary for operating an agency, a component, or a program are redundant with those of another agency, component, or program;
- (iv) whether the costs of continuing to operate an agency, a component, or a program are justified by the public benefits it provides; and
- (v) the costs of shutting down or merging agencies, components, or programs, including the costs of addressing the equities of affected agency staff.

(e) In developing the proposed plan described in subsection (c) of this section, the Director shall consult with the head of each agency and, consistent with applicable law, with persons or entities outside the Federal

Government with relevant expertise in organizational structure and management.

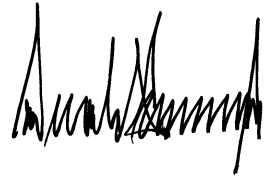
**Sec. 3. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to be the signature of Donald Trump, located on the right side of the page.

THE WHITE HOUSE,  
March 13, 2017.



# 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.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. FAA-2017-0135; Special Conditions No. 25-646-SC]

#### Special Conditions: Embraer S.A., Model ERJ 190-300 Series Airplanes; Flight Envelope Protection: Pitch, Roll, and High-Speed Limiting Functions

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Embraer S.A. Model ERJ 190-300 series airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is an electronic flight control system that contains fly-by-wire control laws, including flight envelope protection functions that impose pitch-angle, bank-angle, and high-speed limits during normal operation. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. **DATES:** This action is effective on Embraer S.A. on March 16, 2017. We must receive your comments by May 1, 2017.

**ADDRESSES:** Send comments identified by docket number FAA-2017-0135 using any of the following methods:

- *Federal eRegulations Portal:* Go to <http://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 (DOT), 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, 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:* The FAA will post all comments it receives, without change, to <http://www.regulations.gov>, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477-19478), as well as at <http://DocketsInfo.dot.gov/>.

*Docket:* Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Joe Jacobsen, FAA, Airplane and Flight Crew Interface Branch, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone 425-227-2011; facsimile 425-227-1149.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions is impracticable because these procedures would delay issuance of the design approval and thus delivery of the affected airplane.

In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making

these special conditions effective upon publication in the **Federal Register**.

#### Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

#### Background

On September 13, 2013, Embraer S.A. applied for an amendment to Type Certificate (TC) No. A57NM to include the new Model ERJ 190-300 series airplanes. The ERJ 190-300 is a twin-engine, transport-category airplane derivative of the ERJ 190-100 STD. The ERJ 190-300 series airplane will have a maximum occupancy of 114 passengers and will include a new wing design with a high aspect ratio and raked wingtip, and a digital fly-by-wire electronic flight control system.

#### Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Embraer S.A. must show that the ERJ 190-300 meets the applicable provisions of the regulations listed in Type Certificate No. A57NM or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA. Embraer S.A. must show that the ERJ 190-300 meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25-1 through 25-137.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 25) do not contain adequate or appropriate safety standards for the ERJ 190-300 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design features, or should any other

model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the ERJ 190–300 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

#### Novel or Unusual Design Features

The ERJ 190–300 will incorporate the following novel or unusual design feature: An electronic flight control system that contains fly-by-wire control laws, including flight envelope protection functions that impose pitch-angle, bank-angle, and high-speed limits during normal operation.

#### Discussion

The Embraer S.A. ERJ 190–300 design has a full-digital flight control system, referred to as fly-by-wire architecture. The fly-by-wire architecture provides closed-loop flight control laws and multiple protection functions.

The basic characteristics of pitch, bank, and high-speed limiting functions are as follows:

##### 1. Pitch Limiting Function:

While in normal mode, the ERJ 190–300 airplane presents positive and negative pitch attitude soft limits. After surpassing the established limits set at 30° and –15°, the airplane presents a natural tendency to return (positive stability) to within these limits when pitch control is released.

##### 2. Bank Limiting Function (Spiral Stability and Roll Limiting):

While in normal mode at speeds up to  $V_{MO}/M_{MO}$  (maximum operating limit speed), the ERJ 190–300 airplane presents neutral stability up to 33° bank angle. Above 33°, positive spiral stability is introduced; however, there is no bank angle hard limit. When overspeed protection is engaged, positive spiral stability is provided in the range of ±33° and a bank angle hard limit (non-overrideable) is set at that bank angle.

##### 3. High-Speed Limiting Function (Overspeed Protection):

While in normal mode, the overspeed protection function prevents pilots from exceeding the airplane maximum design speeds by providing strong positive stability at and above  $V_{MO}/M_{MO}$ , and

limiting aircraft speed to  $V_{DF}/M_{DF}$  (demonstrated flight diving speed).

The controllability and maneuverability requirements of 14 CFR 25.143 do not specifically relate to flight characteristics associated with fixed attitude limits or a high-speed limiter that might preclude or modify flying qualities assessment in the overspeed region.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

#### Applicability

As discussed above, these special conditions are applicable to the ERJ 190–300 series airplanes. Should Embraer S.A. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

#### Conclusion

This action affects only a certain novel or unusual design feature on one model of airplane. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would affect the certification of the airplane, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

#### List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

#### The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type

certification basis for the Embraer S.A. Model ERJ 190–300 series airplanes.

#### Flight Envelope Protection: Pitch, Roll, and High-Speed Limiting Functions

In addition to § 25.143, the following requirements apply:

##### 1. Pitch and Roll Limiting Functions.

a. The pitch limiting function must not impede normal maneuvering for pitch angles up to the maximum required for normal maneuvering, including a normal all-engines operating takeoff, plus a suitable margin to allow for satisfactory speed control.

b. The pitch and roll limiting functions must not restrict or prevent attaining pitch attitudes necessary for emergency maneuvering or roll angles up to 66° with flaps up or 60° with flaps down. Spiral stability, which is introduced above 33° roll angle, must not require excessive pilot strength to achieve these roll angles. Other protections, which further limit the roll capability under certain extreme angle of attack or attitude or high speed conditions, are acceptable, as long as they allow at least 45° of roll capability.

c. A lower limit of roll is acceptable, beyond the overspeed warning, if it is possible to recover the aircraft to the normal flight envelope without undue difficulty or delay.

##### 2. High-Speed Limiting Functions.

Operation of the high-speed limiter during all routine and descent procedure flight must not impede normal attainment of speeds up to overspeed warning.

**Michael Kaszycki,**

*Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017–05200 Filed 3–15–17; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 27

[Docket No. FAA–2017–0167; Special Conditions No. 27–032–SC]

#### Special Conditions: Robinson Helicopter Company Model R22 BETA Helicopter; Installation of Helitruk Autopilot System

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Robinson Helicopter Company (Robinson) Model R22 BETA helicopter. This helicopter as modified

by Helittrak, Incorporated (Helittrak) will have a novel or unusual design feature associated with an autopilot (AP) system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards the Administrator considers necessary to establish a level of safety equivalent to that ensured by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is March 16, 2017. We must receive your comments by May 15, 2017.

**ADDRESSES:** Send comments identified by docket number [FAA-2017-0167] using any of the following methods:

- *Federal eRegulations Portal:* Go to <http://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 (DOT), 1200 New Jersey Avenue SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery of Courier:* Deliver comments to the Docket Operations, in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, 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:* The FAA will post all comments it receives, without change, to <http://regulations.gov>, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477-19478), as well as at <http://DocketsInfo.dot.gov>.

*Docket:* You can read the background documents or comments received at <http://www.regulations.gov>. 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, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mark Wiley, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group (ASW-111), 10101

Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5134; or email to [Mark.Wiley@faa.gov](mailto:Mark.Wiley@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Reason for No Prior Notice and Comment Before Adoption**

The FAA considers prior notice to be unnecessary as we have provided previous opportunities to comment on substantially identical proposed special conditions, and we are satisfied that new comments are unlikely. Therefore, the FAA has determined that prior public notice and comment are unnecessary and finds that good cause exists for adopting these special conditions effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment.

**Comments Invited**

While we did not precede this with a notice of proposed special conditions, we invite interested people to take part in this action by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

**Background**

On January 27, 2012, Helittrak applied for a supplemental type certificate (STC) to install an AP system on the Robinson Model R22 BETA helicopter. The Robinson Model R22 BETA helicopter, currently approved under Type Certificate No. H10WE, is a 14 CFR part 27 normal category, single reciprocating engine, conventional helicopter designed for civil operation. This helicopter model is capable of carrying one passenger with one pilot, and has a maximum gross weight of up to 1,370 pounds. The major design features include a two-blade teetering main rotor, an anti-torque tail rotor system, a skid landing gear, and a visual flight rule basic avionics configuration. Helittrak proposes to modify this model helicopter by installing a two-axis Helittrak AP.

The present § 27.1309(c) regulation does not adequately address the safety requirements for systems whose failures could result in “catastrophic” or

“hazardous/severe-major” failure conditions, or for complex systems whose failures could result in “major” failure conditions. When § 27.1309(c) was promulgated, it was not envisioned that a normal category rotorcraft would use systems that are complex or whose failure could result in “catastrophic” or “hazardous/severe-major” effects on the rotorcraft. The Helittrak AP controls rotorcraft flight control surfaces. Possible failure modes exhibited by this system could result in a catastrophic event.

**Type Certification Basis**

Under 14 CFR 21.101 and 21.115, Helittrak must show that the Robinson Model R22 BETA helicopter, as modified by the installed Helittrak AP, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. H10WE or the applicable regulations in effect on the date of application for the change.

Additionally, Helittrak must comply with the following equivalent level of safety findings, exemptions, and special conditions prescribed by the Administrator as part of the certification basis:

14 CFR part 27 dated February 1, 1965, including Amendments 27-1 through 27-10

National Environmental Act of 1969 Noise Control Act of 1972

Equivalent Safety Finding: Number TD10352LA-R/S-1

14 CFR part 27.1401(d), Anticollision Light System

In addition, Helittrak must show the Helittrak AP STC-altered Robinson Model R22 BETA helicopter complies with the noise certification requirements of 14 CFR part 36.

**Regulatory Basis for Special Conditions**

If the Administrator finds the applicable airworthiness regulations (that is, 14 CFR part 27) do not contain adequate or appropriate safety standards for the Robinson Model R22 BETA helicopter because of a novel or unusual design feature, special conditions are prescribed under § 21.16.

The FAA issues special conditions, as defined in § 11.19, in accordance with § 11.38 and they become part of the type certification basis under § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should Helittrak apply for an STC to modify any other model included on the H10WE type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

### Novel or Unusual Design Features

The Robinson Model R22 BETA will incorporate the following novel or unusual design features: A Helitruk AP. This AP system performs non-required flight control functions. The Helitruk AP is a two-axis system with two operational flight control modes: Heading and airspeed hold or heading and altitude hold. Other flight control functions include unusual attitude recovery, collective pulldown, and an autorotation function.

### Discussion

The effect on safety is not adequately covered under § 27.1309 for the application of new technology and new application of standard technology. Specifically, the provisions of § 27.1309(c) do not adequately address the safety requirements for systems whose failures could result in catastrophic or hazardous/severe-major failure conditions and for complex systems whose failures could result in major failure conditions.

To comply with these special conditions, we require that Helitruk provide the FAA with a systems safety assessment (SSA) for the final Helitruk AP installation configuration that will adequately address the safety objectives established by a functional hazard assessment (FHA) and a preliminary system safety assessment (PSSA), including the fault tree analysis (FTA). This will ensure that all failure conditions and their resulting effects are adequately addressed for the installed Helitruk AP. The SSA process, FHA, PSSA, and FTA are all parts of the overall safety assessment process discussed in FAA Advisory Circular 27-1B, *Certification of Normal Category Rotorcraft*, and Society of Automotive Engineers document Aerospace Recommended Practice 4761, *Guidelines and Methods for Conducting the Safety Assessment Process on Civil Airborne Systems and Equipment*.

These special conditions require that the Helitruk AP installed on a Robinson Model R22 BETA helicopter meets the requirements to adequately address the failure effects identified by the FHA, and subsequently verified by the SSA, within the defined design integrity requirements.

### Applicability

These special conditions are applicable to the Robinson Model R22 BETA helicopter. Should Helitruk apply at a later date for an STC to modify any other model included on Type Certificate No. H10WE to incorporate the same novel or unusual design

feature, the special conditions would apply to that model as well.

### Conclusion

This action affects only certain novel or unusual design features on one model helicopter. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the helicopter.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, the substance of these special conditions has been subjected to the notice and comment period previously and has been derived without substantive change from those previously issued. As it is unlikely that prior public comment would result in a significant change from the substance contained herein, the FAA considers prior notice to be unnecessary and finds that good cause exists to make these special conditions effective upon issuance.

### List of Subjects in 14 CFR Part 27

Aircraft, Aviation safety.

The authority citation for these special conditions is as follows:

**Authority:** 42 U.S.C. 7572; 49 U.S.C. 106(g), 40113, 44701-44702, 44704.

### The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Robinson Helicopter Company (Robinson) Model R22 BETA helicopters as modified by Helitruk, Incorporated.

In addition to the requirement of § 27.1309(c), the Helitruk autopilot (AP) system installation on Robinson Model R22 BETA helicopters must be designed and installed so that the failure conditions identified in the functional hazard assessment (FHA) and verified by the system safety assessment (SSA) are adequately addressed in accordance with the following requirements.

Helitruk, Incorporated must provide the FAA with a SSA for the final Helitruk AP installation configuration that will adequately address the safety objectives established by the FHA and the preliminary system safety assessment (PSSA), including the fault tree analysis (FTA). This will show that all failure conditions and their resulting effects are adequately addressed for the installed Helitruk AP.

Note 1: The SSA process, FHA, PSSA, and FTA are all parts of the overall safety assessment (SA) process

discussed in FAA Advisory Circular (AC) 27-1B (*Certification of Normal Category Rotorcraft*) and Society of Automotive Engineers (SAE) document Aerospace Recommended Practice (ARP) 4761 (*Guidelines and Methods for Conducting the Safety Assessment Process on civil airborne Systems and Equipment*).

*Failure Condition Categories.* Failure conditions are classified, according to the severity of their effects on the rotorcraft, into one of the following categories:

1. *No Effect.* Failure conditions have no effect on safety. These failure conditions would not affect the operational capability of the rotorcraft or increase crew workload; however, could result in an inconvenience to the occupants, excluding the flight crew.

2. *Minor.* Failure conditions do not significantly reduce rotorcraft safety, and involve crew actions that are well within their capabilities. Minor failure conditions would include, for example, a slight reduction in safety margins or functional capabilities, a slight increase in crew workload, such as, routine flight plan changes, or result in some physical discomfort to occupants.

3. *Major.* Failure conditions reduce the capability of the rotorcraft or the ability of the crew to cope with adverse operating conditions to the extent that there would be, for example, a significant reduction in safety margins or functional capabilities, a significant increase in crew workload or result in impairing crew efficiency, physical distress to occupants, including injuries, or physical discomfort to the flight crew. The potential for a failure to result in a condition characterized as major should be remote with a probability of occurrence between  $1 \times 10^{-3}$  to  $1 \times 10^{-5}$  failures/flight hour.

4. *Hazardous/Severe-Major.*

a. Failure conditions reduce the capability of the rotorcraft or the ability of the crew to cope with adverse operating conditions to the extent that there would be:

(1) A large reduction in safety margins or functional capabilities;

(2) physical distress or excessive workload that would impair the flight crew's ability to the extent that they could not be relied on to perform their tasks accurately or completely; or

(3) possible serious or fatal injury to a passenger or a cabin crewmember, excluding the flight crew. The potential that a failure results in a condition characterized as hazardous/severe-major should be extremely remote with a probability of occurrence between  $1 \times 10^{-5}$  to  $1 \times 10^{-7}$  failures/flight hour.

b. “Hazardous/severe-major” failure conditions can include events that are manageable by the crew by the use of proper procedures, which, if not implemented correctly or in a timely manner, may result in a catastrophic event.

5. *Catastrophic.* Failure conditions result in multiple fatalities to occupants, fatalities or incapacitation to the flight crew, or result in loss of the rotorcraft. The potential that a failure results in a condition characterized as catastrophic should be extremely improbable with probability of occurrence  $1 \times 10^{-9}$  failures/flight hour or less.

#### Requirements

Helitruk must comply with the existing requirements of § 27.1309 for all applicable design and operational aspects of the Helitruk AP with the failure condition categories of “no effect” and “minor,” and for non-complex systems whose failure condition category is classified as “major.” Helitruk must comply with the requirements of these special conditions for all applicable design and operational aspects of the Helitruk AP with the failure condition categories of “catastrophic” and “hazardous severe/major,” and for complex systems whose failure condition category is classified as “major.” A complex system is a system whose operations, failure conditions, or failure effects are difficult to comprehend without the aid of analytical methods (for example, FTA, Failure Modes and Effect Analysis, FHA).

#### System Design Integrity Requirements

Each of the failure condition categories defined in these special conditions relate to the corresponding aircraft system integrity requirements. The system design integrity requirements for the Helitruk AP, as they relate to the allowed probability of occurrence for each failure condition category and the proposed software design assurance level, are as follows:

Systems with failures that may result in a “major” effect must be shown to be remote and develop software to the Radio Technical Commission for Aeronautics (RTCA) Document DO-178B, *Software Considerations in Airborne Systems and Equipment Certification*, Level C software design assurance level and must develop complex hardware to the Radio Technical Commission for Aeronautics (RTCA) Document DO-254, *Design Assurance Guidance for Airborne Electronic Hardware*, Level C hardware design assurance level.

Systems with failures that may result in “hazardous/severe-major” effects must be shown to be extremely remote and develop software to the RTCA Document DO-178B, *Software Considerations in Airborne Systems and Equipment Certification*, Level B software design assurance level and must develop complex hardware to the Radio Technical Commission for Aeronautics (RTCA) Document DO-254, *Design Assurance Guidance for Airborne Electronic Hardware*, Level B hardware design assurance level.

Systems with failures that may result in “catastrophic” effects must be shown to be extremely improbable, and develop software to the RTCA Document DO-178B, *Software Considerations in Airborne Systems and Equipment Certification*, Level A design assurance level and must develop complex hardware to the Radio Technical Commission for Aeronautics (RTCA) Document DO-254, *Design Assurance Guidance for Airborne Electronic Hardware*, Level A hardware design assurance level.

#### System Design Environmental Requirements

The AP system equipment must be qualified to the appropriate environmental level per RTCA Document DO-160F, *Environmental Conditions and Test Procedures for Airborne Equipment*, for all relevant aspects. This is to show that the AP system performs its intended function under any foreseeable operating condition, including the expected environment in which the AP is intended to operate. Some of the main considerations for environmental concerns are installation locations and the resulting exposure to environmental conditions for the AP system equipment, including considerations for other equipment that may be affected environmentally by the AP equipment installation. The level of environmental qualification must be related to the severity of the considered failure conditions and effects on the rotorcraft.

#### Test & Analysis Requirements

Compliance with the requirements of these special conditions may be shown by a variety of methods, which typically consist of analysis, flight tests, ground tests, and simulation, at a minimum. Compliance methodology is related to the associated failure condition category. If the AP is a complex system, compliance with the requirements for failure conditions classified as “major” may be shown by analysis, in combination with appropriate testing, to validate the analysis. Compliance with

the requirements for failure conditions classified as “hazardous/severe-major” may be shown by flight-testing in combination with analysis and simulation, and the appropriate testing to validate the analysis. Flight tests may be limited for “hazardous/severe-major” failure conditions and effects due to safety considerations. Compliance with the requirements for failure conditions classified as “catastrophic” may be shown by analysis and appropriate testing in combination with simulation to validate the analysis. Very limited flight tests in combination with simulation are used as a part of a showing of compliance for “catastrophic” failure conditions. Flight tests are performed only in circumstances that use operational variations, or extrapolations from other flight performance aspects to address flight safety.

These special conditions require that the Helitruk AP system installed on a Robinson Model R22 BETA helicopter, Type Certificate No. H10WE, meet these requirements to adequately address the failure effects identified by the FHA, and subsequently verified by the SSA, within the defined design system integrity requirements.

Issued in Fort Worth, Texas, on March 10, 2017.

**Lance Gant,**

Manager Rotorcraft Standard Staff, Aircraft Certification Service.

[FR Doc. 2017-05268 Filed 3-15-17; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2016-0032]

RIN 1625-AA11

### Regulated Navigation Areas; Escorted Submarines Sector Jacksonville Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing regulated navigation areas (RNA) covering the St. Marys Entrance Channel, portions of the Cumberland Sound, and the Atlantic Ocean that will be in effect whenever any Navy submarine (foreign or domestic) is escorted by the Coast Guard and operating within the jurisdictional waters of the Sector Jacksonville Captain of the Port Zone. These RNAs

are necessary to help ensure the safety and security of submarines, their Coast Guard escorts, and the public. The RNAs will do so by requiring all persons and vessels located within an RNA to follow lawful orders and/or directions given to them by Coast Guard designated representatives. Additionally, these RNAs will supersede the current temporary safety/security zone for Cumberland Sound, Georgia and St. Marys River Entrance Channel.

**DATES:** This rule is effective April 17, 2017.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2016–0032 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Allan Storm, Coast Guard Sector Jacksonville, Chief of Waterways Management, telephone (904) 714–7616, email [Allan.H.Storm@uscg.mil](mailto:Allan.H.Storm@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

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

**II. Background Information and Regulatory History**

Navy submarines frequently operate within the Cumberland Sound and the St. Marys Entrance Channel. When transiting these areas, the submarines and the vessels towing them are severely restricted in their ability to maneuver or deviate course. Due to the safety and security concerns involved with submarine operations near shore in restricted waters, the Coast Guard provides submarine escorts when they are operating in those areas and offshore in the Atlantic Ocean.

Because the existing regulatory options the Coast Guard uses to safeguard the movement of submarines, their Coast Guard escorts, and the public are insufficient, the Coast Guard published a notice of proposed rulemaking (NPRM) on June 13, 2016, titled “Regulated Navigation Areas; Escorted Submarines Sector Jacksonville Captain of the Port Zone” (81 FR 38119). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action. During

the comment period that ended July 13, 2016, we received no public comments and two interagency comments.

**III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Coast Guard has determined that RNAs are necessary to allow designated Coast Guard representatives adequate time to effectively order and/or direct persons and vessels operating within a RNA to stop, move, change orientation, or take other action as needed to ensure safety and/or security. The ability to order and/or direct persons and vessels will help avoid unnecessary and potentially dangerous close quarters contact between Coast Guard escorts and the maritime public within Cumberland Sound, the St. Marys Entrance Channel, and offshore in the Atlantic Ocean. In addition, it will give Coast Guard escorts an additional tool for determining the intention of vessels that are operating in close vicinity to an escorted submarine. The RNAs will mitigate the risks associated with these issues, and ensure the safety and security of the submarines, their Coast Guard escorts, and the maritime public.

**IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received no public comments on the NPRM published on June 13, 2016. To better define the northern extent of the RNA, we have incorporated one change to the rule based on an interagency comment. The change includes adding the words “the southern tip of” to the Crab Island position.

This rule establishes a regulated area encompassing all waters within one (1) nautical mile of the charted center of the navigation channel from the southern tip of Crab Island in the Cumberland Sound, Georgia, to the St. Marys Entrance Channel and its approach extending eastward to lighted buoy “STM.” This portion of the regulation would allow Coast Guard vessels to direct waterway traffic in any portion of this confined channel when a submarine is being escorted.

Additionally, a regulated area will encompass waters within one (1) nautical mile of any Navy submarine while it is transiting territorial seas within the Sector Jacksonville Captain of the Port Zone. All persons and vessels located within the RNA are required to follow lawful orders and/or directions given to them by designated Coast Guard representatives.

**V. Regulatory Analyses**

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

**A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

The Coast Guard made this determination based on the fact that (1) the RNAs are only enforced for the short periods of time when submarines are operating in the St. Marys Entrance Channel, portions of the Cumberland Sound, and Atlantic Ocean and escorted by the Coast Guard or anytime a submarine is operating and escorted by the Coast Guard within the Sector Jacksonville Captain of the Port Zone territorial seas and (2) vessels may freely operate within the RNAs to the extent permitted by other law or regulation unless given a lawful order and/or direction by designated Coast Guard representatives.

The Coast Guard has determined that this rule, superseding the temporary safety/security zone implemented under 33 CFR 165.731(b), does not constitute a “significant regulatory action” under Executive Order 12866 based on the size and location of the security zone. The permanent security zone currently implemented under 33 CFR 165.731(a) remains in effect and covers approximately five square nautical miles of a sparsely populated section of Cumberland Sound and tributaries where few recreational or commercial vessels transit. Vessels transiting this area of Cumberland Sound can transit around the security zone.

**B. Impact on Small Entities**

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small

businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard did not receive any comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

#### C. Collection of Information

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

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism

principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### E. Unfunded Mandates Reform Act

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

#### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of RNAs and an amendment to a safety/security zone covering the St. Marys Entrance Channel, portions of the Cumberland Sound, and Atlantic Ocean, that will be enforced whenever any Navy submarine (foreign or domestic) is being escorted by the Coast Guard and operating within the jurisdictional waters of the Sector Jacksonville Captain of the Port Zone. It is categorically excluded from further review under paragraph 34(g) of figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your

message can be received without jeopardizing the safety or security of people, places, or vessels.

#### List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.731 to read as follows:

#### § 165.731 Security Zone: Cumberland Sound, Georgia.

(a) *Definition.* The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port (COTP) Jacksonville, Florida, in the enforcement of the regulated areas.

(b) *Location.* A permanent security zone is established within the following coordinates, the area enclosed by a line starting at 30°44'55" N., 081°29'39" W.; thence to 30°44'55" N., 081°29'18" W.; thence to 30°46'35" N., 081°29'18" W.; thence to 30°47'02" N., 081°29'34" W.; thence to 30°47'21" N., 081°29'39" W.; thence to 30°48'00" N., 081°29'42" W.; thence to 30°49'07" N., 081°29'56" W.; thence to 30°49'55" N., 081°30'35" W.; thence to 30°50'15" N., 081°31'08" W.; thence to 30°50'14" N., 081°31'30" W.; thence to 30°49'58" N., 081°31'45" W.; thence to 30°49'58" N., 081°32'03" W.; thence to 30°50'12" N., 081°32'17" W.; thence following the land based perimeter boundary to the point of origin.

(c) *Regulations.* (1) No person or vessel may enter or remain within the security zone without the permission of the COTP Jacksonville or designated representative.

(2) All persons and vessels authorized to enter the security zone shall immediately obey any direction or order of the COTP Jacksonville or designated representative.

(3) This regulation does not apply to persons or vessels operating under the authority of the United States Navy or to authorized law enforcement agencies.

■ 3. Add § 165.732 to read as follows:

**§ 165.732 Escorted Submarines Sector  
Jacksonville Captain of the Port Zone.**

(a) *Location.* The following areas are regulated navigation areas (RNA) whenever any Navy submarine (foreign or domestic) is being escorted by the Coast Guard within the Sector Jacksonville Captain of the Port Zone territorial seas:

(1) All waters within 1 nautical mile of any Navy submarine operating within the Sector Jacksonville Captain of the Port Zone territorial seas; and

(2) All waters within 1 nautical mile of the charted center of the navigation channel from the southern tip of Crab Island in the Cumberland Sound, Georgia, to the St. Marys Entrance Channel and its approach extending eastward to lighted buoy “STM.”

(b) *Regulations.* All persons and vessels located within a RNA created by paragraph (a) shall follow all lawful orders and/or directions given to them by designated Coast Guard representatives. 33 CFR 165, subpart B, contains additional provisions applicable to the RNA created in paragraph (a) of this section.

(c) *Notification.* The Coast Guard escort will attempt, when necessary and practicable, to notify any persons or vessels inside or approaching the vicinity of a RNA created in paragraph (a) of this section of its existence via VHF Channel 16 and/or any other means reasonably available.

Dated: March 10, 2017.

**S.A. Buschman,**

*Rear Admiral, U.S. Coast Guard, Commander,  
Seventh Coast Guard District.*

[FR Doc. 2017-05229 Filed 3-15-17; 8:45 am]

**BILLING CODE 9110-04-P**

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**DEPARTMENT OF EDUCATION**

**Office of Postsecondary Education**

**34 CFR Part 674**

**Federal Perkins Loan Program**

*CFR Correction*

In Title 34 of the Code of Federal Regulations, Parts 400 to 679, revised as of July 1, 2016, on page 698, in § 674.17, in the introductory text of paragraph (a), the words “one of” are removed.

[FR Doc. 2017-05299 Filed 3-15-17; 8:45 am]

**BILLING CODE 1301-00-D**

**ENVIRONMENTAL PROTECTION  
AGENCY**

**40 CFR Part 68**

[EPA-HQ-OEM-2015-0725; FRL-9959-57-OLEM]

**RIN 2050-AG82**

**Accidental Release Prevention  
Requirements: Risk Management  
Programs Under the Clean Air Act;  
Further Delay of Effective Date**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** By a letter dated March 13, 2017, the Administrator announced the convening of a proceeding for reconsideration of the final rule that amends the chemical accident prevention provisions addressing Risk Management Programs under the Clean Air Act published in the **Federal Register** on January 13, 2017. The effective date of these regulations had been March 21, 2017. By this action, the EPA is administratively staying and delaying the effective date of this rule for 90 days. Thus, the January 13, 2017 rule will become effective on June 19, 2017.

**DATES:** The effective date of the rule amending 40 CFR part 68 published at 82 FR 4594 (January 13, 2017), as delayed at 82 FR 8499 (January 26, 2017) is further delayed to June 19, 2017.

**ADDRESSES:** The EPA has established a docket for the rule amending 40 CFR part 68 under Docket ID No. EPA-HQ-OEM-2015-0725. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, 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 form. Publicly available docket materials are available electronically through <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** James Belke, United States Environmental Protection Agency, Office of Land and Emergency Management, 1200 Pennsylvania Ave. NW. (Mail Code 5104A), Washington, DC 20460; telephone number: (202) 564-8023; email address: [belke.jim@epa.gov](mailto:belke.jim@epa.gov), or: Kathy Franklin, United States Environmental Protection

Agency, Office of Land and Emergency Management, 1200 Pennsylvania Ave. NW. (Mail Code 5104A), Washington, DC 20460; telephone number: (202) 564-7987; email address: [franklin.kathy@epa.gov](mailto:franklin.kathy@epa.gov).

Electronic copies of this document and related news releases are available on EPA's Web site at <http://www.epa.gov/rmp>. Copies of this final rule are also available at <http://www.regulations.gov>.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On January 13, 2017, the EPA (“we”) issued a final rule amending 40 CFR part 68, the chemical accident prevention provisions under section 112(r)(7) of the Clean Air Act (CAA) ((42 U.S.C. 7412(r)). The amendments addressed various aspects of risk management programs, including prevention programs at stationary sources, emergency response preparedness requirements, information availability, and various other changes to streamline, clarify, and otherwise technically correct the underlying rules. Collectively, this rulemaking is known as the “Risk Management Program Amendments.” For further information on the Risk Management Program Amendments, see 82 FR 4594 (January 13, 2017).

On January 26, 2017, the EPA published a final rule extending the effective date of the Risk Management Program Amendments from March 14, 2017, to March 21, 2017, see 82 FR 8499. This revision to the effective date of the Risk Management Program Amendments was part of an EPA final rule implementing a memorandum dated January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review.” This memorandum directed the heads of agencies to extend until 60 days after the date of its issuance the effective date of rules that were published prior to January 20, 2017 but which had not yet become effective.

In a letter dated February 28, 2017, a group known as the “RMP Coalition,”<sup>1</sup> submitted a petition for reconsideration of the Risk Management Program Amendments (“RMP Coalition Petition”) as provided for in CAA section 307(d)(7)(B) (42 U.S.C.

<sup>1</sup> The RMP Coalition is comprised of the American Chemistry Council, the American Forest & Paper Association, the American Fuel & Petrochemical Manufacturers, the American Petroleum Institute, the Chamber of Commerce of the United States of America, the National Association of Manufacturers, and the Utility Air Regulatory Group.



7607(d)(7)(B)).<sup>2</sup> Under that provision, the Administrator is to commence a reconsideration proceeding if in the Administrator's judgment the petitioner raises an objection to a rule that was impracticable to raise during the comment period or if the grounds for the objection arose after the comment period but within the period for judicial review. In either case, the Administrator must also conclude that the objection is of central relevance to the outcome of the rule. The Administrator may stay the effective date of the rule for up to three months during such reconsideration.

In a letter dated March 13, 2017, the Administrator announced the convening of a proceeding for reconsideration of the Risk Management Program Amendments (a copy of this letter is included in the docket for this rule, Docket ID No. EPA-HQ-OEM-2015-0725). As explained in that letter, having considered the objections raised in the RMP Coalition Petition, the Administrator determined that the criteria for reconsideration have been met for at least one of the objections. We will prepare a notice of proposed rulemaking in the near future that will provide the RMP Coalition and the public an opportunity to comment on the issues raised in the petition that meet the standard of CAA section 307(d)(7)(B) as well as any other matter we believe will benefit from additional comment.

## II. Issuance of a Stay and Delay of Effective Date

The EPA hereby issues a three-month (90-day) administrative stay of the effective date of the Risk Management Program Amendments. The effective date of the rule amending 40 CFR part 68 published at 82 FR 4594 (January 13, 2017), as amended by 82 FR 8499 (January 26, 2017), is delayed to June 19, 2017.

### List of Subjects in 40 CFR Part 68

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 13, 2017.

**E. Scott Pruitt,**  
Administrator.

[FR Doc. 2017-05288 Filed 3-15-17; 8:45 am]

**BILLING CODE 6560-50-P**

<sup>2</sup> A copy of the petition is included in the docket for this rule, Docket ID No. EPA-HQ-OEM-2015-0725.

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 74

[MB Docket No. 13-249; FCC 17-14]

### Revitalization of the AM Radio Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved the information collection requirements associated with the Commission's *Second Report and Order*, Revitalization of the AM Radio Service, FCC 17-14. This document is consistent with the *Second Report and Order*, which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the rules.

**DATES:** The rule amendment to 47 CFR 74.1201(g) and changes to FCC Form 345 and FCC Form 349, published at 82 FR 13069, March 9, 2017, will become effective on the originally announced effective date of April 10, 2017.

#### FOR FURTHER INFORMATION CONTACT:

Cathy Williams by email at [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov) and telephone at (202) 418-2918.

**SUPPLEMENTARY INFORMATION:** This document announces that OMB approved the preapproved information collection requirements, as set forth in the *Further Notice of Proposed Rulemaking* in this proceeding (30 FCC Rcd 12145 (2015)), as follows: OMB control number 3060-0075, OMB preapproved on March 17, 2016; and OMB control number 3060-0405, OMB preapproved on March 21, 2016. On February 27, 2017, OMB approved the final information collection requirements for the non-substantive changes contained in the Commission's *Second Report and Order*, FCC 17-14, published at 82 FR 13069 (March 9, 2017). The Commission publishes this notice as an announcement of the effective date of those information collection requirements.

**Synopsis:** As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that OMB approved the preapproved information collection requirements contained in 47 CFR 74.1201(g), FCC Form 345, and FCC Form 349. In doing so, OMB approved on February 27, 2017, the non-

substantive change to the pre-approved information collection requirements of OMB Control Numbers 3060-0075 and 3060-0405. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers are 3060-0075 and 3060-0405.

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

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

*OMB Control Number:* 3060-0075.  
*OMB Approval Date:* February 27, 2017.

*OMB Expiration Date:* April 30, 2019.

*Title:* Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit, for an FM or TV Translator Station, or a Low Power Television Station, FCC Form 345.

*Form Number:* FCC Form 345.

*Respondents:* Business or other for-profit entities; Not for profit institutions; Local or Tribal Government.

*Number of Respondents and Responses:* 1,700 respondents; 2,700 responses.

*Estimated Time per Response:* 0.084-1.25 hours.

*Frequency of Response:* Third party disclosure requirement and on occasion reporting requirement.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 4(i) and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 310.

*Total Annual Burden:* 2,667 hours.

*Total Annual Cost:* \$3,958,125.

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

*Privacy Act Impact Assessment:* No impact(s).

*Needs and Uses:* Filing of the FCC Form 345 is required when applying for authority for assignment of license or permit, or for consent to transfer of control of a corporate licensee or permittee for an FM or TV translator station, or low power TV station. This collection also includes the third party disclosure requirement of 47 CFR 73.3580 (OMB approval was received for Section 73.3580 under OMB Control Number 3060-0031). Furthermore, AM radio stations use Form 345 to apply for

authority to assign or transfer fill-in FM translator stations.

This revised information collection relaxes the current rule setting forth where an FM fill-in translator rebroadcasting an AM broadcast station may be sited pursuant to 47 CFR 74.1201(g). The Commission amended 47 CFR 74.1201(g) to provide that an FM translator rebroadcasting an AM broadcast station must be located such that the 60 dB $\mu$  contour of the FM translator station must be contained within the greater of either (a) the 2 mV/m daytime contour of the AM station, or (b) a 25-mile radius centered at the AM station's transmitter site. FCC Form 345 applicants, when used by AM radio stations applying for authority to assign or transfer a fill-in FM translator station, must now certify to this new relaxed standard. This revised collection is consistent with the Commission's objective to provide flexibility to an AM station using a cross-service translator to serve its core market while not extending its signal beyond the station's core service area.

*OMB Control Number:* 3060-0405.

*OMB Approval Date:* February 27, 2017.

*OMB Expiration Date:* December 31, 2018.

*Title:* Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349.

*Form Number:* FCC Form 349.

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

*Number of Respondents and Responses:* 1,200 respondents; 2,400 responses.

*Estimated Time per Response:* 1-1.5 hours.

*Frequency of Response:* Third party disclosure requirement and on occasion reporting requirement.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 4(i), 303, and 308 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 308.

*Total Annual Burden:* 4,500 hours.

*Total Annual Cost:* \$4,674,600.

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

*Privacy Act Impact Assessment:* No impact(s).

*Needs and Uses:* FCC Form 349 is used to apply for authority to construct a new FM translator or FM booster broadcast station, or to make changes in the existing facilities of such stations. Form 349 also contains a third party disclosure requirement, pursuant to 47 CFR 73.3580, and a recordkeeping information collection requirement pursuant to 47 CFR 73.3527 (OMB

approval was received for Section 73.4527 under OMB Control Number 3060-0214). Moreover, AM radio stations use Form 349 to apply for authorizations to operate fill-in FM translator stations.

This revised information collection relaxes the current rule setting forth where an FM fill-in translator rebroadcasting an AM broadcast station may be sited pursuant to 47 CFR 74.1201(g). The Commission amended 47 CFR 74.1201(g) to provide that an FM translator rebroadcasting an AM broadcast station must be located such that the 60 dB $\mu$  contour of the FM translator station must be contained within the greater of either (a) the 2 mV/m daytime contour of the AM station, or (b) a 25-mile radius centered at the AM station's transmitter site. FCC Form 349, when used by applicants applying for authorizations to operate such fill-in FM translator stations, must now certify to this new relaxed standard. This revised collection is consistent with the Commission's objective to provide flexibility to an AM station using a cross-service translator to serve its core market while not extending its signal beyond the station's core service area.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. 2017-05185 Filed 3-15-17; 8:45 am]

**BILLING CODE 6712-01-P**

# Proposed Rules

Federal Register

Vol. 82, No. 50

Thursday, March 16, 2017

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

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Parts 1, 23, and 40

RIN 3038-AD54

### Capital Requirements of Swap Dealers and Major Swap Participants

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of proposed rulemaking; extension of comment period.

**SUMMARY:** On December 16, 2016, the Commodity Futures Trading Commission (Commission or CFTC) published in the **Federal Register** a notice of proposed rulemaking (Proposal) to adopt new regulations and to amend existing regulations to implement sections 4s(e) and (f) of the Commodity Exchange Act (CEA), as added by section 731 of the Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Section 4s(e) requires the Commission to adopt capital requirements for swap dealers (SDs) and major swap participants (MSPs) that are not subject to capital rules of a prudential regulator. Section 4s(f) requires the Commission to adopt financial reporting and recordkeeping requirements for SDs and MSPs. The Commission also proposed to amend existing capital rules for futures commission merchants (FCMs), providing specific capital deductions for market risk and credit risk for swaps and security-based swaps entered into by an FCM. The Commission further proposed several technical amendments to the regulations. As is explained below, the Commission is extending for 60 days the comment period for the Proposal.

**DATES:** The comment period for the Proposal published on December 16, 2016, at 81 FR 91252, is extended until May 15, 2017.

**ADDRESSES:** You may submit comments, identified by RIN 3038-AD54 and "Capital Requirements for Swap Dealers

and Major Swap Participants", by any of the following methods:

- *CFTC Web site, via its Comments Online process:* <http://comments.cftc.gov>. Follow the instructions for submitting comments through the Web site.
- *Mail:* Send to Chris Kirkpatrick, Secretary, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.
- *Hand delivery/Courier:* Same as Mail above.
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. Please submit your comments using only one of these methods.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures set forth in Regulation 145.9 of the Commission's regulations.<sup>1</sup>

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:** Eileen T. Flaherty, Director, Division of Swap Dealer and Intermediary Oversight, 202-418-5326, [eflaherty@cftc.gov](mailto:eflaherty@cftc.gov); Thomas Smith, Deputy Director, Division of Swap Dealer and Intermediary Oversight, 202-418-5495, [tsmith@cftc.gov](mailto:tsmith@cftc.gov); Jennifer C.P. Bauer, Special Counsel, Division of Swap Dealer and Intermediary Oversight, 202-418-5472, [jbauer@cftc.gov](mailto:jbauer@cftc.gov); Joshua

Beale, Special Counsel, Division of Swap Dealer and Intermediary Oversight, 202-418-5446, [jbeale@cftc.gov](mailto:jbeale@cftc.gov); Rafael Martinez, Senior Financial Risk Analyst, Division of Swap Dealer and Intermediary Oversight, 202-418-5462, [rmartinez@cftc.gov](mailto:rmartinez@cftc.gov); Paul Schlichting, Assistant General Counsel, Office of the General Counsel, 202-418-5884, [pschlichting@cftc.gov](mailto:pschlichting@cftc.gov); or Lihong McPhail, Research Economist, 202-418-5722, [lmcphail@cftc.gov](mailto:lmcphail@cftc.gov), Office of the Chief Economist; Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

### SUPPLEMENTARY INFORMATION:

#### I. Background

Section 731 of the Dodd-Frank Act amended the CEA by adding sections 4s(e) and 4s(f). Section 4s(e) requires that the Commission adopt rules establishing capital requirements for SDs and MSPs to help ensure the safety and soundness of the SDs and MSPs. Section 4s(f), among other things, requires that the Commission adopt regulations related to financial reporting and recordkeeping by SDs and MSPs. The Proposal would adopt new regulations and amend existing regulations to implement the requirements of these CEA sections.<sup>2</sup>

The Proposal generally permits the application of three alternative approaches to the treatment of capital based upon existing U.S. bank regulators' capital requirements or the CFTC's future commission merchant and the Securities and Exchange Commission's broker-dealer net liquid asset capital requirements. The Proposal further provides that SDs predominantly engaged in non-financial activities and MSPs may elect minimum capital requirements based upon the tangible net worth of the entities. SDs may use internal models for purposes of computing their regulatory capital, subject to prior approval by either the Commission or the National Futures Association. The Proposal would also require certain SDs and MSPs to satisfy defined liquidity and funding requirements and would place certain

<sup>1</sup> Commission regulations referred to herein are found at 17 CFR chapter 1. Commission regulations are accessible on the Commission's Web site, <http://www.cftc.gov>.

<sup>2</sup> The Commission previously proposed capital and financial reporting rules for SDs and MSPs in 2011. See *Capital Requirements of Swap Dealers and Major Swap Participants*, 76 FR 27802 (May 12, 2011).

limitations on the withdrawal of capital from SDs as part of the SD capital requirements.

In implementing the provisions of Section 4s(f) of the CEA, the Proposal includes recordkeeping, reporting and notification requirements for SDs and MSPs relative to their respective capital requirements. The Proposal would also allow foreign SDs to comply with comparable capital requirements in the home jurisdiction under a program of substituted compliance.

In addition to proposing minimum capital and financial reporting requirements for SDs and MSPs, the Proposal would also amend existing capital requirements for FCMs to establish specific capital requirements for FCMs that engage in swaps or security-based swaps that are not cleared by a clearing organization. The Proposal also includes certain technical amendments to several regulations as part of the proposed capital and financial recordkeeping and reporting requirements.

## II. Extension of Comment Period

The comment period for the Proposal is due to expire on March 16, 2017. By letters dated February 24, 2017 and March 2, 2017, respectively, the Securities Industry and Financial Markets Association (SIFMA) and The Futures Industry Association (FIA), membership organizations representing many firms that would be affected by the Proposal, requested a 60-day extension of the comment period. In support of their requests, SIFMA and FIA explained that firms have extensive work to do in order to calculate the effect on their activities of the different types of proposed capital requirements. SIFMA further explained that the initial comment period overlaps with firms' year-end accounting and reporting cycles as well as with the deadline for firms' compliance with the Commission's uncleared swaps margin rules, resulting in a significant drain on

their resources. SIFMA and FIA noted that given the complexity of the Proposal it will require significant time beyond the Commission's initial March 16 comment deadline to fully assess the potential impact of the Proposal on firms' operations.

In light of the foregoing, and in response to the SIFMA and FIA requests, by this **Federal Register** release the Commission is extending the comment period for the Proposal for 60 days, until May 15, 2017.

Issued in Washington, DC, on March 13, 2017, by the Commission.

**Robert N. Sidman,**

*Deputy Secretary of the Commission.*

**Note:** The following appendix will not appear in the Code of Federal Regulations.

### Appendix to Capital Requirements of Swap Dealers and Major Swap Participants—Commission Voting Summary

On this matter, Acting Chairman Giancarlo and Commissioner Bowen voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2017-05277 Filed 3-15-17; 8:45 am]

**BILLING CODE 6351-01-P**

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 6, 7, 14, 20, 64, and 67

[CG Docket No. 16-145 and GN Docket No. 15-178; DA 17-197]

### Petition for Clarification, or in the Alternative Reconsideration of Action in Rulemaking Proceeding

**AGENCY:** Federal Communications Commission.

**ACTION:** Petition for clarification or reconsideration.

**SUMMARY:** A Petition for Clarification, or in the Alternative Reconsideration (Petition) has been filed in the

Commission's rulemaking proceeding by T-Mobile USA, Inc.

**DATES:** Comments to the Petition must be filed on or before March 31, 2017. Reply Comments must be filed on or before April 10, 2017.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:**

Michael Scott, Consumer and Governmental Affairs Bureau, email: [Michael.Scott@fcc.gov](mailto:Michael.Scott@fcc.gov); phone: (202) 418-1264.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's document DA 17-197, released February 27, 2017. The full text of the Petition is available for viewing and copying at the FCC Reference Information Center, 445 12th Street SW., Room CY-A257, Washington, DC 20554 or may be accessed online via the Commission's Electronic Comment Filing System at: [https://ecfsapi.fcc.gov/file/102231846629100/T-Mobile%20RTT%20Petition%20for%20Clarification%20\(2-22-17\)%20FINAL.pdf](https://ecfsapi.fcc.gov/file/102231846629100/T-Mobile%20RTT%20Petition%20for%20Clarification%20(2-22-17)%20FINAL.pdf). The Commission will not send a copy of this document pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because this document does not have an impact on any rules of particular applicability.

*Subject:* Transition from TTY to Real-Time Text Technology, FCC 16-169, published at 82 FR 7699, January 23, 2017 in CG Docket No. 16-145 and GN Docket No. 15-178. This document is being published pursuant to 47 CFR 1.429(e). See also 47 CFR 1.4(b)(1) and 1.429(f), (g).

*Number of Petitions Filed:* 1.

Federal Communications Commission.

**Karen Peltz Strauss,**

*Deputy Chief, Consumer and Governmental Affairs Bureau.*

[FR Doc. 2017-05191 Filed 3-15-17; 8:45 am]

**BILLING CODE 6712-01-P**

# Notices

Federal Register

Vol. 82, No. 50

Thursday, March 16, 2017

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

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

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

*Agency:* International Trade Administration.

*Title:* Request for Duty-Free Entry of Scientific Instruments or Apparatus.

*Form Number(s):* ITA-338P.

*OMB Control Number:* 0625-0037.

*Type of Request:* Regular submission. *Burden Hours:* 130.

*Number of Respondents:* 65.

*Average Hours per Response:* 2.

*Needs and Uses:* The Departments of Commerce and Homeland Security ("DHS") are required to determine whether non-profit institutions established for scientific or educational purposes are entitled to duty-free entry for scientific instruments that the institutions import under the Florence Agreement. Form ITA-338P enables: (1) DHS to determine whether the statutory eligibility requirements for the institution and the instrument are fulfilled, and (2) Commerce to make a comparison and finding as to the scientific equivalency of comparable instruments being manufactured in the United States. Without the collection of the information, DHS and Commerce would be unable to carry out the responsibilities assigned by law.

*Affected Public:* Federal, state or local government; not-for-profit institutions.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain a benefit, voluntary.

*OMB Desk Officer:* Wendy Liberante, (202) 395-3647.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup,

Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 or via email at [PRAComments@doc.gov](mailto:PRAComments@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Wendy Liberante, OMB Desk Officer, Fax number (202) 395-7285 or via the Internet at [Wendy\\_L\\_Liberante@omb.eop.gov](mailto:Wendy_L_Liberante@omb.eop.gov).

**Sheleen Dumas,**

*PRA Departmental Lead, Office of the Chief Information Officer.*

[FR Doc. 2017-05240 Filed 3-15-17; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request; Five-Year Records Retention Requirement for Export Transactions and Boycott Actions

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

*Agency:* Bureau of Industry and Security.

*Title:* Five-Year Records Retention Requirement for Export Transactions and Boycott Actions.

*Form Number(s):* N/A.

*OMB Control Number:* 0694-0096.

*Type of Review:* Regular submission.

*Estimated Total Annual Burden*

*Hours:* 248.

*Estimated Number of Respondents:* 84,001,108.

*Estimated Time per Response:* 1 second to 1 minute.

*Needs and Uses:* All parties involved in export transactions and the U.S. party involved in a boycott action are required to maintain records of these activities for a period of five years. Without this authority, potential violators could discard records demonstrating violations of the Export Administration Regulations prior to the expiration of the five-year statute of limitations.

*Affected Public:* Business or other for-profit organizations.

*Frequency:* On Occasion.

*Respondent's Obligation:* Voluntary.

This information collection request may be viewed at [reginfo.gov](http://www.reginfo.gov/public/) <http://www.reginfo.gov/public/>. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov).

**Sheleen Dumas,**

*PRA Departmental Lead, Office of the Chief Information Officer.*

[FR Doc. 2017-05232 Filed 3-15-17; 8:45 am]

**BILLING CODE 3510-33-P**

## DEPARTMENT OF COMMERCE

[Docket Number: 170309252-7252-01]

### Office of Policy and Strategic Planning; Construction of Pipelines Using Domestic Steel and Iron

**AGENCY:** Office of Policy and Strategic Planning, Department of Commerce.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Department of Commerce is seeking information on the construction and maintenance of American pipelines. This information will help the Department develop a plan for the domestic sourcing of materials for the construction, retrofitting, repair, and expansion of pipelines inside the United States as directed by the January 24, 2017 Presidential Memorandum regarding "Construction of American Pipelines" (Presidential Memorandum). The Secretary of Commerce, in consultation with relevant agencies, is required to deliver this plan to the President by July 23, 2017.

In response to this directive, the Department of Commerce is conducting industry outreach to better understand: Current pipeline construction technology and requirements; potential advances in pipeline technology; domestic and foreign supply chain for pipeline materials; and all other information respondents consider pertinent to the development of the domestic sourcing plan. Responses to this notice (posted at <https://www.regulations.gov>) will inform the Secretary's plan for the domestic sourcing of materials used in pipelines

within the boundaries of the United States.

**DATES:** Comments must be received by 5 p.m. Eastern time on April 7, 2017.

**ADDRESSES:** You may submit comments on the Presidential Memorandum and responses to the questions below by one of the following methods:

*(a) Electronic Submission*

Submit all electronic comments via the Federal e-Rulemaking Portal at <https://www.regulations.gov> (at the home page, enter DOC-2017-0002 in the "Search" box, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments). The materials in the docket will not be edited to remove identifying or contact information, and the Department cautions against including any information in an electronic submission that the submitter does not want publicly disclosed. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF formats only. Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials. Please do not submit additional materials. If you want to submit a comment with business confidential information that you do not wish to be made public, submit the comment as a written/paper submission in the manner detailed below.

*(b) Written/Paper Submissions*

Send all written/paper submissions to: The Office of Policy and Strategic Planning, Department of Commerce, 1401 Constitution Ave. NW., Room 5863, Washington, DC 20230.

**Submissions of "Business Confidential Information":** Any submissions containing "business confidential information" must be delivered in a sealed envelope marked "confidential treatment requested" to the address listed above. Please provide an index listing the document(s) or information that the submitter would like the Department to withhold. The index should include information such as numbers used to identify the relevant document(s) or information, document title and description, and relevant page numbers and/or section numbers within a document. Provide a statement explaining the submitter's grounds for objecting to disclosure of the information to the public. The Department also requests that submitters of business confidential information include a non-confidential version (either redacted or summarized) of those confidential submissions,

which will be available for public viewing and posted on <https://www.regulations.gov>. In the event that the submitter cannot provide a non-confidential version of its submission, the Department requests that the submitter post a notice in the docket stating that it has provided the Department with business confidential information. Should a submitter fail to docket either a non-confidential version of its submission or to post a notice that business confidential information has been provided, the Department will note the receipt of the submission on the docket with the submitter's organization or name (to the degree permitted by law) and the date of submission.

**FOR FURTHER INFORMATION CONTACT:** For questions about this notice contact: Carter Halfman or David Langdon at the U.S. Department of Commerce, Office of Policy and Strategic Planning, at 202-482-7466 or 202-482-3308. Please direct media inquiries to the Department of Commerce Office of Public Affairs at 202-482-4883, or [publicaffairs@doc.gov](mailto:publicaffairs@doc.gov).

**SUPPLEMENTARY INFORMATION:** President Trump's Memorandum of January 24, 2017, "Construction of American Pipelines" (82 FR 8659) directs the Secretary of Commerce to "develop a plan under which all new pipelines, as well as retrofitted, repaired, or expanded pipelines, inside the borders of the United States, including portions of pipelines, use materials and equipment produced in the United States, to the maximum extent possible and to the extent permitted by law."

For the purposes of this notice the term "*pipeline*" refers to any conduit of pipe used for conveyance of gases, liquids or other products. The physical facilities include: Pipes, valves, fittings, connectors, and other iron and steel assemblies or apparatus attached to the pipe.

For the purposes of this notice the term "*materials and equipment*" refers to the iron, steel and all precursors, alloys or substitutes used in the fabrication of pipelines (as defined above) as well as pipeline coatings while "*equipment*" refers to valves and other steel and/or iron apparatus attached to pipe.

**Request for Information**

Given the nature and import of the Presidential Memorandum, the Department requests information from all stakeholders involved in the manufacturing and construction of pipelines (including the retrofit, repair, or expansion of existing pipelines) as

well as the production and distribution of pipeline materials.

Respondents may address any, all or none of the following questions, and may address additional topics that have implications for increasing the domestic material content in pipelines. Please identify, where possible, the questions your comments are intended to address.

Respondents may organize their submissions in any manner, and all responses that comply with the requirements listed in the **DATES** and **ADDRESSES** sections of this notice will be considered. Reminder: Respondents have the burden to request that any information contained in a submission be treated as "business confidential information" and must certify that such information is business confidential and would not customarily be released to the public by the submitter; business confidential information must be clearly designated as such and provided only by mail carrier as described above.

While the Department welcomes all input considered relevant to the development of a plan for the domestic sourcing of materials for the construction, retrofitting, repair, and expansion of pipelines, the Department specifically seeks the following types of information:

- a. What is your role regarding U.S. pipelines?
  - a. Operation
  - b. Construction
  - c. Pipeline manufacturing
  - d. Steel manufacturing
  - e. Wholesale distribution
  - f. Other. Please describe in a few sentences.
- b. NAICS code(s)?
- c. What types of pipelines does your company operate, construct, manufacture, or distribute?
- d. Where are your operations located?
- e. How many employees?
- f. Approximate sales revenue?
- g. Approximately how many miles of pipeline did your company construct, repair, fabricate, or distribute in 2016?
  1. In a few sentences, describe your assessment of U.S. pipeline demand (such as miles of pipeline planned for construction) for the next few years.
  2. To what extent are your companies' pipeline materials sourced domestically? What factors influence this decision (price, quality, supply shortages, pipeline requirements, domestic sourcing requirements, etc.)?
  3. If applicable, please estimate your company's capacity to fabricate pipelines or steel for pipelines.

What was your capacity utilization in 2016? If applicable, what factors prevented your company from operating at capacity?

4. If applicable, please estimate in days or months supply your existing inventories of pipe. What share of your inventory is fully produced in the United States?
5. To what extent are materials other than iron and steel the primary materials used in your pipelines?
6. To what extent is technology changing the material requirements and construction techniques in the pipeline industry?
7. If applicable, how many permits from a Federal agency are required for pipeline construction or repair? Which Federal agencies require permits and how long does it take to obtain them?
8. Please describe in a few sentences how domestic content requirements would affect your operations.

Dated: March 10, 2017.

**Earl Comstock,**

*Director of the Office of Policy and Strategic Planning.*

[FR Doc. 2017-05197 Filed 3-15-17; 8:45 am]

**BILLING CODE 3510-17-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Meeting of the United States Travel and Tourism Advisory Board

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

**ACTION:** Notice of an open meeting.

**SUMMARY:** The United States Travel and Tourism Advisory Board (Board) will hold its first meeting with the newly appointed Secretary of Commerce on Friday, March 31, 2017. The Board was re-chartered in August 2015 and advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry. During the meeting, the Secretary of Commerce will provide an overview of the Administration's policy priorities with respect to the travel and tourism sector, and the Board will discuss key issues impacting travel and tourism companies. The Board will also deliberate on and may adopt recommendations related to travel security and the customer experience, visa facilitation, key market engagement, and research. The final agenda will be posted on the Department of Commerce Web site for the Board at <http://trade.gov/ttab>, at

least one week in advance of the meeting.

**DATES:** Friday, March 31, 2017, 9 a.m.–12 p.m. EDT. The deadline for members of the public to register, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5 p.m. EDT on Friday, March 24, 2017.

**ADDRESSES:** The meeting will be held at U.S. Department of Commerce, Secretary's Conference Room, 1401 Constitution Avenue NW., Washington, DC 20230.

Requests to register (including to speak or for auxiliary aids) and any written comments should be submitted to: Ronald Reagan Int'l Trade Center, 1300 Pennsylvania Ave. NW., Suite 800M, Department of Commerce, Washington, DC 20004-3002 or [OACIO@trade.gov](mailto:OACIO@trade.gov). Members of the public are encouraged to submit registration requests and written comments via email to ensure timely receipt.

**FOR FURTHER INFORMATION CONTACT:** Joe Holecko, the United States Travel and Tourism Advisory Board, Ronald Reagan Int'l Trade Center, 1300 Pennsylvania Ave. NW., Suite 800M, Department of Commerce, Washington, DC 20004-3002 telephone: 202-482-4783, email: [OACIO@trade.gov](mailto:OACIO@trade.gov).

#### SUPPLEMENTARY INFORMATION:

**Background:** The Board advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry.

**Public Participation:** The meeting will be open to the public and will be accessible to people with disabilities. All guests are required to register in advance by the deadline identified under the **DATES** caption. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted, but may not be possible to fill. There will be fifteen (15) minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for public comments may be limited to three (3) minutes per person. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name and address of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of

their prepared remarks by 5 p.m. EDT on Friday, March 24, 2017, for inclusion in the meeting records and for circulation to the members of the Board.

In addition, any member of the public may submit pertinent written comments concerning the Board's affairs at any time before or after the meeting. Comments may be submitted to Joe Holecko at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5 p.m. EDT on Friday, March 24, 2017, to ensure transmission to the Board prior to the meeting. Comments received after that date and time will be distributed to the members but may not be considered during the meeting. Copies of Board meeting minutes will be available within 90 days of the meeting.

Dated: March 8, 2017.

**Joe Holecko,**

*Executive Secretary, United States Travel and Tourism Advisory Board.*

[FR Doc. 2017-05043 Filed 3-15-17; 8:45 am]

**BILLING CODE 3510-DR-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-928]

#### Uncovered Innerspring Units From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015-2016

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

**SUMMARY:** On November 7, 2016, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on uncovered innerspring units (innersprings) from the People's Republic of China (PRC). We gave interested parties an opportunity to comment on the preliminary results, and based upon our analysis of the comments received, our final results remain unchanged from the preliminary results. In these final results, we determine that innersprings are being, or are likely to be, sold in the United States at less than fair value. The period of review (POR) is February 1, 2015, through January 31, 2016. The final weighted-average dumping margin is listed below in the Final Results of Review section of this notice.

**DATES:** Effective March 16, 2017.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Hawkins, AD/CVD Operations, Office V, Enforcement and Compliance,

International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-6491.

#### SUPPLEMENTARY INFORMATION:

#### Background

This review covers one exporter of subject merchandise: Enchant Privilege Sdn Bhd (Enchant Privilege). On November 7, 2016, the Department published the *Preliminary Results* in the **Federal Register**, and provided interested parties an opportunity to comment.<sup>1</sup> On December 7, 2016, the Department received a case brief from Leggett and Platt, Inc. (Petitioner).<sup>2</sup> No other interested party filed case or rebuttal briefs.

#### Scope of the Order

The merchandise subject to the order is uncovered innerspring units.<sup>3</sup> The product is currently classified under subheading 9404.29.9010 and have also been classified under subheadings 9404.10.0000, 9404.29.9005, 9404.29.9011, 7326.20.0070, 7320.20.5010, 7320.90.5010, or 7326.20.0071 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the order is dispositive.

#### Analysis of Comments Received

All issues raised in Petitioner's case brief are addressed in the Issues and Decision Memorandum, which is incorporated herein by reference. A list of the issues which parties raised, and to which we respond in the Issues and Decision Memorandum, is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to

<sup>1</sup> See *Uncovered Innerspring Units From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review: 2015-2016*, 81 FR 78116 (November 7, 2016) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See Letter from Petitioners, to the Department, regarding Seventh Administrative Review of the Antidumping Duty Order on Uncovered Innerspring Units from the People's Republic of China: Case Brief, dated December 7, 2016 (Petitioner's Case Brief).

<sup>3</sup> For a complete description of the scope of the order, see Memorandum to Ronald Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, "Uncovered Innerspring Units from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the 2015-2016 Administrative Review" ("Issues and Decision Memorandum"), dated concurrently with this notice.

registered users at <http://access.trade.gov>, and it is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic versions of the Issues Decision Memorandum are identical in content.

#### Use of Facts Available and Adverse Facts Available

In the *Preliminary Results*, because Enchant Privilege failed to respond to the Department's questionnaire, we determined Enchant Privilege's margin on the basis of facts available, pursuant to section 776(a)(1) & (2)(A), (B), and (C) of the Tariff Act of 1930 (the Act). We also applied an adverse inference in selecting from among the facts available, pursuant to section 776(b) of the Act, because we found that Enchant Privilege failed to cooperate to the best of its ability in providing the requested information.<sup>4</sup>

No parties commented on this specific determination or on the margin assigned to Enchant Privilege in the *Preliminary Results*. Accordingly, we are continuing to assign to Enchant Privilege a dumping margin of 234.51 percent, based on total adverse facts available.

#### Final Results of Review

Enchant Privilege's weighted-average dumping margin for the period February 1, 2015, through January 31, 2016, is as follows:

Exporter	Weighted-average dumping margin (percent)
Enchant Privilege Sdn Bhd <sup>5</sup>	234.51

#### Assessment

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review in the **Federal Register**. For Enchant

<sup>4</sup> See *Preliminary Results*, and accompanying Preliminary Decision Memorandum at 4-5.

<sup>5</sup> Because Enchant Privilege is located in Malaysia, we are treating it as a third-country reseller. Accordingly, this rate only applies to Enchant Privilege's exports of PRC-origin innersprings.

Privilege, the Department will instruct CBP to assess antidumping duties on the company's entries of subject merchandise (*i.e.*, PRC-origin innersprings) at the rate of 234.51 percent.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For Enchant Privilege, the cash deposit rate will be 234.51 percent for its entries of subject merchandise (*i.e.*, PRC-origin innersprings); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have a separate rate, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding in which the exporter was reviewed; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be that established for the PRC-wide entity of 234.51 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter with the subject merchandise. The deposit requirements, when imposed, shall remain in effect until further notice.

#### Reimbursement of Duties

This notice also 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 this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

#### Administrative Protective Order

In accordance with 19 CFR 351.305(a)(3), this notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO, which continues to govern business proprietary information in this segment of the proceeding. Timely written



notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

#### Notification to Interested Parties

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: March 7, 2017.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Enforcement and Compliance.*

#### Appendix—List of Topics Discussed in the Final Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Use of Facts Otherwise Available and Adverse Inferences
5. Discussion of the Issue
6. Recommendation

[FR Doc. 2017-05276 Filed 3-15-17; 8:45 am]

BILLING CODE 3510-DS-P

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XF216

#### Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

**ACTION:** Notice; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an exempted fishing permit application contains all of the required information and warrants further consideration. This permit would allow a commercial fishing vessel to test the economic viability of using electric jigging machines to target pollock in the Western Gulf of Maine Closure Area, and to temporarily retain undersized catch for measurement and data collection.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed exempted fishing permits.

**DATES:** Comments must be received on or before March 31, 2017.

**ADDRESSES:** You may submit written comments by any of the following methods:

- *Email:* [NMFS.GAR.EFP@noaa.gov](mailto:NMFS.GAR.EFP@noaa.gov). Include in the subject line “Comments on Rod and Reel Fishing in WGOM Closed Area EFP.”

- *Mail:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope “Comments on Electric Jigging Machine Fishing in WGOM Closed Area EFP.”

**FOR FURTHER INFORMATION CONTACT:** Kyle Molton, Fishery Management Specialist, 978-281-9236, [Kyle.Molton@noaa.gov](mailto:Kyle.Molton@noaa.gov).

**SUPPLEMENTARY INFORMATION:** A commercial fisherman submitted a complete application for an exempted fishing permit (EFP) on November 29, 2016, to conduct commercial fishing activities that the regulations would otherwise restrict. The EFP would authorize one vessel to use electric jigging machines in the Western Gulf of Maine (WGOM) Closure Area and to temporarily retain undersized catch for measurement and data collection. An identical EFP was issued in 2016, but no experimental fishing occurred under the previously issued EFP due to the timing of the EFP issuance and fish availability.

The project, titled “Utilization of Electric Rod and Reel to Target Pollock in WGOM Closed Area,” would be conducted by a commercial fisherman as a pilot study to test the economic viability of using electric jigging machines to target pollock while avoiding non-target catch. The study would take place in the WGOM Closure Area, from June through August 2017, with one vessel planning to fish up to 5 days per month for a total of approximately 15 trips. The exemptions are necessary because vessels on commercial groundfish trips are prohibited from fishing in the WGOM Closure Area and from retaining undersized groundfish. The vessel would use four electric jigging machines for at least 4 to 6 hours per trip, with an additional 5 to 6 hours of steaming, for a total trip of approximately 12 hours. Fishing would primarily occur within the WGOM Closure Area, in the area known as “The Fingers,” with some effort being conducted outside the area. The applicant is requesting access to the WGOM Closure Area based on reports that pollock are seasonally concentrated in this area, and the likelihood that they can be targeted with minimal catch of non-target species.

A research technician or at-sea monitor would accompany all trips that occur under this EFP to measure and document fish caught, and document fishing gear, bait, location, and fishing conditions to evaluate gear performance. The captain would also document fishing practices. Undersized fish would be discarded as quickly as possible after sampling. All Northeast multispecies of legal size would be landed, and all catch would be attributed to the vessel’s sector annual catch entitlement. Proceeds from the sales would be retained by the vessel. The applicant would document ex-vessel price for all sold catch by species and grade for comparison with other harvest methods. The participating vessel would not be exempt from any sector monitoring or reporting requirements.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request.

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

Dated: March 13, 2017.

**Karen H. Abrams,**

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

[FR Doc. 2017-05267 Filed 3-15-17; 8:45 am]

BILLING CODE 3510-22-P

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Revised Non-Foreign Overseas Per Diem Rates

**AGENCY:** Defense Travel Management Office, DoD.

**ACTION:** Notice of revised non-foreign overseas per diem rates.

**SUMMARY:** The Defense Travel Management Office is publishing Civilian Personnel Per Diem Bulletin Number 305. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States when applicable. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 305 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

**DATES:** *Effective Date:* March 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sonia Malik, 571-372-1276.

**SUPPLEMENTARY INFORMATION:** This document gives notice of revisions in per diem rates prescribed by the Defense Travel Management Office for non-foreign areas outside the contiguous United States. It supersedes Civilian

Personnel Per Diem Bulletin Number 304. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel

office. Civilian Bulletin 305 includes updated rates for Alaska and the U.S. Virgin Islands.

Dated: March 10, 2017.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**BILLING CODE 5001-06-P**

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
<b>ALASKA</b>						
[OTHER]						
01/01 - 12/31	120		88		208	03/01/2017
ADAK						
10/01 - 04/30	150		60		210	03/01/2017
05/01 - 09/30	192		60		252	03/01/2017
ANCHORAGE [INCL NAV RES]						
05/16 - 09/30	229		94		323	03/01/2017
10/01 - 05/15	199		94		293	03/01/2017
BARROW						
05/01 - 09/30	238		89		327	03/01/2017
10/01 - 04/30	205		89		294	03/01/2017
BARTER ISLAND LRRS						
01/01 - 12/31	120		88		208	03/01/2017
BETHEL						
01/01 - 12/31	219		108		327	03/01/2017
BETTLES						
01/01 - 12/31	175		70		245	03/01/2017
CAPE LISBURNE LRRS						
01/01 - 12/31	120		88		208	03/01/2017
CAPE NEWENHAM LRRS						
01/01 - 12/31	120		88		208	03/01/2017
CAPE ROMANZOF LRRS						
01/01 - 12/31	120		88		208	03/01/2017
CLEAR AB						
01/01 - 12/31	120		88		208	03/01/2017
COLD BAY LRRS						
01/01 - 12/31	120		88		208	03/01/2017
COLDFOOT						
01/01 - 12/31	165		70		235	10/01/2006

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
COPPER CENTER							
	05/15 - 09/15	169		84		253	03/01/2017
	09/16 - 05/14	97		84		181	03/01/2017
CORDOVA							
	01/01 - 12/31	140		111		251	03/01/2017
CRAIG							
	04/01 - 09/30	254		78		332	03/01/2017
	10/01 - 03/31	90		78		168	03/01/2017
DEADHORSE							
	01/01 - 12/31	170		51		221	03/01/2016
DELTA JUNCTION							
	05/01 - 09/30	169		78		247	03/01/2017
	10/01 - 04/30	139		78		217	03/01/2017
DENALI NATIONAL PARK							
	06/01 - 08/31	185		86		271	03/01/2017
	09/01 - 05/31	139		86		225	03/01/2017
DILLINGHAM							
	10/02 - 05/14	220		85		305	03/01/2017
	05/15 - 10/01	350		85		435	03/01/2017
DUTCH HARBOR-UNALASKA							
	01/01 - 12/31	142		101		243	03/01/2017
EARECKSON AIR STATION							
	01/01 - 12/31	146		74		220	07/01/2016
EIELSON AFB							
	05/15 - 09/15	154		90		244	03/01/2017
	09/16 - 05/14	75		90		165	03/01/2017
ELFIN COVE							
	01/01 - 12/31	275		86		361	03/01/2017
ELMENDORF AFB							
	05/16 - 09/30	229		94		323	03/01/2017
	10/01 - 05/15	199		94		293	03/01/2017
FAIRBANKS							
	05/15 - 09/15	154		90		244	03/01/2017
	09/16 - 05/14	75		90		165	03/01/2017

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
FOOTLOOSE						
01/01 - 12/31	175		18		193	10/01/2002
FORT YUKON LRRS						
01/01 - 12/31	120		88		208	03/01/2017
FT. GREELY						
10/01 - 04/30	139		78		217	03/01/2017
05/01 - 09/30	169		78		247	03/01/2017
FT. RICHARDSON						
05/16 - 09/30	229		94		323	03/01/2017
10/01 - 05/15	199		94		293	03/01/2017
FT. WAINWRIGHT						
05/15 - 09/15	154		90		244	03/01/2017
09/16 - 05/14	75		90		165	03/01/2017
GAMBELL						
01/01 - 12/31	133		51		184	03/01/2016
GLENNALLEN						
05/15 - 09/15	169		84		253	03/01/2017
09/16 - 05/14	97		84		181	03/01/2017
HAINES						
01/01 - 12/31	107		101		208	01/01/2011
HEALY						
09/01 - 05/31	139		86		225	03/01/2017
06/01 - 08/31	185		86		271	03/01/2017
HOMER						
05/01 - 09/30	200		70		270	03/01/2017
10/01 - 04/30	160		70		230	03/01/2017
JB ELMENDORF-RICHARDSON						
05/16 - 09/30	229		94		323	03/01/2017
10/01 - 05/15	199		94		293	03/01/2017
JUNEAU						
05/01 - 09/15	189		106		295	03/01/2017
09/16 - 04/30	169		106		275	03/01/2017
KAKTOVIK						
01/01 - 12/31	165		86		251	10/01/2002

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
KAVIK CAMP						
01/01 - 12/31	250		51		301	03/01/2016
KENAI-SOLDOTNA						
10/01 - 04/30	99		103		202	03/01/2017
05/01 - 09/30	179		103		282	03/01/2017
KENNICOTT						
01/01 - 12/31	295		89		384	03/01/2017
KETCHIKAN						
09/02 - 04/30	220		96		316	03/01/2017
05/01 - 09/01	243		96		339	03/01/2017
KING SALMON						
05/01 - 10/01	225		91		316	10/01/2002
10/02 - 04/30	125		81		206	10/01/2002
KING SALMON LRRS						
01/01 - 12/31	120		88		208	03/01/2017
KLAWOCK						
04/01 - 09/30	254		78		332	03/01/2017
10/01 - 03/31	90		78		168	03/01/2017
KODIAK						
05/01 - 09/30	180		90		270	03/01/2017
10/01 - 04/30	152		90		242	03/01/2017
KOTZEBUE						
01/01 - 12/31	299		98		397	03/01/2017
KULIS AGS						
10/01 - 05/15	199		94		293	03/01/2017
05/16 - 09/30	229		94		323	03/01/2017
MCCARTHY						
01/01 - 12/31	295		89		384	03/01/2017
MCGRATH						
01/01 - 12/31	160		75		235	03/01/2017
MURPHY DOME						
05/15 - 09/15	154		90		244	03/01/2017
09/16 - 05/14	75		90		165	03/01/2017

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
NOME							
	05/01 - 09/30	185		96		281	03/01/2017
	10/01 - 04/30	165		96		261	03/01/2017
NOSC ANCHORAGE							
	05/16 - 09/30	229		94		323	03/01/2017
	10/01 - 05/15	199		94		293	03/01/2017
NUIQSUT							
	01/01 - 12/31	234		51		285	03/01/2016
OLIKTOK LRRS							
	01/01 - 12/31	120		88		208	03/01/2017
PETERSBURG							
	01/01 - 12/31	120		88		208	03/01/2017
POINT BARROW LRRS							
	01/01 - 12/31	120		88		208	03/01/2017
POINT HOPE							
	01/01 - 12/31	175		81		256	03/01/2017
POINT LAY							
	01/01 - 12/31	295		51		346	03/01/2017
POINT LAY LRRS							
	01/01 - 12/31	295		51		346	03/01/2017
POINT LONELY LRRS							
	01/01 - 12/31	120		88		208	03/01/2017
PORT ALEXANDER							
	01/01 - 09/30	165		51		216	03/01/2017
	10/01 - 12/31	155		51		206	03/01/2017
PORT ALSWORTH							
	01/01 - 12/31	135		88		223	10/01/2002
PRUDHOE BAY							
	01/01 - 12/31	170		51		221	03/01/2016
SELDOVIA							
	10/01 - 04/30	160		70		230	03/01/2017
	05/01 - 09/30	200		70		270	03/01/2017
SEWARD							
	10/01 - 04/30	159		85		244	03/01/2017
	05/01 - 09/30	279		85		364	03/01/2017

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
SITKA-MT. EDGE CUMBE						
01/01 - 12/31	200		98		298	03/01/2016
SKAGWAY						
05/01 - 09/01	243		96		339	03/01/2017
09/02 - 04/30	220		96		316	03/01/2017
SLANA						
05/01 - 09/30	139		55		194	02/01/2005
10/01 - 04/30	99		55		154	02/01/2005
SPARREVOHN LRRS						
01/01 - 12/31	120		88		208	03/01/2017
SPRUCE CAPE						
05/01 - 09/30	180		90		270	03/01/2017
10/01 - 04/30	152		90		242	03/01/2017
ST. GEORGE						
01/01 - 12/31	220		51		271	03/01/2016
TALKEETNA						
01/01 - 12/31	100		89		189	10/01/2002
TANANA						
05/01 - 09/30	185		96		281	03/01/2017
10/01 - 04/30	165		96		261	03/01/2017
TATALINA LRRS						
01/01 - 12/31	120		88		208	03/01/2017
TIN CITY LRRS						
01/01 - 12/31	120		88		208	03/01/2017
TOK						
01/01 - 12/31	99		97		196	03/01/2017
VALDEZ						
05/01 - 09/09	185		110		295	03/01/2017
09/10 - 04/30	127		110		237	03/01/2017
WAINWRIGHT						
01/01 - 12/31	175		83		258	01/01/2011
WAKE ISLAND DIVERT AIRFIELD						
01/01 - 12/31	120		88		208	03/01/2017



LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
WASILLA							
	05/01 - 09/30	170		89		259	03/01/2017
	10/01 - 04/30	90		89		179	03/01/2017
WRANGELL							
	05/01 - 09/01	243		96		339	03/01/2017
	09/02 - 04/30	220		96		316	03/01/2017
YAKUTAT							
	01/01 - 12/31	105		94		199	01/01/2011
<b>AMERICAN SAMOA</b>							
AMERICAN SAMOA							
	01/01 - 12/31	139		69		208	06/01/2015
PAGO PAGO							
	01/01 - 12/31	139		69		208	12/01/2015
<b>GUAM</b>							
GUAM (INCL ALL MIL INSTAL)							
	01/01 - 12/31	159		87		246	07/01/2015
JOINT REGION MARIANAS (ANDERSEN)							
	01/01 - 12/31	159		87		246	07/01/2015
JOINT REGION MARIANAS (NAVAL BASE)							
	01/01 - 12/31	159		87		246	07/01/2015
TAMUNING							
	01/01 - 12/31	159		87		246	12/01/2015
<b>HAWAII</b>							
[OTHER]							
	01/01 - 12/31	189		103		292	04/01/2016
CAMP H M SMITH							
	01/01 - 12/31	177		123		300	04/01/2016
EASTPAC NAVAL COMP TELE AREA							
	01/01 - 12/31	177		123		300	04/01/2016
FT. DERUSSEY							
	01/01 - 12/31	177		123		300	04/01/2016
FT. SHAFTER							
	01/01 - 12/31	177		123		300	04/01/2016
HICKAM AFB							
	01/01 - 12/31	177		123		300	10/01/2016

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
HILO						
01/01 - 12/31	189		103		292	04/01/2016
HONOLULU						
01/01 - 12/31	177		123		300	04/01/2016
ISLE OF HAWAII: HILO						
01/01 - 12/31	189		103		292	04/01/2016
ISLE OF HAWAII: OTHER						
01/01 - 12/31	189		148		337	04/01/2016
ISLE OF KAUAI						
01/01 - 12/31	325		135		460	04/01/2016
ISLE OF MAUI						
01/01 - 12/31	259		134		393	04/01/2016
ISLE OF OAHU						
01/01 - 12/31	177		123		300	04/01/2016
JB PEARL HARBOR-HICKAM						
01/01 - 12/31	177		123		300	10/01/2016
KAPOLEI						
01/01 - 12/31	177		123		300	04/01/2016
KEKAHA PACIFIC MISSILE RANGE FAC						
01/01 - 12/31	325		135		460	04/01/2016
KILAUEA MILITARY CAMP						
01/01 - 12/31	189		103		292	04/01/2016
LANAI						
01/01 - 12/31	254		118		372	04/01/2016
LIHUE						
01/01 - 12/31	325		135		460	04/01/2016
LUALUALEI NAVAL MAGAZINE						
01/01 - 12/31	177		123		300	04/01/2016
MCB HAWAII						
01/01 - 12/31	177		123		300	04/01/2016
MOLOKAI						
01/01 - 12/31	157		96		253	04/01/2016
NOSC PEARL HARBOR						
01/01 - 12/31	177		123		300	10/01/2016

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
PEARL HARBOR						
01/01 - 12/31	177		123		300	04/01/2016
PMRF BARKING SANDS						
01/01 - 12/31	325		135		460	10/01/2016
SCHOFIELD BARRACKS						
01/01 - 12/31	177		123		300	04/01/2016
TRIPLER ARMY MEDICAL CENTER						
01/01 - 12/31	177		123		300	04/01/2016
WAHIAWA NCTAMS PAC						
01/01 - 12/31	177		123		300	10/01/2016
WHEELER ARMY AIRFIELD						
01/01 - 12/31	177		123		300	04/01/2016
<b>MIDWAY ISLANDS</b>						
MIDWAY ISLANDS						
01/01 - 12/31	125		77		202	04/01/2016
<b>NORTHERN MARIANA ISLANDS</b>						
[OTHER]						
01/01 - 12/31	60		95		155	07/01/2016
ROTA						
01/01 - 12/31	130		107		237	07/01/2015
SAIPAN						
01/01 - 12/31	140		98		238	07/01/2015
TINIAN						
01/01 - 12/31	60		95		155	07/01/2016
<b>PUERTO RICO</b>						
[OTHER]						
01/01 - 12/31	109		112		221	06/01/2012
AGUADILLA						
01/01 - 12/31	171		84		255	11/01/2015
BAYAMON						
06/01 - 11/30	167		88		255	12/01/2015
12/01 - 05/31	195		88		283	12/01/2015
CAROLINA						
06/01 - 11/30	167		88		255	12/01/2015
12/01 - 05/31	195		88		283	12/01/2015

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
CEIBA	01/01 - 12/31	139		92		231	10/01/2012
CULEBRA	01/01 - 12/31	150		98		248	03/01/2012
FAJARDO [INCL ROOSEVELT RDS NAVSTAT]	01/01 - 12/31	139		92		231	10/01/2012
FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]	06/01 - 11/30	167		88		255	12/01/2015
	12/01 - 05/31	195		88		283	12/01/2015
HUMACAO	01/01 - 12/31	139		92		231	10/01/2012
LUIS MUNOZ MARIN IAP AGS	06/01 - 11/30	167		88		255	12/01/2015
	12/01 - 05/31	195		88		283	12/01/2015
LUQUILLO	01/01 - 12/31	139		92		231	10/01/2012
MAYAGUEZ	01/01 - 12/31	109		112		221	09/01/2010
PONCE	01/01 - 12/31	149		89		238	09/01/2012
RIO GRANDE	01/01 - 12/31	169		123		292	06/01/2012
SABANA SECA [INCL ALL MILITARY]	06/01 - 11/30	167		88		255	12/01/2015
	12/01 - 05/31	195		88		283	12/01/2015
SAN JUAN & NAV RES STA	12/01 - 05/31	195		88		283	12/01/2015
	06/01 - 11/30	167		88		255	12/01/2015
VIEQUES	01/01 - 12/31	175		95		270	03/01/2012
<b>VIRGIN ISLANDS (U.S.)</b>							
ST. CROIX	04/15 - 12/14	247		110		357	06/01/2015
	12/15 - 04/14	299		116		415	06/01/2015

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ST. JOHN	05/01 - 12/03	170		107		277	08/01/2015
	12/04 - 04/30	230		113		343	08/01/2015
ST. THOMAS	04/15 - 12/15	249		110		359	03/01/2017
	12/16 - 04/14	339		110		449	03/01/2017
<b>WAKE ISLAND</b>							
WAKE ISLAND	01/01 - 12/31	129		70		199	07/01/2016

[FR Doc. 2017-05156 Filed 3-15-17; 8:45 am]

BILLING CODE 5001-06-C

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2307-078]

#### Alaska Electric Light & Power Company; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

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

a. *Type of Application:* New Major License.

b. *Project No.:* 2307-078.

c. *Date filed:* August 31, 2016.

d. *Applicant:* Alaska Electric Light & Power Company.

e. *Name of Project:* Salmon and Annex Creek Hydroelectric Project.

f. *Location:* On Salmon Creek and Annex Creek in the City and Borough of Juneau, Alaska. The project occupies about 648.45 acres of federal lands located in the Tongass National Forest administered by the United States Forest Service and operates under an existing license issued in 1988.

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

h. *Applicant Contact:* Christy Yearous, Project Manager, Alaska Electric Light & Power Company, 5601 Tongard Ct., Juneau, AK 99801-7201; (907) 780-2222.

i. *FERC Contact:* Suzanne Novak at (202) 502-6665, [suzanne.novak@ferc.gov](mailto:suzanne.novak@ferc.gov).

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file filing motions to intervene and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P-2307-078.

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

k. This application has been accepted for filing, but is not ready for environmental analysis at this time.

l. The proposed Salmon and Annex Creek Project would consist of two developments, one on Salmon Creek and one on Annex Creek.

The Salmon Creek development consists of the following existing facilities: (1) The 165-acre Salmon Creek reservoir impounded by a 648-foot-long, 168-foot-high dam, with ten 5-foot-wide spillway bays; (2) a 1,500-foot-long canal used to periodically divert water from tributary streams into Salmon Creek Reservoir; (3) a 10-foot-wide, 11-foot-high intake structure with trashracks; (4) a 3-foot-diameter conduit that conveys flows from the dam to the project valvehouse located immediately downstream; (5) a 4,290-foot-long, 3.3-

to- 2-foot-diameter penstock that conveys flows from the valvehouse to the decommissioned Upper Powerhouse where it connects to a 11,030-foot-long, 3.5-foot-diameter penstock that narrows to a 2.5-foot-diameter immediately before entering the Lower Powerhouse; (6) the 57-foot-long, 44-foot-wide, 32-foot-high Lower Powerhouse, which contains a 6.9-megawatt (MW) impulse turbine; (7) an approximately 250-foot-long tailrace that flows underneath Egan Drive and empties into a pond adjacent to the Douglas Island Pink and Chum, Inc., hatchery; and (8) appurtenant facilities.

The Annex Creek development consists of the following existing facilities: (1) The 264-acre Upper Annex Lake, impounded by a 118-foot-long, 20-foot-high dam with a 57-foot-wide spillway that discharges flows in excess of those needed for generation into the 27-acre natural Lower Annex Lake via a 0.15-mile-long outlet stream; (2) a 61-foot long, 6-foot high timber saddle dam located just west of the main dam; (3) a lake tap intake on Upper Annex Lake; (4) a 1,433-foot-long power tunnel that narrows from 8 feet wide and 8 feet high at the intake to a 6.5-foot-diameter tunnel at the project valvehouse;

(5) the project valvehouse containing the penstock intake; (6) the 7,097-foot-long, 3.5-foot-diameter penstock that narrows to a 2.8-foot diameter before it bifurcates at the powerhouse to provide flows to two impulse turbine units with a total installed capacity of 3.675 MW; (7) the 67-foot-long, 48-foot-wide, 40-foot-high powerhouse; (8) a tailrace that discharges flows over a weir into Taku Inlet; (9) a 12.5-mile-long, 23-kilovolt (kV) transmission line that conveys power to the Than substation; and (10) appurtenant facilities.

The project currently operates to provide base load generation with an

estimated annual output of 53.8 gigawatt-hours. No changes to project operation or facilities are proposed.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests 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 protests or motions to intervene must be received on or before the specified deadline date for the particular application.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," or "COMPETING

APPLICATION;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: March 9, 2017.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2017-05203 Filed 3-15-17; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 14838-000]

#### Energy Resources USA, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments and Motions To Intervene

On February 9, 2017, Energy Resources USA Inc., (Energy Resources) filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Caddo Dam Hydroelectric Project (project) to be located at the U.S. Army Corps of Engineers' Caddo Dam on the Cypress Bayou in Caddo Parish County, Louisiana. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A 70-foot-long, 60-foot-wide intake area; (2) a 75-foot-long, 36-foot-wide powerhouse containing two vertical Kaplan generating units with a total capacity of 5 megawatts; (3) a 350-foot-long, 65-foot-wide tailrace; (4) a 60-foot-long, 50-foot-wide substation; and (5) a 0.35-mile-long, 69 kilovolt transmission line. The estimated annual generation of the project would be 21.15 gigawatt-hours, and would operate as directed by the U.S. Army Corps of Engineers.

*Applicant Contact:* Mr. Bernard Mount, Senior Project Manager, Energy Resources USA Inc., 4305 N Lincoln Ave., Room C, Chicago, Illinois 60618; phone: (312) 859-2032.

*FERC Contact:* Navreet Deo; phone: (202) 502-6304.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P-14838-000.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-14838-000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: March 8, 2017.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2017-05206 Filed 3-15-17; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. AD10-12-008]

#### Increasing Market and Planning Efficiency Through Improved Software; Notice of Technical Conference: Increasing Real-Time and Day-Ahead Market Efficiency Through Improved Software

Take notice that Commission staff will convene a technical conference on

June 26, 27 and 28, 2017 to discuss opportunities for increasing real-time and day-ahead market efficiency through improved software. A detailed agenda with the list of and times for the selected speakers will be published on the Commission's Web site<sup>1</sup> after April 28, 2017.

Staff has held seven similar conferences in this docket. As in past conferences, this conference will bring together experts from diverse backgrounds and experiences, including electric system operators, software developers, government, research centers and academia for the purposes of stimulating discussion, sharing information, and identifying fruitful avenues for research concerning the technical aspects of improved software for increasing efficiency. This conference is intended to build on the discussions initiated in the previous Commission staff technical conferences on increasing market and planning efficiency through improved software. As such, staff will be facilitating a discussion to explore research and operational advances with respect to market modeling that appear to have significant promise for potential efficiency improvements. Broadly, such topics fall into the following categories:

(1) Improvements to the representation of physical constraints that are either not currently modeled or currently modeled using mathematical approximations (e.g., modeling voltage and reactive power through alternating current (AC) optimal power flow modeling, modeling contingencies or events beyond first contingencies);

(2) Consideration of uncertainty to better maximize expected market surplus (e.g., stochastic modeling, or other improved modeling approaches to energy and reserve dispatch that efficiently manage uncertainty);

(3) Improvements to the ability to identify and use flexibility in the existing systems (e.g., optimal transmission switching, active or dynamic transmission ratings, transmission constraint relaxation practices, and modeling ramping capability needs);

(4) Improvements to the duality interpretations of the economic dispatch model, with the goal of enabling the calculation of prices which represent better equilibrium and are more incentive-compatible;

(5) Limitations of current electricity market software due to its interaction with hardware; and

(6) Other improvements in algorithms, model formulations, or hardware that may allow for increases in market efficiency.

Within these or related subject areas, we encourage presentations that discuss best modeling practices, existing modeling practices that need improvement, any advances made since last year's conference, or related perspectives on increasing market efficiency through improved power systems modeling.

The technical conference will be held at the Federal Energy Regulatory Commission headquarters, 888 First Street NE., Washington, DC 20426. All interested participants are invited to attend, and participants with ideas for relevant presentations are invited to nominate themselves to speak at the conference.

Speaker nominations must be submitted on or before April 7, 2017 through the Commission's Web site<sup>2</sup> by providing the proposed speaker's contact information along with a title, abstract, and list of contributing authors for the proposed presentation. Proposed presentations should be related to the topics discussed above. Speakers and presentations will be selected to ensure relevant topics and to accommodate time constraints.

Although registration is not required for general attendance by United States citizens, we encourage those planning to attend the conference to register through the Commission's Web site.<sup>3</sup> We will provide nametags for those who register on or before June 16, 2017.

We strongly encourage attendees who are not citizens of the United States to register for the conference by June 2, 2017, in order to avoid any delay associated with being processed by FERC security.

The Commission will accept comments following the conference, with a deadline of July 31, 2017.

There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

A WebEx will be available. Off-site participants interested in listening via teleconference or listening and viewing the presentations through WebEx must

register at <https://www.ferc.gov/whats-new/registration/real-market-6-26-17-form.asp>, and do so by 5:00 p.m. EST on June 16, 2017. WebEx and teleconferencing may not be available to those who do not register.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to [accessibility@ferc.gov](mailto:accessibility@ferc.gov) or call toll free (866) 208-3372 (voice) or (202) 502-8659 (TTY), or send a fax to (202) 208-2106 with the required accommodations.

For further information about these conferences, please contact:

Sarah McKinley (Logistical Information), Office of External Affairs, (202) 502-8004, [Sarah.McKinley@ferc.gov](mailto:Sarah.McKinley@ferc.gov)  
Daniel Kheloussi (Technical Information), Office of Energy Policy and Innovation, (202) 502-6391, [Daniel.Kheloussi@ferc.gov](mailto:Daniel.Kheloussi@ferc.gov)

Dated: March 9, 2017.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2017-05202 Filed 3-15-17; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 14812-000]

#### **Watterra Energy, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications**

On January 3, 2017, Watterra Energy, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Brookville Lake Dam Hydroelectric Project (Brookville Project or project) to be located at the U.S. Army Corps of Engineers' (Corps) Brookville Lake Dam on the East Fork of Whitewater River in Franklin County, Indiana. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following all new facilities: (1) A 9-foot-diameter, 845-foot-long steel penstock that bifurcates into one 9-foot-

<sup>2</sup> The speaker nomination form is located at <https://www.ferc.gov/whats-new/registration/real-market-6-26-17-speaker-form.asp>.

<sup>3</sup> The registration form is located at <https://www.ferc.gov/whats-new/registration/real-market-6-26-17-form.asp>.

<sup>1</sup> <http://www.ferc.gov/industries/electric/indus-act/market-planning.asp>.

diameter, 220-foot-long steel penstock discharging into an existing stilling basin and one 9-foot-diameter, 240-foot-long steel penstock carrying flows to the project's powerhouse; (2) a bifurcation structure located at the end of the 845-foot-long penstock; (3) a 70-foot-long, 55-foot-wide, 30-foot-high powerhouse located on the west side of the stilling basin; (4) two horizontal Francis turbines each with an installed capacity of 2.2 megawatts (MW) for a total capacity of 4.4 MW; (5) a single generator connected to the two Francis turbines; (6) a 70-foot-long, 50-foot-wide switchyard located adjacent to the powerhouse; (7) a 6.8-foot-long, 12.7-kilovolt transmission line interconnecting to an existing distribution system using an existing substation; and (8) appurtenant facilities. The estimated annual generation of the Brookville Project would be 23,250 megawatt-hours.

*Applicant Contact:* Mr. Craig Dalton, 7100 Commercial Avenue, Suite 4, Billings, MT 59101; Email: [cdalton@watterraenergy.com](mailto:cdalton@watterraenergy.com); phone: (406) 384-0080.

*FERC Contact:* Sergiu Serban; Email: [sergiu.serban@ferc.gov](mailto:sergiu.serban@ferc.gov); phone: (202) 502-6211.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P-14812-000.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of the Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-14812) in the docket number field to

access the document. For assistance, contact FERC Online Support.

Dated: March 8, 2017.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2017-05205 Filed 3-15-17; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL17-47-000]

#### Pioneer Transmission, LLC: Notice of Petition for Declaratory Order

Take notice that on March 8, 2017, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(2016), Pioneer Transmission, LLC (Pioneer) filed a petition seeking a declaratory order from the Commission finding that the payment by Pioneer of dividends to its parent companies, out of paid-in capital and retained earnings, will not violate Section 305(a) of the Federal Power Act,<sup>1</sup> all as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor

<sup>1</sup> It is not clear that under the language of FPA Section 305(a) a public utility is required to submit a petition for declaratory order seeking the Commission's approval under Section 305(a) in order to make dividends to its parent companies out of paid-in capital and retained earnings. Pioneer is submitting this petition for the purpose of obtaining the Commission's assurance that Pioneer's proposal to make dividends to its parent companies will not violate Section 305(a).

must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5:00 p.m. Eastern time on March 29, 2017.

Dated: March 8, 2017.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2017-05204 Filed 3-15-17; 8:45 am]

**BILLING CODE 6717-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2016-0698; FRL-9959-46]

### Certain New Chemicals; Receipt and Status Information for January 2017

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA is required under the Toxic Substances Control Act (TSCA) to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN); an application for a test marketing exemption (TME), both pending and/or expired; and a periodic status report on any new chemicals under EPA review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document covers the period from January 3, 2017 to January 31, 2017.

**DATES:** Comments identified by the specific case number provided in this document, must be received on or before April 17, 2017.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2016-0698, and the specific PMN number or TME



number for the chemical related to your comment, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** For technical information contact: Jim Rahai, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: 202-564-8593; email address: [rahai.jim@epa.gov](mailto:rahai.jim@epa.gov).

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitters of the actions addressed in this document.

*B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

**II. What action is the agency taking?**

This document provides receipt and status reports, which cover the period from January 3, 2017 to January 31, 2017, and consists of the PMNs and TMEs both pending and/or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

**III. What is the agency's authority for taking this action?**

Under TSCA, 15 U.S.C. 2601 *et seq.*, EPA classifies a chemical substance as either an "existing" chemical or a "new" chemical. Any chemical substance that is not on EPA's TSCA Inventory is classified as a "new chemical," while those that are on the TSCA Inventory are classified as an "existing chemical." For more information about the TSCA Inventory, please go to: <http://www.epa.gov/>

[opptintr/newchems/pubs/inventory.htm](http://www.epa.gov/opptintr/newchems/pubs/inventory.htm).

Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a), for "test marketing" purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: <http://www.epa.gov/oppt/newchems>.

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME and to publish in the **Federal Register** periodic reports on the status of new chemicals under review and the receipt of NOCs to manufacture those chemicals.

**IV. Receipt and Status Reports**

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that the information in the table is generic information because the specific information provided by the submitter was claimed as CBI.

For the 57 PMNs received by EPA during this period, Table 1 provides the following information (to the extent that such information is not claimed as CBI): The EPA case number assigned to the PMN; The date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer/importer; the potential uses identified by the manufacturer/importer in the PMN; and the chemical identity.

TABLE 1—PMNS RECEIVED FROM JANUARY 3, 2017 TO JANUARY 31, 2017

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P-16-0284 .....	1/11/2017	4/11/2017	Deepak Nitrite Corporation, Inc.	(S) Optical brightener for textiles, paper and paperboard.	(G) Anilino substituted bis-triazinyl derivative of 4,4'-diaminostilbene-2,2'-disulfonic acid.
P-16-0309 .....	1/13/2017	4/13/2017	CBI .....	(G) PMN substances are intended for use as rheological or thixotropic agents used in the production of solvent based industrial coatings, high solid aromatic paints, adhesives, sealants, and other types of paints and topcoats.	(G) 12-Hydroxystearic acid, reaction products with alkylene diamine and alkanolic acid.

TABLE 1—PMNS RECEIVED FROM JANUARY 3, 2017 TO JANUARY 31, 2017—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P-16-0310 .....	1/13/2017	4/13/2017	CBI .....	(G) PMN substances are intended for use as rheological or thixotropic agents used in the production of solvent based industrial coatings, high solid aromatic paints, adhesives, sealants, and other types of paints and topcoats.	(G) 12-Hydroxystearic acid, reaction products with alkylene diamine and alkanolic acid.
P-16-0315 .....	1/11/2017	4/11/2017	CBI .....	(S) Industrial rubber formulation .....	(G) Alkyldiene, polymer, hydroxy terminated alkoxysilylalkylcarbamate.
P-16-0358 .....	1/19/2017	4/19/2017	CBI .....	(S) Intermediate for further polymer reaction.	(G) Alkyl phenol.
P-16-0493 .....	1/19/2017	4/19/2017	CBI .....	(G) Paint .....	(G) Dicarboxylic acids, polymers with alkyl prop-2-enoate, alkyl 2-methylprop-2-enoate, alkyl [(alkenyl)alkyl]alkanediol, alkanediol, alkanedioic acid, alkyl 2-methylprop-2-enoate, alkyl prop-2-enoic acid, alkylene [isocyanatocarbomocycle] and alkanediol, alkanolamine-blocked, compds with 2-(alkylamino)alkanol.
P-16-0592 .....	1/23/2017	4/23/2017	Santolubes Manufacturing, LLC.	(S) This low viscosity diester will be blended with a higher viscosity ester to make a high efficiency gear lubricant primarily for worm gear applications.	(S) Fatty acids, c8-c10, diesters with alpha-hydro-omega-hydroxypoly(oxy-1,4-butanediyl).
P-17-0007 .....	1/24/2017	4/24/2017	CBI .....	(S) Intermediate .....	(G) Dialkyl 7,10-dioxa, dithiahexadecadiene.
P-17-0012 .....	1/17/2017	4/17/2017	CBI .....	(S) Polymer mixed with styrene or other reactive monomers. these resins are now unsaturated thermoset polyester resins that are used to make corrosion resistance and high temperature capable composites like chemical resistant tanks, pipe and ducting as well as heat shields and other composites exposed to elevated temperature environments.	(S) 1,3-benzenedicarboxylic acid, polymer with 1,2-furandione, 2-methyl-1,3-propanediol and 1,2 propanediol.
P-17-0163 .....	1/5/2017	4/5/2017	CBI .....	(G) Chemical Precursor .....	(G) Substituted benzofuopyridine.
P-17-0164 .....	1/5/2017	4/5/2017	CBI .....	(G) Intermediate chemical .....	(G) Substituted benzofuopyridine.
P-17-0168 .....	1/18/2017	4/18/2017	CBI .....	(G) Surfactants .....	(G) Fatty secondary amide ethanol.
P-17-0168 .....	1/18/2017	4/18/2017	CBI .....	(G) Intermediate .....	(G) Fatty secondary amide ethanol.
P-17-0169 .....	1/18/2017	4/18/2017	CBI .....	(G) Surfactants .....	(G) Fatty tertiary amide ethanol.
P-17-0169 .....	1/18/2017	4/18/2017	CBI .....	(G) Intermediate .....	(G) Fatty tertiary amide ethanol.
P-17-0172 .....	1/9/2017	4/9/2017	CBI .....	(G) Lubricating oil additive .....	(G) Sulfurized alkylphenol, calcium salts.
P-17-0183 .....	1/10/2017	4/10/2017	CBI .....	(G) Pigment wetting and dispersing additive.	(S) 1,3-Propanediol, 2-ethyl-2-(hydroxymethyl)-, polymer with 2-(chloromethyl)oxirane, reaction products with polyethylene-polypropylene glycol 2-aminopropyl me ether.
P-17-0184 .....	1/12/2017	4/12/2017	Colonial Chemical, Inc .....	(S) Firefighting foams .....	(S) 1-Propanaminium, 2-hydroxy-n, n-dimethyl-n-[3-[(1-oxooctyl-amino)propyl]-3-sulfo-, inner salt.
P-17-0184 .....	1/12/2017	4/12/2017	Colonial Chemical, Inc .....	(S) Transportation washes .....	(S) 1-Propanaminium, 2-hydroxy-n, n-dimethyl-n-[3-[(1-oxooctyl-amino)propyl]-3-sulfo-, inner salt.
P-17-0184 .....	1/12/2017	4/12/2017	Colonial Chemical, Inc .....	(S) Industrial all-purpose cleaners .....	(S) 1-Propanaminium, 2-hydroxy-n, n-dimethyl-n-[3-[(1-oxooctyl-amino)propyl]-3-sulfo-, inner salt.
P-17-0184 .....	1/12/2017	4/12/2017	Colonial Chemical, Inc .....	(S) Personal care products, shampoos, facial washes.	(S) 1-Propanaminium, 2-hydroxy-n, n-dimethyl-n-[3-[(1-oxooctyl-amino)propyl]-3-sulfo-, inner salt.
P-17-0187 .....	1/11/2017	4/11/2017	CBI .....	(S) Photosensitizing latex, production %: 100.0 optional pollution information: This product provides for self-sanitizing surfaces without heavy metals or mobile toxic chemicals.	(G) Polymer with benzoic acid tetra halogen hydroxy tetrahalogen oxo h xanthenyl alkenylaryl alkyl ester alkalai metal salt, butyl-2-propenoate, ethenyl neodecanoate, methyl-2-methyl-2-propenoate and 2-methyl-2-propenoic acid.
P-17-0189 .....	1/26/2017	4/26/2017	Double Bond Chemical Industries USA, Inc.	(S) Doublemer?278-X25 is a ester acrylate monomer blended with 25% isobornyl methacrylate, which improves adhesion to substrates, such as pp and pe, pet.	(G) Polyhalogenatedbicycloalkenedicarboxylic acid, methyl[oxyalkenyl]ethyl ester.
P-17-0192 .....	1/3/2017	4/3/2017	CBI .....	(S) Polymer with aryl, akyl, diazole and polyol acrylates used as a dispersing additive for pigments in industrial paints and coatings.	(G) Polymer with aryl, akyl, diazole and polyol acrylates.
P-17-0194 .....	1/4/2017	4/4/2017	CBI .....	(G) Pigment additive for industrial coatings.	(G) Hydrogenated dihalo dialkyl diindolotriphenodioxazine, dihydrodisubstituted isoindolyl alkyl derivs.

TABLE 1—PMNS RECEIVED FROM JANUARY 3, 2017 TO JANUARY 31, 2017—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P-17-0195	1/5/2017	4/5/2017	CBI	(G) For manufacturing modified ethylene vinyl alcohol copolymer.	(G) 1,3-Propanediol,2-methylene-, substituted.
P-17-0196	1/17/2017	4/17/2017	CBI	(G) Can coating	(G) Styrenated alkyl and epoxidized.
P-17-0197	1/6/2017	4/6/2017	CBI	(G) Open dispersive use component in liquid paint coating.	(G) Formaldehyde, polymer with arylpolyamine, 2-(chloromethyl)oxirane and phenol.
P-17-0198	1/19/2017	4/19/2017	CBI	(G) Catalyst used in closed processes	(G) Neodymium aluminium alkyl polymer complexes.
P-17-0199	1/20/2017	4/20/2017	CBI	(S) Binder in sealant	(G) Oxyalkylene urethane polyolefin.
P-17-0200	1/13/2017	4/13/2017	CBI	(S) Monomer for use to manufacture of a high performance polymer.	(G) 1,3-Bis(substitutedbenzoyl)benzene.
P-17-0203	1/13/2017	4/13/2017	CBI	(G) Crosslinking binder component	(G) Aromatic bis[(ether)(alkyl)phenol].
P-17-0204	1/19/2017	4/19/2017	CBI	(S) Monomer for high performance polymer.	(G) 1,4-Bis(substitutedbenzoyl)benzene.
P-17-0205	1/19/2017	4/19/2017	CBI	(S) Monomer for high performance polymer.	(G) Bis(fluorobenzoyl)benzene.
P-17-0205	1/19/2017	4/19/2017	CBI	(G) ?n process reagent	(G) Bis(fluorobenzoyl)benzene.
P-17-0207	1/23/2017	4/23/2017	CBI	(G) Paint	(G) 2-Alkenoic acid, 2 alkyl, 2 alkyl ester, polymer with alkyl alkenoate, carbomonocycle, alkyl alkenoate and alkyl alkenoate, alkyl peroxide initiated.
P-17-0208	1/16/2017	4/16/2017	Alberdingk Boley, Inc	(S) Coating for plastics and metal	(G) Alkanoic acid, hydroxy(hydroxymethyl)-alkyl-, polymer with diisocyanatoalkane, dialkyl carbonate, alkanediol, .alpha.-hydro-.omega.-hydroxypoly(oxyalkanediyl), 1,1'-alkylenebis[isocyanatocycloalkane] and a lactone.
P-17-0208	1/16/2017	4/16/2017	Alberdingk Boley, Inc	(S) Coating for leather and plastic	(G) Alkanoic acid, hydroxy(hydroxymethyl)-alkyl-, polymer with diisocyanatoalkane, dialkyl carbonate, alkanediol, .alpha.-hydro-.omega.-hydroxypoly(oxyalkanediyl), 1,1'-alkylenebis[isocyanatocycloalkane] and a lactone.
P-17-0209	1/16/2017	4/16/2017	Alberdingk Boley, Inc	(S) Coating for plastic and metal	(G) Alkanoic acid, x-hydroxy-y-(hydroxyalkyl)-y-alkyl-, polymer with dialkyl carbonate, alkanediol, alkylenebis [isocyanatocycloalkane] and lactone, compd. with trialkyl amine.
P-17-0209	1/16/2017	4/16/2017	Alberdingk Boley, Inc	(S) Coating for leather and plastic	(G) Alkanoic acid, x-hydroxy-y-(hydroxyalkyl)-y-alkyl-, polymer with dialkyl carbonate, alkanediol, alkylenebis [isocyanatocycloalkane] and lactone, compd. with trialkyl amine.
P-17-0210	1/16/2017	4/16/2017	Alberdingk Boley, Inc	(S) Coating for plastic and metal	(G) Alkanoic acid, x-hydroxy-y-(hydroxyalkyl)-x-alkyl-, polymer with dialkyl carbonate, alkanediol, isocyanato-1-(isocyanatoalkyl)-trialkylcycloalkane, alkylenebis[isocyanatocycloalkane] and lactone, polyethylene glycon mono me ether-blocked, compds. with trialkyl amine.
P-17-0210	1/16/2017	4/16/2017	Alberdingk Boley, Inc	(S) Coating for leather and plastic	(G) Alkanoic acid, x-hydroxy-y-(hydroxyalkyl)-x-alkyl-, polymer with dialkyl carbonate, alkanediol, isocyanato-1-(isocyanatoalkyl)-trialkyl cycloalkane, alkylenebis[isocyanatocycloalkane] and lactone, polyethylene glycon mono me ether-blocked, compds. with trialkyl amine.
P-17-0211	1/16/2017	4/16/2017	Alberdingk Boley, Inc	(S) Coating for plastic and metal	(G) Alkanoic acid, x-hydroxy-y-(hydroxyalkyl)-y-alkyl-, polymer with dialkyl carbonate, alkanediol, alkylenebis[isocyanatocycloalkane] and lactone, compd. with trialkylamine.
P-17-0211	1/16/2017	4/16/2017	Alberdingk Boley, Inc	(S) Coating for leather and plastic	(G) Alkanoic acid, x-hydroxy-y-(hydroxyalkyl)-y-alkyl-, polymer with dialkyl carbonate, alkanediol, alkylenebis[isocyanatocycloalkane] and lactone, compd. with trialkylamine.
P-17-0212	1/16/2017	4/16/2017	Alberdingk Boley, Inc	(S) Coatings for wood, plastic and metal	(G) Aryl dicarboxylic acid, polymer with alkanedioic acid, alkane diol, hydroxy(hydroxyalkyl) alkanolic acid, alkylenebis[isocyanatoalkane] and [(alkyl alkylidene)bis(aryleneoxy)]bis[alkanol].

TABLE 1—PMNS RECEIVED FROM JANUARY 3, 2017 TO JANUARY 31, 2017—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P-17-0213 .....	1/16/2017	4/16/2017	Alberdingk Boley Inc .....	(S) Coatings for wood, plastic and metal	(G) Aryldicarboxylic acid, polymer with cycloalkandialkanol, alkyldiamine, alkanedioic acid, alkanediol, hydroxy (hydroxyalkyl) alkanedioic acid, alkylenebis(isocyanatoalkane) and [(alkylethyliden- e)bis(phenyleneoxy)]bis[alkanol].
P-17-0214 .....	1/16/2017	4/16/2017	Clariant Corporation .....	(S) Pour point depressant for use in petroleum products.	(G) 2-Propenoic acid, polymer with alkene and alkenyl acetate, alkyl 2-alkyl isoalkyl esters.
P-17-0215 .....	1/16/2017	4/16/2017	Clariant Corporation .....	(S) Lubricant for use in metal working fluids.	(G) Copolymer of alpha-olefin and dibutyl maleate.
P-17-0216 .....	1/27/2017	4/27/2017	CBI .....	(G) Paint raw material .....	(G) Acryl-modified epoxy polymer with vegetable oil, fatty acid, acrylates and methacrylates with organic amine.
P-17-0217 .....	1/19/2017	4/19/2017	Ngk Ceramics USA, Inc .....	(S) Additive to diesel particulate filter manufacture.	(S) Coke, (coal), secondary pitch.
P-17-0218 .....	1/25/2017	4/25/2017	CBI .....	(G) Processing aid for membrane production.	(S) Bicyclo[2.2.1]heptane-1-methanesulfonic acid, 7,7-dimethyl-2-oxo-, compd. with n,n-diethylethanamine (1:1).
P-17-0219 .....	1/27/2017	4/27/2017	CBI .....	(G) Component of coil coating .....	(G) Polyester of aliphatic glycols and aromatic diacids.
P-17-0220 .....	1/25/2017	4/25/2017	CBI .....	(G) Additive, open, non-dispersive use .....	(G) 2-Oxepanone, reaction products with alkylenediamine-alkyleneimine polymer, 2-[(2-alkyl)oxy]alkyl]oxirane and tetrahydro-2h-pyran-2-one.
P-17-0221 .....	1/27/2017	4/27/2017	CBI .....	(G) Open, non dispersive .....	(G) Alkylheterocyclic amine blocked isocyanate, alkoxyisilane polymer.
P-17-0222 .....	1/30/2017	4/30/2017	CBI .....	(G) Additive, open, non-dispersive use .....	(G) 1,3,5-Triazine-2,4-diamine, 6-phenyl-, reaction products with polyalkylene glycol mono-alkyl ether and 2,4-tdi.
P-17-0223 .....	1/30/2017	4/30/2017	CBI .....	(G) Additive, open, non-dispersive use .....	(G) Fatty acids, tall-oil, reaction products with 2-[(2-aminoalkyl)amino]alkanol, compds. with alkylene oxide-glycidyl o-tolyl ether polymer dihydrogen phosphate alkyl ether.

For the 16 NOCs received by EPA during this period, Table 2 provides the following information (to the extent that such information is not claimed as CBI):

The EPA case number assigned to the submitter in the NOC; and the chemical NOC; the date the NOC was received by EPA; the projected date of commencement provided by the identity.

TABLE 2—NOCs RECEIVED FROM JANUARY 3, 2017 TO JANUARY 31, 2017

Case No.	Received date	Commencement date	Chemical
J-16-0036 .....	1/12/2017 .....	12/15/2016 .....	(G) Modified organism.
P-11-0176 .....	1/3/2017 .....	12/12/2016 .....	(S) Propanoic acid, 3-hydroxy-2-(hydroxymethyl 2-2methyl-, polymer with n1-(2-aminomethyl)-1,2-ethanediamine, hydrazine, alpha-hydro-omega-hydroxypoly(oxy-1,4-butanediyl) and 1,1'-methylenebis[4-isocyanatocyclohexane], diethanolamine-blocked, compounds with 2-(dimethylamino)ethanol.
P-13-0916 .....	1/19/2017 .....	4/17/2016 .....	(G) Alkanedioic acid, polymer with alkanediol, bis[n-4-[(4-isocyanatophenyl)methyl]phenyl]carbamate].
P-14-0711 .....	1/19/2017 .....	5/3/2016 .....	(G) Carbonic acid, dimethyl ester, polymer with alkanediol and lactone, bis[n-4-[(4-isocyanatophenyl)methyl]phenyl]carbamate].
P-14-0851 .....	1/19/2017 .....	7/24/2016 .....	(G) Hexanedioic acid, polymer with substituted-alkanediol, alkanediol and alkanediol, bis [n-4-[(4-isocyanatophenyl)methyl]phenyl]carbamate].
P-14-0852 .....	1/19/2017 .....	7/24/2016 .....	(G) Alkanedioic acid, polymer with alkanediol, bis[n-4-[(4-isocyanatophenyl)methyl]phenyl] carbamate].
P-14-0853 .....	1/19/2017 .....	7/24/2016 .....	(G) 1,3-Benzenedicarboxylic acid, polymer with 1,4-benzenedicarboxylic acid, alkanediol and alkanedioic acid, bis[n-4-[(4-isocyanatophenyl)methyl]phenyl]carbamate].
P-14-0854 .....	1/19/2017 .....	7/24/2016 .....	(G) Hexanedioic acid, polymer with alkylene glycol and alkanediol, bis[n-4-[(4-isocyanatophenyl)methyl]phenyl]carbamate].
P-14-0855 .....	1/19/2017 .....	4/17/2016 .....	(G) 1,3-Benzenedicarboxylic acid, polymer with 1,4-benzenedicarboxylic acid, substituted-alkanediol, alkanediol, alkanedioic acid and alkanediol, bis[n-4-[(4-isocyanatophenyl) methyl]phenyl]carbamate].
P-14-0856 .....	1/19/2017 .....	4/17/2016 .....	(G) 1,3-Benzenedicarboxylic acid, polymer with 1,4-benzenedicarboxylic acid, substituted-alkanediol, alkanediol, alkanedioic acid and substituted-glycol diacrylate, bis[n-4-[(4-isocyanatophenyl)methyl]phenyl]carbamate].

TABLE 2—NOCs RECEIVED FROM JANUARY 3, 2017 TO JANUARY 31, 2017—Continued

Case No.	Received date	Commencement date	Chemical
P-14-0857 ....	1/19/2017 .....	4/17/2016 .....	(G) 1,3-Benzenedicarboxylic acid, polymer with 1,4-benzenedicarboxylic acid, substituted-alkanediol, alkanediol, and alkanediol, bis[n-4-[(4-isocyanatophenyl)methyl]phenyl]carbamate].
P-14-0858 ....	1/19/2017 .....	4/17/2016 .....	(G) Hexanedioic acid, polymer with substituted alkanediol and alkanediol, bis[n-4-[(4-isocyanatophenyl)methyl]phenyl]carbamate].
P-15-0558 ....	1/13/2017 .....	1/6/2017 .....	(S) 4-Morpholinepropanoic acid, .alpha.-methyl-,methyl ester.
P-16-0172 ....	1/6/2017 .....	12/13/2016 .....	(G) 1,3-Propanediol, 2,2-dimethyl-, polymer with diisocyanatoalkane, dialkyl heteromonocycle-blocked.
P-16-0252 ....	1/6/2017 .....	12/7/2016 .....	(G) Silane-terminated polyether.
P-16-0323 ....	1/3/2017 .....	12/18/2016 .....	(G) Alkylaldehyde, reaction products with substituted carbomonocycle-substituted heteromonocycle-alkylene glycol bis[[[substituted(oxoneoalky)oxy]alkyl]amino]alkyl ether polymer and alkyl substituted alkanediamine, acetate salts.

**Authority:** 15 U.S.C. 2601 *et seq.*

Dated: March 6, 2017.

**Pamela Myrick,**

*Director, Information Management Division,  
Office of Pollution Prevention and Toxics.*

[FR Doc. 2017-05287 Filed 3-15-17; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1211]

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

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Notice and request for  
comments.

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

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

**DATES:** Written comments should be submitted on or before April 17, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, OMB, via email [Nicholas.A.Fraser@omb.eop.gov](mailto:Nicholas.A.Fraser@omb.eop.gov); and to Cathy Williams, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov). Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

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

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

**OMB Control Number:** 3060-1211.

**Title:** Sections 96.17; 96.21; 96.23; 96.25; 96.33; 96.35; 96.39; 96.41; 96.43; 96.45; 96.51; 96.57; 96.59; 96.61; 96.63; 96.67, Commercial Operations in the 3550-3650 MHz Band.

**Form Number:** N/A.

**Type of Review:** Revision of a currently approved information collection.

**Respondents:** Business or other for-profit entities, state, local, or tribal government and not for profit institutions.

**Number of Respondents:** 110,782 respondents; 226,099 responses.

**Estimated Time per Response:** .25 to 1 hour.

**Frequency of Response:** One-time and on occasion reporting requirements; other reporting requirements—as-needed basis for equipment safety certification that is no longer in use, and

consistently (likely daily) responses automated via the device.

**Obligation to Respond:** Required to obtain or retain benefits. Statutory authority for, these collections are contained in 47 U.S.C. 151, 152, 154(i), 154(j), 155(c), 302(a), 303, 304, 307(e), and 316 of the Communications Act of 1934.

**Total Annual Burden:** 64,561 hours.

**Total Annual Cost:** \$13,213,975.

**Privacy Impact Assessment:** No impact(s).

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

**Needs and Uses:** The FCC adopted an Order on Reconsideration and Second Report and Order, FCC 16–55, that amends rules established in the First Report and Order, FCC 15–47, for commercial use of 150 megahertz in the 3550–3700 MHz (3.5 GHz) band and a new Citizens Broadband Radio Service, on April 28, 2016, published at 81 FR 49023 (July 26, 2016). The rule changes and information requirements contained in the First Report and Order are also approved under this Office of Management and Budget (OMB) control number and have not changed since they were last approved by OMB.

The Commission seeks approval from OMB for the information collection requirements contained in FCC 16–55. The amendments contained in the Second Report and Order create additional capacity for wireless broadband by adopting a new approach to spectrum management to facilitate more intensive spectrum sharing between commercial and federal users and among multiple tiers of commercial users. The Spectrum Access System (SAS) will use the information to authorize and coordinate spectrum use for Citizen Broadband Radio Service Devices (CBSDs). The Commission will use the information to coordinate among the spectrum tiers and determine Protection Areas for Priority Access Licensees (PALs).

The following is a description of the information collection requirements for which the Commission seeks OMB approval:

Section 96.25(c)(1)(i) requires PALs to inform the SAS if a CBSD is no longer in use.

Section 96.25(c)(2)(i) creates a default protection contour for any CBSD at the outer limit of the PAL Protection Area, but allows a PAL to self-report a contour smaller than that established by the SAS.

These rules which contain information collection requirements are designed to provide for flexible use of this spectrum, while managing three

tiers of users in the band, and create a low-cost entry point for a wide array of users. The rules will encourage innovation and investment in mobile broadband use in this spectrum while protecting incumbent users. Without this information, the Commission would not be able to carry out its statutory responsibilities

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2017–05187 Filed 3–15–17; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0862]

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

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before May 15, 2017.

If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicole Ongele, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Nicole.Ongele@fcc.gov](mailto:Nicole.Ongele@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

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

#### SUPPLEMENTARY INFORMATION:

**OMB Control Number:** 3060–0862.

**Title:** Handling Confidential Information.

**Form Number:** N/A.

**Type of Review:** Extension of a currently approved collection.

**Respondents:** Business or other for-profit entities; not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

**Number of Respondents and Responses:** 2,400 respondents; 2,400 responses.

**Estimated Time per Response:** 1–2 hours.

**Obligation to Respond:** Required to obtain or retain benefits.

**Frequency of Response:** On occasion reporting requirement; recordkeeping and third party disclosure requirements.

**Total Annual Burden:** 4,900 hours.

**Total Annual Cost:** No Cost.

**Privacy Impact Assessment:** No impact(s).

**Nature of Extent of Confidentiality:** The Commission is not requesting that

the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission's rules.

**Needs and Uses:** On August 4, 1998, the FCC released a *Report and Order* (R&O), Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, CG Docket No. 96–55. The R&O included a Model Protective Order (MPO) that is used, when appropriate, to grant limited access to information that the Commission determines should not be routinely available for public inspection. The party granted access to the confidential information materials must keep a written record of all copies made and provide this record to the submitted of the confidential materials upon request. This approach was adopted to facilitate the use of confidential materials under an MPO, instead of restricting access to materials. In addition, the FCC amended 47 CFR 0.459(b) to set forth the type of information that should be included when a party submits information to the Commission for which it seeks confidential treatment. This listing of types of information to be submitted was adopted to provide guidance to the public for confidentiality requests.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2017–05186 Filed 3–15–17; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1113]

### Information Collection Being Reviewed by the Federal Communications Commission

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the

Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before May 15, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicole Ongele, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Nicole.Ongele@fcc.gov](mailto:Nicole.Ongele@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

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

**OMB Control Number:** 3060–1113.

**Title:** Commercial Mobile Alert System (CMAS).

**Form No.:** N/A.

**Type of Review:** Extension of a currently approved collection.

**Respondents:** Business or other for-profit.

**Number of Respondents and Responses:** 1,253 respondents; 1,253 responses.

**Estimated Time per Response:** 30 minutes (.5 hours).

**Frequency of Response:** On occasion reporting requirement, recordkeeping requirement and third party disclosure requirements.

**Obligation to Respond:** Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 154(o), 218, 219, 230, 256, 302(a), 303(f), 303(g), 303(r), 403, 621(b)(3), and 621(d).

**Total Annual Burden:** 28,193 hours.

**Total Annual Cost:** No cost.

**Privacy Act Impact Assessment:** No Impact(s).

**Nature and Extent of Confidentiality:** There is no need for confidentiality.

**Needs and Uses:** This collection will be submitted as an extension after this 60 day comment period to the Office of Management and Budget (OMB) in order to obtain OMB approval.

On August 7, 2008, the FCC released a *Third Report and Order* in PS Docket No. 07–287, FCC 08–184 (*CMAS Third R&O*), the *CMAS Third R&O* implements provisions of the Warning, Alert and Response Network (“WARN”) Act, including inter alia, a requirement that within 30 days of release of the *CMAS Third R&O*, each Commercial Mobile Service (CMS) provider must file an election with the Commission indicating whether or not it intends to transmit emergency alerts as part of the Commercial Mobile Alert System (CMAS). The *CMAS Third R&O* noted that this filing requirement was subject to OMB review and approval. The Commission received “pre-approval” from the OMB on February 4, 2008. The Commission began accepting CMAS election filings on or before September 8, 2008.

All CMS providers are required to submit a CMAS election, including those that were not licensed at the time of the initial filing deadline with the FCC. In addition, any CMS provider choosing to withdraw its election must notify the Commission at least sixty (60) days prior to the withdrawal of its election. The information collected will be the CMS provider's contact information and its election, *i.e.*, a “yes” or “no”, on whether it intends to provide commercial mobile service alerts.

The Commission will use the information collected to meet its statutory requirement under the WARN Act to accept licensees' election filings and to establish an effective CMAS that will provide the public with effective mobile alerts in a manner that imposes minimal regulatory burdens on affected entities.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2017-05184 Filed 3-15-17; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, March 21, 2017, to consider the following matters:

*Summary Agenda:* No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' Meetings.

Summary reports, status reports, reports of actions taken pursuant to authority delegated by the Board of Directors, and reports of the Office of Inspector General.

*Discussion Agenda:* Update of Projected Deposit Insurance Fund Losses, Income, and Reserve Ratios for the Restoration Plan.

The meeting will be held in the Board Room located on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, DC.

This Board meeting will be Webcast live via the Internet and subsequently made available on-demand approximately one week after the event. Visit <http://fdic.windrosemmedia.com> to view the event. If you need any technical assistance, please visit our Video Help page at: <https://www.fdic.gov/video.html>.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call 703-562-2404 (Voice) or 703-649-4354 (Video Phone) to make necessary arrangements.

Requests for further information concerning the meeting may be directed

to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at 202-898-7043.

Dated: March 13, 2017.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2017-05352 Filed 3-14-17; 11:15 am]

**BILLING CODE P**

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting

**AGENCY:** Federal Election Commission

**DATE AND TIME:** Tuesday, March 21, 2017 at 10:00 a.m. and its continuation at the conclusion of the open meeting on March 23, 2017.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This meeting will be closed to the public.

**ITEMS TO BE DISCUSSED:** Compliance matters pursuant to 52 U.S.C. 30109.

Matters relating to internal personnel decisions, or internal rules and practices. Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

\* \* \* \* \*

### PERSON TO CONTACT FOR INFORMATION:

Judith Ingram, Press Officer, Telephone: (202) 694-1220.

**Dayna C. Brown,**

*Secretary and Clerk of the Commission.*

[FR Doc. 2017-05397 Filed 3-14-17; 4:15 pm]

**BILLING CODE 6715-01-P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be

available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 10, 2017.

*A. Federal Reserve Bank of Kansas City* (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *Bern Bancshares, Inc.*, Bern, Kansas; to acquire up to 6.36 percent of the voting shares of UBT Bancshares, Inc., Marysville, Kansas, and thereby indirectly acquire United Bank & Trust, Marysville, Kansas.

Board of Governors of the Federal Reserve System, March 13, 2017.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2017-05241 Filed 3-15-17; 8:45 am]

**BILLING CODE 6210-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60Day-17-17SG; Docket No. CDC-2017-0016]

### Proposed Data Collection Submitted for Public Comment and Recommendations

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

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on the proposed information collection project titled "Anthropometric Information on Law Enforcement Officers." The purpose of



this three-year data collection project is to assemble a database of body dimensions of 1,000 law enforcement officers to improve the design of police cruiser cabins and personal protective equipment (PPE).

**DATES:** Written comments must be received on or before May 15, 2017.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC-2017-0016 by any of the following methods:

- *Federal eRulemaking Portal:* [Regulations.gov](http://Regulations.gov). Follow the instructions for submitting comments.

- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS-D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to [Regulations.gov](http://Regulations.gov), including any personal information provided. For access to the docket to read background documents or comments received, go to [Regulations.gov](http://Regulations.gov).

*Please note: All public comment should be submitted through the Federal eRulemaking portal ([Regulations.gov](http://Regulations.gov)) or by U.S. mail to the address listed above.*

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS-D74, Atlanta, Georgia 30329; phone: 404-639-7570; Email: [omb@cdc.gov](mailto:omb@cdc.gov).

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

*Comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance

of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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.

#### Proposed Project

Anthropometric Information on Law Enforcement Officers—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

#### Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. The National Bureau of Standards (NBS) released its manually measured anthropometric data of law enforcement officer (LEOs) in 1975. The data have largely become outdated due to demographic changes (e.g., gender and race/ethnicity) that have occurred in the past 41 years. NIOSH has initiated a national study on LEO anthropometry, using both traditional and three-dimensional (3D) scanning technologies to advance the safety and health of approximately 817,000 U.S. LEOs.

Traditional anthropometry will ensure easy comparison of data between this and previous studies, whereas 3D scan information (body contours and spatial relations between body parts) will be used for advanced

anthropometric analysis, computer simulation, and modeling. Study results will be used to enhance design and standards for LEO vehicle configuration and personal protective equipment (PPE), such as cabins, seats, body restraints, vehicle access, and body armor. Law enforcement officer anthropometry has an important role in the design of ergonomically efficient LEO cruisers and personal protective systems. The improved vehicle configurations will help enhance safe operation (due to improved driver visibility and control operation) and increase post-crash survivability (due to enhanced seats and restraint system configurations). Body armor, helmet, gloves, and boots are important elements of an integrated LEO personal protective system, especially for handling violent acts. Poor equipment fit may compromise protective capabilities of PPE and may result in LEOs not wearing the PPE because of discomfort. By establishing an anthropometric database for LEOs, the designers and manufacturers of these types of equipment will be able to produce more effective products and reduce the problems associated with sizing and stocking these items.

Data collection will occur in four U.S. geographic areas using traditional anthropometric techniques for whole body measurements, 3D scanning techniques for head, foot, and whole body measurements, and a two-dimensional (2D) scanning techniques for hand measurements. An anthropometer, a beam caliper (rearranged pieces of the anthropometer), tape measures, and an electronic scale will be used to collect the traditional anthropometry data in the study. A hand scanner, head scanner, foot scanner, and whole body scanner, housed in a mobile trailer, are used for 2D and 3D body shape measurements.

The study population will be current law enforcement officers employed by police departments, sheriff's departments, or similar governmental organizations throughout the continental United States. One thousand LEO volunteers will participate in the study over three years. Informed consent and the data collection are expected to take no longer than 65 minutes (total) to complete. The total estimated annualized burden hours are 385.

There are no costs to the respondents other than their time.

*Estimated Annualized Burden Hours*

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)	Total burden (in hrs)
Law Enforcement Officers .....	Pre-Enrollment Confirmation Email ..	333	1	1/60	6
Law Enforcement Officers .....	Biographical Information .....	333	1	3/60	17
Law Enforcement Officers .....	Consent form .....	333	1	5/60	28
Law Enforcement Officers .....	Traditional anthropometric measurements.	333	1	30/60	167
Law Enforcement Officers .....	2D and 3D scans .....	333	1	30/60	167
Total .....	.....	.....	.....	.....	385

**Leroy A. Richardson,**  
*Chief, Information Collection Review Office,  
 Office of Scientific Integrity, Office of the  
 Associate Director for Science, Office of the  
 Director, Centers for Disease Control and  
 Prevention.*

[FR Doc. 2017-05265 Filed 3-15-17; 8:45 am]

**BILLING CODE 4163-18-P**

10000 New Hampshire Ave., Silver  
 Spring, MD 20903.”

Dated: March 13, 2017.

**Leslie Kux,**  
*Associate Commissioner for Policy.*

[FR Doc. 2017-05247 Filed 3-15-17; 8:45 am]

**BILLING CODE 4164-01-P**

**DEPARTMENT OF HEALTH AND  
 HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-N-2016-4198]

**Public Meeting on Patient-Focused  
 Drug Development for Sarcopenia;  
 Request for Comments; Correction**

**AGENCY:** Food and Drug Administration,  
 HHS.

**ACTION:** Notice; correction.

**SUMMARY:** The Food and Drug Administration is correcting a notice entitled “Public Meeting on Patient-Focused Drug Development for Sarcopenia” that appeared in the **Federal Register** of December 14, 2016 (81 FR 90361). The document announced a public meeting and an opportunity for public comment on Patient-Focused Drug Development for Sarcopenia. The location of the meeting has changed and this document provides the updated meeting location.

**FOR FURTHER INFORMATION CONTACT:** Meghana Chalasani, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1146, Silver Spring, MD 20993-0002, 240-402-6525, FAX: 301-847-8443, [Meghana.Chalasani@fda.hhs.gov](mailto:Meghana.Chalasani@fda.hhs.gov).

In the **Federal Register** of Wednesday, December 14, 2016, in FR Doc. 2016-29998, the following correction is made:

1. On page 90361, in the second column, in the first sentence of the **ADDRESSES** section, “FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room, (Rm. 1503), Silver Spring, MD 20993-0002.” is corrected to read “Tommy Douglas Conference Center,

**DEPARTMENT OF HEALTH AND  
 HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-2016-P-1676]

**Determination that  
 CYANOCOBALAMIN INJECTION, 1  
 Milligram per Milliliter in a 10 Milliliter  
 Vial, Was Not Withdrawn From Sale for  
 Reasons of Safety or Effectiveness**

**AGENCY:** Food and Drug Administration,  
 HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) has determined that CYANOCOBALAMIN INJECTION, 1 milligram per milliliter in a 10 milliliter vial, was not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to this drug product, and it will allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Trentacost, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6219, Silver Spring, MD 20993-0002, 240-402-7736.

**SUPPLEMENTARY INFORMATION:** In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants

must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength, dosage form, and route of administration as the “listed drug,” which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the “Approved Drug Products With Therapeutic Equivalence Evaluations,” which is known generally as the “Orange Book.” Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug’s NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (21 CFR 314.161). FDA may not approve an ANDA that does not refer to a listed drug.

CYANOCOBALAMIN INJECTION, 1 milligram per milliliter in a 10 milliliter vial, is the subject of ANDA 080557, held by Fresenius Kabi USA (Fresenius), and initially approved on June 20, 1973. CYANOCOBALAMIN INJECTION is indicated for vitamin B<sub>12</sub> deficiencies due to malabsorption that may be associated with the following conditions: Addisonian (pernicious) anemia; gastrointestinal pathology, dysfunction, or surgery, including gluten enteropathy or sprue, small bowel bacterial overgrowth, and total or partial gastrectomy; fish tapeworm

infestation; malignancy of pancreas or bowel; or folic acid deficiency.

In a letter dated December 21, 2016, Fresenius notified FDA that CYANOCOBALAMIN INJECTION, 1 milligram per milliliter in a 10 milliliter vial, was discontinued over 30 years ago, and Fresenius had concluded that the drug was discontinued for reasons other than safety or effectiveness. Fresenius also conveyed that they currently manufacture and market a 1 milliliter multiple dose vial of the 1 milligram per milliliter concentration.

John R. Rapoza submitted a citizen petition dated June 16, 2016 (Docket No. FDA-2016-P-1676), under 21 CFR 10.30, requesting that the Agency determine whether

CYANOCOBALAMIN INJECTION, 1 milligram per milliliter in a 10 milliliter vial, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that CYANOCOBALAMIN INJECTION, 1 milligram per milliliter in a 10 milliliter vial, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that CYANOCOBALAMIN INJECTION, 1 milligram per milliliter in a 10 milliliter vial, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of CYANOCOBALAMIN INJECTION, 1 milligram per milliliter in a 10 milliliter vial, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that this drug product was not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will list CYANOCOBALAMIN INJECTION, 1 milligram per milliliter in a 10 milliliter vial, in the “Discontinued Drug Product List” section of the Orange Book. The “Discontinued Drug Product List” delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will not begin procedures to withdraw approval of approved ANDAs that refer to this drug product. Additional ANDAs for this drug product may also be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will

advise ANDA applicants to submit such labeling.

Dated: March 13, 2017.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2017-05246 Filed 3-15-17; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2007-D-0369]

#### Product-Specific Guidances for Rifaximin; Revised Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA, the Agency, or we) is announcing the availability of a revised draft guidance for industry on generic rifaximin oral tablets entitled “Draft Guidance on Rifaximin.” The revised draft guidance, when finalized, will provide product-specific recommendations on, among other things, the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs) for rifaximin oral tablets.

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by May 15, 2017.

**ADDRESSES:** You may submit comments as follows:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that

identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

*Instructions:* All submissions received must include the Docket No. FDA-2007-D-0369 for “Draft Guidance on Rifaximin.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” will be publicly viewable at <https://www.regulations.gov> or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more

information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

**FOR FURTHER INFORMATION CONTACT:** Xiaoqiu Tang, Center for Drug Evaluation and Research (HFD-600), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4730, Silver Spring, MD 20993-0002, 301-796-5850.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled "Bioequivalence Recommendations for Specific Products," which explained the process that would be used to make product-specific guidances available to the public on FDA's Web site at <http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>.

As described in that guidance, FDA adopted this process to develop and disseminate product-specific guidances and to provide a meaningful opportunity for the public to consider and comment on the guidances. This notice announces the availability of a revised draft guidance for generic rifaximin oral tablets.

FDA initially approved new drug application (NDA) 021361 for XIFAXAN (rifaximin oral tablets) 200 milligram (mg) in May 2004 and NDA 022554 for XIFAXAN (rixaximin oral tablets) 550 mg in March 2010. In November 2011, FDA issued a draft guidance for

industry on generic 200 mg rifaximin oral tablets; in February 2012, FDA issued a draft guidance for industry on generic 550 mg rifaximin oral tablets. We are now consolidating these two guidances and issuing a single revised draft guidance for industry on generic rifaximin oral tablets ("Draft Guidance on Rifaximin").

In May 2008, Salix Pharmaceuticals, Inc. (Salix), manufacturer of the reference listed drugs XIFAXAN 200 mg and XIFAXAN 550 mg, submitted a citizen petition requesting that FDA refrain from approving any ANDA referencing XIFAXAN 200 mg unless certain conditions were satisfied, including conditions related to demonstrating BE. In October 2016, Baker & Hostetler LLP submitted a citizen petition on behalf of Salix requesting that FDA refrain from approving any ANDA referencing XIFAXAN 200 mg or XIFAXAN 550 mg unless certain conditions were satisfied, including conditions related to demonstrating BE. FDA has reviewed the issues raised in these citizen petitions and is responding to the citizen petitions separately in the dockets for those citizen petitions (Docket Nos. FDA-2008-P-0300 and FDA-2016-P-3418, available at <https://www.regulations.gov>).

The revised draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The revised draft guidance, when finalized, will represent the current thinking of FDA on "Draft Guidance on Rifaximin." It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

##### **II. Electronic Access**

Persons with access to the Internet may obtain the draft guidances at either <https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm> or <https://www.regulations.gov>.

Dated: March 13, 2017.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2017-05245 Filed 3-15-17; 8:45 am]

**BILLING CODE 4164-01-P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Indian Health Service**

[Funding Announcement Number: HHS-2017-IHS-HLY-0001; Catalog of Federal Domestic Assistance Number: 93.933]

### **Healthy Lifestyles in Youth Project; Proposed Single Source Competing Continuation Cooperative Agreement with National Congress of American Indians**

#### **Key Dates**

*Application Deadline Date:* May 15, 2017

*Review Date:* May 22-26, 2017

*Earliest Anticipated Start Date:* September 1, 2017

*Proof of Non-Profit Status Due Date:* May 15, 2017

#### **I. Funding Opportunity Description**

##### *Statutory Authority*

The Indian Health Service (IHS) Office of Clinical and Preventive Services, Division of Diabetes Treatment and Prevention, is accepting applications for a single source competing continuation cooperative agreement with the National Congress of American Indians (NCAI) for the purpose of continued implementation of the Healthy Lifestyles in Youth Project in selected Native American Boys and Girls Clubs of America. This program is authorized under the authority of the Snyder Act, 25 U.S.C. 13; the Transfer Act, 42 U.S.C. 2001; and the Public Health Service Act, as amended, 42 U.S.C. 241(a). This program is described in the Catalog of Federal Domestic Assistance (CFDA) under 93.933.

##### *Background*

This program promotes healthy lifestyles among American Indian and Alaska Native (AI/AN) youth using the curriculum "Together Raising Awareness for Indian Life" (TRAIL) among selected Boys and Girls Club sites. Under this cooperative agreement, IHS proposes to enter into a collaborative effort/initiative with NCAI, because of their unique experience partnering with the IHS and Boys and Girls Clubs of America (BGCA) in successfully establishing this program, as well as, their overall expertise and experience in addressing and evaluating healthy lifestyle techniques in AI/AN youth.

##### *Purpose*

This work will continue to support the IHS mission to improve the health of AI/AN youth through health

promotion and health education programs. The purpose of this IHS cooperative agreement is to focus on addressing healthy lifestyle development, emphasizing nutrition and physical activity for AI/AN children and youth 7 through 11 years of age. The long term goal is to prevent or delay the onset of obesity and related diseases such as type 2 diabetes. NCAI will continue partnering work with selected Native American Boys and Girls Club sites to: (a) Provide health and physical education programs; (b) help youth achieve and maintain healthy lifestyles through participation in fitness programs; (c) help youth to acquire a range of physical skills; and (d) help youth develop a sense of teamwork and cooperation.

These early intervention strategies provide evidence based opportunities to reduce and/or halt the increasing trend of obesity and diabetes among youth and young adults. Clubs that develop a health promotion program that includes the TRAIL curriculum may help curtail the effects of unhealthy eating behaviors and lack of physical activity that can lead to obesity, diabetes, and other chronic diseases later in life. The TRAIL curriculum was developed to provide information on good nutrition and to promote physical activity among youth participating in Native American Boys and Girls Clubs. TRAIL is a three month (12 lessons) program that provides youth with a comprehensive understanding of healthy lifestyles in order to prevent diabetes. Woven throughout the program are self-esteem and prevention activities. Participants

draw from Tribal traditions and history to learn about nutrition, healthy food choices, media influences, and the impact of diabetes. Clubs also implement the Nike Let Me Play and SPARK physical activity programs to foster Club-wide participation in fun activities and games for 60 minutes every day. TRAIL emphasizes the importance of teamwork and community service. Members engage in service projects to improve healthy lifestyles in their communities, including starting community gardens to connect youth to their food source and organizing community-wide physical fitness events.

Since the inception of the program in 2003, TRAIL has been implemented at over 79 Native American Boys and Girls Club of America sites located in 17 states. There are currently over 50 sites in more than 15 states participating in the program.

The overall results show improvement in participant knowledge of diabetes, health, and healthy food choices, as well as, improved fitness and level of physical activity. To support this project, NCAI will select and assist at least 50 Native American Boys and Girls Club sites to establish and implement this curriculum project. Boys and Girl Club sites that are located outside of Tribal communities will not be considered by the grantee. The Boys and Girls Club sites selected by the grantee may use IHS grant funds to provide services to eligible IHS beneficiaries only. The grantee will be expected to: Provide technical consultation; train; monitor; evaluate; as

well as provide funds to support these activities.

*Single Source Justification*

NCAI is identified as the single source for the award, based on their successful record of performance with this project, their unique relationship and work in developing and maintaining: (1) Relationships with the Boys and Girls Clubs organization and staff, (2) being able to successfully implement the TRAIL program curriculum, (3) the project Web site information, and (4) the project data and evaluation systems. The award is for a continuation of activities identified. These activities, the collaboration with the network of Native American Boys and Girls Clubs, and the evaluation process have been effectively undertaken by NCAI for the past 13 years. The process, as well as the outcomes, have been deemed very successful and clearly supportive of Agency initiatives for youth.

The grantee has documented success in (1) recruiting and working with sites, (2) developing and implementing the TRAIL curriculum at the sites, (3) implementing a method for collecting data from the sites, (4) fostering collaboration between sites and their communities, and (5) collecting and reporting data that demonstrates participant increases in health and food choice knowledge and increases in participant physical activity and level of fitness. Some of the data for the most recent years of the current 5 year cooperative agreement (2013–2016) are as follows:

**2013–2014 Data**

Number of AI/AN Children Participating in the Curriculum, Training, and Strength and Endurance Challenges.	1,403 (610 males/716 females—77 gender not identified).
Age Range of Children Participating .....	ages 4–14 (representing grades 2–6, with 96% of children in grades 2–5).
Achieving Goal of 60 Minutes/Day of Physical Activity—Club Wide (Children in TRAIL plus Other Boys and Girls Club Children).	Average of 2,970 Children at 54 Sites Performed an Average of 74.15 Minutes/Day of Physical Activity = 3,683 hours of Physical Activity/Day Nationwide (128 Days in the Reporting Period).
Program test scores indicate: (a) Increased knowledge about diabetes, (b) increased physical activity, and (c) increased ability to identify healthier food options (increase in post test scores vs. pre test scores—82% of Clubs had post test scores of >70% compared to 3% with pre-test scores >70%).	

**2014–2015 Data**

Number of AI/AN Children Participating in the Curriculum, Training, and Strength and Endurance Challenges.	1332 (590 males/669 females—63 gender not identified).
Age Range of Children Participating .....	ages 6–11 (representing grades K–6, with 89% of children in grades 2–5).
Achieving Goal of 60 Minutes/Day of Physical Activity—Club Wide (Children in TRAIL plus Other Boys and Girls Club Children).	Average of 2,450 Children at 50 sites Performed an Average of 74.15 Minutes/Day of Physical Activity = 3,038 hours of Physical Activity/Day Nationwide (128 Days in the Reporting Period).
Program test scores indicate: (a) Increased knowledge about diabetes, (b) increased physical activity, and (c) increased ability to identify healthier food options (increase in post test scores vs. pre test scores—85% of Clubs had post test scores of >70% compared to 9% with pre-test scores >70%).	

**2015–2016 Data**

Number of AI/AN Children Participating in the Curriculum, Training, and Strength and Endurance Challenges.	1,256 Children (606 boys, 627 girls, 23 gender not identified).
------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------

Age Range of Children Participating .....	6–12 years (representing grades K–6 with 87% of children in grades 2–5).
Achieving Goal of 60 Minutes/Day of Physical Activity—Club Wide (Children in TRAIL plus Other Boys and Girls Club Children).	Average of 2,907 Children Performed an Average of 63.9 Minutes/Day of Physical Activity = 3,038 hours of Physical Activity/Day Nationwide (128 Days in the Reporting Period).

Program test scores indicate: (a) Increased knowledge about diabetes, (b) increased physical activity, and (c) increased ability to identify healthier food options (increase in post test scores vs. pre test scores—82% of Clubs had post test scores of >70% compared to 18% with pre-test scores >70%).

The TRAIL curriculum and subsequent revision were developed by the grantee as a part of earlier agreements. If there is a need to update the curriculum and subsequently implement the revised curriculum, it will be more efficiently and cost effectively performed as the grantee is very familiar with the existing curriculum and the implementation.

The grantee uses a sub-contractor (First Pic) to develop and implement the evaluation and reporting process for individual sites and for analysis and reporting of aggregated data. This unique and program specific evaluation system has been beneficial to sites and to IHS. All of the tools for using this system have been made available via the Native American Boys and Girls Clubs Web site—<http://www.naclubs.org/index.php/club-programs/trail-diabetes-prevention>.

The grantee (NCAI) has been effective, timely, and cooperative, and has consistently achieved or exceeded requirements of the previous agreement. NCAI and First Pic are uniquely qualified to continue to receive the award and provide the identified program activities based on their history with this project and project sites, their evaluation system, their knowledge of the curriculum, and their documented performance achievements with the sites under the previous agreement.

All Department of Health and Human Services (HHS) and IHS policies, regulations, grants management and programmatic reporting requirements from the prior funding segment remain in effect under this renewal announcement unless otherwise stated or modified in the terms and conditions of the new Notice of Award.

**II. Award Information**

*Type of Award*

Cooperative Agreement.

*Estimated Funds Available*

The total amount of funding identified for the current fiscal year (FY) 2017 is \$1,250,000. The average award amount will be \$1,250,000 annually. The amount of funding available for competing and continuation awards issued under this announcement are subject to the availability of

appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

*Anticipated Number of Awards*

One award will be issued under this program announcement.

*Project Period*

The project period is for five years and will run consecutively from September 1, 2017 to August 31, 2022.

*Cooperative Agreement*

Cooperative agreements awarded by the HHS are administered under the same policies as a grant. However, the funding agency (IHS) is required to have substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for both IHS and the grantee. IHS will be responsible for activities listed under section A and the grantee will be responsible for activities listed under section B as stated:

*Substantial Involvement Description for Cooperative Agreement*

A. IHS Programmatic Involvement

- (1) Identify a core group of IHS staff to work with the grantee in providing technical assistance and guidance.
- (2) Meet with the grantee to review grantee work plan and provide guidance on implementation and data collection tools.
- (3) Participate in quarterly conference calls. Work with the grantee to showcase the results of this project by publishing on shared Web sites as well as in jointly authored publications.

B. Grantee Cooperative Agreement Award Activities

- (1) Develop a written plan for the planning, implementation, and evaluation of this project to include selecting at least 50 sites as agreed upon with the IHS. This task will be completed within 30 days from award and approved by the IHS.
- (2) Develop selection criteria for new sites, announce, evaluate, and select sites. Sites must submit documentation verifying they serve only AI/AN youth

from eligible IHS beneficiaries as a requirement for selection by the grantee. A start-up planning meeting with new sites will be conducted within two months of each site’s initial selection and award.

(3) Plan and facilitate an orientation and training meeting for new sites within two months of selection. Submit agenda, training goals and objectives, and participant list to IHS within one month of completion of each orientation session.

(4) Update TRAIL curriculum as needed/directed and implement use.

(5) Develop, in consultation with the IHS, the implementation and technical assistance plan for the coordination of the selected Boys and Girls Club sites. Submit criteria to the IHS for approval. Grantee will continue work with sites to develop and report measurements for assessment of physical activity and nutrition behaviors among club participants.

(6) Each site will implement the TRAIL program, emphasizing healthy behaviors such as physical activity and nutrition. Each program plan will also include a parent component describing approaches for involving the families of participants.

(7) Each site will implement Physical Activity Strength and Endurance Challenges three times, six to eight weeks apart. Physical activity data will be collected and summarized.

(8) Grantee will promote and facilitate local, state, and national partnerships for the purpose of establishing or enhancing program support that involves increasing physical activity and good nutrition for the Tribally-managed Boys and Girls Club sites. This includes but is not limited to establishing other partners such as American Indian-Alaska Native Program Branch (AI-ANPB) of Head Start Programs, Wings of America, United National Indian Tribal Youth, Inc. (UNITY), Tribal colleges, BGCA, Tribal organizations, local community health providers and other private organizations as appropriate.

(9) Grantee will continue to implement current evaluation processes in consultation for the TRAIL project. At a minimum, the evaluation will include:

(a) Training attendance (gender, age, grade level);

(b) pre- and post- tests to assess participant knowledge;

(c) monthly activity logs from each site on the physical activity portion of their program. Daily data to be collected includes the date, number of minutes of physical activity, and number of children participating; and

(d) information/log on parent and family participation in education and activity programs, community involvement and partnerships.

(10) Submit collated and summarized data to the IHS. Work with the IHS in drafting an evaluation summary at the end of the project period for publication. Submit collated and summarized data and project evaluation summaries to all sites. Provide a minimum of annual reports (feedback) to each site on how their data compare to data (mean, median, and range) from other selected sites.

(11) Provide ongoing technical support to the sites for the duration of the initiative. Provide training and technical assistance in all forms, *i.e.*, on-site, on-line, by phone, and mail. The planning, design and delivery of training and technical assistance will support the local organization's long-term planning and outreach efforts. The training will be customized based on sites' capability and experience. Technical assistance will also be provided on program planning and implementation. Collaborate with IHS to provide services to club sites. Maintain records and reports.

(12) Provide technical consultation to the sites in developing a written work plan, with measurable goals, objectives and activities.

(13) Establish a formal agreement with Native American Boys and Girls Club sites which involves minimal fiscal assistance but substantial technical support to make sure clubs successfully implement the TRAIL program.

(14) Submit to the IHS a written work plan and report describing each site's demographics, information on the number of youth in the eligible age range in the catchment area, the number that attend the Boys and Girls Clubs regularly, and the number served by this project, goals, objectives, activities, partnerships, and proposed outcomes.

(15) Provide IHS written quarterly reports on the evaluation outcomes, activity reports at each site, any parent involvement activities and other participation, description of the community partnerships, and other activities as appropriate

(16) Conduct quarterly conference calls with IHS to review project status.

### III. Eligibility Information

#### 1. Eligibility

The award is offered as a single source competing continuation cooperative agreement with the NCAI. NCAI is identified as the single source for the award, based on their successful record of performance with this project, their unique relationship and work in developing and maintaining: (1) Relationships with the Boys and Girls Clubs organization and staff, (2) being able to successfully implement the TRAIL program curriculum, (3) the project Web site information, and (4) the project data and evaluation systems. The award is for a continuation of activities identified. NCAI is the sole organization eligible to apply for competing continuation funding under this announcement and must demonstrate that they have complied with previous terms and conditions of the Healthy Lifestyles in Youth grant in order to receive funding under this announcement.

#### 2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

#### 3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the "Estimated Funds Available" section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the Division of Grants Management (DGM) of this decision.

#### Proof of Non-Profit Status

Organizations claiming non-profit status must submit proof. A copy of the 501(c)(3) Certificate must be received with the application submission by the Application Deadline Date listed under the Key Dates section on page one of this announcement.

An applicant submitting any of the above additional documentation after the initial application submission due date is required to ensure the information was received by the IHS by obtaining documentation confirming delivery (*i.e.*, FedEx tracking, postal return receipt, etc.).

### IV. Application and Submission Information

#### 1. Obtaining Application Materials

The application package and detailed instructions for this announcement can

be found at <http://www.Grants.gov> or <http://www.ihs.gov/dgm/funding/>.

Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443-2114 or (301) 443-5204.

#### 2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
  - Abstract (one page) summarizing the project.
  - Application forms:
    - SF-424, Application for Federal Assistance.
    - SF-424A, Budget Information—Non-Construction Programs.
    - SF-424B, Assurances—Non-Construction Programs.
      - Budget Justification and Narrative (must be single-spaced and not exceed 30 pages).
      - Project Narrative (must be single-spaced and not exceed 30 pages).
      - Background information on the organization.
      - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
        - 501(c)(3) Certificate (if applicable).
        - Biographical sketches for all Key Personnel.
        - Contractor/Consultant resumes or qualifications and scope of work.
        - Disclosure of Lobbying Activities (SF-LLL).
        - Certification Regarding Lobbying (GG-Lobbying Form).
        - Copy of current Negotiated Indirect Cost rate (IDC) agreement (required in order to receive IDC).
        - Documentation of current Office of Management and Budget (OMB) Financial Audit (if applicable).
- Acceptable forms of documentation include:
- Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
  - Face sheets from audit reports. These can be found on the FAC Web site: <https://harvester.census.gov/facdissem/Main.aspx>.
- #### Public Policy Requirements
- All Federal-wide public policies apply to IHS grants and cooperative agreements with exception of the discrimination policy.
- #### Requirements for Project and Budget Narratives
- A. Project Narrative:* This narrative should be a separate Word document

that is no longer than 30 pages and must: Be single-spaced, type written, have consecutively numbered pages, use black type not smaller than 12 characters per one inch, and be printed on one side only of standard size 8½" x 11" paper.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section (noted below), or they will not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming familiar with the applicant's activities and accomplishments prior to this possible cooperative agreement award. If the narrative exceeds the page limit, only the first 30 pages will be reviewed. The 30 page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Introduction and Need for Assistance; Part B—Work Plan; and Part C—Organizational Capabilities. See below for additional details about what must be included in the narrative.

#### Part A: Introduction and Need for Assistance 10 Page Limitation

Please provide description of the need for assistance with offering this program. Applicant should demonstrate knowledge of: Health concerns for AI/AN youth; health promotion activities in Tribal communities such as BGCA; and working with Tribes and Tribal organizations.

#### Part B: Work Plan 10 Page Limitation Section 1: Program Plans

This section should demonstrate the soundness and effectiveness of the proposal. The work plan should be designed to describe how and when the sites will be selected; describe how the sites will be trained on the curriculum and provided technical assistance; and describe how sites will be supported for a physical activity program with the equipment and participant incentives.

#### Section 2: Program Evaluation

Describe the plan for collecting data, monitoring, and assuring quality and quantity of data and the plan for evaluating and reporting program results.

#### Part C: Organizational Capabilities 10 Page Limitation

Describe the broader capacity of the organization to complete the project

outlined in the work plan, including (1) identification and bios for key personnel responsible for completing tasks; (2) description of the structure of the organization and chain of responsibility for successful completion of the project outline in the work plan; (3) description of financial and project management capacity, including information regarding similarly sized projects in scope and financial assistance as well as other grants and projects successfully completed; (4) description of national experience in providing administrative and support services to Tribal youth organizations, education agencies and other Tribal programs for the benefit of AI/AN children and youth and Tribal communities. Indicate experience in national partnerships or national support efforts on behalf of AI/AN communities especially as it pertains to health concerns; (5) description of equipment and space available for use during the proposed project; and (6) description of specialized experience working with Tribal Boys and Girls Club sites and the TRAIL curriculum program.

#### B. Budget Narrative: 30 Page Limit

This narrative must include a line item budget with a narrative justification for all expenditures identifying reasonable allowable, allocable costs necessary to accomplish the goals and objectives as outlined in the project narrative. Budget should match the scope of work described in the project narrative. This section should provide a clear estimate of the project program costs and justification for expenses for the entire cooperative agreement period. The budget and budget justification should be consistent with the tasks identified in the work plan.

#### 3. Submission Dates and Times

Applications must be submitted electronically through *Grants.gov* by 11:59 p.m. Daylight Saving Time (DST), on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. *Grants.gov* will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the electronic application process, contact *Grants.gov* Customer Support via email to [support@grants.gov](mailto:support@grants.gov) or at (800) 518-4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If

problems persist, contact Mr. Gettys ([Paul.Gettys@ihs.gov](mailto:Paul.Gettys@ihs.gov)), DGM Grant Systems Coordinator, by telephone at (301) 443-2114 or (301) 443-5204. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

#### 4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

#### 5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant/cooperative agreement will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

#### 6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the <http://www.Grants.gov> Web site to submit an application electronically and select the "Find Grant Opportunities" link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the <http://www.Grants.gov> Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If the applicant needs to submit a paper application instead of submitting electronically through *Grants.gov*, a waiver must be requested. Prior approval must be requested and obtained from Mr. Robert Tarwater, Director, DGM, (see Section IV.6 below for additional information). A written waiver request must be sent to [GrantsPolicy@ihs.gov](mailto:GrantsPolicy@ihs.gov) with a copy to [Robert.Tarwater@ihs.gov](mailto:Robert.Tarwater@ihs.gov). The waiver must (1) be documented in writing (emails are acceptable) before submitting a paper application, and (2) include clear justification for the need to deviate from the required electronic grants submission process.

Once the waiver request has been approved, the applicant will receive a confirmation of approval email containing submission instructions and the mailing address to submit the application. A copy of the written approval must be submitted along with the hardcopy of the application that is mailed to DGM. Paper applications that are submitted without a copy of the



signed waiver from the Mr. Tarwater of the DGM will not be reviewed or considered for funding. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Paper applications must be received by the DGM no later than 5:00 p.m., DST on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding. Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or <http://www.Grants.gov> registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in <http://www.Grants.gov> by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact *Grants.gov* Support directly at: [support@grants.gov](mailto:support@grants.gov) or (800) 518-4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting *Grants.gov*, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov* as the registration process for SAM and *Grants.gov* could take up to fifteen working days.
- Please use the optional attachment feature in *Grants.gov* to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this funding announcement.
- After electronically submitting the application, the applicant will receive an automatic acknowledgment from *Grants.gov* that contains a *Grants.gov* tracking number. The DGM will download the application from *Grants.gov* and provide necessary copies to the appropriate agency officials. Neither the DGM nor IHS Office of Clinical and Preventive Services, Division of Diabetes Treatment and Prevention will notify the applicant that the application has been received.

- Email applications will not be accepted under this announcement.

#### Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, you may access it through <http://fedgov.dnb.com/webform>, or to expedite the process, call (866) 705-5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended (“Transparency Act”), to report information on sub-awards. Accordingly, all IHS grantees must notify potential first-tier sub-recipients that no entity may receive a first-tier sub-award unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

#### System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at <https://www.sam.gov> (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at <https://www.sam.gov>.

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site: <http://www.ihs.gov/dgm/policytopics/>.

#### V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights

assigned to each section are noted in parentheses. The 30 page narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See “Multi-year Project Requirements” at the end of this section for more information. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 60 points is required for funding. Points are assigned as follows:

##### 1. Criteria

##### A. Introduction and Need for Assistance 20 points

This section should demonstrate knowledges of health concerns and issues regarding AI/AN youth, health promotion activities in Tribal communities, and working with Tribes and Tribal organizations.

##### B. Work Plan 30 points

This section should demonstrate a sound and effective annual work plan that will support accomplishment of deliverables and milestones of the TRAIL project. The work plan should be designed to:

- Describe how and when the sites will be selected;
- Describe how the sites will be trained on the curriculum and provided technical assistance;
- Describe the plan for collecting data, monitoring, and assuring quality and quantity of data;
- Describe the plan for evaluating and reporting;
- Describe how sites will be supported for a physical activity program.

##### C. Organizational Capabilities 40 points

This section should outline the broader capacity of the organization to complete the project outlined in the work plan. It includes the identification of personnel responsible for completing tasks and the chain of responsibility for successful completion of the project outline in the work plan. The section should:

- Describe the structure of the organization.
- Describe the ability of the organization to manage the proposed project and include information

regarding similarly sized projects in scope and financial assistance as well as other grants and projects successfully completed.

- Describe what equipment (*i.e.*, phone, Web sites, etc.) and facility space (*i.e.*, office space) will be available for use during the proposed project. Include information about any equipment not currently available that will be purchased throughout the agreement.

- List and provide bios for key personnel who will work on the project. The section should demonstrate knowledge in:

- Financial and project management.
- Nationwide experience in providing administrative and support services to Tribal youth organizations, education agencies and other Tribal programs for the benefit of children and youth.

- AI/AN youth and Tribal communities and indicate experience in national partnerships or national support efforts on behalf of AI/AN communities especially as it pertains to health concerns.

- Experience working with Tribal Boys and Girls Club sites and the TRAIL curriculum program.

#### D. Categorical Budget and Budget Justification 10 points

This section should provide a clear estimate of the project program costs and justification for expenses for the entire cooperative agreement period. The budget and budget justification should be consistent with the tasks identified in the work plan.

- Categorical budget (Form SF 424A, Budget Information Non Construction Programs) completing each of the budget periods requested.

- Narrative justification for all costs, explaining why each line item is necessary or relevant to the proposed project. Include sufficient details to facilitate the determination of cost allow ability.

- Indication of any special start-up costs.

- Budget justification should include a brief program narrative for the third and fourth years.

- If indirect costs are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the rate agreement in the appendix.

Multi-Year Project Requirements (if applicable)

Projects requiring a second, third, fourth, and/or fifth year must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project.

Additional documents can be uploaded as Appendix Items in *Grants.gov*

- Work plan, logic model and/or time line for proposed objectives.

- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.

- Consultant or contractor proposed scope of work and letter of commitment (if applicable).

- Current Indirect Cost Agreement.

- Map of area identifying project location(s).

- Additional documents to support narrative (*i.e.*, data tables, key news articles, etc.).

#### 2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on evaluation criteria in this funding announcement. The ORC could be composed of both Tribal and Federal reviewers appointed by the IHS program to review and make recommendations on these applications. The technical review process ensures selection of quality projects in a national competition for limited funding. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Applicants will be notified by DGM, via email, to outline minor missing components (*i.e.*, budget narratives, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must address all program requirements and provide all required documentation.

## VI. Award Administration Information

### 1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (<https://www.grantsolutions.gov>). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA

is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

### Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval (60), and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application submitted. The summary statement will be sent to the Authorized Organizational Representative that is identified on the face page (SF-424) of the application. The IHS program office will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

### Approved but Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be "Approved", but were not funded due to lack of funding, will have their applications held by DGM for a period of one year. If additional funding becomes available during the course of FY 2017 the approved but unfunded application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

**Note:** Any correspondence other than the official NoA signed by an IHS grants management official announcing to the project director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

### 2. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements for HHS Awards, located at 45 CFR part 75.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Uniform Administrative Requirements for HHS Awards, "Cost Principles," located at 45 CFR part 75, subpart E.

#### E. Audit Requirements:

- Uniform Administrative Requirements for HHS Awards, "Audit Requirements," located at 45 CFR part 75, subpart F.

#### 3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) <https://rates.psc.gov/> and the Department of Interior (Interior Business Center) <https://www.doi.gov/ibc/services/finance/indirect-cost-services/indian-tribes>. For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under "Agency Contacts" or the main DGM office at (301) 443–5204.

#### 4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports are required to be submitted electronically by attaching them as a "Grant Note" in GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

#### A. Progress Reports

Program progress reports are required annually, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, a summary of progress to date or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

#### B. Financial Reports

Federal Financial Report FFR (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Payment Management Services, HHS at <http://www.dpm.psc.gov>. It is recommended that the applicant also send a copy of the FFR (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

#### C. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a \$25,000 sub-award obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: (1) The project period start date was October 1, 2010 or after and (2) the primary awardee will

have a \$25,000 sub-award obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting.

For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Policy Web site at: <http://www.ihs.gov/dgm/policytopics/>.

#### D. Compliance With Executive Order 13166 Implementation of Services Accessibility Provisions for All Grant Application Packages and Funding Opportunity Announcements

Recipients of Federal financial assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age and, in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. HHS provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency. Please see <http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/>.

The HHS Office for Civil Rights (OCR) also provides guidance on complying with civil rights laws enforced by HHS. Please see <http://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html>; and <http://www.hhs.gov/civil-rights/index.html>. Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see <http://www.hhs.gov/civil-rights/for-individuals/disability/index.html>. Please contact the HHS OCR for more information about obligations and prohibitions under Federal civil rights laws at <http://www.hhs.gov/ocr/about-us/contact-us/headquarters-and-regional-addresses/index.html> or call 1–800–368–1019 or TDD 1–800–537–7697. Also note it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at <http://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>.

Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of his/her exclusion from benefits limited by Federal law to individuals eligible for benefits and services from the IHS.

Recipients will be required to sign the HHS-690 Assurance of Compliance form which can be obtained from the following Web site: <http://www.hhs.gov/sites/default/files/forms/hhs-690.pdf>, and send it directly to the: U.S. Department of Health and Human Services, Office of Civil Rights, 200 Independence Ave. SW., Washington, DC 20201.

#### F. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIIS) before making any award in excess of the simplified acquisition threshold (currently \$150,000) over the period of performance. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. IHS will consider any comments by the applicant, in addition to other information in FAPIIS in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive Federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than \$10,000,000 for any period of time during the period of performance of an award/project.

#### Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, effective January 1, 2016, the IHS must require a non-federal entity or an applicant for a Federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Submission is required for all applicants and recipients, in writing, to

the IHS and to the HHS Office of Inspector General all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. 45 CFR 75.113.

Disclosures must be sent in writing to: U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Robert Tarwater, Director, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, Maryland 20857 (Include "Mandatory Grant Disclosures" in subject line) Ofc: (301) 443-5204, Fax: (301) 594-0899, Email: [Robert.Tarwater@ihs.gov](mailto:Robert.Tarwater@ihs.gov).

#### AND

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW., Cohen Building, Room 5527, Washington, DC 20201, URL: <http://oig.hhs.gov/fraud/report-fraud/index.asp> (Include "Mandatory Grant Disclosures" in subject line) Fax: (202) 205-0604 (Include "Mandatory Grant Disclosures" in subject line) or Email: [MandatoryGranteeDisclosures@oig.hhs.gov](mailto:MandatoryGranteeDisclosures@oig.hhs.gov).

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

#### VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Ms. Carmen Licavoli Hardin, Deputy Director, Division of Diabetes Treatment and Prevention, Indian Health Service (HQ), 5600 Fishers Lane, Mail Stop: 08N34 A&B, Rockville, MD 20857, Telephone: 1-844-IHS-DDTP (1-844-447-3387), Fax: 301-594-6213, Email address: [diabetesprogram@ihs.gov](mailto:diabetesprogram@ihs.gov).

2. Questions on grants management and fiscal matters may be directed to: Donald Gooding, Senior Grants Management Specialist, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Telephone: 301-443-2298, Fax: 301-594-0899, Email address: [Donald.Gooding@ihs.gov](mailto:Donald.Gooding@ihs.gov).

3. Questions on systems matters may be directed to: Paul Gettys, Grant Systems Coordinator, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: 301-443-2114; or the DGM main line 301-443-5204, Fax: 301-594-0899, Email: [Paul.Gettys@ihs.gov](mailto:Paul.Gettys@ihs.gov).

#### VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: March 6, 2017.

#### RADM Chris Buchanan,

*Assistant Surgeon General, USPHS, Acting Director, Indian Health Service.*

[FR Doc. 2017-05243 Filed 3-15-17; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Indian Health Service

[Funding Announcement Number: HHS-2017-IHS-PHN-0001: Catalog of Federal Domestic Assistance Number: 93.933]

### Community Based Model of PHN Case Management Services (Behavioral Health)

AGENCY: Division of Nursing, Public Health Nursing, Indian Health Service, HHS.

#### Key Dates

*Application Deadline Date:* May 15, 2017

*Review Date:* May 26-June 5, 2017

*Earliest Anticipated Start Date:* June 15, 2017

*Proof of Non-Profit Due Date:* May 15, 2017

#### I. Funding Opportunity Description

##### Statutory Authority

The Indian Health Service (IHS) Office of Clinical and Preventive Services (OCPS), Division of Nursing Services/Public Health Nursing (PHN), is accepting applications for grant awards for the Community Based Model of PHN Case Management Services (Behavioral Health). This program is authorized under the Snyder Act, 25 U.S.C. 13; the Transfer Act, 42 U.S.C. 2011; the Public Health Service Act, as amended, 42 U.S.C. 241; and the Indian Health Care Improvement Act, as amended, (IHCIA), 25 U.S.C. 1653(c). This program is described in the Catalog

of Federal Domestic Assistance (CFDA) under 93.933.

### *Background*

The IHS OCPS PHN Program serves as the primary source for national advocacy, policy development, budget development, and allocation for the PHN programs for the IHS. The IHS PHN Program is a community health nursing program that focuses on the goals of promoting health and quality of life, and preventing disease and disability. The PHN program provides quality, culturally sensitive health promotion and disease prevention nursing services through primary, secondary and tertiary prevention services to individuals, families, and community groups. The PHN Program supports population-focused services to promote healthier communities through community based nursing services, community development, and health promotion and/or disease prevention activities. The PHN Program promotes the establishment of program plans based on community assessments and evaluations to prevent disease, promote health, and implement community based programs. There is an emphasis on screening, home visits, immunizations, maternal-child health care, elder care, chronic disease, school services, health promotion and disease prevention, case management, population based services and community disease surveillance. The PHN Program is available to support transitions of care from the clinical setting into the community with an emphasis on the clinical, preventive, and public health needs of American Indian/Alaska Native (AI/AN) communities and developing, managing, and administering such program.

### *Purpose*

The purpose of this IHS grant announcement is to improve specific behavioral health outcomes of an identified high risk group of patients through a case management model that utilizes the PHN as a case manager. The emphasis is on reducing the prevalence and incidence of behavioral health diseases and conditions and to support the efforts of AI/AN communities toward achieving excellence in holistic behavioral health treatment, rehabilitation, and prevention services for individuals and their families. Case management involves the client, family, and other members of the health care team. Quality of care, continuity, and assurance of appropriate and timely interventions are also crucial. In addition to reducing the cost of health care, case management has proven its

worth in terms of improving rehabilitation, improving quality of life, increasing client satisfaction and compliance by promoting client self-determination. The PHN model of community based case management utilizes roles and functions of PHN services of assessment, planning, coordinating services, communication and monitoring. The goals and outcomes of the PHN case management model are early detection, diagnosis, treatment and evaluation that will improve health outcomes in a cost effective manner. This model utilizes all prevention components of primary, secondary and tertiary prevention in the home and community with patient and family. The community based case management model addresses the PHN scope of practice of working with individuals and families in a population-based practice to provide nursing care services. This project will focus on a PHN community based case management model. The project will be conducted in a phased approach, using the nursing process—assessment, planning, implementation, and evaluation.

*First Phase: Assessment*—Complete a generic community assessment (most PHN programs have this readily available as a part of their annual program plans). Include, if available, pertinent data from local community assessments and behavioral health statistical data in the assessment; include the local behavioral health staff as subject matter experts and any data available. In addition, obtain input from key stake-holders such as community members, Tribal leaders, healthcare administration and community health groups to determine the health care priorities. Obtain approval for the establishment of the PHN case management program from the healthcare administration, governing boards and medical executive committees as needed.

*Second Phase: Planning*—Based on the community assessment, the high risk behavioral health population is identified and the planning of the case management project begins. Develop case management services addressing the behavioral health priority health issues identified from the community assessment. Collaborate with the local behavioral health programs on planning in this phase. Plan specific guidelines for the case management services of the high risk group of patients such as admission criteria, caseload size, policies and procedures, and an evaluation plan to include data tracking for outcomes generated. Identify if there is a best practice case management

model available to replicate to target the identified high risk behavioral health population (such as the Pine Ridge PHN Case Management community suicide prevention program or the Resources to Enhance All Caregiver's Health, REACH, into Indian Country). Obtain additional staff training needed for the community based nurse case management model such as evidence based practices, motivational interviewing, nurse competencies and any other training that would be applicable to the behavioral health issues identified. Identify or develop patient education materials and community education materials for the program. Develop plans for project sustainability.

*Third Phase: Implementation*—The case management program includes admission criteria of the high risk behavioral health population, caseload size, and appropriate health care standards. Establish patient caseload. Monitor progress and make adjustments as needed. Track patient data outcomes. Continue to plan ongoing sustainability of the program after the award period ends.

*Fourth Phase: Patient Satisfaction*—In order to evaluate program services; initiate a patient satisfaction program, such as one that provides patients with an opportunity to provide feedback on their experiences to assess the satisfaction of the services. Analyze findings so a concentrated effort is made to relate the customer satisfaction results to internal process metrics, and examine trends over time in order to take action on a timely basis. Evaluate and revise the case management program if needed, review policies and procedures, education materials and staff competencies semi-annually. To the extent permitted by law, report back to key stake-holders progress of the project, especially to inform clients about changes brought about as a direct result of listening to their needs. Each site will share program material with IHS Headquarters PHN program. This information will be shared IHS-wide for replication of the project across IHS with credit given to the organization that developed the material. Poster presentation or oral presentation will be given at the national meetings and/or webinars.

## **II. Award Information**

### *Type of Award*

Grant.

### *Estimated Funds Available*

The total amount of funding identified for the current fiscal year (FY) 2017 is approximately \$1,500,000.

Individual award amounts are anticipated to be between \$124,000 and \$150,000. The amount of funding available for competing and continuation awards issued under this announcement are subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

#### *Anticipated Number of Awards*

Approximately ten awards will be issued under this program announcement.

#### *Project Period*

The project period is for five years and will run consecutively from June 1, 2017 to May 31, 2022.

### III. Eligibility Information

#### I.

##### 1. Eligibility

To be eligible under this “New Announcement”, applicants must be one of the following as defined by 25 U.S.C. 1603:

- A Federally-recognized Indian Tribe 25 U.S.C. 1603(14); operating an Indian health program operated pursuant to a contract, grant, cooperative agreement, or compact with IHS pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), (Pub. L. 93–638).
- A Tribal organization 25 U.S.C. 1603(26); operating an Indian health program operated pursuant to a contract, grant, cooperative agreement, or compact with the IHS pursuant to the ISDEAA, (Pub. L. 93–638).
- An Urban Indian organization as defined by 25 U.S.C. 1603(29). Operating a Title V Urban Indian health program that currently has a grant or contract with the IHS under Title V of the Indian Health Care Improvement Act, (Pub. L. 93–437). Applicants must provide proof of non-profit status with the application, e.g. 501(c)(3).

**Note:** Please refer to Section IV.2 (Application and Submission Information/ Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required, such as Tribal resolutions, proof of non-profit status, etc.

##### 2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

##### 3. Other Requirements

If application budgets exceed the highest dollar amount outlined under

the “Estimated Funds Available” section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the Division of Grants Management (DGM) of this decision.

### IV. Application and Submission Information

#### 1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at <http://www.Grants.gov> or <http://www.ihs.gov/dgm/funding/>.

Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443–2114 or (301) 443–5204.

#### 2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
  - Abstract (one page) summarizing the project.
  - Application forms:
    - SF–424, Application for Federal Assistance.
    - SF–424A, Budget Information—Non-Construction Programs.
    - SF–424B, Assurances—Non-Construction Programs.
  - Budget Justification and Narrative (must be single-spaced and not exceed 5 pages).
  - Project Narrative (must be single-spaced and not exceed ten pages).
    - Background information on the organization.
    - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
    - 501(c)(3) Certificate (if applicable).
    - Biographical sketches for all Key Personnel.
    - Contractor/Consultant resumes or qualifications and scope of work.
    - Disclosure of Lobbying Activities (SF–LLL).
    - Certification Regarding Lobbying (GG-Lobbying Form).
    - Copy of current Negotiated Indirect Cost rate (IDC) agreement (required in order to receive IDC).
    - Organizational Chart (optional).
    - Documentation of current Office of Management and Budget (OMB) Financial Audit (if applicable).
- Acceptable forms of documentation include:

- Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or

- Face sheets from audit reports. These can be found on the FAC Web site: <https://harvester.census.gov/facdissem/Main.aspx>.

#### Public Policy Requirements

All Federal-wide public policies apply to IHS grants and cooperative agreements with exception of the discrimination policy.

#### Requirements for Project and Budget Narratives

*A. Project Narrative:* This narrative should be a separate Word document that is no longer than ten pages and must: Be single-spaced, type written, have consecutively numbered pages, use black type not smaller than 12 points, and be printed on one side only of standard size 8½” x 11” paper.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section (noted below), or they will not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming familiar with the applicant’s activities and accomplishments prior to this possible grant award. If the narrative exceeds the page limit, only the first 10 pages will be reviewed. The 10-page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

The page limitations below are for each narrative and budget submitted.

#### Part A: Program Information (3 Pages)

*Section 1: Needs.* Describe how the applicant has determined it has the administrative infrastructure to support the activities to implement a PHN (Behavioral Health) Case Management Program and evaluate and sustain it. Explain the previous planning activities the applicant has completed relevant to this or similar goals. Describe any internal relationships or collaborative relationships with behavioral health subject matter experts to support this activity.

Part B: Program Planning and Evaluation (5 Pages)

**Section 1: Program Plans.** Describe fully and clearly the direction the applicant plans to take in the PHN Case Management Program, including plans to demonstrate improved behavioral health outcomes of the identified high risk group of patients and services to the community it serves. Include proposed timelines.

**Section 2: Program Evaluation.** Describe fully and clearly the improvements that will be made by the applicant to manage the PHN Case Management Program and identify the anticipated or expected benefits for the Tribe and AI/AN people served.

Part C: Program Report (2 Pages)

**Section 1:** Describe major accomplishments over the last 24 months. Identify and describe significant program achievements associated with the delivery of quality health care services or outreach services in the past 24 months as a part of implementing previous grant awards, cooperative agreements or other related activities. Provide a comparison of the actual accomplishments to the goals established for the project period, or if applicable, provide justification for the lack of progress.

**Section 2:** Describe major activities over the last 24 months. Please identify and summarize recent major health related project activities and the work done during the project period.

B. Budget Narrative: (5 Pages)

This narrative must include a line item budget with a narrative justification for all expenditures identifying reasonable allowable, allocable costs necessary to accomplish the goals and objectives as outlined in the project narrative. Budget should match the scope of work described in the project narrative.

3. *Submission Dates and Times*

Applications must be submitted electronically through *Grants.gov* by 11:59 p.m. Eastern Daylight Time (EDT) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. *Grants.gov* will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the electronic application process, contact

*Grants.gov* Customer Support via email to [support@grants.gov](mailto:support@grants.gov) or at (800) 518-4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Gettys ([Paul.Gettys@ihs.gov](mailto:Paul.Gettys@ihs.gov)), DGM Grant Systems Coordinator, by telephone at (301) 443-2114 or (301) 443-5204. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

4. *Intergovernmental Review*

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. *Funding Restrictions*

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant/cooperative agreement will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

6. *Electronic Submission Requirements*

All applications must be submitted electronically. Please use the <http://www.Grants.gov> Web site to submit an application electronically and select the "Find Grant Opportunities" link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the <http://www.Grants.gov> Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If the applicant needs to submit a paper application instead of submitting electronically through *Grants.gov*, a waiver must be requested. Prior approval must be requested and obtained from Mr. Robert Tarwater, Director, DGM, (see Section IV.6 below for additional information). A written waiver request must be sent to [GrantsPolicy@ihs.gov](mailto:GrantsPolicy@ihs.gov) with a copy to [Robert.Tarwater@ihs.gov](mailto:Robert.Tarwater@ihs.gov). The waiver must (1) be documented in writing (emails are acceptable), before submitting a paper application, and (2) include clear justification for the need to deviate from the required electronic grants submission process.

Once the waiver request has been approved, the applicant will receive a confirmation of approval email containing submission instructions and the mailing address to submit the

application. A copy of the written approval must be submitted along with the hardcopy of the application that is mailed to DGM. Paper applications that are submitted without a copy of the signed waiver from the Director of the DGM will not be reviewed or considered for funding. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding. Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or <http://www.Grants.gov> registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in <http://www.Grants.gov> by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact *Grants.gov* Support directly at: [support@grants.gov](mailto:support@grants.gov) or (800) 518-4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting *Grants.gov*, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov* as the registration process for SAM and *Grants.gov* could take up to fifteen working days.
- Please use the optional attachment feature in *Grants.gov* to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this funding announcement.

- After electronically submitting the application, the applicant will receive an automatic acknowledgment from *Grants.gov* that contains a *Grants.gov* tracking number. The DGM will download the application from *Grants.gov* and provide necessary copies to the appropriate agency officials. Neither the DGM nor the Division of Nursing/Public Health Nursing will

notify the applicant that the application has been received.

- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, you may access it through <http://fedgov.dnb.com/webform>, or to expedite the process, call (866) 705-5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended ("Transparency Act"), to report information on sub-awards.

Accordingly, all IHS grantees must notify potential first-tier sub-recipients that no entity may receive a first-tier sub-award unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at <https://www.sam.gov> (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at <https://www.sam.gov>.

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site: <http://www.ihs.gov/dgm/policytopics/>.

## V. Application Review Information

The instructions for preparing the application narrative also constitute the

evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The ten page narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See "Multi-year Project Requirements" at the end of this section for more information. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 70 points is required for funding. Points are assigned as follows:

### 1. Criteria

#### A. Introduction and Need for Assistance (5 Points)

(1) Provide demographic information, prevalence rates of behavioral health disease, and baseline health data to substantiate the case management for the high risk group of patients.

(2) Describe how data collection will support the stated project objectives and how it will support the project evaluation in order to determine the impact of the project. Address how the proposed project will result in behavioral health improvements.

#### B. Project Objective(s), Work Plan and Approach (35 Points)

##### (1) Goals and Objectives (15 Points)

i. Establish two to three measurable objectives within a plan that will provide outcome. Goals/Objectives should be specific with measurable outcome and a realistic timeline.

##### (2) Methodology/Activities (20 Points)

i. Describe the activities that will be implemented in a work plan to meet the objectives. The work plan should be directly related to the objectives.

ii. Describe how you will monitor the objectives (chart reviews, patient comments/feedback, data collection tools, etc.).

iii. Describe any collaborative efforts with any programs outside of PHN or your local behavioral health program.

#### C. Program Evaluation (20 Points)

Describe the methods for evaluating the project activities. Each proposed project objective should have an evaluation component and the evaluation activities should appear on the work plan. At a minimum, projects

should describe plans to collect or summarize evaluation information about all project activities. Please address the following for each of the proposed objectives:

(1) Describe the community assessment results and what data will be selected to evaluate the success of the objective(s).

(2) Describe how the data and patient satisfaction information will be collected to assess the programs objective(s) (e.g., methods used such as, but not limited to, providing mechanisms for patients to provide feedback on their experiences).

(3) Identify when the data will be collected and the data analysis completed.

(4) Describe the extent to which there are specific data sets, data bases or registries already in place to measure/monitor meeting objective.

(5) Describe who will collect the data and any cost of the evaluation (whether internal or external)?

(6) Describe where, when and to whom the data will be presented (only to the extent permitted by law, the data to be reported back to key stakeholders on the progress of the project, especially to inform clients about changes brought about as a direct result of listening to their needs).

(7) Address anticipated obstacles to the success of the proposal such as underlying causes and the nature of their influence on accomplishing the objectives.

(8) Describe how the community assessment will be used to identify high risk group of patient(s).

(9) Describe the process that will be used to follow-up on the PHN Case Management Project findings/conclusions.

#### D. Organizational Capabilities, Key Personnel and Qualifications (25 Points)

This section outlines the broader capacity of the organization to complete the project outlined in the work plan. It includes the identification of personnel responsible for completing tasks and the chain of responsibility for successful completion of the project outlined in the work plan.

(1) Describe the organizational structure.

(2) Describe what equipment and facility space (i.e., office space) will be available for use during the proposed project. Include information about any equipment not currently available that will be purchased throughout the agreement.

(3) List key personnel who will work on the project.



i. Identify staffing plan, existing personnel and new program staff to be hired.

ii. In the appendix, include position descriptions and resumes for all key personnel. Position descriptions should clearly describe each position and duties indicating desired qualifications, experience, and requirements related to the proposed project and how they will be supervised. Resumes must indicate that the proposed staff member is qualified to carry out the proposed project activities and who will determine if the work of a contractor is acceptable.

iii. If the project requires additional personnel beyond those covered by the grant award, (*i.e.*, Information Technology support, volunteers, interviewers, etc.), note these and address how these positions will be filled and, if funds are required, the source of these funds.

iv. If personnel are to be only partially funded by this grant, indicate the percentage of time to be allocated to this project and identify the resources used to fund the remainder of the individual's salary.

#### (4) Capability

i. Briefly describe the facility and user population.

ii. Describe the organization's ability to conduct this initiative through linkages to community resources: partnerships established to refer out for additional services as needed for specialized treatment, care, and counseling services.

#### D. Categorical Budget and Budget Justification (15 Points)

Provide a clear estimate of the project program costs and justification for expenses for the entire grant period. The budget and budget justification should be consistent with the tasks identified in the work plan. The budget focus should be on developing and sustaining PHN case management services as well as supporting retention into care.

(1) A categorical budget (Form SF 424A, Budget Information Non-Construction Programs) completing each of the budget periods is requested.

(2) Budget narrative that serves as justification for all costs, explaining why each line item is necessary or relevant to the proposed project. Include sufficient details to facilitate the determination of allowable costs.

(3) Provide a succinct description of specific roles and activities of each person involved in the proposed project and their ability to perform in that capacity.

(4) Budget justifications should include a brief narrative for the second year.

(5) If indirect costs are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the rate agreement in the appendix.

#### Multi-Year Project Requirements

Projects requiring a second, third, fourth, and/or fifth year must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project.

#### Additional Documents Can Be Uploaded as Appendix Items in Grants.gov

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart.
- Map of area identifying project location(s).
- Additional documents to support narrative (*i.e.* data tables, key news articles, etc.).

#### 2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on evaluation criteria in this funding announcement. The ORC could be composed of both Tribal and Federal reviewers appointed by the IHS program to review and make recommendations on these applications. The technical review process ensures selection of quality projects in a national competition for limited funding. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Applicants will be notified by DGM, via email, to outline minor missing components (*i.e.*, budget narratives, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must

address all program requirements and provide all required documentation.

#### VI. Award Administration Information

##### 1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (<https://www.grantsolutions.gov>). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

##### Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval, 70, and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application submitted. The summary statement will be sent to the Authorized Organizational Representative that is identified on the face page (SF-424) of the application. The IHS program office will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

##### Approved But Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be "Approved", but were not funded due to lack of funding, will have their applications held by DGM for a period of one year. If additional funding becomes available during the course of FY 2017, the approved but unfunded application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

**Note:** Any correspondence other than the official NoA signed by an IHS Grants Management Official announcing to the Project Director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

## 2. Administrative Requirements

Grants are administered in accordance with the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements for HHS Awards, located at 45 CFR part 75.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Uniform Administrative Requirements for HHS Awards, "Cost Principles," located at 45 CFR part 75, subpart E.

E. Audit Requirements:

- Uniform Administrative Requirements for HHS Awards, "Audit Requirements," located at 45 CFR part 75, subpart F.

## 3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) <https://rates.psc.gov/> and the Department of Interior (Interior Business Center) <https://www.doi.gov/ibc/services/finance/indirect-Cost-Services/indian-tribes>. For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under "Agency Contacts" or the main DGM office at (301) 443–5204.

## 4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of

payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports are required to be submitted electronically by attaching them as a "Grant Note" in GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

### A. Progress Reports

Program progress reports are required semi-annually, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, a summary of progress to date or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

### B. Financial Reports

Federal Financial Report FFR (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Payment Management Services, HHS at <http://www.dpm.psc.gov>. It is recommended that the applicant also send a copy of the FFR (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: the Progress Reports and Federal Financial Report.

### C. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-

tier sub-awards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a \$25,000 sub-award obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: (1) The project period start date was October 1, 2010 or after and (2) the primary awardee will have a \$25,000 sub-award obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting.

For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Policy Web site at: <http://www.ihs.gov/dgm/policytopics/>.

### D. Compliance With Executive Order 13166 Implementation of Services Accessibility Provisions for All Grant Application Packages and Funding Opportunity Announcements

Recipients of Federal financial assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age and, in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. HHS provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency. Please see <http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/>.

The HHS Office for Civil Rights (OCR) also provides guidance on complying with civil rights laws enforced by HHS. Please see <http://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html>; and <http://www.hhs.gov/civil-rights/index.html>. Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see <http://www.hhs.gov/civil-rights/for-individuals/disability/index.html>. Please contact the HHS OCR for more

information about obligations and prohibitions under Federal civil rights laws at <http://www.hhs.gov/ocr/about-us/contact-us/headquarters-and-regional-addresses/index.html> or call 1-800-368-1019 or TDD 1-800-537-7697. Also note it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at <http://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>.

Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of his/her exclusion from benefits limited by Federal law to individuals eligible for benefits and services from the IHS.

Recipients will be required to sign the HHS-690 Assurance of Compliance form which can be obtained from the following Web site: <http://www.hhs.gov/sites/default/files/forms/hhs-690.pdf>, and send it directly to the: U.S. Department of Health and Human Services, Office of Civil Rights, 200 Independence Ave. SW., Washington, DC 20201.

#### E. Federal Awardee Performance and Integrity Information System (FAPIS)

The IHS is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIS) before making any award in excess of the simplified acquisition threshold (currently \$150,000) over the period of performance. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. IHS will consider any comments by the applicant, in addition to other information in FAPIS in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose in FAPIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive Federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than

\$10,000,000 for any period of time during the period of performance of an award/project.

#### Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, effective January 1, 2016, the IHS must require a non-federal entity or an applicant for a Federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Submission is required for all applicants and recipients, in writing, to the IHS and to the HHS Office of Inspector General all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. 45 CFR 75.113.

Disclosures must be sent in writing to: U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Robert Tarwater, Director, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, Maryland 20857, (Include "Mandatory Grant Disclosures" in subject line), Ofc: (301) 443-5204, Fax: (301) 594-0899, Email: [Robert.Tarwater@ihs.gov](mailto:Robert.Tarwater@ihs.gov).

#### AND

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW., Cohen Building, Room 5527, Washington, DC 20201, URL: <http://oig.hhs.gov/fraud/report-fraud/index.asp>, (Include "Mandatory Grant Disclosures" in subject line), Fax: (202) 205-0604 (Include "Mandatory Grant Disclosures" in subject line) or Email: [MandatoryGranteeDisclosures@oig.hhs.gov](mailto:MandatoryGranteeDisclosures@oig.hhs.gov).

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

#### VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Ms. Tina Tah, RN/BSN/MBA, Project Official/Indian Health Service, 5600 Fishers Lane, Rockville, MD 20857, Phone: (301) 443-0038, Fax: (301) 594-6213, E-Mail: [Tina.tah@ihs.gov](mailto:Tina.tah@ihs.gov).

2. Questions on grants management and fiscal matters may be directed

to: Vanietta Armstrong, Grants Management Specialist, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443-4792, Fax: (301) 594-0899, E-Mail: [Vanietta.Armstrong@ihs.gov](mailto:Vanietta.Armstrong@ihs.gov).

3. Questions on systems matters may be directed to: Paul Gettys, Grant Systems Coordinator, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443-2114; or the DGM main line (301) 443-5204, Fax: (301) 594-0899, E-Mail: [Paul.Gettys@ihs.gov](mailto:Paul.Gettys@ihs.gov).

#### VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Pub. L. 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: March 6, 2017.

**Chris Buchanan,**

*Assistant Surgeon General, USPHS, Acting Director, Indian Health Service.*

[FR Doc. 2017-05248 Filed 3-15-17; 8:45 am]

**BILLING CODE 4165-16-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

*Date:* April 10, 2017.

*Time:* 10:00 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Brenda Lange-Gustafson, Ph.D., Scientific Review Officer, NIAID/NIH/DHHS, Scientific Review Program, 5601 Fishers Lane, Room 3G13, Rockville, MD 20852, 240-669-5047, [bgustafson@niaid.nih.gov](mailto:bgustafson@niaid.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 10, 2017.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-05193 Filed 3-15-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Conference Grant Review (R13).

*Date:* April 4, 2017.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892-7924, 301-827-7942, [lismerein@nhlbi.nih.gov](mailto:lismerein@nhlbi.nih.gov).

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Loan Repayment Program.

*Date:* April 4, 2017.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892, 301-827-7987, [susan.sunnarborg@nih.gov](mailto:susan.sunnarborg@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 13, 2017.

**Anna Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-05280 Filed 3-15-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; RFA-RM-16-022: Novel and Innovative Tools to Facilitate Identification, Tracking, Manipulation, and Analysis of Glycans and their Functions (U01).

*Date:* April 11, 2017.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

*Contact Person:* Vonda K Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6188, MSC 7892, Bethesda, MD 20892, 301-435-1789, [smithvo@csr.nih.gov](mailto:smithvo@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; RFA-RM-

16-023: Innovative Adaptations to Simplify Existing Technologies for Manipulation and Analysis of Glycans (U01).

*Date:* April 11, 2017.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

*Contact Person:* Vonda K Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6188, MSC 7892, Bethesda, MD 20892, 301-435-1789, [smithvo@csr.nih.gov](mailto:smithvo@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; RFA CA16-020: BD2K Support for Meetings.

*Date:* April 12, 2017.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Craig Giroux, Ph.D., Scientific Review Officer, BST IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, Bethesda, MD 20892, 301-435-2204, [girouxcn@csr.nih.gov](mailto:girouxcn@csr.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 13, 2017.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-05282 Filed 3-15-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel;

Career Development Programs in Implementation Science (K12).

*Date:* April 13, 2017.

*Time:* 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Washington Marriott—Wardman Park, District of Columbia, 2660 Woodley Road NW., Washington, DC 20008.

*Contact Person:* Stephanie J. Webb, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, 301-435-0291, [stephanie.webb@nih.gov](mailto:stephanie.webb@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

*Dated:* March 13, 2017.

**Anna Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-05279 Filed 3-15-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Office of The Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Advisory Committee on Research on Women's Health.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications associated with the Specialized Centers of Research program and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Advisory Committee on Research on Women's Health.

*Date:* April 4, 2017.

*Open:* 9:00 a.m. to 2:30 p.m.

*Agenda:* Opening Remarks, Director's Report, NIH Legislative Update, and Scientific Presentations.

*Place:* National Institutes of Health, Building 31, 6th Floor, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

*Closed:* 2:30 p.m. to 4:30 p.m.

*Agenda:* To evaluate the Specialized Centers of Research (SCORs) program proposed for ORWH's Strategic Plan.

*Place:* National Institutes of Health, Building 31, 6th Floor, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

*Contact Person:* Elizabeth Spencer, R.N., Deputy Director, Office of Research on Women's Health, Executive Secretary, ACRWH, 6707 Democracy Blvd., Bethesda, MD 20817, 301-402-1770, [elizabeth.spencer@nih.gov](mailto:elizabeth.spencer@nih.gov).

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: [www4.od.nih.gov/orwh/](http://www4.od.nih.gov/orwh/), where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

*Dated:* March 9, 2017.

**Anna Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-05195 Filed 3-15-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Neuroscience Review Subcommittee.

*Date:* June 7, 2017.

*Time:* 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute of Alcohol Abuse and Alcoholism, Terrace Level 508/509, 5635 Fishers Lane, Rockville, MD.

*Contact Person:* Beata Buzas, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm. 2081, Rockville, MD 20852, 301-443-0800, [bbuzas@mail.nih.gov](mailto:bbuzas@mail.nih.gov).

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Biomedical Research Review Subcommittee.

*Date:* June 13, 2017.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute of Alcohol Abuse and Alcoholism, Terrace Level 508/509, 5635 Fishers Lane, Rockville, MD 20851.

*Contact Person:* Philippe Marmillot, Ph.D., Scientific Review Officer, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Rm. 2019, Bethesda, MD 20892, 301-443-2861, [marmillotp@mail.nih.gov](mailto:marmillotp@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research

Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS).

Dated: March 13, 2017.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-05285 Filed 3-15-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Initial Review Group; Behavior and Social Science of Aging Review Committee.

*Date:* May 30–31, 2017.

*Time:* 3:00 p.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Torrance Marriott, Conference Center, 3635 Fashion Way, Torrance, CA 90503.

*Contact Person:* Kimberly Firth, Ph.D., National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301-402-7702, [kimberly.firth@nih.gov](mailto:kimberly.firth@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 13, 2017.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-05284 Filed 3-15-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Eye Institute Special Emphasis Panel; NEI Secondary Data Analysis Applications (R21).

*Date:* March 28–29, 2017.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Brian Hoshaw, Ph.D., Scientific Review Officer, National Eye Institute, National Institutes of Health, Division of Extramural Research, 5635 Fishers Lane, Suite 1300, Rockville, MD 20892, 301-451-2020, [hoshawb@mail.nih.gov](mailto:hoshawb@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: March 10, 2017.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-05192 Filed 3-15-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose

confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; Enhancing U.S. Cancer Surveillance Research with New Informatics.

*Date:* April 6, 2017.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W264, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* Reed A. Graves, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W264, Bethesda, MD 20892-9750, 240-276-6384, [gravesr@mail.nih.gov](mailto:gravesr@mail.nih.gov).

*Name of Committee:* National Cancer Institute Special Emphasis Panel; NCI Provocative Question #11.

*Date:* April 7, 2017.

*Time:* 12:30 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W104, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* Eun Ah Cho, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W104, Bethesda, MD 20892-9750, 240-276-6342, [choe@mail.nih.gov](mailto:choe@mail.nih.gov).

*Name of Committee:* National Cancer Institute Special Emphasis Panel; NCI Provocative Question #3.

*Date:* April 19, 2017.

*Time:* 10:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W108, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* Clifford W. Schweinfest, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W108, Rockville, MD 20892-9750, 240-276-6343, [schweinfestcw@mail.nih.gov](mailto:schweinfestcw@mail.nih.gov).

*Name of Committee:* National Cancer Institute Special Emphasis Panel; NCI Predoctoral to Postdoctoral Fellow Transition Award (F99/K00).

*Date:* May 18–19, 2017.

*Time:* 8:00 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

*Contact Person:* David G. Ransom, Ph.D., Scientific Review Officer, Resources and

Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20892-9750, 240-276-6351, [david.ransom@nih.gov](mailto:david.ransom@nih.gov).

*Name of Committee:* National Cancer Institute Special Emphasis Panel; NCI Program Project III (P01).

*Date:* June 12-13, 2017.

*Time:* 8:00 a.m. to 12:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

*Contact Person:* Robert E. Bird, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W110, Bethesda, MD 20892-9750, 240-276-6344, [birdr@mail.nih.gov](mailto:birdr@mail.nih.gov).

*Name of Committee:* National Cancer Institute Special Emphasis Panel; NCI Program Project IV (P01).

*Date:* June 13-14, 2017.

*Time:* 8:00 a.m. to 12:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hilton Rockville Hotel, 1750 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Mukesh Kumar, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W618, Bethesda, MD 20892-9750, 240-276-6611, [mukesh.kumar3@nih.gov](mailto:mukesh.kumar3@nih.gov).

*Name of Committee:* National Cancer Institute Special Emphasis Panel; NCI SPORE I (P50).

*Date:* June 15-16, 2017.

*Time:* 8:00 a.m. to 12:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

*Contact Person:* Klaus B. Piontek, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W116, Bethesda, MD 20892-9750, 240-276-5413, [klaus.piontek@nih.gov](mailto:klaus.piontek@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 13, 2017.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-05283 Filed 3-15-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Biophysics.

*Date:* April 7, 2017.

*Time:* 1:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Richard D. Crosland, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7850, Bethesda, MD 20892, 301-435-1220, [crosland@nih.gov](mailto:crosland@nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Spinal Cord Injury, Epilepsy, and Other Neurological Disorders.

*Date:* April 12, 2017.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Samuel C. Edwards, Ph.D., Chief, Brain Disorders and Clinical Neuroscience, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435-1246, [edwardss@csr.nih.gov](mailto:edwardss@csr.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 10, 2017.

**Anna Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-05194 Filed 3-15-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Eye Institute Special Emphasis Panel; NEI Clinical and Epidemiological Grant Applications (Cooperative Agreements and RPGs) II.

*Date:* April 5, 2017.

*Time:* 12:00 p.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892.

*Contact Person:* Anne E. Schaffner, Ph.D., Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892-9300, (301) 451-2020, [aes@nei.nih.gov](mailto:aes@nei.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: March 13, 2017.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-05281 Filed 3-15-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID FEMA-2016-0002]

#### Changes in Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA)

boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

**DATES:** The effective date for each LOMR is indicated in the table below.

**ADDRESSES:** Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at [www.msc.fema.gov](http://www.msc.fema.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov); or visit the FEMA Map Information eXchange (FMIX) online at [www.floodmaps.fema.gov/fhm/fmx\\_main.html](http://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required

by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at [www.msc.fema.gov](http://www.msc.fema.gov).

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: February 16, 2017.

**Roy E. Wright,**

*Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Arizona: Maricopa (FEMA Docket No.: B-1640).	City of Tempe (15-09-2888P).	The Honorable Mark Mitchell, Mayor, City of Tempe, P.O. Box 5002, Tempe, AZ 85281.	Floodplain and Land Services, 31 East 5th Street, Tempe, AZ 85284.	Oct. 14, 2016 .....	040054
Maricopa (FEMA Docket No.: B-1640).	Town of Wickenburg (16-09-0814P).	The Honorable John Cook, Mayor, Town of Wickenburg, 155 North Tegner Street Suite A, Wickenburg, AZ 85390.	Town Hall, 155 North Tegner Street, Wickenburg, AZ 85390.	Oct. 28, 2016 .....	040056
Maricopa (FEMA Docket No.: B-1640).	Unincorporated Areas of Maricopa County (15-09-2075P).	The Honorable Clint L. Hickman, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Oct. 14, 2016 .....	040037
Maricopa (FEMA Docket No.: B-1640).	Unincorporated Areas of Maricopa County (16-09-0814P).	The Honorable Clint L. Hickman, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Oct. 28, 2016 .....	040037
Pima (FEMA Docket No.: B-1653).	City of Tucson (15-09-2903P).	The Honorable Jonathan Rothschild, Mayor, City of Tucson, City Hall, 255 West Alameda Street 10th Floor, Tucson, AZ 85701.	Planning and Development Services, 201 North Stone Avenue, 1st Floor, Tucson, AZ 85701.	Nov. 9, 2016 .....	040076
Pima (FEMA Docket No.: B-1653).	City of Tucson, (16-09-0706P).	The Honorable Jonathan Rothschild, Mayor, City of Tucson, City Hall, 255 West Alameda Street 10th Floor, Tucson, AZ 85701.	Planning and Development Services, 201 North Stone Avenue, 1st Floor Tucson, AZ 85701.	Dec. 14, 2016 .....	040076
Pima (FEMA Docket No.: B-1653).	Town of Marana (15-09-2320P).	The Honorable Ed Honea, Mayor, Town of Marana, 11555 West Civic Center Drive, Marana, AZ 85653.	Pima County Flood Control District, 201 North Stone Avenue, 9th Floor, Tucson, AZ 85701.	Nov. 9, 2016 .....	040118



State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Pima (FEMA Docket No.: B-1640).	Unincorporated Areas of Pima County (16-09-1464P).	The Honorable Sharon Bronson, Chair, Board of Supervisors, Pima County, 130 West Congress Street 11th Floor, Tucson, AZ 85701.	Pima County Regional Flood Control District, 201 North Stone Avenue, 9th Floor, Tucson, AZ 85701.	Oct. 6, 2016 .....	040073
California: Los Angeles (FEMA Docket No.: B-1653).	City of Los Angeles (16-09-0471P).	The Honorable Eric Garcetti, Mayor, City of Los Angeles, 200 North Spring Street, Room 303, Los Angeles, CA 90012.	Department of Public Works, Bureau of Engineering, 1149 South Broadway, Suite 700, Los Angeles, CA 90015.	Nov. 2, 2016 .....	060137
Los Angeles (FEMA Docket No.: B-1653).	Unincorporated Areas of Los Angeles County (16-09-0471P).	The Honorable Hilda L. Solis, Chair, Board of Supervisors, Los Angeles County, Kenneth Hahn Hall of Administration, 500 West Temple Street Room 856, Los Angeles, CA 90012.	County of Los Angeles, Department of Public Works, Annex Building, 900 South Fremont Avenue, 3rd Floor, Alhambra, CA 91803.	Nov. 2, 2016 .....	065043
Napa (FEMA Docket No.: B-1653).	Town of Yountville (16-09-2592X).	The Honorable John F. Dunbar, Mayor, Town of Yountville, 6550 Yount Street, Yountville, CA 94599.	Town Hall, 6550 Yount Street, Yountville, CA 94599.	Dec. 27, 2016 .....	060209
Orange (FEMA Docket No.: B-1653).	City of Irvine (16-09-1326P).	The Honorable Steven S. Choi, Ph.D., Mayor, City of Irvine, 1 Civic Center Plaza, Irvine, CA 92606.	City Hall, 1 Civic Center Plaza, Irvine, CA 92606.	Dec. 9, 2016 .....	060222
Orange (FEMA Docket No.: B-1653).	Unincorporated Areas of Orange County (16-09-1326P).	The Honorable Lisa A. Bartlett, Chair, Board of Supervisors, Orange County, 333 West Santa Ana Boulevard, Santa Ana, CA 92701.	Orange County Flood Control Division, 300 North Flower Street, Santa Ana, CA 92703.	Dec. 9, 2016 .....	060212
Riverside (FEMA Docket No.: B-1653).	City of Moreno Valley (16-09-0597P).	The Honorable Yxstian Gutierrez, Mayor, City of Moreno Valley, 14177 Frederick Street, Moreno Valley, CA 92552.	City Hall, 14177 Frederick Street, Moreno Valley, CA 92552.	Dec. 16, 2016 .....	065074
Riverside (FEMA Docket No.: B-1640).	City of Murrieta (16-09-1601P).	The Honorable Randon Lane, Mayor, City of Murrieta, 1 Town Square, Murrieta, CA 92562.	Public Works and Engineering, 26442 Beckman Court, Murrieta, CA 92562.	Oct. 11, 2016 .....	060751
Riverside (FEMA Docket No.: B-1640).	City of Temecula (16-09-1601P).	The Honorable Michael S. Naggar, Mayor, City of Temecula, 41000 Main Street, Temecula, CA 92590.	City Hall, 41000 Main Street, Temecula, CA 92590.	Oct. 11, 2016 .....	060742
Sacramento (FEMA Docket No.: B-1653).	City of Elk Grove (15-09-1862P).	The Honorable Gary Davis, Mayor, City of Elk Grove, City Hall, 8401 Laguna Palms Way, Elk Grove, CA 95758.	Public Works Department, 8401 Laguna Palms Way, Elk Grove, CA 95758.	Nov. 10, 2016 .....	060767
San Diego (FEMA Docket No.: B-1653).	City of San Diego (16-09-1837P).	The Honorable Kevin L. Faulconer, Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, CA 92101.	Development Services Department, 1222 1st Avenue, 3rd Floor MS 301, San Diego, CA 92101.	Dec. 1, 2016 .....	060295
San Diego (FEMA Docket No.: B-1653).	Unincorporated Areas of San Diego County (16-09-0707P).	The Honorable Ron Roberts, Chairman, Board of Supervisors, San Diego County, 1600 Pacific Highway Room 335, San Diego, CA 92101.	Department of Public Works, Flood Control, 5510 Overland Avenue, Suite 410, San Diego, CA 92123.	Nov. 14, 2016 .....	060284
Shasta (FEMA Docket No.: B-1653).	Unincorporated Areas of Shasta County (16-09-0884P).	The Honorable Pam Giacomini, Chair, Board of Supervisors, Shasta County, 1450 Court Street, Suite 308B, Redding, CA 96001.	Shasta County Public Works Department, 1855 Placer Street, Redding, CA 96001.	Oct. 31, 2016 .....	060358
Colorado: Eagle (FEMA Docket No.: B-1654).	Unincorporated Areas of Eagle County (16-08-0199P).	The Honorable Brent McFall, County Manager, Eagle County, 550 Broadway Street, Eagle, CO 81631.	Eagle County Building, Engineering Department, 500 Broadway Street, Eagle, CO 81631.	Nov. 25, 2016 .....	080051
Pitkin (FEMA Docket No.: B-1654).	Town of Basalt (16-08-0199P).	The Honorable Jacque Whitsitt, Mayor, Town of Basalt, Basalt Town Hall, 101 Midland Avenue, Basalt, CO 81621.	Town Hall, 101 Midland Avenue, Basalt, CO 81621.	Nov. 25, 2016 .....	080052
Pitkin (FEMA Docket No.: B-1654).	Unincorporated Areas of Pitkin County (16-08-0199P).	The Honorable Jon Peacock, County Manager, Pitkin County, 530 East Main Street, 3rd Floor, Aspen, CO 81611.	Pitkin County, GIS Department, City Hall, 130 South Galena Street, Aspen, CO 81611.	Nov. 25, 2016 .....	080287
Teller (FEMA Docket No.: B-1646).	City of Woodland Park (16-08-0585P).	The Honorable Neil Levy, Mayor, City of Woodland Park, City Hall, 220 West South Avenue, Woodland Park, CO 80866.	City Hall, 220 West South Avenue, Woodland Park, CO 80866.	Nov. 3, 2016 .....	080175

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Idaho:					
Bonneville (FEMA Docket No.: B-1646).	City of Ammon (16-10-0506P).	The Honorable Dana Kirkham, Mayor, City of Ammon, City Hall, 2135 South Ammon Road, Ammon, ID 83406.	City Hall, 2135 South Ammon Road, Ammon, ID 83406.	Nov. 18, 2016 .....	160028
Bonneville (FEMA Docket No.: B-1646).	Unincorporated Areas of Bonneville County (16-10-0506P).	Mr. Roger Christensen, Chairman, Bonneville County Board of Commissioners, 605 North Capital Avenue, Idaho Falls, ID 83402.	Bonneville County Courthouse, 605 North Capital Avenue, Idaho Falls, ID 83402.	Nov. 18, 2016 .....	160027
Kootenai (FEMA Docket No.: B-1654).	Unincorporated Areas of Kootenai County (16-10-0771P).	The Honorable Dan Green, Chairman, Board of County Commissioners, Main County Administration Building, 451 Government Way, Coeur d'Alene, ID 83814.	Assessors Department, Kootenai County Court House, 451 Government Way, Coeur d'Alene, ID 83814.	Dec. 9, 2016 .....	160076
Illinois:					
Cook (FEMA Docket No.: B-1654).	City of Des Plaines (16-05-0956P).	The Honorable Matthew J. Bogusz, Mayor, City of Des Plaines, 1420 Miner Street, Des Plaines, IL 60016.	Civic Center, 1420 Miner Street, 5th Floor, Des Plaines, IL 60016.	Nov. 25, 2016 .....	170081
Cook (FEMA Docket No.: B-1654).	Village of Rosemont (16-05-0956P).	The Honorable Bradley A. Stephens, Village President, Village of Rosemont, 9501 West Devon Avenue, Rosemont, IL 60018.	Department of Public Works, 7048 North Barry Street, Rosemont, IL 60018.	Nov. 25, 2016 .....	170156
Cook and DuPage (FEMA Docket No.: B-1654).	City of Chicago (16-05-0956P).	The Honorable Rahm Emanuel, Mayor, City of Chicago, City Hall, 121 North LaSalle Street, Room 406, Chicago, IL 60602.	Department of Buildings, Stormwater Management, 121 North LaSalle Street, Room 906, Chicago, IL 60602.	Nov. 25, 2016 .....	170074
DuPage (FEMA Docket No.: B-1654).	Village of Bensenville (16-05-0956P).	The Honorable Frank Soto, Village President, Village of Bensenville, 12 South Center Street, Bensenville, IL 60106.	Village Hall, 12 South Center Street, Bensenville, IL 60106.	Nov. 25, 2016 .....	170200
DuPage (FEMA Docket No.: B-1654).	Village of Elk Grove Village (16-05-0956P).	The Honorable Craig B. Johnson, Mayor, Village of Elk Grove Village, 901 Wellington Avenue, Elk Grove Village, IL 60007.	Engineering and Community Development Department, 901 Wellington Avenue, Elk Grove Village, IL 60007.	Nov. 25, 2016 .....	170088
Lake (FEMA Docket No.: B-1654).	City of North Chicago (16-05-3391P).	The Honorable Leon Rockingham, Jr., Mayor, City of North Chicago, 1850 Lewis Avenue, North Chicago, IL 60064.	City Hall, 1850 Lewis Avenue, North Chicago, IL 60064.	Dec. 16, 2016 .....	170384
Whiteside (FEMA Docket No.: B-1641).	City of Morrison (16-05-2654P).	The Honorable R. Everett Pannier, Mayor, City of Morrison, 200 West Main Street, Morrison, IL 61270.	City Hall, 200 West Main Street, Morrison, IL 61270.	Oct. 19, 2016 .....	170691
Whiteside (FEMA Docket No.: B-1641).	Unincorporated Areas of Whiteside County (16-05-2654P).	The Honorable James C. Duffy, Chairman, Whiteside County Board, 200 East Knox Street, Morrison, IL 61270.	County Courthouse, 200 East Knox Street, Morrison, IL 61270.	Oct. 19, 2016 .....	170687
Will (FEMA Docket No.: B-1646).	City of Lockport (15-05-2936P).	The Honorable Steven Streit, Mayor, City of Lockport, 222 East 9th Street, Lockport, IL 60441.	Public Works and Engineering, 17112 South Prime Boulevard, Lockport, IL 60441.	Oct. 31, 2016 .....	170703
Will (FEMA Docket No.: B-1641).	City of Lockport (16-05-2927P).	The Honorable Steven Streit, Mayor, City of Lockport, 222 East 9th Street, Lockport, IL 60441.	Public Works and Engineering, 17112 South Prime Boulevard, Lockport, IL 60441.	Oct. 3, 2016 .....	170703
Will (FEMA Docket No.: B-1646).	City of Naperville (15-05-5882P).	The Honorable Steve Chirico, Mayor, City of Naperville, 400 South Eagle Street, Naperville, IL 60540.	City Hall, 400 South Eagle Street, Naperville, IL 60540.	Nov. 7, 2016 .....	170213
Will (FEMA Docket No.: B-1654).	City of Naperville (16-05-2014P).	The Honorable Steve Chirico, Mayor, City of Naperville, 400 South Eagle Street, Naperville, IL 60540.	City Hall, 400 South Eagle Street, Naperville, IL 60540.	Dec. 8, 2016 .....	170213
Will (FEMA Docket No.: B-1654).	Village of Mokena (15-05-1059P).	The Honorable Frank A. Fleischer, Village President, Village of Mokena, 11004 Carpenter Street, Mokena, IL 60448.	Village Hall, 11004 Carpenter Street, Mokena, IL 60448.	Nov. 18, 2016 .....	170705
Will (FEMA Docket No.: B-1654).	Unincorporated Areas of Will County (15-05-1059P).	The Honorable Lawrence M. Walsh, County Executive, Will County, Will County Office Building, 302 North Chicago Street, Joliet, IL 60432.	Land Use Department, 58 East Clinton Street, Suite 100, Joliet, IL 60432.	Nov. 18, 2016 .....	170695

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Will (FEMA Docket No.: B-1646).	Unincorporated Areas of Will County (15-05-2936P).	The Honorable Lawrence M. Walsh, County Executive, Will County, Will County Office Building, 302 North Chicago Street, Joliet, IL 60432.	Land Use Department, 58 East Clinton Street, Suite 100, Joliet, IL 60432.	Oct. 31, 2016 .....	170695
Will (FEMA Docket No.: B-1646).	Unincorporated Areas of Will County (15-05-5882P).	The Honorable Lawrence M. Walsh, County Executive, Will County, 302 North Chicago Street, Joliet, IL 60432.	Land Use Department, 58 East Clinton Street Suite 100, Joliet, IL 60432.	Nov. 7, 2016 .....	170695
Will (FEMA Docket No.: B-1654).	Unincorporated Areas of Will County (16-05-2014P).	The Honorable Lawrence M. Walsh, County Executive, Will County, Will County Office Building, 302 North Chicago Street, Joliet, IL 60432.	Land Use Department, 58 East Clinton Street, Suite 100, Joliet, IL 60432.	Dec. 8, 2016 .....	170695
Indiana:					
Delaware (FEMA Docket No.: B-1646).	City of Muncie (16-05-1816P).	The Honorable Dennis Tyler, Mayor, City of Muncie, City Hall, 300 North High Street, 3rd Floor, Muncie, IN 47342.	Delaware County Building, 100 West Main Street, Room 206, Muncie, IN 47305.	Nov. 10, 2016 .....	180053
Delaware (FEMA Docket No.: B-1646).	City of Muncie (16-05-2551P).	The Honorable Dennis Tyler, Mayor, City of Muncie, City Hall, 300 North High Street, 3rd Floor, Muncie, IN 47305.	Delaware County Building, 100 West Main Street, Room 206, Muncie, IN 47305.	Oct. 14, 2016 .....	180053
Delaware (FEMA Docket No.: B-1646).	Town of Yorktown (16-05-2551P).	The Honorable Rich Lee, President, Town of Yorktown, 9800 West Smith Street, Yorktown, IN 47396.	Town Hall, 9800 West Smith Street, Yorktown, IN 47396.	Oct. 14, 2016 .....	180361
Kansas:					
Johnson (FEMA Docket No.: B-1641).	City of Edgerton (16-07-1285X).	The Honorable Donald B. Roberts, Mayor, City of Edgerton, 404 East Nelson Street, P.O. Box 255, Edgerton, KS 66021.	City Hall, 404 East Nelson Street, Edgerton, KS 66021.	Oct. 10, 2016 .....	200162
Johnson (FEMA Docket No.: B-1641).	City of Gardner (16-07-1285X).	The Honorable Chris C. Morrow, Mayor, City of Gardner, 420 North Cherry Street, Gardner, KS 66030.	City Hall, 120 East Main Street, Gardner, KS 66030.	Oct. 10, 2016 .....	200164
Johnson (FEMA Docket No.: B-1654).	City of Mission Hills (16-07-0831P).	The Honorable Richard Boeshaar, Mayor, City of Mission Hills, 6300 State Line Road, Mission Hills, KS 66208.	City Hall, 6300 State Line Road, Mission Hills, KS 66208.	Dec. 21, 2016 .....	200171
Johnson (FEMA Docket No.: B-1654).	City of Mission Woods (16-07-0831P).	The Honorable Robert Tietze, Mayor, City of Mission Woods, The Westwood City Hall, 4700 Rainbow Boulevard, Westwood, KS 66205.	City Hall, 4700 Rainbow Boulevard, Westwood, KS 66205.	Dec. 21, 2016 .....	200172
Johnson (FEMA Docket No.: B-1641).	Unincorporated Areas of Johnson County (16-07-1285X).	The Honorable Ed Eilert, Chairman, Johnson County, 111 South Cherry Street, Suite 3300, Olathe, KS 66061.	County Courthouse Planning Office, 111 South Cherry Street, Suite 3500, Olathe, KS 66061.	Oct. 10, 2016 .....	200159
Rice (FEMA Docket No.: B-1646).	City of Lyons (16-07-1283P).	The Honorable Michael Young, Mayor, City of Lyons, 201 West Main Street, P.O. Box 808, Lyons, KS 67554.	City Hall, 201 West Main Street, Lyons, KS 67554.	Nov. 4, 2016 .....	200295
Kentucky: Fayette (FEMA Docket No.: B-1654).	Lexington-Fayette Urban County Government (16-04-4411P).	The Honorable Jim Gray, Mayor, City of Lexington, 200 East Main Street, Lexington, KY 40507.	Lexington-Fayette Urban County Government, 200 East Main Street 12th Floor Government Center, Lexington, KY 40507.	Dec. 14, 2016 .....	210067
Minnesota:					
Anoka (FEMA Docket No.: B-1654).	City of Lino Lakes (16-05-3555P).	The Honorable Jeff Reinert, Mayor, City of Lino Lakes, 600 Town Center Parkway, Lino Lakes, MN 55014.	City Hall, 600 Town Center Parkway, Lino Lakes, MN 55014.	Dec. 21, 2016 .....	270015
Clay (FEMA Docket No.: B-1646).	City of Moorhead (16-05-3467P).	The Honorable Del Rae Williams, Mayor, City of Moorhead, Moorhead City Hall, 500 Center Avenue, Moorhead, MN 56561.	City Hall, 500 Center Avenue, Moorhead, MN 56561.	Nov. 11, 2016 .....	275244
Nebraska: Lincoln (FEMA Docket No.: B-1646).	City of North Platte (16-07-0952P).	The Honorable Dwight Livingston, Mayor, City of North Platte, 211 West 3rd Street, North Platte, NE 69101.	City Hall, 211 West 3rd Street, North Platte, NE 69101.	Oct. 26, 2016 .....	310143
Nevada: Douglas (FEMA Docket No.: B-1653).	Unincorporated Areas of Douglas County (16-09-1787X).	The Honorable Doug N. Johnson, Chairman, Board of Supervisors, Douglas County, P.O. Box 218, Minden, NV 89423.	Douglas County Public Works Department, 1615 8th Street, Minden, NV 89423.	Dec. 15, 2016 .....	320008

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
New Jersey: Monmouth (FEMA Docket No.: B-1646).	Borough of Highlands (16-02-0850P).	The Honorable Frank Nolan, Mayor, Borough of Highlands, Administrative Offices, 42 Shore Drive, Highlands, NJ 07732.	Highlands Borough Hall, 171 Bay Avenue, Highlands, NJ 07732.	Nov. 28, 2016 .....	345297
New York: Dutchess (FEMA Docket No.: B-1619)	Town of Wappinger (16-02-0187P).	The Honorable Lori A. Jiava, Supervisor, Town of Wappinger, Town Hall, 20 Middlebush Road, Wappinger Falls, NY 12590.	Town Hall, 20 Middlebush Road, Wappinger Falls, NY 12590.	Sep. 2, 2016 .....	361387
Oregon: Jackson (FEMA Docket No.: B-1654).	Unincorporated Areas of Jackson County (16-10-0826P).	The Honorable Rick Dyer, Commissioner, Jackson County, 10 South Oakdale Avenue Room 214, Medford, OR 97501.	Jackson County Roads Parks and Planning Services, 10 South Oakdale Avenue, Medford, OR 97501.	Dec. 13, 2016 .....	415589
Virginia: Independent City (FEMA Docket No.: B-1646).	City of Newport News (16-03-0266P).	The Honorable McKinley L. Price, Mayor, City of Newport News, City Council, 2400 Washington Avenue, Newport News, VA 23607.	Department of Engineering, 2400 Washington Avenue, Newport News, VA 23607.	Nov. 4, 2016 .....	510103
Wisconsin: Dane (FEMA Docket No.: B-1646).	City of Madison (16-05-3204P).	The Honorable Paul R. Soglin, Mayor, City of Madison, 210 Martin Luther King Jr. Boulevard, Room 403, Madison, WI 53703.	City Hall, 210 Martin Luther King Jr. Boulevard, Room 403, Madison, WI 53703.	Oct. 27, 2016 .....	550083
Dane (FEMA Docket No.: B-1654).	City of Middleton (16-05-2081P).	The Honorable Kurt Sonnentag, Mayor, City of Middleton, 7426 Hubbard Avenue, Middleton, WI 53562.	City Hall, 7426 Hubbard Avenue, Middleton, WI 53562.	Oct. 28, 2016 .....	550087
Dane (FEMA Docket No.: B-1646).	Unincorporated Areas of Dane County (16-05-3204P).	Mr. Joe Parisi, County Executive, Dane County, City County Building, 210 Martin Luther King Jr. Boulevard, Room 421, Madison, WI 53703.	City County Building, 210 Martin Luther King Jr. Boulevard, Room 116, Madison, WI 53703.	Oct. 27, 2016 .....	550077
Eau Claire (FEMA Docket No.: B-1646).	Unincorporated Areas of Eau Claire County (16-05-4739X).	Mr. Gregg Moore, County Board Chair, Eau Claire County, 721 Oxford Avenue, Eau Claire, WI 54703.	Eau Claire County Courthouse, 721 Oxford Avenue, Eau Claire, WI 54703.	Oct. 26, 2016 .....	555552
Kenosha (FEMA Docket No.: B-1646).	Unincorporated Areas of Kenosha County (16-05-2093P).	Mr. Edward Kubicki, County Board Supervisor, Kenosha County, Administrative Building, 1010 56th Street, Kenosha, WI 53140.	Kenosha County Department of Planning and Development, 19600 75th Street, Kenosha, WI 53140.	Oct. 25, 2016 .....	550523

[FR Doc. 2017-04884 Filed 3-15-17; 8:45 am]

BILLING CODE 9110-12-P

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

[LLWY-957000-17-L13100000-PP0000]

**Filing of Plats of Survey, Wyoming**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Land Management (BLM) is scheduled to file plats of survey 30 calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming. The surveys, which were executed at the request of the U.S. Forest Service and the BLM, are necessary for the management of these lands. The lands surveyed are:

The plat and field notes representing the dependent resurvey of a portion of

the north boundary and portions of the subdivisional lines, and the survey of the subdivision of section 3, Township 27 North, Range 71 West, Sixth Principal Meridian, Wyoming, Group No. 943, were accepted on December 13, 2016.

The plat and field notes representing the dependent resurvey of a portion of the 1963-65 adjusted original meanders of the left bank of the Snake River, Township 41 North, Range 117 West, Sixth Principal Meridian, Wyoming, Group No. 946, were accepted on January 13, 2017.

**DATES:** Protests must be received by the BLM by April 17, 2017.

**ADDRESSES:** You may submit written protests to the Wyoming State Director at WY957, Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

**FOR FURTHER INFORMATION CONTACT:** Wyoming Cadastral Survey at 307-775-6222. Persons who use a telecommunications device for the deaf

may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact this office during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with this office. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** A person or party who wishes to protest either of the above surveys must file a written notice within 30 calendar days from the date of this publication with the Wyoming State Director, Bureau of Land Management, at the above address, stating that they wish to protest. A statement of reasons for the protest may be filed with the notice of protest and must be filed with the Wyoming State Director within 30 calendar days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved.

Before including your address, phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Copies of the preceding described plats and field notes are available to the public at a cost of \$4.20 per plat and \$.13 per page of field notes.

**John P. Lee,**

*Chief Cadastral Surveyor, Division of Support Services.*

[FR Doc. 2017-05199 Filed 3-15-17; 8:45 am]

**BILLING CODE 4310-22-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-AKRO-CAKR-KOVA-GAAR-22948; PPAKAKROR4;PPMPRLE1Y.LS0000]

### Notice of Open Public Meetings for the National Park Service Alaska Region Subsistence Resource Commission Program

**AGENCY:** National Park Service, Interior.  
**ACTION:** Meeting notice.

**SUMMARY:** The National Park Service (NPS) is hereby giving notice that the Cape Krusenstern National Monument Subsistence Resource Commission (SRC), the Kobuk Valley National Park SRC, and the Gates of the Arctic National Park SRC will hold public meetings to develop and continue work on NPS subsistence program recommendations, and other related regulatory proposals and resource management issues.

**DATES:** The Cape Krusenstern National Monument SRC will meet from 1:00 p.m. to 5:00 p.m. or until business is completed on Tuesday, March 28, 2017, and from 9:00 a.m. to 12:00 p.m. on Wednesday, March 29, 2017, at the Northwest Arctic Heritage Center in Kotzebue, AK. For more detailed information regarding this meeting or if you are interested in applying for SRC membership, contact Designated Federal Official Maija Lukin, Superintendent, at (907) 442-8301, or via email at [maija\\_lukin@nps.gov](mailto:maija_lukin@nps.gov) or Hannah Atkinson, Cultural Resource Specialist at the Cape Krusenstern National Monument office at (907) 442-4342, or via email at [hannah\\_atkinson@nps.gov](mailto:hannah_atkinson@nps.gov), or Clarence Summers, Subsistence Manager, at (907) 644-3603 or via email at [clarence\\_summers@nps.gov](mailto:clarence_summers@nps.gov).

The Kobuk Valley National Park SRC will meet from 1:00 p.m. to 5:00 p.m. or until business is completed on Thursday, March 30, 2017, and from 9:00 a.m. to 12:00 p.m. on Friday, March 31, 2017, at the Northwest Arctic Heritage Center in Kotzebue, AK. For more detailed information regarding this meeting or if you are interested in applying for SRC membership, contact Designated Federal Official Maija Lukin, Superintendent, at (907) 442-8301, or via email at [maija\\_lukin@nps.gov](mailto:maija_lukin@nps.gov) or Hannah Atkinson, Cultural Resource Specialist at the Kobuk Valley National Park office at (907) 442-8342, or via email at [hannah\\_atkinson@nps.gov](mailto:hannah_atkinson@nps.gov), or Clarence Summers, Subsistence Manager, at (907) 644-3603 or via email at [clarence\\_summers@nps.gov](mailto:clarence_summers@nps.gov).

The Gates of the Arctic National Park SRC will meet from 9:00 a.m. to 5:00 p.m. or until business is completed on Thursday, April 13, 2017, at the Wiseman Community Center in Wiseman, AK. For more detailed information regarding this meeting, or if you are interested in applying for SRC membership, contact Designated Federal Official Greg Dudgeon, Superintendent, at (907) 457-5752, or via email at [greg\\_dudgeon@nps.gov](mailto:greg_dudgeon@nps.gov) or Marcy Okada, Subsistence Coordinator, at (907) 455-0639 or via email at [marcy\\_okada@nps.gov](mailto:marcy_okada@nps.gov) or Clarence Summers, Subsistence Manager, at (907) 644-3603, or via email at [clarence\\_summers@nps.gov](mailto:clarence_summers@nps.gov).

**ADDRESSES:** The Cape Krusenstern National Monument SRC and the Kobuk Valley National Park SRC will meet at the Northwest Arctic Heritage Center, 171 3rd Avenue, Kotzebue, AK 99752. The Gates of the Arctic National Park SRC will meet at the Wiseman Community Center in Wiseman, AK.  
**SUPPLEMENTARY INFORMATION:** The NPS is holding the meeting pursuant to the Federal Advisory Committee Act (16 U.S.C. Appendix 1-16). The NPS SRC program is authorized under section 808 of the Alaska National Interest Lands Conservation Act (16 U.S.C 3118), title VIII.

SRC meetings are open to the public and will have time allocated for public testimony. The public is welcome to present written or oral comments to the SRC. SRC meetings will be recorded and meeting minutes will be available upon request from the Superintendent for public inspection approximately six weeks after the meeting. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your

personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**PROPOSED MEETING AGENDA:** The agenda may change to accommodate SRC business. The proposed meeting agenda for each meeting includes the following:

1. Call to Order—Confirm Quorum
2. Welcome and Introduction
3. Review and Adoption of Agenda
4. Approval of Minutes
5. Superintendent's Welcome and Review of the SRC Purpose
6. SRC Membership Status
7. SRC Chair and Members' Reports
8. Superintendent's Report
9. Old Business
10. New Business
11. Federal Subsistence Board Update
12. Alaska Boards of Fish and Game Update
13. National Park Service Reports
  - a. Ranger Update
  - b. Resource Manager's Report
  - c. Subsistence Manager's Report
14. Public and Other Agency Comments
15. Work Session
16. Set Tentative Date and Location for Next SRC Meeting
17. Adjourn Meeting

SRC meeting location and date may change based on inclement weather or exceptional circumstances. If the meeting date and location are changed, the Superintendent will issue a press release and use local newspapers and radio stations to announce the rescheduled meeting. The scheduled alternative meeting dates for the Cape Krusenstern National Monument SRC meeting are Tuesday, April 11, 2017, from 1:00 p.m. to 5:00 p.m. and Wednesday, April 12, 2017, from 9:00 a.m. to 12:00 p.m. The scheduled alternative meeting dates for the Kobuk Valley National Park SRC are Thursday, April 13, 2017, from 1:00 p.m. to 5:00 p.m., and Friday, April 14, 2017, from 9:00 a.m. to 12:00 p.m.

**Alma Rippis,**

*Chief, Office of Policy.*

[FR Doc. 2017-05264 Filed 3-15-17; 8:45 am]

**BILLING CODE 4312-52-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–388, 389, and 391 and 731–TA–817, 818, and 821 (Third Review)]

### Cut-to-Length Carbon Quality Steel Plate From India, Indonesia, and Korea, Notice of Commission Determination To Conduct Full Five-Year Reviews

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it will proceed with full reviews pursuant to the Tariff Act of 1930 to determine whether revocation of the countervailing and antidumping duty orders on cut-to-length carbon quality steel plate from India, Indonesia, and Korea would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date.

**DATES:** Effective March 6, 2017.

**FOR FURTHER INFORMATION CONTACT:** Carolyn Carlson (202–205–3002), 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 reviews may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**SUPPLEMENTARY INFORMATION:** On March 6, 2017, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). With respect to the orders concerning Indonesia, the Commission found that both the domestic and respondent interested party group responses to its notice of

institution (81 FR 86725, December 1, 2016) were adequate and determined to proceed to full reviews of the orders. With respect to the orders on the subject merchandise from India and Korea, the Commission found that the domestic interested party group response was adequate and the respondent interested party group response was inadequate, but that circumstances warranted conducting full reviews. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

*Authority:* These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: March 13, 2017.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2017–05286 Filed 3–15–17; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–555 and 731–TA–1310 (Final)]

### Certain Amorphous Silica Fabric From China

#### Determinations

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that an industry in the United States is materially injured by reason of imports of certain amorphous silica fabric from China,<sup>2</sup> provided for in subheadings 7019.59.40 and 7019.59.90 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce ("Commerce") to be sold in the United States at less than fair value ("LTFV"), and to be subsidized by the government of China. Because a minority of

<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

<sup>2</sup> Chairman Schmidlein, Vice Chairman Johanson, and Commissioner Williamson determine that the domestic industry is materially injured by reason of the subject imports. Commissioners Broadbent and Kieff determine that the domestic industry is threatened with material injury by reason of the subject imports, and that they would not have found material injury but for the suspension of liquidation. Commissioner Pinkert did not participate in the vote.

participating Commissioners made affirmative findings that imports subject to Commerce's affirmative critical circumstance determination are likely to undermine seriously the remedial effect of the antidumping duty order on certain amorphous silica fabric from China, the Commission has not made an affirmative critical circumstances finding with respect to such imports.<sup>3</sup>

#### Background

The Commission, pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)), instituted these investigations effective January 20, 2016, following receipt of a petition filed with the Commission and Commerce by Auburn Manufacturing, Inc., Mechanic Falls, Maine. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of certain amorphous silica fabric from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on September 14, 2016 (81 FR 63205). The hearing was held in Washington, DC, on January 18, 2017, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on March 10, 2017. The views of the Commission are contained in USITC Publication 4672 (March 2017), entitled *Certain Amorphous from China: Investigation Nos. 701–TA–555 and 731–TA–1310 (Final)*.

By order of the Commission.

<sup>3</sup> Chairman Schmidlein and Commissioner Williamson made affirmative critical circumstances findings. Vice Chairman Johanson made a negative critical circumstances finding. Commissioners Broadbent and Kieff, having determined that a domestic industry is not materially injured by reason of amorphous silica fabric from China sold at less than fair value, did not reach the issue of critical circumstances.

Issued: March 10, 2017.

**William R. Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2017-05278 Filed 3-15-17; 8:45 am]

BILLING CODE 7020-02-P

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-287 (Second Review)]

### Raw-in-Shell Pistachios From Iran; Revised Schedule for Full Five-Year Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**DATES:** Effective March 7, 2017.

**FOR FURTHER INFORMATION CONTACT:**

Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** On December 9, 2016, the Commission established a schedule for the conduct of the full five-year review (81 FR 90867, December 15, 2016). The Commission is revising its schedule as follows: The Commission will make its final release of information on May 26, 2017 and final party comments are due on May 31, 2017.

For further information concerning this review, see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**Authority:** This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: March 13, 2017.

**William R. Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2017-05230 Filed 3-15-17; 8:45 am]

BILLING CODE 7020-02-P

## DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140-0017]

#### Agency Information Collection Activities; Proposed eCollection Activities; Proposed eComments Requested; Revision of a Currently Approved Collection; Annual Firearms Manufacturing and Exportation Report

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 60-day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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 May 15, 2017.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any additional information, please contact Jodie Trovinger, Federal Firearms Licensing Center, Firearms and Explosives Services Division either by mail at 244 Needy Road, Martinsburg, WV 25405, by email at [Jodie.Trovinger@atf.gov](mailto:Jodie.Trovinger@atf.gov), or by telephone at 304-616-4673.

**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;

- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection* (check justification or form 83): Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Annual Firearms Manufacturing and Exportation Report Under 18 U.S.C. Chapter 44, Firearms.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number (if applicable): ATF F 5300.11.

*Component:* Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* Business or other for-profit.  
*Other (if applicable):* Federal Government, State, Local, or Tribal Government.

*Abstract:* The information collected is used to compile statistics on the manufacture and exportation of firearms. The furnishing of this information is mandatory under 18 U.S.C. 923(g)(5)(A). This form must be submitted annually for every Type 07 and Type 10 Federal Firearms License (FFL), even if no firearms were exported or distributed for commerce.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 12,000 respondents will complete the form, and it will take each respondent approximately 20 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 4,000 hours which is equal to (12,000 (total # of respondents \* .3333 (20 mins))).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States

Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: March 13, 2017.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2017-05255 Filed 3-15-17; 8:45 am]

BILLING CODE 4410-FY-P

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Mechanical Stratigraphy and Natural Deformation in Eagle Ford Formation and Equivalent Boquillas Formation, South-Central and West Texas (Eagle Ford II)

Notice is hereby given that, on February 16, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Southwest Research Institute—Cooperative Research Group on Mechanical Stratigraphy and Natural Deformation in Eagle Ford Formation and Equivalent Boquillas Formation, South-Central and West Texas (“Eagle Ford II”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, E&P Energy Company, L.P., Houston, TX, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Eagle Ford II intends to file additional written notifications disclosing all changes in membership.

On July 1, 2015, Eagle Ford II filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 29, 2015 (80 FR 45234).

The last notification was filed with the Department on December 7, 2015. A notice was published in the **Federal**

**Register** pursuant to Section 6(b) of the Act on January 6, 2016 (81 FR 512).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2017-05254 Filed 3-15-17; 8:45 am]

BILLING CODE P

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Cracking of Duplex Stainless Steel

Notice is hereby given that, on February 16, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Southwest Research Institute—Cooperative Research Group on Cracking of Duplex Stainless Steel (“DSS-CRG”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: Chevron U.S.A., Inc., Richmond, CA; Fluor Enterprises, Inc., Aliso Viejo, CA; Marathon Petroleum Company LP, Findlay, OH; and Shell Global Solutions (US) Inc., Houston, TX.

The general areas of DSS-CRG’s planned activity are identification of failure mechanisms and major contributing factors for cracking in REACs and quantification of their effects; establishment of safe integrity operational window (IOW) for avoidance of cracking-related failures in REACs; development of guidelines and tools for risk based inspection directed towards assessment of cracking in REACs currently in service; development of guidelines for manufacturing of REACs resistant to cracking; identification of NDE techniques for determining ferrite content in the weld metal and HAZ of REAC welds; and evaluation of NDE

techniques for crack detection in REAC welds.

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2017-05257 Filed 3-15-17; 8:45 am]

BILLING CODE P

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Consortium for Energy, Environment and Demilitarization

Notice is hereby given that on January 31, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Consortium for Energy, Environment and Demilitarization (“CEED”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Accurate Energetic System, McEwen, TN; AGEISS Inc., Longmont, CO; Alion Science and Technology Corporation, Huntsville, AL; Allied Bastion LLC, Tallahassee, FL; AM General, South Bend, IN; ARES, Inc., Port Clinton, OH; Artemis Electronics LLC, Prospect, KY; Atlantic Diving Supply, Inc. Virginia Beach, VA; Berg Manufacturing, Inc., Spokane, WA; BioSAFE Engineering, LLC, Indianapolis, IN; BluEyeQ, LLC, Waxhaw, NC; The Board of Trustees University of AL; Tuscaloosa, AL; Brugh Industrial Engineering LLC, Greenfield, IN; Concurrent Technologies Corporation, Picatinny, NJ; Conflict Kinetics Corporation, Sterling, VA; Connect 9 Solutions, Falls Church, VA; CORTEK, Inc., Fredericksburg, VA; Dawson Enterprises, LLC, Honolulu, HI; Day & Zimmermann, Inc., Philadelphia, PA; Design Mill, Inc., Dubuque, IA; DuPont Protection Solutions, Richmond, VA; EaglePicher Technologies, LLC, Joplin, MO; Eaton Corporation, Menomonee Falls, WI; Eco Burn Inc./Eco Waste Solutions, Burlington, ON; Enercon Systems, Inc., Elyria, OH; Fairwinds Technologies, Inc., Annapolis, MD; Frontier Technology, Inc., Goleta, CA; Fulcrum IT Services, LLC, Centerville, VA; Garud Technology Services, Inc., Ellicott City, MD; Gehring Corporation, Farmington Hills, MI; General Dynamics Ordnance



and Tactical Systems, Inc., St. Petersburg, FL; General Technical Services, LLC, Wall, NJ; Granite Environmental, Inc., Sebastian, FL; Guild Associates, Inc., Dublin, OH; High Energy Metals, Inc., Sequim, WA; Humber-Garick Consulting Engineers, Fort Walton Beach, FL; Interoptek, Inc., Huntsville, AL; Intuitive Research and Technology Corporation, Huntsville, FL; Kestrel Corporation, Albuquerque, NM; Leidos, Inc., San Antonio, TX; LkM Solutions, LLC, Sterling Heights, MI; Lockheed Martin Corporation; King of Prussia, PA; Logistic Services International, Inc., Jacksonville, FL; Long Wave Inc., Oklahoma City, OK; Louisiana Tech University, Ruston, LA; Mag Decisive Solutions International Consulting, LLC, Woodbridge, VA; Management Services Group, Inc. DBA Global Technical Systems, Virginia Beach, VA; Merrill Technologies Group, Saginaw, MI; Milwaukee School of Engineering, Milwaukee, WI; New Jersey Innovation Institute, Newark, NJ; Nishati, Inc., McLean, VA; North Carolina State, Raleigh, NC; OVC Engineered Solutions LLC, Stearns, KY; Palladium Energy, Inc., Woodbridge, IL; Parsons Government Services, Inc., Richmond, VA; Paul Boye Incorporated, Havre de Grace, MD; Pennram Diversified Manufacturing Corporation, Williamsport, PA; Peregrine Technical Solutions LLC, Yorktown, VA; Polestar Technologies, Inc., Needham Heights, MA; Point Blank Enterprises, Inc. dba The Protective Group, Miami Lakes, FL; Portage, Inc., Idaho Falls, ID; Potential Energy, DC, Falls Church, VA; Power Ten, Inc., Kirkland, WA; Protect the Force, Inc., Alpharetta, GA; Protonex Technology Corporation, Southborough, MA; Quantum Signal LLC, Saline, MI; R3 Strategic Support Group, Inc., Coronado, CA; ReadyOne Industries, Inc., El Paso, TX; REK Associates, Chantilly, VA; Savit Corporation, Rockaway, NJ; Serco Inc., The Shenton Group, Inc., Gladwin, MI; Fairborn, OH; Shoulder2Shoulder, Inc., Bluemont, VA; Source America, Vienna, VA; Soukos Robots Demil USA, LLC, Santa Ynez, CA; Stevens Institute of Technology, Hoboken, NJ; Strategic Fitness, LLC, McLean, VA; Strategos Consulting, LLC, Coronado, CA; Stratom, Inc., Boulder, CO; Terragon Environmental Technologies, Inc., Montreal, CANADA; TerranearPMC, LLC, Baltimore, MD; Tex-Shield, Inc., Bethesda, MD; The Shenton Group, Gladwin, MI; The University of Alabama at Huntsville, Huntsville, AL; The University of North Carolina at Charlotte, Charlotte, NC; The University of Texas at Austin, Austin, TX; UEC Electronics, LLC, Hanahan, SC;

Universal Technical Resource Services, Inc., Cherry Hill, NJ; University of Dayton Research Institute, Dayton, OH; University of Maine, Orono, ME; Veda Associates, Inc., Roswell, GA; Velocity Technology Partners LLC, Rockville, MD; Vigor Industrial, Seattle, WA; Visible Assets, Inc. Stratham, NH; W.L. Gore and Associates, Elkton, MD, have been added as parties to this venture.

Also, Camgian Microsystems Corporation, Starkville, MS; Capital Technology Group, Washington, DC; Chemring North America, Chester Township, PA; DKJ Technologies, Dayton, OH; Engineering and Management Executives, Inc.(EME), Alexandria, VA; Erigo Technologies, LLC, Enfield, NH; EXPLO Systems, Inc., Minden, LA; General Atomics, San Diego, CA; Group 4 Labs, Fremont, CA; HBM nCode Federal LLC, Starkville, MS; Hoboken Brownstone Company, Hoboken, NJ; IPS Custom Automation, Grand Prairie, TX; Humanistic Robotics, Inc., Bristol, PA; Malocom Pirnie, Inc., Baltimore, MD; MSE Technology Applications, Butte, MT; Primis Technologies LLC, Washington, DC; Real New Energy, Alexandria, VA; Stella Group LTD, Washington, DC; Technical Consultants, Inc., Marshall, TX; Textronics, Inc., Wilmington, DE; TPL Inc., Albuquerque, NM; Ultralife Corporation, Newark, NY; and University of Rhode Island, Kingston, RI, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CEED intends to file additional written notifications disclosing all changes in membership.

On February 14, 2011, CEED filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 25, 2011.

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2017-05259 Filed 3-15-17; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Digital Manufacturing Design Innovation Institute

Notice is hereby given that, on January 31, 2017, pursuant to Section

6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Digital Manufacturing Design Innovation Institute (“DMDII”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following parties have been added as members to this venture: University of Texas, Austin, TX; Dow Chemical Company, Midland, MI; McKinsey & Company, New York, NY; Auburn University, Auburn, AL; Case Western Reserve University, Cleveland, OH; Wayne State University, Detroit, MI; Faurecia, Auburn Hills, MI; Johnson & Johnson, New Brunswick, NJ; Northrop Grumman Corporation, West Falls Church, VA; Stanley Black & Decker, Inc., New Britain, CT; American Society of Mechanical Engineers (ASME), New York, NY; Calspan-University at Buffalo Research Center (CUBRC), Buffalo, NY; North Carolina State University, Raleigh, NC; Northeastern University, Boston, MA; Texas State University, San Marcos, TX; University of Washington, Seattle, WA; 89Robotics, LLC, Chicago, IL; ABB Group, Cary, NC, Zurich, SWITZERLAND; Accu Solve Group, Getzville, NY; ACE Clearwater Enterprises, Torrance, CA; Action Engineering, Inc., Lilburn, GA; Actvcontent, Sunnyvale, CA; Advanced Engineering Solutions USA, Castle Rock, CO; Affinegy, Inc., Austin, TX; Agility Network Services, Chicago, IL; Allied Plastics, Twin Lakes, WI; Applied Optimization, Inc., Dayton, OH; Upskill (Formerly APX Labs), Herndon, VA; ARC Advisory Group, Dedham, MA; ARIS Technology, Batavia, IL; Arthur D. Little, Boston, MA; Arysen, Inc., Cleveland, OH; Belden Tools, Inc., Broadview, IL; Bluvision, Fort Lauderdale, FL; Bosch, Broadview, IL; Building Blocks Inc., Chicago, IL; Capgemini, New York, NY; ChromoLogic, Monrovia, CA; CIMdata, Inc., Ann Arbor, MI; C-Labs Corporation, Bellevue, WA; Composite Solutions and Digital Manufacturing LLC, Chandler, AZ; Computer Aided Technology (CATI), Buffalo Grove, IL; Crafts Technology, Elk Grove Village, IL; CreateASoft, Inc., Naperville, IL; Deloitte, New York, NY; Devbridge Group, Chicago, IL; Dimensional Control Systems, Troy, MI; Factory Right, LLC, Atlanta, GA; Festo Automation Group, Hauppauge, NY;

FLEXLAB, Berkeley, CA; FlexLink Systems, Inc., Allentown, PA; FORCAM Inc., Cincinnati, OH; Ford Motor Company, Dearborn, MI; Future Way Designs, Hamilton, OH; Genesis Systems Group LLC, Davenport, IA; Gill Industries, Grand Rapids, MI; Global Data Sciences Inc., Aurora, IL; Halock Security Labs, Schaumburg, IL; Hapco, Hanover, MA; HL Precision Manufacturing, Champaign, IL; Howmet Corporation, Whitehall, MI; Huntington Ingalls Industries, Newport News, VA; Identify 3D, San Francisco, CA; Industrial Measurement Systems, Aurora, IL; Integrity Technology Solutions, Bloomington, IL; Isomorph Development, Inc., Cleveland, OH; iSynergy, Inc., Wood Dale, IL; Kent Displays, Inc., Kent, OH; Knoldus, Palatine, IL, New Delhi, INDIA; Koneksys LLC, Atlanta, GA; L & J Omnico AGV, Clinton Township, MI; LMI, Tysons, VA; Lonsberry Engineering, Cleveland, OH; MachiningCloud, Inc., Camarillo, CA; MAL USA INC., Ferndale, WA; ManpowerGroup Public Sector, Falls Church, VA; Mantel Technologies, Fort Collins, CO; Manufacturing Laboratories, Inc., Las Vegas, NV; Mastercam, Tolland, CT; Materials Data Management Inc., Indianapolis, IN; Mazak Corporation, Florence, KY; McMaster-Carr, Elmhurst, IL; Mechdyne Corporation, Marshalltown, IA; Mercury Marine, Fond du Lac, WI; MetroSage LLC, Volcano, CA; Microlution, Chicago, IL; Moog, East Aurora, NY; Neal Analytics, Seattle, WA; Northwest Analytics, Portland, OR; Orion Quality Software, Cincinnati, OH; Panduit Corporation, Tinley Park, IL; Parallel Works, Inc., Chicago, IL; Pella Corporation, Pella, IA; Prairiefire Consulting, Inc., Champaign, IL; Predictronics, Cincinnati, OH; RAF Automation, Cleveland, OH; RECON Services, Houston, TX; Rescale, Inc., San Francisco, CA; Sandalwood Engineering and Ergonomics, Livonia, MI; Sandvik Coromant, New York, NY; Santos Human, Inc., Iowa City, IA; SBP Consulting, Inc., Moline, IL; Scientific Forming Technologies Corporation, Columbus, OH; Scope Technologies, Inc., Denver, CO; Scytec, Greenwood Village, CO; SearchLite, Ann Arbor, MI; SensorHound, West Lafayette, IN; SensrTrx, St. Louis, MO; Sentient Science, Buffalo, NY; Serra Laser Precision, Libertyville, IL; Sibley Machine & Foundry Corporation, South Bend, IN; Siewert Solutions, Wylie, TX; Sigmetrix, McKinney, TX; Siminsights, Irvine, CA; Source3, New York, NY; Spirit Aerosystems, Wichita, KS; StarLab Corporation, Chicago, IL;

Steelcase Inc., Chicago, IL; Teradyne, North Reading, MA; Tesla Motors, Palo Alto, CA; ThingWeaver Solutions, Fairview, TX; Third Wave Systems, Eden Prairie, MN; Tru-Fab Technology, Willoughby, OH; Tyges International, Williamsburg, VA; Visible Assets, Inc., Stratham, NH; Weasler Engineering, West Bend, WI; Wes-Tech Automation Solutions, Buffalo Grove, IL; Westinghouse Electric Company, Cranberry Township, PA; Wipro Technologies, Redmond, WA; Zuken USA, Westford, MA; 3D PDF Consortium, Portland, OR; Alliance for Industry and Manufacturing, Chicago, IL; Augmented Reality for Enterprise Alliance (AREA), Wakefield, MA; Chicago Cook Workforce Partnership, Chicago, IL; Gateway Technical College, Elkhorn, WI; George E. Brown United States-Mexico Foundation for Science, Washington, DC; Illinois Manufacturing Excellence Center, Chicago, IL; Lawrence Technological University, Southfield Michigan; Quad Cities Chamber of Commerce, Davenport, IA; and Clemson University, Clemson, SC.

The following members have withdrawn as parties to this venture: Vizrt, Inc., New York, NY; Matrix 4, Inc., Woodstock, IL; Rockford Area Economic Development Council (RAEDC), Rockford, IL; MSSRC, Hanover Park, IL; Xebax Michigan Network, Detroit, MI; and Aeroeda, Jacksonville, FL.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DMDII intends to file additional written notifications disclosing all changes in membership.

On January 5, 2016, DMDII filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 9, 2016 (81 FR 12525).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2017-05250 Filed 3-15-17; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF JUSTICE**

**Antitrust Division**

**Notice Pursuant to the National Cooperative Research and Production Act of 1993—Consortium for Command, Control, Communications and Computer Technologies**

Notice is hereby given that on January 31, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993; 15. U.S.C. 4301 *et seq.* (“the Act”), the Consortium for Command, Control, Communications and Computer Technologies (“Consortium for Command”) has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of invoking the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, 4LNS, Inc. DBA Gravity Jack Partnership, Meridian, ID; ACE, Howell, NJ; Ad Hoc Research Associates, Abingdon, MD; ADI, McLean, VA; Advanced Systems Development, Inc., Alexandria, VA; Advanced Systems, Inc., Fairfax, VA; AGEISS, Lakewood, CO; Agile, Huntington Beach, CA; AIRTEC, California, MD; Alion Science and Technology Corporation, Huntsville, AL; Allied Associates International, Inc., Gainesville, VA; AM General, Livonia, MI; Analog Devices Inc., Tampa, FL; Analytix, Inc., Huntsville, AL; Applied Research, Albuquerque, NM; Aries Security, LLC, Wilmington, DE; ARMAG Corporation, Bardstown, KY; ASET Partners Corporation, Alexandria, VA; AT&T, Vienna, VA; ATC, Ithaca, NY; Atlantic Diving Supply, Inc., Virginia Beach, VA; Avineon, Inc., McLean, VA; Banc 3, Princeton, NJ; BigR.io, LLC, Boston, MA; BitSpeed, Manhattan Beach, CA; Bivio Networks, Inc., Pleasanton, CA; BlueIvy Partners, LLC, San Diego, CA; Bluestone, Washington, DC; Booz Allen Hamilton, McLean, VA; Brighterion, Inc., San Francisco, CA; Brocade Communications Systems, Inc., San Jose, CA; BY LIGHT Professional IT Services, Inc., Arlington, VA; CACI Enterprises Solutions, Reston, VA; Cambridge Global Advisors, Arlington, VA; Carbon Black, Inc., Waltham, MA; CAS, Inc., Huntsville, AL; Centurum Information Technology, Inc., Marlton, NJ; Charles F. Day & Associates, Fredericksburg, VA; Chesapeake Technology International Corporation, Denver, CO; CHI Systems, Inc., Plymouth Meeting, PA; Circadence

Corporation, Boulder, CO; CJEN, Inc., Dumfries, VA; Cloud Front, Saratoga, CA; Cohesive, Bristow, VA; Cole Engineering Services Inc., Orlando, FL; Compendium Federal Technology, LLC, Lexington Park, MD; COMPQSOFT, Inc., Houston, TX; Computer Security Solutions, LLC (a SC3 Company), Fairfax, VA; Comtech Mobile Datacom Corporation, Germantown, MD; Constellation Integrated Technologies, San Diego, CA; Cornell University, Ithaca, NY; Cornerstone, Leavenworth, KS; Cornerstone Software Solutions, Inc., Orlando, FL; CORTEK, Fredericksburg, VA; Cougaar Software, Inc., Vienna, VA; Cromulence, Melbourne, FL; Critical Stack, Cincinnati, OH; Cyber Solutions & Services, Inc. DBA American Cyber, Clifton, VA; Cyberspace Analytics Corporation, Columbia, MD; CyberSponse, Inc., Arlington, VA; CyberWorx, LLC, San Diego, CA; Cybric, Inc., Lynnfield, MA; DAn, McLean, VA; Dawson Enterprises, Inc., San Antonio, TX; Decision Engineering, Freehold, NJ; DeferPanic, Inc., Emeryville, CA; Dell Federal Systems, L.P., Round Rock, TX; Deloitte & Touche, LLP, Arlington, VA; DESE Research, Inc., Huntsville, AL; DHPC Technologies, Inc., Woodbridge, VA; Digital Sandbox, Inc., McLean, VA; Dispersive, Alpharetta, GA; Draken International, Inc., Allentown, PA; Draper Laboratory, Cambridge, MA; D-Tech, Inc., Herndon, VA; Dynetics, Huntsville, AL; DZYNE, Ashburn, VA; Eagle Network, Milton, VT; EAI Business Solutions, Inc. DBA EIM Plus, Manassas Park, VA; Elevate Group, LLC DBA Elevate Technology Solution, Rockland, MA; Endgame, Atlanta, GA; Engility, Picatinny, NJ; Enlighten IT Consulting LLC, Hanover, MD; EOIR Technologies, Inc., Fredericksburg, VA; ESRI, Middleton, MA; Exponent, Inc., Menlo Park, CA; Fairwinds Technologies, LLC, Annapolis, MD; Fathom 4, LLC, Charleston, SC; FireEye, Lake in the Hills, IL; Flex Analytics LLC, Silver Spring, MD; Fortinet Federal, Inc., Reston, VA; Frontier Technology, Inc., Goleta, CA; Fulcrum, Centreville, VA; Future Skies, Wall Township, NJ; GaN Corporation, Huntsville, AL; Gantz-Mountain, Monterey, CA; Garud, Ellicott City, MD; GCC, Oakland, MD; General Dynamics Mission Systems, Inc. (GDMS), Scottsdale, AZ; General Atomics Aeronautical Systems, Inc., Poway, CA; George Consulting, Charleston, SC; George Mason University, Fairfax, VA; Georgia Tech Applied Research Corporation, Atlanta, GA; Global Technical Systems, Virginia Beach, VA; Goldbelt C6, LLC, Chesapeake, VA; GPS Consulting, Charleston, SC; GPS Source, Inc., Pueblo West, CO; GreenZone Systems, Minneapolis, MN; Grey Castle Group LLC, Charlotte, NC; Helios, Rome, NY; High Side, Summerville, SC; I\_SW, LLC, Arlington, VA; IBM, Huntsville, AL; Infinite Dimensions Integration, Alexandria, VA; Insight Engineering Solutions, Inc., Towson, DE; Intelligent Decisions, Ashburn, VA; Intelligent Software, Colorado Springs, CO; Intelligent Waves, LLC, Reston, VA; Interoptek, North Charleston, SC; Intific, Arlington, VA; IOEDNA Incorporated, Vienna, VA; IOMAXIS, Springfield, VA; IPKeys technologies, LLC, Eatontown, NJ; IPNS, Inc., Herndon, VA; ISPA Technology, LLC, Centreville, VA; 1ST Research Corporation, Fredericksburg, VA; JANUS Research Group, Inc., Evans, GA; JASK LABS, Inc., San Francisco, CA; Kalotech, Incorporated, Miami, FL; KEYW Corporation, Hanover, MD; KinetX, Inc., Tempe, AZ; Kinsey, Reston, VA; Knowledge Made Solutions, La Jolla, CA; Knowledge Management Inc., Tyngsboro, MA; Kord, Huntsville, AL; L-3, Huntsville, AL; Leidos, Reston, VA; LightCyber LTD, Los Altos, CA; LinQuest Corporation, Los Angeles, CA; LNO, Inc., Martinez, GA; Lockheed Martin, Littleton, CO; Logistic Services International, Inc., Jacksonville, FL; LogRhythm, Inc., Boulder, CO; Long Wave, Oklahoma City, OK; Louisiana Tech University, Ruston, LA; LUCIAD Inc., Washington, DC; MAD Security, Montpelier, VA; Mag Decisive Solutions International Consulting, Woodbridge, VA; Maga Design, Inc., Washington, DC; ManTech Advanced Systems International, Inc., Fairfax, VA; Materials Sciences Corporation, Horsham, PA; Mercer Engineering Research Center, Warner Robins, GA; Meridian Technology Systems, Inc., Adamstown, MD; MetaMaterials, Inc., Austin, TX; Metova Federal LLC, Cabot, AR; Mike Sutton Consulting, Inc. (dba MSCI), Owens Cross Roads, AL; Millennium Corporation, Inc., Arlington, VA; MINIS LLC, Harvest, AL; Mission 1st Group, Inc., Princeton, NJ; Mission Multiplier Consulting, LLC, Huntsville, AL; Mississippi State University, Mississippi State, MS; Modern Technology Solutions, Inc., Alexandria, VA; Modus, Melbourne, FL; MSB Associates, Inc., Alexandria, VA; mZeal, Littleton, MA; Neany, Arlington, VA; NetCentric Technology, LLC, Aberdeen Proving Ground, MD; Netorian Limited Liability Corporation, Aberdeen, MD; Netwerx, Colts Neck, NJ; NexiTech, Woodland Park, CO; Next Century Corporation, Columbia, MD; NextGen Federal Systems, LLC, Morgantown, WV; Norseman Defense Technologies, Elkridge, MD; Northrop Grumman Corporation, McLean, VA; NOU Systems, Inc., Huntsville, AL; NTA, Inc., Huntsville, AL; Ntrepid Corporation, Herndon, VA; OASYS, INC., Huntsville, AL; OGSystems, Chantilly, VA; Open Sans Consulting, Atlanta, GA; Open Solutions Group, Inc. dba BigBear Inc., San Diego, CA; Open Text, Gaithersburg, MD; Operations and Security Integrated Solutions, LLC, Lynn Haven, FL; Optensity, Norwell, MA; Orbis, Annapolis, MD; Palantir, McLean, VA; Parsons, Centreville, VA; Perceptronics Solutions, Inc., Sherman Oaks, CA; Peregrine, Newport News, VA; Peters, Yorktown, VA; Phoenix Group of Virginia, Inc., Chesapeake, VA; Pillar Global Solutions, Inc., Stafford, VA; Pink Summit, San Diego, CA; Point3 Federal, LLC, Baltimore, MD; Polaris Sensor Technologies, Inc., Huntsville, AL; Polyverse Corporation, Kirkland, WA; QED System, LLC, Aberdeen Proving Grounds, MD; Qmulos, LLC, Arlington, VA; Quanterion Solutions Incorporated, Utica, NY; Quantum Dimension, Inc., Huntington Beach, CA; R2C, Huntsville, AL; R3, Coronado, CA; Radio Reconnaissance Technologies, Inc., Fredericksburg, VA; Raytheon Company, Garland, TX; Real Time Solutions of America Inc., Washington, DC; REK Associates, LLC, Chantilly, VA; Research and Engineering Development, Lexington Park, MD; Research Innovations, Inc., Alexandria, VA; SAIC—Science Applications International Corporation, Evans, GA; SANS Innovation Center, LLC; subsidiary of Escal Institute of Advanced Technologies, Inc./dba SANS Institute, Leesburg, VA; Scientific Research, Atlanta, GA; Scitor Corporation, Arlington, VA; SEA Inc., Carson City, NV; Second Front Systems, Inc., Arlington, VA; Semper Fortis Solutions, LLC, Leesburg, VA; Serco, Reston, VA; Shoulder 2 Shoulder, Bluemont, VA; Sierra Nevada Corporation, Arlington, VA; SimSpace, Washington, DC; SimulationDeck, LLC, Denver, CO; SimVentions, Fredericksburg, VA; Soar Technology, Ann Arbor, MI; Socratic Arts, Manasquan, NJ; SoSA Corp., Fairfax, VA; Southern Aerospace Company, LLC, Madison, AL; Southwest Research Institute, San Antonio, TX; Specialty Systems, Inc., Tom Rivers, NJ; Spectrum Comm, Inc., Newport News, VA; Splunk, Arlington, VA; Sqrrl, Cambridge, MA; Star Lab Corporation, Washington, DC; StealthPath, LLC, Alexandria, VA; STEMBoard, LLC, Arlington, VA; STG, Inc., Reston, VA;

STIMULUS, Loogotee, IN; StraCon Services Group, LLC, Fort Worth, TX; Strategos, San Diego, CA; Stratus Solutions, Fulton, MD; Stryke Industries LLC, Fort Wayne, IN; Subsystem Technologies, Arlington, VA; Superlative Technologies, DBA SuprTEK, Ashburn, VA; Surveillance and Cyber Security Solutions, LLC, California, MD; Symantec Corporation, Herndon, VA; Synack, Inc., Redwood City, CA; T2S, LLC, Whiteford, MD; T3 Technologies (DBA T3 Tiger Tech), Reston, VA; TaaSera, Leesburg, VA; TechFlow, Inc., San Diego, CA; Technica Corporation, Dulles, VA; Technology Innovations, Annapolis, MD; TechServe Group, LLC, Havre de Grace, MD; TechTrend, Incorporated, Arlington, VA; Tectonic, Manassas, VA; Tempered Networks, Seattle, WA; Temporal Defense Systems, Inc., McLean, VA; TeraDact, Chantilly, VA; Terra Technologies Solutions, LLC, Baltimore, MD; The Boeing Company, Fairfax, VA; The Crestridge Group, Parker, CO; The University of Alabama in Huntsville, Huntsville, AL; The University of North Carolina at Charlotte, on behalf of the Charlotte Research Institute, Charlotte, NC; The University of South Alabama (Tuscaloosa), Tuscaloosa, AL; Tiburon, Grand Rapids, MI; Trace Systems Inc., Vienna, VA; Tri It, Woodstock, MD; Trident Military Systems, LLC, Mesa, AZ; Trideum, Huntsville, AL; TriMech Services, LLC, Glen Allen, VA; Trinary Software, San Jose, CA; Unchartered Software, Inc., Toronto, ON; University of Maryland Baltimore County, Baltimore, MD; UTRS, Cherry Hill, NJ; Velocity, Rockville, MD; Veloxiti, Alpharetta, GA; Venafi, Salt Lake City, UT; Vencore Labs Inc. dba Applied Communication Sciences, Basking Ridge, NJ; VES LLC, Morris Plains, NJ; Visible Assets, Inc., Stratham, NH; VMware, Mt. Pleasant, SC; Wartech Engineering, LLC, Saline, MI; WestWind, Huntsville, AL; WinTec Arrowmaker, Fort Washington, MD; Wolf Den Associates, LLC, McLean, VA; Worcester Polytechnic Institute, Worcester, MA; X-SIM, Cherry Hill, NJ; Yyotta LLC, Stafford, VA; and Zekiah, La Plata, MD, have been added as parties to this venture.

Also, 3D-4U Inc., Blacksburg, VA; Paul Cibuzar Consulting, Nisswa, MN; Scientia LLC, Bloomington, IN; Signal Innovations Group, Inc., Durham, NC; Stevens Institute of Technology, Hoboken, NJ; T2 Solutions LLC, Greenville, SC; TS2 Tactical Spec-Solutions Inc., Bedford, IN; UXB International, Blacksburg, VA; Virginia Tech Applied Research Corporation,

Blacksburg, VA; and Wyle Laboratories, Lexington Park, MD, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Consortium for Command intends to file additional written notifications disclosing all changes in membership.

On November 18, 2011, Consortium for Command filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 12, 2011 (76 FR 77251).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2017-05252 Filed 3-15-17; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Advanced Combustion Catalyst and Aftertreatment Technologies

Notice is hereby given that, on February 13, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Southwest Research Institute—Cooperative Research Group on Advanced Combustion Catalyst and Aftertreatment Technologies (“AC<sup>2</sup>AT”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Robert Bosch LLC, Farmington Hills, MI, has been added as a party to this venture.

Also, Honda R&D, Tochigi, Japan, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and AC<sup>2</sup>AT intends to file additional written notifications disclosing all changes in membership.

On March 20, 2015, AC<sup>2</sup>AT filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 30, 2015 (80 FR 24277).

The last notification was filed with the Department on April 25, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 24, 2016 (81 FR 32776).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2017-05261 Filed 3-15-17; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—OpenDaylight Project, Inc.

Notice is hereby given that, on February 21, 2017 pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), OpenDaylight Project, Inc. (“OpenDaylight”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Qosmos, Paris, FRANCE; Midokura, Lausanne, SWITZERLAND; and Compass Electro Optical Systems, Netanya, ISRAEL, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OpenDaylight intends to file additional written notifications disclosing all changes in membership.

On May 23, 2013, OpenDaylight filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 1, 2013 (78 FR 39326).

The last notification was filed with the Department on September 9, 2016. A notice was published in the **Federal**

**Register** pursuant to Section 6(b) of the Act on October 13, 2016 (81 FR 70705).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2017-05253 Filed 3-15-17; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Federal Bureau of Investigation

[OMB Number 1110-NEW]

#### Agency Information Collection Activities; Proposed eCollection eComments Requested; Existing Collection in Use Without OMB Control Number; Address Verification/Change Request Form (1-797)

**AGENCY:** Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** Department of Justice (DOJ), Federal Bureau of Investigation, Criminal Justice Information Services Division 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 May 15, 2017.

**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 Gerry Lynn Brovey, Supervisory Information Liaison Specialist, Federal Bureau of Investigation, Criminal Justice Information Services Division, 1000 Custer Hollow Road; Clarksburg, WV 26306; phone: 304-625-4320 or email [glbrovey@ic.fbi.gov](mailto:glbrovey@ic.fbi.gov). 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 or sent to [OIRA\\_submissions@omb.eop.gov](mailto: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 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.

#### Overview of This Information Collection

1. *Type of Information Collection:* Existing collection in use without OMB approval.

2. *The Title of the Form/Collection:* Address Verification/Change Request Form (1-797).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1-797. The applicable component within the Sponsoring component: Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Individuals or households. The form can be used by any requester who wishes to correct or verify the address submitted on their Departmental Order 556-73 request.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 720 respondents will complete each form within approximately 2 minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 24 total annual burden hours associated with this collection.

*If additional information is required contact:* Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: March 13, 2017.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2017-05263 Filed 3-15-17; 8:45 am]

**BILLING CODE 4410-14-P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Meetings of Humanities Panel

**AGENCY:** National Endowment for the Humanities.

**ACTION:** Notice of meetings.

**SUMMARY:** The National Endowment for the Humanities will hold twenty-three meetings of the Humanities Panel, a federal advisory committee, during April, 2017. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5:00 p.m. on the dates specified below.

**ADDRESSES:** The meetings will be held at Constitution Center at 400 7th Street SW., Washington, DC 20506, unless otherwise indicated.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW., Room 4060, Washington, DC 20506; (202) 606-8322; [evoyatzis@neh.gov](mailto:evoyatzis@neh.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. *Date:* April 3, 2017. This meeting will discuss applications on the subjects of Arts and Culture, for the Public Humanities Projects—Community Conversations grant program, submitted to the Division of Public Programs.

2. *Date:* April 4, 2017. This meeting will discuss applications on the subjects of Libraries, Archives, and Paper Collections, for the Sustaining Cultural Heritage Collections grant program, submitted to the Division of Preservation and Access.

3. *Date:* April 5, 2017. This meeting will discuss applications on the subjects of U.S. History and Civics, for the Public Humanities Projects—Community Conversations grant program, submitted to the Division of Public Programs.

4. *Date:* April 6, 2017. This meeting will discuss applications for the

National Digital Newspaper Program, submitted to the Division of Preservation and Access.

5. *Date:* April 6, 2017. This meeting will discuss applications on the subjects of History and Culture, for Media Projects: Production Grants, submitted to the Division of Public Programs.

6. *Date:* April 6, 2017. This meeting will discuss applications for the National Digital Newspaper Program, submitted to the Division of Preservation and Access.

7. *Date:* April 11, 2017. This meeting will discuss applications for the Creating Humanities Communities grant program, submitted to the Division of Challenge Grants.

8. *Date:* April 13, 2017. This meeting will discuss applications for the Creating Humanities Communities grant program, submitted to the Division of Challenge Grants.

9. *Date:* April 19, 2017. This meeting will discuss applications for the Creating Humanities Communities grant program, submitted to the Division of Challenge Grants.

10. *Date:* April 19, 2017. This meeting will discuss applications on the subject of American Studies, for the Public Humanities Projects—Exhibitions grant program (planning grants), submitted to the Division of Public Programs.

11. *Date:* April 20, 2017. This meeting will discuss applications on the subject of History, for Media Projects: Production Grants, submitted to the Division of Public Programs.

12. *Date:* April 20, 2017. This meeting will discuss applications for the Institutes for College and University Teachers grant program, submitted to the Division of Education Programs.

13. *Date:* April 21, 2017. This meeting will discuss applications for the Institutes for College and University Teachers grant program, submitted to the Division of Education Programs.

14. *Date:* April 21, 2017. This meeting will discuss applications for the Creating Humanities Communities grant program, submitted to the Division of Challenge Grants.

15. *Date:* April 24, 2017. This meeting will discuss applications for the Seminars for College Teachers grant program, submitted to the Division of Education Programs.

16. *Date:* April 25, 2017. This meeting will discuss applications for the Institutes for School Teachers grant program, submitted to the Division of Education Programs.

17. *Date:* April 25, 2017. This meeting will discuss applications for the Creating Humanities Communities grant program, submitted to the Division of Challenge Grants.

18. *Date:* April 25, 2017. This meeting will discuss applications on the subjects of Digital Collections and Archives, for Digital Humanities Advancement Grants, submitted to the Office of Digital Humanities.

19. *Date:* April 26, 2017. This meeting will discuss applications on the subjects of Media and Writing Studies, Creative and Performing Arts, for Digital Humanities Advancement Grants, submitted to the Office of Digital Humanities.

20. *Date:* April 26, 2017. This meeting will discuss applications for the Seminars for School Teachers grant program, submitted to the Division of Education Programs.

21. *Date:* April 27, 2017. This meeting will discuss applications for the Institutes for School Teachers grant program, submitted to the Division of Education Programs.

22. *Date:* April 27, 2017. This meeting will discuss applications for the Creating Humanities Communities grant program, submitted to the Division of Challenge Grants.

23. *Date:* April 27, 2017. This meeting will discuss applications on the subjects of Geospatial and Visualization, for Digital Humanities Advancement Grants, submitted to the Office of Digital Humanities.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: March 13, 2017.

**Elizabeth Voyatzis,**

*Committee Management Officer.*

[FR Doc. 2017-05237 Filed 3-15-17; 8:45 am]

**BILLING CODE 7536-01-P**

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## NATIONAL SCIENCE FOUNDATION

### Proposal Review Panel for Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following meeting:

*Name and Committee Code:* Proposal Review Panel for the Division of Physics (1208)—NSCL Site Visit

*Date and Time:* April 13, 2017; 8:30 a.m.–6:30 p.m.; April 14, 2017; 8:30 a.m.–1:00 p.m.

*Place:* Michigan State University, East Lansing, MI 48824-1321.

*Type of Meeting:* Part-Open.

*Contact Person:* Allena Opper, Program Director for Nuclear Physics, Division of Physics, National Science Foundation, 4201 Wilson Blvd., Room 1015, Arlington, VA 22230; Telephone: (703) 292-8958.

*Purpose of Meeting:* Site visit to provide an evaluation of the progress of the projects at the host site for the Division of Physics at the National Science Foundation.

### Agenda

*April 13, 2017; 8:30 a.m.–6:30 p.m.*

8:30 a.m.–9:15 a.m. Executive Session—Closed Session

9:15 a.m.–10:15 a.m. Overview of NSCL Laboratory and the Experimental Research

10:30 a.m.–11:30 a.m. Operations & Projects Overview, Diversity, Education and Mentoring

11:30 a.m.–12:00 p.m. Science A: Evolution of Nuclear Structure

12:00 p.m.–1:00 p.m. Lunch with graduate students

1:15 p.m.–2:15 p.m. Science B; C; D: Nuclear Astrophysics, Equation of the state reaction studies and Fundamental symmetries

3:00 p.m.–4:00 p.m. Science E; F; G: Re-accelerator Beam Astrophysics; Structure and Reactions; Accelerator Physics

4:00 p.m.–4:45 p.m. Tour

5:00 p.m.–5:45 p.m. Meeting with the MSU President Lou Anna Simon

5:45 p.m.–6:30 p.m. Executive Session—Closed Session

*April 14, 2017; 8:30 a.m.–1:00 p.m.*

8:30 a.m.–9:00 a.m. Executive Session—Closed Session

9:00 a.m.–9:30 a.m. Homework presentation and discussion

9:30 a.m.–11:30 a.m. Executive Session—Closed Session

11:30 a.m.–12:00 p.m. Closeout Session

12:00 p.m.–1:00 p.m. Adjourn

*Reason for Closing:* Topics to be discussed and evaluated during the site review will include information of a proprietary or confidential nature, including technical information and information on personnel. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 13, 2017.

**Crystal Robinson,**

*Committee Management Officer.*

[FR Doc. 2017-05228 Filed 3-15-17; 8:45 a.m.]

BILLING CODE 7555-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket 72-1050; NRC-2016-0231]

### Waste Control Specialists LLC's Consolidated Interim Spent Fuel Storage Facility

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Environmental impact statement; extension of scoping comment period; additional public scoping comment meeting.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) requested public comments on the scope of NRC's environmental impact statement (EIS) for the Waste Control Specialists LLC (WCS) proposed consolidated interim storage facility (CISF) for spent nuclear fuel, to be located on WCS' site in Andrews County, Texas. The public scoping period closed on March 13, 2017. The NRC has decided to re-open the public scoping period to allow more time for members of the public to develop and submit their comments. The NRC also has scheduled an additional meeting where members of the public may present comments to the NRC.

**DATES:** Comments should be filed no later than April 28, 2017. Comments received after this date will be considered, if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before that date.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0231. Address questions about NRC dockets to Ms. Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Ms. Cindy Bladey, Office of Administration, Mail Stop: OWFN-12-H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the

**SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** James Park, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC, 20555-0001; telephone: 301-415-6954; or email: [James.Park@nrc.gov](mailto:James.Park@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Obtaining Information and Submitting Comments

##### A. Obtaining Information

Please refer to Docket ID NRC-2016-0231 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0231.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at: 1-800-397-4209, 301-415-4737, or via email to: [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). Documents related to WCS' license application can be found under Docket Number 72-1050.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- *Project Web page:* Information related to the WCS CISF project, including the WCS license application, can be accessed on the NRC's WCS CISF Web page at: <http://www.nrc.gov/waste/spent-fuel-storage/cis/waste-control-specialist.html>.

##### B. Submitting Comments

Please include Docket ID NRC-2016-0231 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for

submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

#### II. Discussion

On November 14, 2016, the NRC published in the **Federal Register** (81 FR 79531), a notice of its intent to prepare an EIS on WCS' proposed CISF for spent nuclear fuel and requested public comments on the scope of the EIS. The NRC published a second notice on January 30, 2017 (82 FR 8771), that set March 13, 2017, as the closing date for the scoping period. The NRC has received scoping comments that requested an extension of time. While the NRC is still in the process of reviewing comments received, it appears that most of these extension requests seek a 90-day extension to the scoping period. After considering these requests, the NRC has decided to re-open the scoping period to allow more time for members of the public to develop and submit their comments. Comments should be submitted by April 28, 2017, to ensure consideration.

The NRC also will hold an additional public scoping meeting at the NRC headquarters in Rockville, Maryland, on Thursday, April 6, 2017. Persons interested in attending this meeting should check the NRC's Public Meeting Schedule Web page at <https://www.nrc.gov/pmns/mtg> for the time and agenda for the meeting. The NRC is planning to transmit the public meeting via webcast and to provide a telephone bridge line for members of the public who cannot attend the meeting in person.

Dated at Rockville, Maryland, this 9th day of March 2017.

For the U.S. Nuclear Regulatory Commission.

**Brian W. Smith,**

*Deputy Director, Division of Fuel Cycle Safety, Safeguards, and Environmental Review, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2017-05294 Filed 3-15-17; 8:45 am]

BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. IC-32529; 812-14727]

### UBS ETMF Trust, et al.; Notice of Application

March 10, 2017.

**AGENCY:** Securities and Exchange Commission (“Commission”).

**ACTION:** Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (“Act”) for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(f) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

**APPLICANTS:** UBS ETMF Trust (the “Trust”), UBS Asset Management Company (Americas) Inc. (the “Adviser”) and UBS Asset Management (US) Inc. (the “Distributor”).

**SUMMARY OF APPLICATION:** Applicants request an order (“Order”) that permits: (a) Actively managed series of certain open-end management investment companies to issue shares (“Shares”) redeemable in large aggregations only (“Creation Units”); (b) secondary market transactions in Shares to occur at the next-determined net asset value plus or minus a market-determined premium or discount that may vary during the trading day; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to create and redeem Shares in kind in a master-feeder structure. The Order would incorporate by reference terms and conditions of a previous order granting the same relief sought by applicants, as that order may be amended from time to time (“Reference Order”).<sup>1</sup>

**FILING DATES:** The application was filed on December 14, 2016 and amended on March 1, 2017.

<sup>1</sup> Eaton Vance Management, *et al.*, Investment Company Act Rel. Nos. 31333 (Nov. 6, 2014) (notice) and 31361 (Dec. 2, 2014) (order).

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 4, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

**ADDRESSES:** The Commission: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

Applicants: Mark F. Kemper, Esq., 1285 Avenue of the Americas, New York, NY 10019-6028.

**FOR FURTHER INFORMATION CONTACT:** Aaron T. Gilbride, Senior Counsel, at (202) 551-6906 or Holly Hunter-Ceci, Acting Assistant Chief Counsel, at (202) 551-6825 (Division of Investment Management, Chief Counsel’s Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission’s Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

### Applicants

1. The Trust will be registered as an open-end management investment company under the Act and is a statutory trust organized under the laws of Delaware. Applicants seek relief with respect to one Fund (as defined below, and that Fund, the “Initial Fund”). The portfolio positions of each Fund will consist of securities and other assets selected and managed by its Adviser or Subadviser (as defined below) to pursue the Fund’s investment objective.

2. The Adviser, a Delaware corporation, will be the investment adviser to the Initial Fund. An Adviser (as defined below) will serve as investment adviser to each Fund. The Adviser is, and any other Adviser will be, registered as an investment adviser under the Investment Advisers Act of 1940 (“Advisers Act”). The Adviser may retain one or more subadvisers (each a

“Subadviser”) to manage the portfolios of the Funds. Any Subadviser will be registered, or not subject to registration, under the Advisers Act.

3. The Distributor is a Delaware corporation and a broker-dealer registered under the Securities Exchange Act of 1934 and will act as the principal underwriter of Shares of the Funds. Applicants request that the requested relief apply to any distributor of Shares, whether affiliated or unaffiliated with the Adviser (included in the term “Distributor”). Any Distributor will comply with the terms and conditions of the Order.

### Applicants’ Requested Exemptive Relief

4. Applicants seek the requested Order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(f) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act. The requested Order would permit applicants to offer exchange-traded managed funds. Because the relief requested is the same as the relief granted by the Commission under the Reference Order and because the Adviser has entered into, or anticipates entering into, a licensing agreement with Eaton Vance Management, or an affiliate thereof in order to offer exchange-traded managed funds,<sup>2</sup> the Order would incorporate by reference the terms and conditions of the Reference Order.

5. Applicants request that the Order apply to the Initial Fund and to any other existing or future open-end management investment company or series thereof that: (a) Is advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser (any such entity included in the term “Adviser”); and (b) operates as an exchange-traded managed fund as described in the Reference Order; and (c) complies with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference herein (each such company or series and Initial Fund, a “Fund”).<sup>3</sup>

6. Section 6(c) of the Act provides that the Commission may exempt any

<sup>2</sup> Eaton Vance Management has obtained patents with respect to certain aspects of the Funds’ method of operation as exchange-traded managed funds.

<sup>3</sup> All entities that currently intend to rely on the Order are named as applicants. Any other entity that relies on the Order in the future will comply with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference herein.



person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

7. Applicants submit that for the reasons stated in the Reference Order: (1) With respect to the relief requested pursuant to section 6(c) of the Act, the relief is appropriate, in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; (2) with respect to the relief request pursuant to section 17(b) of the Act, the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned, are consistent with the policies of each registered investment company concerned and consistent with the general purposes of the Act; and (3) with respect to the relief requested pursuant to section 12(d)(1)(J) of the Act, the relief is consistent with the public interest and the protection of investors.

By the Division of Investment Management, pursuant to delegated authority.

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-05208 Filed 3-15-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80212; File No. SR-ISE-2017-18]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Harmonize Liability Caps and Related Reimbursement Requirements

March 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 28, 2017, the International Securities Exchange, LLC (“ISE” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 705 (Limitation of Liability) to harmonize its liability caps and related reimbursement requirements with those of NASDAQ BX, Inc. (“BX”), NASDAQ PHLX LLC (“Phlx”) and NASDAQ Stock Market LLC (“NSM” and together with BX and Phlx, the “Nasdaq Exchanges”).

The text of the proposed rule change is available on the Exchange’s Web site at [www.ise.com](http://www.ise.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

#### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of this proposed rule change is to amend Rule 705 (Limitation of Liability) to harmonize the Exchange’s existing liability caps and related reimbursement requirements for claims under Rule 705(d) with the caps and requirements set forth in the rules of the Nasdaq Exchanges.<sup>3</sup> The Exchange and its affiliates, ISE Gemini, LLC and ISE Mercury, LLC (together, the “ISE Exchanges”), were recently acquired (the “Acquisition”) by Nasdaq, Inc. (“HoldCo”).<sup>4</sup> In the context of the Acquisition, the ISE Exchanges are working to align certain rules with rules of the Nasdaq Exchanges in order to provide consistent standards across the six exchanges operated by HoldCo (the “HoldCo Affiliated Exchanges”). As part of this effort, the proposal set forth below harmonizes the Exchange’s liability caps and the related reimbursement requirements with those of the Nasdaq Exchanges in order to provide uniform standards and requirements for users of the HoldCo Affiliated Exchanges.<sup>5</sup>

Rule 705 in its current form generally states that the Exchange is not liable for any losses due to the Exchange’s negligence or unintentional actions, but also provides in Rule 705(d) that notwithstanding this general limitation on liability, the Exchange may compensate its members for losses resulting directly from the malfunction of the Exchange’s physical equipment, devices and/or programming. Subsections (d)(1)–(d)(3) of Rule 705 contains express conditions governing the voluntary payments made by the Exchange under these limited circumstances. Specifically, the Exchange’s payments for any and all system failures on a single trading day are capped at \$250,000 under subsection (d)(1). The rule text states that for the aggregate of all claims made by all market participants related to the use of the Exchange on a single trading day, the Exchange’s payments shall not exceed \$250,000. Subsection (d)(2) further provides that if the cumulative claims exceed the \$250,000 cap, this

<sup>3</sup> See BX Rule 4626(b) and Phlx Rule 1015. See also NSM Rule 4626(b).

<sup>4</sup> See Securities Exchange Act Release No. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR-ISE-2016-11; SR-ISEGemini-2016-05; SR-ISEMercury-2016-10).

<sup>5</sup> ISE Gemini, LLC and ISE Mercury, LLC will each file a proposed rule change with the Commission to adopt similar requirements.

amount would be proportionally allocated among all such claims. Finally, subsection (d)(3) specifies that in order for a member to be eligible to receive payment under this Rule, claims for payment must be made in writing and submitted no later than the opening of trading on the next business day after the loss. Once in receipt of a claim, the Exchange is required to verify that: (i) A valid order was accepted into the Exchange's systems; and (ii) an Exchange system failure occurred during the execution or handling of that order. A system failure will be deemed to have occurred when there is a malfunction of the Exchange's physical systems, devices or software.

The Exchange now proposes to amend the existing rule text in Rule 705(d) to adopt the same liability caps and reimbursement requirements as the Nasdaq Exchanges.<sup>6</sup> Proposed Rule 705(d) would provide that the Exchange may, notwithstanding the general limitations on liability contained in Rule 705(a), compensate users of the Exchange for losses directly resulting from the actual failure of the System,<sup>7</sup> or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility to correctly process an order, quote, message, or other data, provided that the Exchange has acknowledged receipt of the order, quote, message, or data. This limited exception in proposed Rule 705(d) would be subject to certain conditions and requirements contained in proposed subsections (d)(1)–(3).

Subsection (d)(1) proposes that the aggregate payments for all compensation claims made by all market participants related to the use of the Exchange during a single calendar month would not exceed the larger of \$500,000, or the amount of the recovery obtained by the Exchange under any applicable insurance policy.<sup>8</sup> Under this proposal, the Exchange will eliminate the existing \$250,000 daily cap on liability and consider all such claims on a monthly basis, subject to proposed \$500,000 monthly liability cap. Each Nasdaq Exchange currently analyzes total eligible liability claims on a per-month look-back basis. The Exchange's proposal to adopt an identical claims process, in effect, would allow ISE an increased capability to compensate a

market participant up to the monthly cap of \$500,000 even though the losses occurred on a single day or were across multiple days for a single participant.

Proposed subsection (d)(2) specifies how the reimbursement funds would be allocated in the event all of the compensation claims submitted during a single calendar month exceed the \$500,000 monthly cap. Specifically, if all of the claims arising out of the use of the Exchange cannot be fully satisfied because in the aggregate they exceed the limitations provided for in the Rule (\$500,000), then the maximum permitted amount would be proportionally allocated among all such claims arising during a single calendar month.<sup>9</sup> This is substantially similar to the existing process where the maximum amount is proportionally allocated among all such claims, except it would be for all claims arising during a one-month period under the proposed rule change rather than during a single trading day under the existing Rule.

Finally, proposed subsection (d)(3) specifies the requirements and procedures applicable to the submission of reimbursement claims. Specifically, all claims for compensation must be submitted in writing no later than 12:00 p.m. ET on the next business day following the day on which the use of the Exchange gave rise to such claims.<sup>10</sup> As such, the Exchange is proposing to extend the deadline to submit compensation claims from the opening of trading on the next business day to 12:00 p.m. ET. The Exchange believes that the extension of time to make such compensation claims increases the ability of market participants to submit claims in a timely manner. Proposed subsection (d)(3) also states that nothing in the Rule obligates the Exchange to seek recovery under any applicable insurance policy. If the Exchange does seek and receive an insurance recovery that is larger than \$500,000, the amount of that recovery would limit the reimbursement funds available for the incident supporting the recovery to the greater recovery amount.<sup>11</sup>

<sup>9</sup> See BX Rule 4626(b)(2), Phlx Rule 1015(2), and NSM Rule 4626(b)(5) for substantially similar provisions.

<sup>10</sup> See BX Rule 4626(b)(3) and Phlx Rule 1015(3) for substantially similar provisions. See also NSM Rule 4626(b)(6).

<sup>11</sup> There are no other practical differences between the Exchange's existing reimbursement rule and this proposal than as described above. Specifically these differences are: The liability caps (*i.e.* the greater of \$500,000 or, if the Exchange opts to seek recovery, the recovery amount under any applicable insurance policy), the look-back analysis period of one month, and the later claims deadline of 12:00 p.m. ET.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>12</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>13</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The proposal supports this policy by establishing a fair and transparent process by which the Exchange can accommodate claims for reimbursement for the failure of specified systems in specified facilities and under specified conditions. The Exchange believes that its proposal to amend Rule 705(d) will continue to promote fairness in the marketplace in situations where one or more firm's claim results from a problem in a function performed by the Exchange's trading system that is solely the fault of the Exchange. As noted above, the proposal would allow the Exchange an increased capability to compensate a market participant up to the monthly cap of \$500,000 even though the losses occurred on a single day or were across multiple days for a single participant. Furthermore, the proposed expansion of time to make such compensation claims would increase the ability of market participants to submit claims in a timely manner.

Lastly, the proposed rule change is intended to align the liability caps and compensation claims requirements with the caps and requirements currently provided by the Nasdaq Exchanges in order to provide consistent rules across the six HoldCo Affiliated Exchanges.<sup>14</sup> Consistent rules, in turn, would simplify the regulatory requirements for members of the Exchange that are also participants on the Nasdaq Exchanges. The Exchange believes that the proposed rule change would provide greater harmonization among similar rules of the HoldCo Affiliated Exchanges, resulting in greater uniformity and more efficient regulatory compliance. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> See note 4 above.

<sup>6</sup> See note 4 above.

<sup>7</sup> "System" means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. See the Second Amended and Restated Constitution of ISE, Section 13.1(gg).

<sup>8</sup> See BX Rule 4626(b)(1), Phlx Rule 1015(1), and NSM Rule 4626(b)(1) for substantially similar provisions.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because all members would be subject to the same liability caps and reimbursement requirements. The proposed rule change is designed to provide greater harmonization among similar rules across the six HoldCo Affiliated Exchanges, resulting in more efficient regulatory compliance for common members.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>15</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>16</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2017-18 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2017-18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2017-18, and should be submitted on or before April 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-05219 Filed 3-15-17; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>17</sup> 17 CFR 200.30-3(a)(12).

### SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. IC-32528; 812-14709]

### Parker Global Strategies, LLC; Notice of Application

March 10, 2017.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(f) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies ("Funds") to issue shares redeemable in large aggregations only ("Creation Units"); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value ("NAV"); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds ("Funds of Funds") to acquire shares of the Funds.

**APPLICANTS:** Parker Global Strategies, LLC (the "Initial Adviser"), a Connecticut limited liability company that will be registered as an investment adviser under the Investment Advisers Act of 1940, ETF Series Solutions (the "Trust"), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and Quasar Distributors, LLC (the "Distributor"), a Delaware limited liability company and broker-dealer registered under the Securities Exchange Act of 1934 ("Exchange Act").

**FILING DATES:** The application was filed on October 20, 2016 and amended on February 9, 2017.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>16</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 4, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090;

**Applicants:** The Initial Adviser, 9 West Broad Street, Suite 300, Stamford, CT 06902; the Trust and the Distributor, 615 East Michigan Street, 4th Floor, Milwaukee, WI 53202.

**FOR FURTHER INFORMATION CONTACT:** Aaron T. Gilbride, Senior Counsel, at (202) 551-6906, or Holly Hunter-Ceci, Acting Assistant Chief Counsel, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

### Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds ("ETFs").<sup>1</sup> Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an "Authorized Participant", which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the

<sup>1</sup> Applicants request that the order apply to the new series of the Trust and any additional series of the Trust, and any other open-end management investment company or series thereof (each, included in the term "Fund"), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an "Underlying Index"). Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an "Adviser") and (b) comply with the terms and conditions of the application.

requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond generally to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act ("Affiliated Person"), or an affiliated person of an Affiliated Person ("Second-Tier Affiliate"), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.<sup>2</sup>

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments ("Deposit Instruments"), and shareholders redeeming their shares will receive specified instruments ("Redemption Instruments"). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c-1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to

<sup>2</sup> Each Self-Indexing Fund will post on its Web site the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second-Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind

transactions with the Fund of Funds.<sup>3</sup> The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-05207 Filed 3-15-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

#### Extension:

Rule 15c3-3, SEC File No. 270-087, OMB Control No. 3235-0078

<sup>3</sup> The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

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 ("Commission") is soliciting comments on the existing collection of information provided for in Rule 15c3-3 (17 CFR 240.15c3-3), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act"). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 15c3-3 requires that a broker-dealer that holds customer securities obtain and maintain possession and control of fully-paid and excess margin securities they hold for customers. In addition, the Rule requires that a broker-dealer that holds customer funds make either a weekly or monthly computation to determine whether certain customer funds need to be segregated in a special reserve bank account for the exclusive benefit of the firm's customers. It also requires that a broker-dealer maintain a written notification from each bank where a Special Reserve Bank Account is held acknowledging that all assets in the account are for the exclusive benefit of the broker-dealer's customers, and to provide written notification to the Commission (and its designated examining authority) under certain, specified circumstances. Finally, broker-dealers that sell securities futures products ("SFP") to customers must provide certain notifications to customers and make a record of any changes of account type.

A broker-dealer required to maintain the Special Reserve Bank Account prescribed by Rule 15c3-3 must obtain and retain a written notification from each bank in which it has a Special Reserve Bank Account to evidence the bank's acknowledgement that assets deposited in the Account are being held by the bank for the exclusive benefit of the broker-dealer's customers. In addition, a broker-dealer must immediately notify the Commission and its designated examining authority if it fails to make a required deposit to its Special Reserve Bank Account. Finally, a broker-dealer that effects transactions in SFPs for customers also will have paperwork burdens to make a record of each change in account type.

The Commission staff estimates a total annual time burden of 517,348 hours and an aggregate cost of \$1,433,254 to comply with the rule.

*Written comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the

information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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:* Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: March 13, 2017.

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-05269 Filed 3-15-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80205; File No. SR-BatsBZX-2017-17]

### Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on the Exchange's Equity Options Platform

March 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 1, 2017, Bats BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange filed a proposal to amend the fee schedule applicable to Members<sup>5</sup> and non-members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at [www.bats.com](http://www.bats.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

#### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

##### **1. Purpose**

The Exchange proposes to amend its fee schedule for its equity options platform ("BZX Options") to: (i) Decrease the standard rebate provided by fee code PF; (ii) increase the standard fee assessed by fee code NP; (iii) increase the enhanced rebate provided in Firm, Broker Dealer and Joint Back Office Non-Penny Pilot Add Volume Tier 3, under footnote 8; (iv) increase the discounted fee provided in the Non-Customer<sup>6</sup> Non-Penny Pilot Take Volume Tier 1, under footnote 13; (v)

eliminate the existing Non-Customer Non-Penny Pilot Take Volume Tier 2, under footnote 13; and (vi) increase the discounted fee provided in the Non-Customer Non-Penny Pilot Take Volume Tier 3 (to be re-numbered as Tier 2), under footnote 13.

#### **Decrease the Standard Rebate Provided by Fee Code PF**

Currently, fee code PF of the Exchange's fee schedule sets forth the standard rebate of \$0.36 per contract for Firm,<sup>7</sup> Broker Dealer,<sup>8</sup> and Joint Back Office<sup>9</sup> orders that add liquidity on the Exchange in Penny-Pilot securities. The Exchange now proposes to reduce this standard rebate to \$0.26 per contract. The Exchange also proposes to update the Standard Rates table accordingly to reflect new standard rebate.

#### **Increase the Standard Fee Assessed by Fee Code NP**

Currently, fee code NP of the Exchange's fee schedule sets forth the standard fee of \$1.07 per contract for Non-Customer orders that remove liquidity on the Exchange in Non-Penny Pilot securities. The Exchange now proposes to increase this standard fee to \$1.10 per contract. The Exchange also proposes to update the Standard Rates table accordingly to reflect new standard fee.

#### **Increase the Enhanced Rebate Provided in Firm, Broker Dealer and Joint Back Office Non-Penny Pilot Add Volume Tier 3, Under Footnote 8**

Firm, Broker Dealer and Joint Back Office orders that add liquidity in Non-Penny Pilot securities yield fee code NF and are provided a standard rebate of \$0.30 per contract. Footnote 8 of the fee schedule sets forth three tiers, each providing enhanced rebates between \$0.45 and \$0.69 per contract to a Member's order that yields fee code NF upon satisfying monthly volume criteria. Under Tier 3, qualifying Members earn a rebate per share of \$0.69 on Firm, Broker Dealer and Joint Back Office orders that add liquidity in options in Non Penny Pilot securities. Currently, to qualify for this tier a

Member must have: (i) An ADV<sup>10</sup> greater than or equal to 2.30% of average OCV;<sup>11</sup> and (ii) an ADAV<sup>12</sup> in Away Market Maker,<sup>13</sup> Firm, Broker Dealer and Joint Back Office orders greater than or equal to 1.65% of average OCV. The Exchange proposes to increase the enhanced rebate provided by Tier 3 to \$0.82 per contract. The Exchange also proposes to update the Standard Rates table accordingly to reflect this new enhanced rebate.

#### **Modifications to Non-Customer Non-Penny Pilot Take Volume Tiers Under Footnote 13**

Non-Customer orders that yield fee code NP are charged a standard fee of \$1.07 per contract. Footnote 13 of the fee schedule sets forth three tiers, each providing reduced fees of either \$1.01 or \$1.02 per contract to a Member's order that yields fee code NP upon satisfying monthly volume criteria.

- Tier 1 offers a reduced fee of \$1.02 per share and currently requires that a Member has: (i) An ADAV in Customer<sup>14</sup> orders greater than or equal to 0.80% of average OCV; (ii) an ADAV in Market Maker<sup>15</sup> orders greater than or equal to 0.35% of average OCV; and (iii) on the Exchange's equity securities platform ("BZX Equities") an ADAV greater than or equal to 0.30% of average TCV. As amended, Tier 1 will offer a reduced fee of \$1.04 per share. The Exchange does not propose to modify the required criteria for this Tier as part of this filing.

- Tier 2 offers a reduced fee of \$1.02 per share and currently requires that a

<sup>10</sup> "ADV" means average daily volume calculated as the number of contracts added or removed, combined, per day. *Id.*

<sup>11</sup> "OCV" means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation ("OCC") for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. *See* the Exchange's fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

<sup>12</sup> "ADAV" means average daily added volume calculated as the number of contracts added per day. *Id.*

<sup>13</sup> "Away Market Maker" applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is not registered with the Exchange as a Market Maker, but is registered as a market maker on another options exchange. *Id.*

<sup>14</sup> "Customer" applies to any transaction identified by a Member for clearing in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a "Professional" as defined in Exchange Rule 16.1. *Id.*

<sup>15</sup> "Market Maker" applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37). *See* the Exchange's fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." *See* Exchange Rule 1.5(n).

<sup>6</sup> "Non-Customer" applies to any transaction identified by a Member for clearing which is not in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a "Professional" as defined in Exchange Rule 16.1. *See* the Exchange's fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

<sup>7</sup> "Firm" applies to any transaction identified by a Member for clearing in the Firm range at the OCC, excluding any Joint Back Office transaction. *Id.*

<sup>8</sup> "Broker Dealer" applies to any order for the account of a broker dealer, including a foreign broker dealer, that clears in the Customer range at the Options Clearing Corporation ("OCC"). *Id.*

<sup>9</sup> "Joint Back Office" applies to any transaction identified by a Member for clearing in the Firm range at the OCC that is identified with an origin code as Joint Back Office. A Joint Back Office participant is a Member that maintains a Joint Back Office arrangement with a clearing broker-dealer. *Id.*

Member has an ADAV in Customer orders greater than or equal to 1.30% of average OCV. The Exchange proposes to eliminate Tier 2.

- Tier 3 offers a reduced fee of \$1.01 per share and currently requires that a Member has an ADAV in Customer orders greater than or equal to 1.30% of average OCV. The Exchange proposes to re-number Tier 3 as Tier 2 based on the elimination of Tier 2 discussed above. Also, as amended, Tier 2 will offer a reduced fee of \$1.04 per share. The Exchange does not propose to modify the required criteria for this Tier as part of this filing.

### Implementation Date

The Exchange proposes to implement the above changes to its fee schedule on March 1, 2017.<sup>16</sup>

### 2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,<sup>17</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>18</sup> in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange.

### Fee Codes PF and NP

The Exchange believes that its proposals to reduce the rebate provided by fee code PF and increase the fee provided by fee code NP are fair and equitable and reasonable because, such proposed fees and rebates remain consistent with pricing previously offered by the Exchange as well as competitors of the Exchange and do not represent a significant departure from the Exchange's general pricing structure and will allow the Exchange to earn additional revenue that can be used to offset the addition of new pricing incentives. Lastly, the proposed changes to fee codes PF and NP are not unfairly

discriminatory because they will apply equally to all Members.

### Modifications to the Volume Discount Tier Rebates and Required Criteria

The Exchange believes that the proposed modifications to the tiered pricing structure are reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive or incentives provided to be insufficient. The proposed fee structure remains intended to attract order flow to the Exchange by offering market participants a competitive pricing structure. The Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange.

Volume-based pricing such as that proposed herein have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provisions and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes.

The proposed modifications proposed herein are also intended to incentivize additional Members to send orders to the Exchange in an effort to qualify for the enhanced rebate or reduced fee made available by the tiers, in turn contributing to the growth of the Exchange. Thus, the Exchange believes that the proposed modifications to the tiered pricing structure is a reasonable, fair and equitable, and not an unfairly discriminatory allocation of fees and rebates, because it will provide Members with an incentive to reach certain thresholds on the Exchange by contributing a meaningful amount of order flow to the Exchange. The Exchange believes the proposed change to each tier's criteria is consistent with the Act.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendment to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered

by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange does not believe that the proposed change to the Exchange's standard fees, rebates and tiered pricing structure burdens competition, but instead, enhances competition as it is intended to increase the competitiveness of the Exchange.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>19</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>20</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BatsBZX-2017-17 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities

<sup>16</sup> The Exchange notes that the date of its fee schedule was previously amended to state March 1, 2017 in SR-BatsBZX-2017-05. See Securities Exchange Act Release No. 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017).

<sup>17</sup> 15 U.S.C. 78f.

<sup>18</sup> 15 U.S.C. 78f(b)(4).

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4(f).

and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-BatsBZX-2017-17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BatsBZX-2017-17 and should be submitted on or April 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-05212 Filed 3-15-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80204; File No. SR-BatsEDGX-2017-14]

### Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees as They Apply to the Equity Options Platform

March 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 1, 2017, Bats EDGX Exchange, Inc. (the “Exchange” or “EDGX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members<sup>5</sup> and non-members of the Exchange pursuant to EDGX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at [www.bats.com](http://www.bats.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend its fee schedule for its equity options platform (“EDGX Options”) to: (i) Adopt

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> The term “Member” is defined as “any registered broker or dealer that has been admitted to membership in the Exchange.” See Exchange Rule 1.5(n).

fees for its recently adopted Qualified Contingent Cross Orders (“QCC”);<sup>6</sup> and (ii) modify the criteria of two tiers related to orders executed in Bats Auction Mechanism (“BAM”).

#### Background of QCC

The Exchange recently filed to adopt functionality allowing participants on the Exchange the ability to submit to the Exchange Qualified Contingent Cross Orders, an order type offered by multiple other options exchanges.<sup>7</sup> The operation of Qualified Contingent Cross Orders on the Exchange will be substantially similar in all material respects to the operation of such orders on such other exchanges.<sup>8</sup>

#### Definitions of QCC

In connection with this fee proposal, the Exchange proposes to adopt definitions necessary for QCC pricing. First, the Exchange proposes to adopt defined terms of “QCC” to refer to Qualified Contingent Cross Orders on the fee schedule. Second, the Exchange proposes to adopt the defined term “QCC Agency”, which would be defined as a Qualified Contingent Cross Order represented as agent by a Member on behalf of another party, and submitted for execution pursuant to Rule 21.1. Third, the Exchange proposes to adopt the defined term “QCC Contra”, which would be defined as a Qualified Contingent Cross Order submitted by a Member that will potentially execute against the QCC Agency Order pursuant to Rule 21.1.

#### Pricing of QCC Orders

The Exchange proposes to adopt four new fee codes in connection with QCC, which would be added to the Fee Codes and Associated Fees table of the Fee Schedule. These fee codes represent the fees applicable to QCC, as described below. As proposed, initially all executions in QCC orders would be provided free of charge. The Exchange proposes to adopt two fee codes for QCC Agency Orders, fee code QA and fee code QM, which would be applicable to Customer<sup>9</sup> and Non-Customer<sup>10</sup> QCC

<sup>6</sup> See Securities Exchange Act Release No. 79942 (February 1, 2017), 82 FR 9804 (February 8, 2017) (SR-BatsEDGX-2017-11) (“QCC Filing”).

<sup>7</sup> See ISE Rule 715(j), Supplementary Material .01 to ISE Rule 715 and ISE Rule 721(b); see also CBOE Rule 6.53(u); NASDAQ PHLX Rule 1080(o); NYSE Arca Rule 6.62(bb), Commentary .02 to NYSE Arca Rule 6.62 and NYSE Arca Rule 6.90.

<sup>8</sup> See QCC Filing supra, note 6.

<sup>9</sup> “Customer” applies to any transaction identified by a Member for clearing in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a “Professional” as defined in Exchange Rule 16.1.

<sup>10</sup> “Non-Customer” applies to any transaction that is not a Customer order.

<sup>21</sup> 17 CFR 200.30-3(a)(12).



Agency Orders, respectively. The Exchange proposes to adopt two fee codes for QCC Contra Orders, fee code QC and fee code QN, which would be applicable to Customer and Non-Customer QCC Contra Orders, respectively.

### Modification of Customer Volume Tier 6

The Exchange proposes to modify the required criteria for the Tier 6 under footnote 1 of the fee schedule. The Exchange currently offers enhanced rebates ranging from \$0.10 to \$0.25 per share under six Add Volume Tiers set forth in footnote 1. Under Tier 6, qualifying Members earn a rebate per share of \$0.25 on orders yielding fee codes PC<sup>11</sup> and NC<sup>12</sup>. Currently, to qualify for this tier a Member must: (i) Have an ADV<sup>13</sup> in Customer orders greater than or equal to 0.05% of average OCV<sup>14</sup>; (ii) have an ADV in Customer or Market Maker<sup>15</sup> orders greater than or equal to 0.35% of average OCV; and (iii) have an ADV in BAM Agency Orders<sup>16</sup> greater than or equal to 1 contract. The Exchange now proposes to modify the third prong of this tier to require that a Member have an ADV in BAM Agency Orders greater than or equal to 10,000 contracts.

### Modification of Market Maker Volume Tier 8

The Exchange proposes to modify the required criteria for the Tier 8 under footnote 2 of the fee schedule. The Exchange currently offers reduced fees ranging from \$0.01 rebate to a \$0.16 fee per share under eight Market Maker Volume Tiers set forth in footnote 2.

<sup>11</sup> Fee code PC is appended to Customer orders in Penny Pilot securities. Orders that yield fee code PC receive a standard rebate of \$0.05 per contract. See the Exchange's fee schedule available at [http://www.bats.com/us/equities/membership/fee\\_schedule/edgx/](http://www.bats.com/us/equities/membership/fee_schedule/edgx/).

<sup>12</sup> Fee code NC is appended to Customer orders in Non-Penny Pilot securities. Orders that yield fee code NC receive a standard rebate of \$0.05 per contract. *Id.*

<sup>13</sup> "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day, and is calculated on a monthly basis. *Id.*

<sup>14</sup> "OCV" means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation ("OCC") for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. *Id.*

<sup>15</sup> "Market Maker" applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37). *Id.*

<sup>16</sup> "BAM Agency Order" is an order represented as agent by a Member on behalf of another party and submitted to BAM for potential price improvement pursuant to Rule 21.19. *Id.*

Under Tier 8, qualifying Members are charged a reduced fee per share of \$0.02 on orders yielding fee codes PM<sup>17</sup> and NM<sup>18</sup>. Currently, to qualify for this tier a Member must: (i) Have an ADV in Customer orders greater than or equal to 0.05% of average OCV; (ii) have an ADV in Customer or Market Maker orders greater than or equal to 0.35% of average OCV; and (iii) have an ADV in BAM Agency Orders greater than or equal to 1 contract. The Exchange now proposes to modify the third prong of this tier to require that a Member have an ADV in BAM Agency Orders greater than or equal to 10,000 contracts.

### Implementation Date

The Exchange proposes to implement this amendment to its fee schedule on March 1, 2017.<sup>19</sup>

### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.<sup>20</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>21</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among Members and other persons using any facility or system which the Exchange operates or controls.

The Exchange's proposal establishes definitions and pricing for QCC, thus, allowing the Exchange to launch functionality that is designed to offer market participants the ability to submit QCC Orders to the Exchange in the same way they are permitted to send QCC Orders to other options exchanges. The Exchange believes that its proposal to offer functionality related to QCC Orders without charge is reasonable and fair and equitable because this pricing structure will incentivize the use of QCC, which is new functionality that has not previously been offered by the Exchange. The Exchange further

<sup>17</sup> Fee code PM is appended to Market Maker orders in Penny Pilot securities. Orders that yield fee code PM pay a standard fee of \$0.19 per contract. *Id.*

<sup>18</sup> Fee code NM is appended to Customer orders in Non-Penny Pilot securities. Orders that yield fee code NM pay a standard fee of \$0.19 per contract. *Id.*

<sup>19</sup> The Exchange notes that the date of its fee schedule was previously amended to state March 1, 2017 in SR-BatsEDGX-2017-07. See Securities Exchange Act Release No. 79957 (February 3, 2017), 82 FR 10071 (February 9, 2017).

<sup>20</sup> 15 U.S.C. 78f.

<sup>21</sup> 15 U.S.C. 78f(b)(4).

believes that this pricing structure is non-discriminatory, as it applies equally to all Members and all components of QCC Orders submitted to the Exchange, regardless of the capacity (*i.e.*, Customer or Non-Customer) of the order. Over time, as QCC grows, the Exchange anticipates that it would adopt a pricing structure that would ultimately generate revenue for the Exchange, however, again, the Exchange believes that it is reasonable to launch this new functionality without charge in order to incentivize its use.

In addition, the Exchange believes that the proposed modification to the tiered pricing structure is reasonable, fair and equitable, and non-discriminatory. Volume-based rebates such as that proposed herein have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provisions and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes. The modification proposed herein is intended to incentivize Members to send additional BAM Agency Orders to the Exchange in an effort to qualify for the enhanced rebate or reduced fee made available by the tiers, in turn contributing to the growth of BAM on the Exchange. Thus, the Exchange believes that the proposed tier, as modified, is a reasonable, fair and equitable, and not an unfairly discriminatory allocation of fees and rebates, because it will provide Members with an incentive to reach certain thresholds on the Exchange by contributing a meaningful amount of BAM Agency Orders.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change to adopt fees and definitions related to QCC Orders will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposed functionality is open to all market participants. Further, the proposed rule will allow the Exchange launch the QCC functionality, which in turn will allow the Exchange to compete with other options exchanges that currently offer QCC Orders. Thus, the proposal alleviates the burden on competition that would arise if such exchanges were permitted to continue offering such

functionality and the Exchange was not. For these reasons, the Exchange does not believe that the proposed fee schedule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and believes the proposed change will enhance competition.

The Exchange does not believe that any of the proposed change to the Exchange's tiered pricing structure burden competition, but instead, that it enhances competition as it is intended to increase the competitiveness of EDGX by modifying pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange, particularly in the context of BAM, which is relatively new functionality offered by the Exchange.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>22</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>23</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BatsEDGX-2017-14 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-BatsEDGX-2017-14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BatsEDGX-2017-14, and should be submitted on or before April 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05211 Filed 3-15-17; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-80214; File No. SR-NYSE-2016-44]

### **Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendment No. 4 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 4, Allowing the Exchange To Trade Pursuant to Unlisted Trading Privileges Any NMS Stock Listed on Another National Securities Exchange; Establishing Listing and Trading Requirements for Exchange Traded Products; and Adopting New Equity Trading Rules Relating to Trading Halts of Securities Traded Pursuant to Unlisted Trading Privileges on the Pillar Platform**

March 10, 2017.

#### **I. Introduction**

On June 30, 2016, New York Stock Exchange LLC ("Exchange" or "NYSE") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to (1) allow the Exchange to trade pursuant to unlisted trading privileges ("UTP") any NMS Stock<sup>3</sup> listed on another national securities exchange; (2) establish listing and trading requirements for exchange traded products ("ETPs"); and (3) adopt new equity trading rules relating to trading halts for securities traded pursuant to UTP on the Exchange's new trading platform, Pillar. The proposed rule change was published for comment in the **Federal Register** on July 14, 2016.<sup>4</sup> On July 26, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>5</sup> On August 23, 2016, the

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The term "NMS Stock" is defined in Rule 600 of Regulation NMS. See 17 CFR 242.600(b)(47).

<sup>4</sup> See Securities Exchange Act Release No. 78263 (July 8, 2016), 81 FR 45580 ("Notice").

<sup>5</sup> In Amendment No. 1, the Exchange: (1) Added a bullet point stating that "[b]ecause the Exchange's rules regarding the production of books and records are described in Rule 440, the Exchange is proposing to refer to Rule 440 in its proposed rules wherever NYSE Arca Equities Rule 4.4 is referenced in the rules of NYSE Arca Equities proposed in this filing;" (2) deleted the sentence stating that "[i]f an exchange has approved trading rules, procedures and listing standards in place that have been approved by the Commission for the product class that would include a new derivative securities product, the listing and trading of such 'new derivative securities product,' does not require a proposed rule change under Section 19b-4 of the Act" and made conforming changes to the rest of that paragraph; (3) deleted the bullet point that stated "[c]orrection of a typographical error in

<sup>22</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>23</sup> 17 CFR 240.19b-4(f).

<sup>24</sup> 17 CFR 200.30-3(a)(12).

Commission designated a longer period for action on the proposed rule change.<sup>6</sup> On August 26, 2016, the Exchange filed Amendment No. 2 to the proposed rule change.<sup>7</sup> On October 12, 2016, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act to determine whether to disapprove the proposed rule change.<sup>8</sup> On January 4, 2017, the Commission extended the time period for Commission action to March 11, 2017.<sup>9</sup> The Commission received no comments on the proposed rule change. On March 8, 2017, the Exchange submitted Amendment No. 3 to the proposed rule change. On March 10, 2017, the Exchange withdrew Amendment No. 3 to the proposed rule change and submitted Amendment No. 4 to the proposed rule change.<sup>10</sup> The

NYSE Arca Equities Rule 8.400(a) so that proposed Rule 8.400(a) reads ‘as such terms are used in Rule 5.1(b)’ in the last sentence, rather than ‘as such terms are used in the Rule 5.1(b)’ as is currently drafted in NYSE Arca Equities Rule 8.400(a);’ and (4) noted that ‘for new ETPs to be traded pursuant to UTP, which are listed and traded on another exchange pursuant to Rule 19b–4(e), the Exchange would be required to file Form 19b–4(e) with the Commission in accordance with the requirements therein.’ Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-nyse-2016-44/nyse201644-1.pdf>. Because Amendment No. 1 to the proposed rule change does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 is not subject to notice and comment.

<sup>6</sup> See Securities Exchange Act Release No. 78641, 81 FR 59259 (August 29, 2016).

<sup>7</sup> In Amendment No. 2, the Exchange: (1) Added the clause ‘pursuant to UTP’ at the end of the sentence that states that ‘[t]he Exchange would have to file a Form 19b–4(e) with the Commission to trade these ETPs;’ (2) in the first footnote that follows that sentence, deleted the clause ‘pursuant to Rule 19b–4(e);’ and (3) to the end of that same footnote, added the reference ‘[s]ee proposed Rule 5.1(a)(2); supra note 19 and accompanying text.’ Amendment No. 2 is available at: <https://www.sec.gov/comments/sr-nyse-2016-44/nyse201644-2.pdf>. Because Amendment No. 2 to the proposed rule change does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 2 is not subject to notice and comment.

<sup>8</sup> See Securities Exchange Act Release No. 79085, 81 FR 71771 (October 18, 2016).

<sup>9</sup> See Securities Exchange Act Release No. 79736, 82 FR 3067 (January 10, 2017).

<sup>10</sup> In Amendment No. 4, the Exchange revised the proposed listing and trading requirements for the Subject ETPs (as defined below) to incorporate amendments to the NYSE Arca Equities requirements for the same products, which the Commission recently approved. See Securities Exchange Act Release No. 80189 (March 9, 2017) (SR–NYSEArca–2017–01) (“Arca Amendment”). In addition, in Amendment No. 4, the Exchange (i) added a statement that the Exchange’s Pillar implementation is targeted for completion by year-end 2017 and represented that the Exchange will announce the trading on Pillar of all Tape B and C symbols, on a UTP basis, by Trader Update to go out prior to the scheduled implementation date; (ii) deleted proposed Supplementary Material .01 to Rule 5.1(a); (iii) clarified both in the filing and in the proposed rule text that the Exchange is adopting ETP rules only for purposes of trading on Pillar pursuant to UTP and that it does not plan to list

Commission is publishing this notice to solicit comment on Amendment No. 4 to the proposed rule change from interested persons and is approving the proposed rule change, as modified by Amendment Nos. 1, 2, and 4, on an accelerated basis.

## II. Description of the Proposal, As Modified by Amendment Nos. 1, 2, and 4<sup>11</sup>

NYSE proposes to trade on its Pillar trading platform,<sup>12</sup> pursuant to unlisted trading privileges, any NMS Stock listed on another national securities exchange (*i.e.*, Tapes B and C symbols).<sup>13</sup> NYSE also proposes to establish listing and trading requirements for certain types of ETPs (the “Subject ETPs”) on Pillar.<sup>14</sup> The Exchange’s proposed rules for the qualification, listing, and trading of the Subject ETPs are substantially identical to the rules of NYSE Arca Equities.<sup>15</sup> Finally, the Exchange proposes to adopt new equity trading rules relating to trading halts of securities traded pursuant to UTP on Pillar.

The Exchange only proposes to trade securities pursuant to UTP on its Pillar trading platform; the Exchange does not propose to trade securities pursuant to UTP on its Existing Platform.

ETPs on Pillar under these ETP rules; (iv) proposed to adopt NYSE Arca Equities Rule 5.5(m) concerning procedures for delisting ETPs; and (v) made other technical corrections. Amendment No. 4 is available at <https://www.sec.gov/comments/sr-nyse-2016-44/nyse201644-1627614-137373.pdf>.

<sup>11</sup> Additional information regarding the proposal can be found in the Notice, *supra* note 4, and in Amendment No. 4, *supra* note 10.

<sup>12</sup> On January 29, 2015, the Exchange announced the implementation of Pillar, which is an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by the Exchange and its affiliates, NYSE Arca, Inc. (“NYSE Arca”) and NYSE MKT LLC (“NYSE MKT”). See Trader Update dated January 29, 2015, available here: [http://www1.nyse.com/pdfs/Pillar\\_Trader\\_Update\\_Jan\\_2015.pdf](http://www1.nyse.com/pdfs/Pillar_Trader_Update_Jan_2015.pdf). See also Securities Exchange Act Release No. 76803 (December 30, 2015), 81 FR 536 (January 6, 2016) (SR–NYSE–2015–67) (“Pillar Framework Filing”).

<sup>13</sup> The Exchange will continue to trade Tape A symbols on its separate, existing trading platform (“Existing Platform”) and will not trade securities pursuant to UTP on the Existing Platform.

<sup>14</sup> Specifically, the Exchange proposes to establish listing and trading rules for the following: Equity Linked Notes, Investment Company Units, Index-Linked Exchangeable Notes, Equity Gold Shares, Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed-Income Index-Linked Securities, Futures-Linked Securities, Multifactor-Index-Linked Securities, Trust Certificates, Currency and Index Warrants, Portfolio Depository Receipts, Trust Issued Receipts, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Paired Trust Shares, Trust Units, Managed Fund Shares, and Managed Trust Securities.

<sup>15</sup> See NYSE Arca Equities Rules 5 (Listings) and 8 (Trading of Certain Equities Derivatives).

Furthermore, the Exchange does not intend to list the Subject ETPs on Pillar or on its Existing Platform. Therefore, the Exchange proposes rules that only apply to Pillar and does not propose any changes to the rules pertaining to the Existing Platform. The following further describes the Exchange’s proposal.

### New Definitions

The Exchange proposes to define the term “Exchange Traded Product” in Rule 1.1 (bbb)<sup>16</sup> to mean a security that meets the definition of “derivative securities product” in Rule 19b–4(e) under the Act and a “UTP Exchange Traded Product” to mean an Exchange Traded Product that trades on the Exchange pursuant to unlisted trading privileges.<sup>17</sup> The Exchange is also proposing to add Rule 1.1(jj) to define “UTP Listing Market” as the primary listing market for a UTP security, and Rule 1.1(kk) to define “UTP Regulatory Halt” as a trade suspension, halt, or pause called by the UTP Listing Market in a UTP security that requires all market centers to halt trading in that security.

### Proposal to Trade Securities Pursuant to UTP

The Exchange proposes new Rule 5.1(a) to extend UTP to Pillar for securities listed on other national securities exchanges. Specifically, proposed Rule 5.1(a)(1) would allow the Exchange to trade securities eligible for UTP under Section 12(f) of the Act.<sup>18</sup> Proposed Rule 5.1(a) provides that the securities the Exchange trades pursuant to UTP would be traded on Pillar under the rules applicable to such trading. The Exchange does not currently have rules in place to operate trading on the Pillar platform, and the Exchange has represented that it would not trade UTP securities until it has effective trading rules for the Pillar platform in place.<sup>19</sup>

Proposed Rule 5.1(a)(1) makes clear that the Exchange would not list any ETPs unless it files a proposed rule

<sup>16</sup> As the Exchange is proposing new rules that are only applicable to the Pillar platform, references in this Order to proposed NYSE Rules 1, 5, 7, and 8 would fall under NYSE Rules 1P, 5P, 7P, and 8P, respectively. See Notice at 45581.

<sup>17</sup> This proposed definition is identical to the definition of “Derivative Securities Product” in NYSE Arca Equities Rule 1.1(bbb).

<sup>18</sup> 15 U.S.C. 78l(f).

<sup>19</sup> See Notice, *supra* note 4, at 45581. The Exchange has adopted a framework for rules governing trading on Pillar and has stated its intent to file additional proposed rule changes to adopt rules to operate the Exchange on the Pillar platform. See Pillar Framework Filing, *supra* note 12, at 537 (“Through a series of subsequent rule filings, the Exchange will propose to populate the individual rules with the rule text to operate the Exchange on the Pillar platform”).

change under Section 19(b)(2) under the Act.<sup>20</sup> Therefore, the provisions of proposed Rules 5 and 8 described below, which permit the listing of ETPs, would not be effective until the Exchange files a proposed rule change to amend its rules to comply with Rules 10A-3 and 10C-1 under the Act and to incorporate qualitative listing criteria, and such proposed rule change is approved by the Commission.<sup>21</sup>

#### *UTP of Exchange Traded Products*

The Exchange proposes Rule 5.1(a)(2) to govern trading of ETPs pursuant to UTP and Rule 19b-4(e) under the Act. Specifically, proposed Rule 5.1(a)(2)(A) provides that, within five days after commencement of trading, the Exchange would file a Form 19b-4(e) with the Commission with respect to each ETP the Exchange trades pursuant to UTP.

The Exchange proposes certain other rules to support the trading of ETPs pursuant to UTP. For example, proposed Rule 5.1(a)(2)(B) provides that the Exchange will distribute an information circular prior to the commencement of trading in an ETP, which would generally include the same information as the information circular provided by the listing exchange, including (a) the special risks of trading the ETP, (b) the Exchange's rules that will apply to the ETP, including Rules 2090 and 2111,<sup>22</sup> and (c) information about the dissemination of value of the underlying assets or indices.

In addition, proposed Rule 5.1(a)(2)(C) establishes certain requirements for member organizations that have customers that trade ETPs on a UTP basis, including requirements pertaining to prospectus delivery and the provision of written description of terms and characteristics of the ETPs. Also, proposed Rule 5.1(a)(2)(E) imposes restrictions on member organizations that are registered as market makers on the Exchange for certain ETPs. Finally, proposed Rule 5.1(a)(2)(F) specifies certain surveillance mechanisms for ETPs traded on the Exchange pursuant to UTP. Namely, the Rule provides that the Exchange will enter into a comprehensive surveillance sharing agreements with markets that trade components of the index or

portfolio on which the Subject ETPs are based.<sup>23</sup>

Next, the Exchange proposes to add the definitions contained in NYSE Arca Equities Rule 5.1(b) that are relevant to the ETP listing and trading rules the Exchange proposes in this filing, with some non-substantive differences to account for the peculiarities of the two exchanges and their respective rule books.

#### *Listing and Trading Requirements for ETPs*

The Exchange is proposing substantially identical rules to those of NYSE Arca Equities for the qualification, listing, and delisting of the ETPs. The Exchange proposes to add Rule 5.2(j), which would be substantially identical to NYSE Arca Equities Rule 5.2(j). This proposed rule pertains to the following: Equity Linked Notes (Rule 5.2(j)(2)); Investment Company Units (Rule 5.2(j)(3)); Index-Linked Exchangeable Notes (Rule 5.2(j)(4)); Equity Gold Shares (Rule 5.2(j)(5)); Equity Index Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities, and Multifactor Index-Linked Securities (Rule 5.2(j)(6)); and Trust Certificates (Rule 5.2(j)(7)). The Exchange also proposes to add Rules 5.5(g)(2), which would provide additional continuous listing standards for Investment Company Units; 5.5(j)-1, which would provide additional continuous listing standards for Equity Linked Notes; and 5.5(m), which would provide delisting procedures for ETPs. The text of these proposed rules is identical to NYSE Arca Equities Rules 5.2(j)(2)-5.2(j)(7), 5.5(g)(2), 5.5(j)-1, and 5.5(m), other than certain non-substantive and technical differences.

Further, The Exchange also proposes to add Rule 8, which is substantially identical to Sections 1 and 2 of NYSE Arca Equities Rule 8. This proposed rule pertains to the following: Currency and Index Warrants (Rules 8.1-8.13), Portfolio Depository Receipts (Rule 8.100), Trust Issued Receipts (Rule 8.200), Commodity-Based Trust Shares (Rule 8.201), Currency Trust Shares (Rule 8.202), Commodity Index Trust Shares (Rule 8.203), Commodity Futures Trust Shares (Rule 8.204), Partnership Units (Rule 8.300), Paired Trust Shares

(Rule 8.400), Trust Units (Rule 8.500), Managed Fund Shares (Rule 8.600), and Managed Trust Securities (Rule 8.700).

As mentioned above, however, the Exchange would not list any ETPs unless it files a proposed rule change under Section 19(b)(2) under the Act.<sup>24</sup> Therefore, the provisions of Rules 5 and 8 which permit the listing of ETPs would not be effective until the Exchange files a proposed rule change to amend its rules to comply with Rules 10A-3 and 10C-1 under the Act and to incorporate qualitative listing criteria, and such proposed rule change is approved by the Commission.

#### *Proposed Rule 7.18—Requirements for Halts on Pillar Platform*

In conjunction with the implementation of Pillar for trading of securities pursuant to UTP, the Exchange proposes new Rule 7.18 which governs trading halts in symbols trading on Pillar. These rules are substantively identical to their NYSE Arca Equities counterparts.

### **III. Discussion and Commission Findings**

After careful review, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1, 2, and 4, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>25</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>26</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange proposes to trade on Pillar, pursuant to UTP, NMS Stocks listed on another national securities exchange, including the Subject ETPs. Section 12(f) of the Act<sup>27</sup> provides that any national securities exchange may extend unlisted trading privileges to securities listed and registered on other national securities exchanges, subject to

<sup>20</sup> 15 U.S.C. 78s(b)(2).

<sup>21</sup> In addition, the introductory note to each of proposed Rules 5P and 8P states that the provisions of the rules apply to the trading pursuant to UTP of ETPs on the Exchange and do not apply to the listing of ETPs on the Exchange.

<sup>22</sup> See NYSE Rule 2090 (the Exchange's Know Your Customer Rule) and NYSE Rule 2111 (the Exchange's Suitability Rule).

<sup>23</sup> In addition, the Exchange represents that its surveillance procedures for ETPs traded on the Exchange pursuant to UTP would be similar to the procedures used for equity securities traded on the Exchange and would incorporate and rely upon existing Exchange surveillance systems. See Notice, *supra* note 4, at 45582.

<sup>24</sup> 15 U.S.C. 78s(b)(2).

<sup>25</sup> 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).

<sup>26</sup> 15 U.S.C. 78f(b)(5).

<sup>27</sup> 15 U.S.C. 78l.

Commission rules. In particular, in order to extend unlisted trading privileges to securities listed elsewhere, Rule 12f-5 under the Act requires a national securities exchange to have in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends unlisted trading privileges.<sup>28</sup> The Commission notes that the Exchange's proposed Rule 5.1 allows NYSE to extend unlisted trading privileges in Pillar to any security that is an NMS Stock that is listed on another national securities exchange.

The Commission has previously approved substantively identical rules for the listing and trading of the Subject ETPs on NYSE Arca Equities. The Exchange represents that it will not list, but only trade, the Subject ETPs on a UTP basis. The Exchange represents that to trade pursuant to UTP any ETP that is listed and traded on another national securities exchange, NYSE would be required to file Form 19b-4(e) with the Commission.

The Commission believes that the Exchange's proposal does not raise any novel issues, as it is consistent with the rules of other national securities exchanges that trade securities and, in particular, ETPs pursuant to UTP.<sup>29</sup> Additionally, the Exchange represents, and its proposed rules specify, that NYSE will not list any Subject ETPs unless it first obtains Commission approval of a proposed rule change under Section 19(b)(2) of the Act. Therefore, the provisions of proposed Rules 5 and 8 that permit the listing of Subject ETPs would only be effective if the Commission approves a proposed rule change for the Exchange to amend its rules to comply with Rules 10A-3 and 10C-1 under the Act and to incorporate qualitative listing criteria. Finally, the Commission notes that NYSE has represented that it will be responsible for accepting the obligations pertinent to a UTP market, including specific requirements for registered market makers, books and record production, surveillance procedures, suitability and prospectus requirements, and requisite Exchange approvals.<sup>30</sup>

The Commission believes that the trading of Tapes B and C symbols, including ETPs, on NYSE on a UTP basis should lead to increased competition among the different securities markets, as well as provide

market participants with improved price discovery, increased liquidity, more competitive quotes, and greater price improvement in those securities.<sup>31</sup> The Commission therefore finds that NYSE's proposed rules governing trading on a UTP basis on its Pillar platform are consistent with the Act.

#### IV. Solicitation of Comments on Amendment No. 4

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 4 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2016-44 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-2016-44. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change;

the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2016-44 and should be submitted on or before April 6, 2017.

#### V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 4

Amendment No. 4: (1) Revised the proposed listing and trading requirements for the Subject ETPs to take into account recently approved amendments to the NYSE Arca Equities requirements for the same products;<sup>32</sup> (2) added a statement that the Exchange's Pillar implementation is targeted for completion by year-end 2017 and a representation that the Exchange will announce the trading on Pillar of all Tape B and C symbols, on a UTP basis, by Trader Update prior to the scheduled implementation date; (3) deleted proposed Supplementary Material .01 to Rule 5.1(a); (4) clarified both in the filing and in the proposed rule text that the Exchange is adopting ETP rules only for purposes of trading on Pillar pursuant to UTP and that it does not plan to list ETPs on Pillar under these ETP rules; (5) proposed to adopt NYSE Arca Equities Rule 5.5(m) concerning procedures for delisting ETPs; and (6) made other technical corrections. Thus, as a result of Amendment No. 4, among other things, the Exchange's proposed rules for the Subject ETPs remain substantially identical to the rules of NYSE Arca Equities for the qualification, listing, and trading of the Subject ETPs.

The Commission believes that Amendment No. 4 furthers the goals of the proposed rule change and does not raise novel regulatory issues. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>33</sup> to approve the proposed rule change, as modified by Amendment Nos. 1, 2 and 4, on an accelerated basis.

#### VI. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>34</sup> that the proposed rule change (SR-NYSE-2016-44), as modified by Amendment Nos. 1, 2, and 4, be, and hereby is, approved on an accelerated basis.

<sup>32</sup> See Arca Amendment, *supra* note 10. These amendments to the NYSE Arca Equities requirements, among other things, specified certain continued listing requirements for the Subject ETPs.

<sup>33</sup> 15 U.S.C. 78s(b)(2).

<sup>34</sup> *Id.*

<sup>28</sup> See 17 CFR 240.12f-5. See also Securities Exchange Act Release No. 35737 (April 21, 1995), 60 FR 20891 (April 28, 1995) (File No. S7-4-95) (adopting Rule 12f-5 under the Act).

<sup>29</sup> See, e.g., Rule 14.1 of Bats BYX Exchange, Inc. and Rule 14.1 of Bats EDGA Exchange, Inc.

<sup>30</sup> See proposed Rule 5.1.

<sup>31</sup> The Commission notes that the Exchange has represented that it would not trade UTP securities until it has effective trading rules for the Pillar platform in place. See Notice, *supra* note 4, at 45581.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>35</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05221 Filed 3-15-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80218; File No. SR-IEX-2017-07]

### Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rule 11.340 To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

March 10, 2017.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on February 28, 2017, the Investors Exchange LLC (“IEX” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),<sup>4</sup> and Rule 19b-4 thereunder,<sup>5</sup> Investors Exchange LLC (“IEX” or “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend Exchange Rule 11.340 to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program (“Plan”). The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.<sup>6</sup>

The text of the proposed rule change is available at the Exchange’s Web site at [www.iextrading.com](http://www.iextrading.com), at the principal

office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

Rule 11.340(b) (Compliance with Data Collection Requirements)<sup>7</sup> implements the data collection and Web site publication requirements of the Plan.<sup>8</sup> Supplementary Material .09 to IEX Rule 11.340 provides, among other things, that the requirement that the Exchange or Designated Examining Authority (“DEA”) make certain data publicly available on their Web site pursuant to Appendix B and C to the Plan shall commence at the beginning of the Pilot Period,<sup>9</sup> and that the Exchange or DEA shall make data for the Pre-Pilot Period publicly available on their Web site pursuant to Appendix B and C to the Plan by February 28, 2017.<sup>10</sup>

<sup>7</sup> See Exchange Rule 11.340(b). See also Securities Exchange Act Release Nos. 77418 (March 22, 2016), 81 FR 17213 (March 28, 2016); and 78795 (September 9, 2016), 81 FR 63508 (September 15, 2016).

<sup>8</sup> The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. See Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (“SRO Tick Size Plan Proposal”). See Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); see also Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

<sup>9</sup> Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in Rule 11.340.

<sup>10</sup> On November 30, 2016, the SEC granted exemptive relief to the Participants, and the Exchange filed proposed rule changes to, among other things, delay the publication of Web site data pursuant to Appendices B and C to the Plan until February 28, 2017, and to delay the ongoing Web site publication by ninety days such that data would be published within 120 calendar days following the end of the month. See Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA dated November 30, 2016; see

The Exchange is proposing amendments to Supplementary Material .09 to IEX Rule 11.340 to delay the date by which Pre-Pilot and Pilot Appendix B data is to be made publicly available on the Exchange or DEA’s Web site from February 28, 2017, until April 28, 2017. Appendix C data for the Pre-Pilot Period through the month of January 2017, will be published on the Exchange or DEA’s Web site on February 28, 2017, and, thereafter, on the original 30-day schedule.

In the SRO Tick Size Plan Proposal, the Participants stated that the public data will be made available for free “on a disaggregated basis by trading center” on the Web sites of the Participants and the Designated Examining Authorities.<sup>11</sup> However, market participants have expressed confidentiality concerns regarding this approach for over-the-counter (“OTC”) data.<sup>12</sup> Thus, the Exchange is filing the instant proposed rule change to provide additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data related to OTC activity in furtherance of the objectives of the Plan.<sup>13</sup> Pursuant to this amendment, Appendix B data publication will be delayed until April 28, 2017. The Participants anticipate filing an additional proposed rule change in the near future to address the Appendix B data publication.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>14</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>15</sup> in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the

also Securities Exchange Act Release No. 34-79473 (December 6, 2016), 81 FR 89562 (December 12, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR-IEX-2016-17).

<sup>11</sup> See Securities Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423 (November 7, 2014) (Notice of Filing of Proposed National Market System Plan to Implement a Tick Size Pilot Program on a One-Year Pilot Basis, File No. 4-657) (“Tick Size Plan Proposal”).

<sup>12</sup> See letters from Adam C. Cooper, Senior Managing Director and Chief Legal Officer, Citadel Securities, to Brent J. Fields, Secretary, Commission, dated December 21, 2016 (“Citadel letter”); and William Hebert, Managing Director, Financial Information Forum, to Robert W. Errett, Deputy Secretary, Commission, dated December 21, 2016 (“FIF letter”).

<sup>13</sup> FINRA, on behalf of the Exchange, also is submitting an exemptive request with the SEC in connection with the instant filing.

<sup>14</sup> 15 U.S.C. 78f(b).

<sup>15</sup> 15 U.S.C. 78f(b)(5).

<sup>35</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> 15 U.S.C. 78s(b)(1).

<sup>5</sup> 17 CFR 240.19b-4.

<sup>6</sup> 17 CFR 240.19b-4(f)(6)(iii).

mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. The Exchange believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide the Exchange with additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data, to comply with the Plan's requirements that the data made publicly available will not identify the trading center that generated the data.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>16</sup> and Rule 19b-4(f)(6) thereunder.<sup>17</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and

has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on February 28, 2017.

The Exchange notes that the proposed rule change is intended to address confidentiality concerns raised in connection with the publication of OTC Appendix B data by permitting the Exchange to delay Web site publication of its Appendix B data from February 28, 2017 to April 28, 2017.<sup>18</sup> The Exchange notes that the delay would provide additional time to assess a means of addressing the confidentiality concerns. The Exchange notes that it expects Participants to file proposed rule changes related to publishing Appendix B data.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to delay publication of its Appendix B data until April 28, 2017. As noted above, commenters continue to raise concerns about the publication of OTC Appendix B data.<sup>19</sup> Delaying publication of Exchange's Appendix B data<sup>20</sup> will prevent the publication of partial (*i.e.*, Exchange-only) Appendix B data required under the Plan. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on February 28, 2017.<sup>21</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the

<sup>18</sup> See *supra* note 12. The Commission notes that FINRA has submitted a proposed rule change to delay the publication of OTC Appendix B data. See SR-FINRA-2017-005.

<sup>19</sup> The Commission notes that FINRA has filed a proposed rule change that is intended to mitigate confidentiality concerns raised by commenters regarding the publication of OTC Appendix B data. See SR-FINRA-2017-006.

<sup>20</sup> The Commission notes that other Participants have proposed to delay the publication of their Appendix B data until April 28, 2017. See SR-BatsBYX-2017-05; SR-BatsBZX-2017-15; SR-BatsEDGA-2017-05; SR-BatsEDGX-2017-13; SR-BX-2017-016; SR-CHX-2017-05; SR-FINRA-2017-005; SR-NASDAQ-2017-024; SR-Phlx-2017-22; SR-NYSE-2017-10; SR-NYSEArca-2017-19; SR-NYSEMKT-2017-11.

<sup>21</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-IEX-2017-07 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-IEX-2017-07. This file number should be included in the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549-1090. Copies of the filing will also be available for inspection and copying at the IEX's principal office and on its Internet Web site at [www.iextrading.com](http://www.iextrading.com). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-IEX-2017-07 and should be submitted on or before April 6, 2017.

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4(f)(6).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05225 Filed 3-15-17; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80207; File No. SR-BatsBZX-2017-15]

### Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.27 To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

March 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 28, 2017, Bats BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.27 to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program (“Plan”).

The text of the proposed rule change is available at the Exchange’s Web site at [www.bats.com](http://www.bats.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

Rule 11.27(b) (Compliance with Data Collection Requirements)<sup>5</sup> implements the data collection and Web site publication requirements of the Plan.<sup>6</sup> Rule 11.27(b).08 provides, among other things, that the requirement that the Exchange or Designated Examining Authority (“DEA”) make certain data publicly available on their Web site pursuant to Appendix B and C to the Plan shall commence at the beginning of the Pilot Period,<sup>7</sup> and that the Exchange or DEA shall make data for the Pre-Pilot Period publicly available on their Web site pursuant to Appendix B and C to the Plan by February 28, 2017.<sup>8</sup>

<sup>5</sup> See Exchange Rule 11.27(b). See also Securities Exchange Act Release Nos. 77105 (February 10, 2016), 81 FR 8112 (February 17, 2016); 77310 (March 7, 2016), 81 FR 13012 (March 11, 2016); and 78795 (September 9, 2016), 81 FR 63508 (September 15, 2016).

<sup>6</sup> The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. See Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (“SRO Tick Size Plan Proposal”). See Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); see also Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

<sup>7</sup> Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in Rule 11.27.

<sup>8</sup> On November 30, 2016, the SEC granted exemptive relief to the Participants, and the Exchange filed proposed rule changes to, among other things, delay the publication of Web site data pursuant to Appendices B and C to the Plan until February 28, 2017, and to delay the ongoing Web site publication by ninety days such that data would be published within 120 calendar days following the end of the month. See Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA dated November 30, 2016; see also Securities Exchange Act Release No. 79533 (December 13, 2016), 81 FR 91990 (December 19, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR-BatsBZX-2016-82).

The Exchange is proposing amendments to Rule 11.27(b).08 to delay the date by which Pre-Pilot and Pilot Appendix B data is to be made publicly available on the Exchange or DEA’s Web site from February 28, 2017, until April 28, 2017.<sup>9</sup> Appendix C data for the Pre-Pilot Period through the month of January 2017, will be published on the Exchange or DEA’s Web site on February 28, 2017, and, thereafter, on the original 30-day schedule.

In the SRO Tick Size Plan Proposal, the Participants stated that the public data will be made available for free “on a disaggregated basis by trading center” on the Web sites of the Participants and the Designated Examining Authorities.<sup>10</sup> However, market participants have expressed confidentiality concerns regarding this approach for over-the-counter (“OTC”) data.<sup>11</sup> Thus, the Exchange is filing the instant proposed rule change to provide additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data related to OTC activity in furtherance of the objectives of the Plan.<sup>12</sup> Pursuant to this amendment, Appendix B data publication will be delayed until April 28, 2017. The Participants anticipate filing an additional proposed rule change in the near future to address the Appendix B data publication.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>14</sup> in particular, in that it is designed to promote just and equitable principles of

<sup>9</sup> In addition, the Exchange is proposing an amendment to Rule 11.27(a)(6)(B) to clarify that no member, irrespective of whether that member operates a trading center, may execute orders in any Pilot Security in Test Group Three in price increments other than \$0.05, unless an exception applies. This proposed amendment makes the rule consistent with the Plan and conforms subparagraph (a)(6)(B) with subparagraph (a)(5)(B).

<sup>10</sup> See Securities Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423 (November 7, 2014) (Notice of Filing of Proposed National Market System Plan to Implement a Tick Size Pilot Program on a One-Year Pilot Basis, File No. 4-657) (“Tick Size Plan Proposal”).

<sup>11</sup> See letters from Adam C. Cooper, Senior Managing Director and Chief Legal Officer, Citadel Securities, to Brent J. Fields, Secretary, Commission, dated December 21, 2016 (“Citadel letter”); and William Hebert, Managing Director, Financial Information Forum, to Robert W. Errett, Deputy Secretary, Commission, dated December 21, 2016 (“FIF letter”).

<sup>12</sup> FINRA, on behalf of the Exchange, also is submitting an exemptive request with the SEC in connection with the instant filing.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>22</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6)(iii).



trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. The Exchange believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide the Exchange with additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data, to comply with the Plan's requirements that the data made publicly available will not identify the trading center that generated the data.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were neither solicited nor received.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such

action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on February 28, 2017.

The Exchange notes that the proposed rule change is intended to address confidentiality concerns raised in connection with the publication of OTC Appendix B data by permitting the Exchange to delay Web site publication of its Appendix B data from February 28, 2017 to April 28, 2017.<sup>17</sup> The Exchange notes that the delay would provide additional time to assess a means of addressing the confidentiality concerns. The Exchange notes that it expects Participants to file proposed rule changes related to publishing Appendix B data.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to delay publication of its Appendix B data until April 28, 2017. As noted above, commenters continue to raise concerns about the publication of OTC Appendix B data.<sup>18</sup> Delaying publication of Exchange's Appendix B data<sup>19</sup> will prevent the publication of partial (*i.e.*, Exchange-only) Appendix B data required under the Plan. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on February 28, 2017.<sup>20</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the

<sup>17</sup> See *supra* note 11. The Commission notes that FINRA has submitted a proposed rule change to delay the publication of OTC Appendix B data. See SR-FINRA-2017-005.

<sup>18</sup> The Commission notes that FINRA has filed a proposed rule change that is intended to mitigate confidentiality concerns raised by commenters regarding the publication of OTC Appendix B data. See SR-FINRA-2017-006.

<sup>19</sup> The Commission notes that other Participants have proposed to delay the publication of their Appendix B data until April 28, 2017. See SR-BatsBYX-2017-05; SR-BatsEDGA-2017-05; SR-BatsEDGX-2017-13; SR-BX-2017-016; SR-CHX-2017-05; SR-FINRA-2017-005; SR-IEX-2017-07; SR-NASDAQ-2017-024; SR-Phlx-2017-22; SR-NYSE-2017-10; SR-NYSEArca-2017-19; SR-NYSEMKT-2017-11.

<sup>20</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-BatsBZX-2017-15 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 No. SR-BatsBZX-2017-15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-BatsBZX-

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

2017–15 and should be submitted on or before April 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017–05214 Filed 3–15–17; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80202; File No. SR–IEX–2017–06]

### Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 11.190(g) To Modify the Quote Instability Coefficients and Quote Instability Threshold Included in the Quote Instability Calculation Specified in Subparagraph (g)(1) for Purposes of Determining Whether a Crumbling Quote Exists

March 10, 2017.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that, on February 28, 2017, the Investors Exchange LLC filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),<sup>4</sup> and Rule 19b–4 thereunder,<sup>5</sup> Investors Exchange LLC (“IEX” or “Exchange”) is filing with the Commission a proposed rule change to amend Rule 11.190(g) to incrementally optimize and enhance the effectiveness of the quote instability calculation in determining whether a crumbling quote exists. The Exchange has designated this proposal as non-controversial and provided the Commission with the

notice required by Rule 19b–4(f)(6)(iii) under the Act.<sup>6</sup>

The text of the proposed rule change is available at the Exchange’s Web site at [www.iextrading.com](http://www.iextrading.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

###### Overview

The purpose of the proposed rule change is to amend Rule 11.190(g) to modify the quote instability coefficients and quote instability threshold included in the quote instability calculation specified in subparagraph (g)(1) for purposes of determining whether a crumbling quote exists. When the Exchange determines that the quote in a particular security is crumbling from the national best bid, as comprised of Protected Quotations (“Protected NBB”), Discretionary Peg buy orders are restricted from exercising price discretion to trade against interest above the NBB. Similarly, when the Exchange determines that the quote in a particular security is crumbling from the national best offer, as comprised of Protected Quotations (“Protected NBO” and collectively with the Protected NBB the “Protected NBBO”), Discretionary Peg sell orders are restricted from exercising price discretion to trade against interest below the NBO.

###### Discretionary Peg Order

The manner in which Discretionary Peg orders operate is described in Rule 11.190(b)(10). Specifically, a Discretionary Peg order is a non-displayed, pegged order that upon entry into the System, the price of the order is automatically adjusted by the System to be equal to the less aggressive of the

Midpoint Price or the order’s limit price, if any. When unexecuted shares of such order are posted to the Order Book, the price of the order is automatically adjusted by the System to be equal to and ranked at the less aggressive of the primary quote or the order’s limit price and is automatically adjusted by the System in response to changes in the NBB (NBO) for buy (sell) orders up (down) to the order’s limit price, if any. In order to meet the limit price of active orders on the Order Book, a Discretionary Peg order will exercise the least amount of price discretion necessary from the Discretionary Peg order’s resting price to its discretionary price (defined as the less aggressive of the Midpoint Price or the Discretionary Peg order’s limit price, if any), except during periods of quote instability (*i.e.*, when a crumbling quote exists) as defined in paragraph Rule 11.190(g).

In determining whether a crumbling quote exists, the Exchange utilizes real time relative quoting activity of Protected Quotations (not including quotations of the Exchange) and a proprietary mathematical calculation (the “quote instability calculation”) to assess the probability of an imminent change to the current Protected NBB to a lower price or Protected NBO to a higher price for a particular security (“quote instability factor”). When the quoting activity meets predefined criteria and the quote instability factor calculated is greater than the Exchange’s defined threshold (“quote instability threshold”), the System treats the quote as not stable (“quote instability” or a “crumbling quote”). During all other times, the quote is considered stable (“quote stability”). The System independently assesses the stability of the Protected NBB and Protected NBO for each security.

When the System determines that a quote, either the Protected NBB or the Protected NBO, is unstable, the determination remains in effect at that price level for two (2) milliseconds. The System will only treat one side of the Protected NBBO as unstable in a particular security at any given time.<sup>7</sup> By not permitting resting Discretionary Peg orders to execute at a price that is more aggressive than the near-side protected NBB or NBO (as applicable) during periods of quote instability, the Exchange System is intended to attempt to protect such orders from unfavorable executions when the market is moving against them. Once the market has moved and the Exchange System deems the near-side Protected NBB or NBO (as applicable) to be stable (pursuant to a

<sup>21</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

<sup>4</sup> 15 U.S.C. 78s(b)(1).

<sup>5</sup> 17 CFR 240.19b–4.

<sup>6</sup> 17 CFR 240.19b–4(f)(6)(iii).

<sup>7</sup> See, Rule 11.190(g).

pre-determined, objective set of conditions as described below), Discretionary Peg orders are permitted to exercise discretion up to (for buy orders) or down to (for sell orders) the midpoint of the NBBO in order to meet the limit price of active orders on the order book and thereby potentially provide price improvement to such active orders.

Quote stability or instability (also referred to as a crumbling quote) is an assessment that the Exchange System makes on a real-time basis, based on a pre-determined, objective set of conditions specified in Rule 11.190(g)(1). Specifically, quote instability, or the presence of a crumbling quote, is determined by the System when the following factors occur:

(A) The Protected NBB and Protected NBO are the same as the Protected NBB and Protected NBO one (1) millisecond ago; and

(B) the Protected NBBO spread is less than or equal to the thirty (30) day median Protected NBBO spread during the Regular Market Session; and

(C) there are more Protected Quotations on the far side, *i.e.* more Protected Quotations on the Protected NBO than the Protected NBB for buy orders, or more Protected Quotations on the Protected NBB than the Protected NBO for sell orders; and

(D) the quote instability factor result from the quote stability calculation is greater than the defined quote instability threshold.

(i) Quote Instability Factor. The Exchange's proprietary quote stability calculation used to determine the current quote instability factor is defined by the following formula that utilizes the quote stability coefficients and quote stability variables defined below:

$$1/(1 + e^{-((C_0 + C_1 * N + C_2 * F + C_3 * N_{-1} + C_4 * F_{-1} + C_5 * E + C_6 * D))})$$

(a) Quote Stability Coefficients. The Exchange utilizes the values below for the quote stability coefficients.

- (1)  $C_0 = -1.3493$
- (2)  $C_1 = -1.1409$
- (3)  $C_2 = 0.2671$
- (4)  $C_3 = 0.5141$
- (5)  $C_4 = -0.1970$
- (6)  $C_5 = 0.1347$
- (7)  $C_6 = 0.6862$

(b) Quote Stability Variables. The Exchange utilizes the quote stability variables defined below to calculate the current quote instability factor.

(1) N = the number of Protected Quotations on the near side of the market, *i.e.* Protected NBB for buy

orders and Protected NBO for sell orders.

(2) F = the number of Protected Quotations on the far side of the market, *i.e.* Protected NBO for buy orders and Protected NBB for sell orders.

(3)  $N_{-1}$  = the number of Protected Quotations on the near side of the market one (1) millisecond ago.

(4)  $F_{-1}$  = the number of Protected Quotations on the far side of the market one (1) millisecond ago.

(5) E = a Boolean indicator that equals 1 if the last two quotation updates have been quotations of protected markets moving away from the near side of the market on the same side of the market and at the same price.

(6) D = the number of these three (3) venues that moved away from the near side of the market on the same side of the market and at the same price in the prior one (1) millisecond: XNGS, EDGX, BATS.

(ii) Quote Instability Threshold. The Exchange utilizes a quote instability threshold of 0.6.

Rule 11.190(g)(1)(D)(iii) provides that the Exchange reserves the right to modify the quote instability coefficients or quote instability threshold at any time, subject to a filing of a proposed rule change with the SEC. The Exchange is proposing such changes in this rule filing.

#### Changes to Quote Instability Coefficients and Quote Instability Threshold

IEX conducted an analysis of the effectiveness of the existing factors in predicting whether a crumbling quote would occur, by reviewing randomly selected market data from November 2016 through mid-February 2017. The results of the analysis were verified by reviewing randomly selected market data from January and mid-February 2017. Based on this analysis, the Exchange has determined that further optimization of the existing factors would incrementally increase the accuracy of the formula in predicting whether a crumbling quote will occur. The following describes the proposed changes:

1. Rule 11.190(g) states that the Exchange utilizes real time relative quoting activity of Protected Quotations, not including IEX protected quotations, in the quote instability calculation. As proposed, the Exchange is proposing to include the protection quotations of the following exchanges in the quote instability calculation: New York Stock Exchange, NYSE Arca, Nasdaq BX, Bats BZX Exchange, Bats BYX Exchange, Bats EDGX Exchange, and Bats EDGA Exchange. In connection with our

analysis of market data, as described above, the Exchange considered several different permutations of which exchanges to include in the model. The research identified that using the Protected Quotations of these specific eight exchanges in the aggregate resulted in the greatest predictive power of all permutations of exchanges assessed for determining a crumbling quote.

2. The Exchange proposes to simplify the crumbling quote calculation specified in Rule 11.190(g)(1) by eliminating the three (3) preconditions related to the stability and ratio of the protected national best bid and offer ("NBBO"),<sup>8</sup> and base the determination solely on whether the quote instability factor result from the quote stability calculation is greater than the defined quote instability threshold. Based on our analysis of market data, as described above, the Exchange believes that the simplification would incrementally increase the accuracy of the formula in predicting a crumbling quote by expanding the scope of the model to additional situations where a crumbling quote exists in the absence of the preconditions.

3. The Exchange proposes to revise the quote stability variables currently specified in subparagraph (1)(D)(i)(b) of Rule 11.190(g) by adding seven (7) new variables (NC, FC, Delta, EPos, ENeg, EPosPrev, and ENegPrev) and retiring four (4) variables (N-1, F-1, E, and D).<sup>9</sup> Specifically, based on our analysis of market data, as described above, the Exchange identified that considering the maximum change over the course of the previous millisecond up to the most recent Protected NBBO change was a more accurate indicator of a crumbling quote than simply looking at the absolute state of the market one millisecond previously. The replacement of N-1, F-1, and D with NC, FC, and Delta, respectively, reflects this finding. Additionally, we found that looking at the previous two quote changes on a more granular basis (specifically, looking at whether each of the last two events individually was a

<sup>8</sup> Currently IEX Rule 11.190(g)(1) provides that in determining whether a crumbling quote exists the following other factors will be considered: The Protected NBB and Protected NBO are the same as the Protected NBB and Protected NBO one (1) millisecond ago, the Protected NBBO spread is less than or equal to the thirty (30) day median Protected NBBO spread during the Regular Market Session, and there are more Protected Quotations on the far side, *i.e.*, more Protected Quotations on the Protected NBO than the Protected NBB for buy orders or more Protected Quotations on the Protected NBO for sell orders.

<sup>9</sup> Two (2) of the existing variables (N and F) will be retained.

quote dropping off the near side or joining the near side, rather than whether both of the last two events dropped off the near side) was a more accurate indicator of a crumbling quote than a simple boolean factor indicating whether both of the last two events were quotes dropping off the inside.

Replacing E with 4 separate factors—EPos, ENeg, EPosPrev, and ENegPrev—reflects this finding.

4. The Quote Stability Coefficients specified in subparagraph (1)(D)(i) of Rule 11.190(g) are proposed to be modified to take into account the recent market data analysis, as well as the changes to the quote stability variables as described above. Specifically, as proposed the seven (7) existing coefficients will be modified and three (3) new coefficients will be added. The Exchange believes that the modifications, as proposed, will increase the accuracy of the quote instability calculation.

5. The Exchange proposes to modify and re-optimize the Quote Instability Threshold specified in subparagraph (1)(D)(ii) of Rule 11.190(g) based on the recent market data analysis and the new quote stability variables. Specifically, the threshold size would vary based on the spread of the Protected NBBO.<sup>10</sup> Based on its data analysis, as described above, the Exchange concluded that tiering the threshold would reduce the rate of false positives. Consequently, the Exchange believes that the modifications, as proposed, will increase the accuracy of the quote instability calculation.

6. Finally, the Exchange proposes conforming numbering changes to Rule 11.190(g) to reflect elimination of the three (3) preconditions for the crumbling quote calculation specified in Rule 11.190(g)(1) as described above.

The Exchange will announce the implementation date of the proposed rule change by Trader Notice at least five business days in advance of such implementation date and within 90 days of effectiveness of this proposed rule change.

## 2. Statutory Basis

IEX believes that the proposed rule change is consistent with Section 6(b) <sup>11</sup> of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>12</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and

<sup>10</sup> The spread is defined in proposed paragraph (1)(D)(ii) as the Protected Best Offer minus Protected Best Bid.

<sup>11</sup> 15 U.S.C. 78f.

<sup>12</sup> 15 U.S.C. 78f(b)(5).

equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, and as discussed above, the proposal is designed to optimize and enhance the effectiveness of the quote instability calculation in determining whether a crumbling quote exists. The Exchange believes that the proposed changes are designed to protect investors and the public interest by enhancing the accuracy of the Exchange's quote instability calculation in determining whether a crumbling quote exists thereby preventing Discretionary Peg orders from trading at prices more aggressive than the near side of the market (NBB for buy orders, NBO for sell orders) to protect such orders from unfavorable executions when the market appears to be moving against them. As discussed in the Purpose section, each of the proposed changes are based on the Exchange's analysis of market data, which supports that, in the aggregate and individually, the proposed changes would increase the accuracy of the Exchange's quote instability calculation.

As proposed, the new quote instability calculation will continue to be a fixed formula specified transparently in IEX's rules. The Exchange is not proposing to add any new functionality, but merely to revise the fixed formula based on market data analysis designed to increase the accuracy of the formula in predicting a crumbling quote, and as contemplated by the rule.

## B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change will apply equally to all IEX Members. The Commission has already considered the Exchange's Discretionary Peg order type in connection with its grant of IEX's application for registration as a national securities exchange under Sections 6 and 19 of the Act.<sup>13</sup> The proposed rule change is designed to merely enhance the accuracy of the quote instability calculation specified in Rule 11.190(g);

<sup>13</sup> See Securities Exchange Act Release No. 34-78101 (June 17, 2016), 81 FR 41142 (June 23, 2016) (File No. 10-222).

therefore, no new burdens are being proposed.

## C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act <sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

A proposed rule change filed under Rule 19b-4(f)(6) <sup>16</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>17</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange stated that the proposed rule change is designed to optimize the fixed quote instability equation contained in the rule without introducing new functionality or materially changing the operation of the current functionality in a manner not contemplated by the rule. The Exchange believes that its proposal will operate to protect Members that enter Discretionary Peg orders from unfavorable executions when the market is moving against such orders, and noted that waiver of the operative delay would allow the Exchange to implement the optimized formula without delay. As the Exchange's proposal is intended to further refine the ability of the discretionary peg order type to meet its stated objectives as reflected in the Exchange's rule, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), IEX provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> 17 CFR 240.19b-4(f)(6)(iii).

waives the operative delay and designates the proposed rule change operative upon filing.<sup>18</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File SR-IEX-2017-06 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-IEX-2017-06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official

<sup>18</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-IEX-2017-06 and should be submitted on or before April 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05210 Filed 3-15-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80215; File No. SR-BatsEDGA-2017-05]

### Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.21 To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

March 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 28, 2017, Bats EDGA Exchange, Inc. (the "Exchange" or "EDGA") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>19</sup> 17 CFR 200.30-3(a)(12).

<sup>15</sup> 15 U.S.C. 78s(b)(1).

<sup>27</sup> 17 CFR 240.19b-4.

<sup>315</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>417</sup> 17 CFR 240.19b-4(f)(6)(iii).

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.21 to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program ("Plan").

The text of the proposed rule change is available at the Exchange's Web site at [www.bats.com](http://www.bats.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

Rule 11.21(b) (Compliance with Data Collection Requirements)<sup>5</sup> implements the data collection and Web site publication requirements of the Plan.<sup>6</sup> Rule 11.21(b).08 provides, among other things, that the requirement that the Exchange or Designated Examining Authority ("DEA") make certain data publicly available on their Web site pursuant to Appendix B and C to the Plan shall commence at the beginning of the Pilot Period,<sup>7</sup> and that the Exchange or DEA shall make data for the Pre-Pilot Period publicly available on their Web

<sup>5</sup> See Exchange Rule 11.21(b). See also Securities Exchange Act Release Nos. 77417 (March 22, 2016), 81 FR 17219 (March 28, 2016); and 78799 (September 9, 2016), 81 FR 63549 (September 15, 2016).

<sup>6</sup> The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. See Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 ("SRO Tick Size Plan Proposal"). See Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); see also Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

<sup>7</sup> Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in Rule 11.21.

site pursuant to Appendix B and C to the Plan by February 28, 2017.<sup>8</sup>

The Exchange is proposing amendments to Rule 11.21(b).08 to delay the date by which Pre-Pilot and Pilot Appendix B data is to be made publicly available on the Exchange or DEA's Web site from February 28, 2017, until April 28, 2017.<sup>9</sup> Appendix C data for the Pre-Pilot Period through the month of January 2017, will be published on the Exchange or DEA's Web site on February 28, 2017, and, thereafter, on the original 30-day schedule.

In the SRO Tick Size Plan Proposal, the Participants stated that the public data will be made available for free "on a disaggregated basis by trading center" on the Web sites of the Participants and the Designated Examining Authorities.<sup>10</sup> However, market participants have expressed confidentiality concerns regarding this approach for over-the-counter ("OTC") data.<sup>11</sup> Thus, the Exchange is filing the instant proposed rule change to provide additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data related to OTC activity in furtherance of the objectives of the Plan.<sup>12</sup> Pursuant to this amendment,

<sup>8</sup> On November 30, 2016, the SEC granted exemptive relief to the Participants, and the Exchange filed proposed rule changes to, among other things, delay the publication of Web site data pursuant to Appendices B and C to the Plan until February 28, 2017, and to delay the ongoing Web site publication by ninety days such that data would be published within 120 calendar days following the end of the month. See Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA dated November 30, 2016; see also Securities Exchange Act Release No. 79536 (December 13, 2016), 81 FR 91993 (December 19, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR-BatsEDGA-2016-30).

<sup>9</sup> In addition, the Exchange is proposing an amendment to Rule 11.21(a)(6)(B) to clarify that no member, irrespective of whether that member operates a trading center, may execute orders in any Pilot Security in Test Group Three in price increments other than \$0.05, unless an exception applies. This proposed amendment makes the rule consistent with the Plan and conforms subparagraph (a)(6)(B) with subparagraph (a)(5)(B).

<sup>10</sup> See Securities Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423 (November 7, 2014) (Notice of Filing of Proposed National Market System Plan to Implement a Tick Size Pilot Program on a One-Year Pilot Basis, File No. 4-657) ("Tick Size Plan Proposal").

<sup>11</sup> See letters from Adam C. Cooper, Senior Managing Director and Chief Legal Officer, Citadel Securities, to Brent J. Fields, Secretary, Commission, dated December 21, 2016 ("Citadel letter"); and William Hebert, Managing Director, Financial Information Forum, to Robert W. Errett, Deputy Secretary, Commission, dated December 21, 2016 ("FIF letter").

<sup>12</sup> FINRA, on behalf of the Exchange, also is submitting an exemptive request with the SEC in connection with the instant filing.

Appendix B data publication will be delayed until April 28, 2017. The Participants anticipate filing an additional proposed rule change in the near future to address the Appendix B data publication.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>14</sup> in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. The Exchange believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide the Exchange with additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data, to comply with the Plan's requirements that the data made publicly available will not identify the trading center that generated the data.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public

interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on February 28, 2017.

The Exchange notes that the proposed rule change is intended to address confidentiality concerns raised in connection with the publication of OTC Appendix B data by permitting the Exchange to delay Web site publication of its Appendix B data from February 28, 2017 to April 28, 2017.<sup>17</sup> The Exchange notes that the delay would provide additional time to assess a means of addressing the confidentiality concerns. The Exchange notes that it expects Participants to file proposed rule changes related to publishing Appendix B data.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to delay publication of its Appendix B data until April 28, 2017. As noted above, commenters continue to raise concerns about the publication of OTC Appendix B data.<sup>18</sup> Delaying publication of Exchange's Appendix B data<sup>19</sup> will prevent the publication of partial (*i.e.*,

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> See *supra* note 11. The Commission notes that FINRA has submitted a proposed rule change to delay the publication of OTC Appendix B data. See SR-FINRA-2017-005.

<sup>18</sup> The Commission notes that FINRA has filed a proposed rule change that is intended to mitigate confidentiality concerns raised by commenters regarding the publication of OTC Appendix B data. See SR-FINRA-2017-006.

<sup>19</sup> The Commission notes that other Participants have proposed to delay the publication of their Appendix B data until April 28, 2017. See SR-BatsBYX-2017-05; SR-BatsBZX-2017-15; SR-BatsEDGX-2017-13; SR-BX-2017-016; SR-CHX-2017-05; SR-FINRA-2017-005; SR-IEX-2017-07; SR-NASDAQ-2017-024; SR-Phlx-2017-22; SR-NYSE-2017-10; SR-NYSEArca-2017-19; SR-NYSEMKT-2017-11.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

Exchange-only) Appendix B data required under the Plan. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on February 28, 2017.<sup>20</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-BatsEDGA-2017-05 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File No. SR-BatsEDGA-2017-05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and

<sup>20</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-BatsEDGA-2017-05 and should be submitted on or before April 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05222 Filed 3-15-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

*Extension:* Form 6-K, OMB Control No. 3235-0116, SEC File No. 270-107.

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 ("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 for extension and approval.

Form 6-K (17 CFR 249.306) is a disclosure document under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) that must be filed by a foreign private issuer to report material information promptly after the occurrence of specified or other important corporate events that are disclosed in the foreign private issuer's home country. The purpose of Form 6-K is to ensure that U.S. investors have access to the same information that foreign investors do when making investment decisions. Form 6-K takes approximately 8.7 hours per response and is filed by approximately 20,974

issuers annually. We estimate that 75% of the 8.7 hours per response (6.525 hours) is prepared by the issuer for a total annual reporting burden of 136,855 hours (6.525 hours per response × 20,974 responses).

*Written comments are invited on:* (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by 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 to comments and suggestions submitted in writing within 60 days of this publication.

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.

Please direct your written comment to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: March 13, 2017.

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05270 Filed 3-15-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80217; File No. SR-NASDAQ-2017-021]

### Self-Regulatory Organizations; NASDAQ Stock Market, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter X, Section 7(a) of the Exchange's Options Rules

March 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 6, 2017, NASDAQ Stock Market, LLC (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>21</sup> 17 CFR 200.30-3(a)(12).

change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Chapter X, Section 7(a) of the Exchange's Rules applicable to the NASDAQ Options Market, LLC ("NOM"), as described in further detail below.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### *A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

##### **1. Purpose**

The purpose of the proposed rule change is to amend Chapter X, Section 7(a) of the Exchange's rules (the "Rules") applicable to NOM, which sets forth NOM's minor rule violation penalties and in particular, penalties for violating Chapter III, Section 7 of the Rules pertaining to position limits, so that these penalties are consistent with those of NOM's sister exchange, the International Securities Exchange, LLC ("ISE"), as well as other competing options exchanges.

Chapter III, Section 7 of the Exchange's Rules imposes position limits for Options Participants in certain circumstances. Meanwhile, Chapter X, Section 7(a) of the Rules assesses fines for minor rule violations, including position limits violations, as follows.

First, for violations occurring in customer accounts, Section 7(a)(i) assesses fines based upon the

cumulative number of violations that occur over the course of a two year rolling period. For the first six violations that occur during any such period, an Option Participant will either be issued a letter of caution (to the extent that the violations are up to five percent in excess of applicable limits) or assessed \$1 per contract (to the extent that the violations are more than five percent in excess of applicable limits). For the seventh through twelfth violations that occur during any such period, the fine is \$1 per contract over the limit, regardless of the extent of the violations. Finally, for the thirteenth or any additional violations that occur during any such period, the fine increases to \$5 per contract over the limit. Notwithstanding the above, the Rule provides that the minimum fine that the Exchange shall assess is \$100.

Second, for violations that occur in the accounts of Options Participants (*i.e.*, proprietary accounts and accounts of other Options Participants), Section 7(a)(ii) again assesses fines based upon the cumulative number of violations that occur over the course of a two year rolling period. For the first three violations that occur in any such period, an Option Participant will either be assessed a letter of caution (to the extent that the violations are up to five percent in excess of applicable limits) or \$1 per contract (to the extent that the violations are more than five percent in excess of applicable limits). For the fourth through the sixth violations that occur during any such period, the fine is \$1 per contract over the limit, regardless of the extent of the violations. Finally, for the seventh or any additional violations that occur during any such period, the fine increases to \$5 per contract over the limit. Notwithstanding the above, the Rule provides that the minimum fine that the Exchange shall assess is \$100.

The Exchange proposes to replace NOM's schedule of fines for position limit violations to mirror the schedule of fines that ISE and other exchanges apply to such violations. The ISE schedule of position limits fines set forth in ISE Rule 1614(d)(1) is simpler and, in certain instances, more stringent than the NOM schedule of fines. It provides that for any cumulative violations of the ISE position limits rule<sup>3</sup> that occur during any rolling two year period, ISE assesses a fine of \$500

<sup>3</sup> ISE Rule 1614(d)(1) counts as a single violation, provided that such a violation is inadvertent: (i) A 1 trade date overage; (ii) a consecutive string of trade date overage violations where the position does not change or where a steady reduction in the overage occurs; or (iii) a consecutive string of trade date overage violations resulting from other mitigating circumstances.

for the first offense, \$1,000 for the second offense, \$2,500 for the third offense, and \$5,000 for the fourth and each subsequent offense. The ISE rule is identical to that which several other exchanges employ.<sup>4</sup> The proposed rule change conforms the fine schedule of NOM to that of ISE.

##### **2. Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that its proposed Rule change will be more effective than the existing Rule in preventing manipulative acts and practices and protecting investors because under the proposed Rule, the Exchange will immediately impose a fine upon an Options Participant that violates its position limits, and it will do so regardless of the extent of the violation, as opposed to only imposing a fine (rather than a caution letter) after the first six violations or to the extent that a violation exceeds 5 percent of the applicable limits.

Moreover, the proposed Rule change promotes fairness and consistency in the marketplace by harmonizing penalties across exchanges for the same conduct. As noted above, the proposed schedule of fines would be identical to the schedules of fines that ISE, BATS BZX, and C2 Options Exchange presently employ, and similar to that which NYSE Arca employs.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposal will adopt the same schedule of fines as exists at other exchanges and it will apply the same schedule of fines to all Options Participants.

<sup>4</sup> See BATS BZX Exchange, Inc. Rule 25.3(a); C2 Options Exchange Rule Chapter 17 (incorporating by reference CBOE Rule 17.50(g)(1)); *see also* NYSE Arca, Inc. Rule 10.12(k)(i)(21) (imposing fines of \$1,000, \$2,500, and \$5,000 for the first, second, and third violations, respectively while omitting corresponding verbiage that defines the nature of a single violation subject to a fine).

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).



*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) under the Act<sup>9</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>10</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange has stated that it is requesting this waiver so that it may implement the proposed rule change at the earliest point in time possible. The Exchange further stated that the proposed rule change promotes the protection of investors and the public interest by imposing more immediate and significant sanctions for violations of Exchange rules.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposal harmonizes the Exchange's schedule of fines with respect to position limit violations with fines currently imposed by other exchanges, and thus does not raise any new or novel issues. For this reason, the Commission hereby waives the 30-day operative delay requirement

and designates the proposed rule change as operative upon filing.<sup>11</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>12</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2017-021 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2017-021. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE.,

Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2017-021, and should be submitted on or before April 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017-05224 Filed 3-15-17; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**Proposed Collection; Comment Request**

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

*Extension:*

Schedule TO, OMB Control No. 3235-0515, SEC File No. 270-456

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 ("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 for extension and approval.

Schedule TO (17 CFR 240.14d-100) must be filed by a reporting company that makes a tender offer for its own securities. Also, persons other than the reporting company making a tender offer for equity securities registered under Section 12 of the Exchange Act (15 U.S.C. 78l) (which offer, if consummated, would cause that person to own over 5% of that class of the securities) must file Schedule TO. The purpose of Schedule TO is to improve communications between public companies and investors before companies file registration statements involving tender offer statements. Schedule TO takes approximately 43.5

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> *Id.*

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>11</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>12</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

hours per response and is filed by approximately 816 issuers annually. We estimate that 50% of the 43.5 hours per response (21.75 hours) is prepared by the issuer for an annual reporting burden of 17,748 hours (21.75 hours per response × 816 responses).

*Written comments are invited on:* (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by 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 to comments and suggestions submitted in writing within 60 days of this publication.

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.

Please direct your written comment to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: March 13, 2017.

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05275 Filed 3-15-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80213; File No. SR-ISEGemini-2017-10]

### Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Fees for New Ports

March 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 27, 2017, ISE Gemini, LLC ("ISE Gemini" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed

rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Schedule of Fees to adopt fees for the new ports that members will use to connect to the Exchange following the migration of the Exchange's trading system to the Nasdaq INET architecture.

The text of the proposed rule change is available on the Exchange's Web site at [www.ise.com](http://www.ise.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of the proposed rule change is to amend the Schedule of Fees to adopt fees for the new ports that members will use to connect to the Exchange following the migration of the Exchange's trading system to the Nasdaq INET architecture.<sup>3</sup> In particular, the Exchange proposes to adopt fees for the following connectivity options that will become available in connection with the re-platform of the Exchange's trading system: Specialized Quote Feed

("SQF"),<sup>4</sup> SQF Purge,<sup>5</sup> Ouch to Trade Options ("OTTO"),<sup>6</sup> Clearing Trade Interface ("CTI"),<sup>7</sup> Financial Information eXchange ("FIX"),<sup>8</sup> FIX Drop,<sup>9</sup> Disaster Recovery,<sup>10</sup> and ITCH-to-Trade Options ("ITTO").<sup>11</sup>

<sup>4</sup> SQF is an interface that allows market makers to connect and send quotes, sweeps and auction responses into ISE Gemini. Data includes the following: (1) Options Auction Notifications (e.g., opening imbalance, Flash, PIM, Solicitation and Facilitation or other information); (2) Options Symbol Directory Messages; (3) System Event Messages (e.g., start of messages, start of system hours, start of quoting, start of opening); (4) Option Trading Action Messages (e.g., halts, resumes); (5) Execution Messages (6) Quote Messages (quote/sweep messages, risk protection triggers or purge notifications).

<sup>5</sup> SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the market maker.

<sup>6</sup> OTTO is an interface that allows market participants to connect and send orders, auction orders and auction responses into ISE Gemini. Data includes the following: (1) Options Auction Notifications (e.g., Flash, PIM, Solicitation and Facilitation or other information); (2) Options Symbol Directory Messages; (3) System Event Messages (e.g., start of messages, start of system hours, start of quoting, start of opening); (5) Option Trading Action Messages (e.g., halts, resumes); (6) Execution Messages (7) Order Messages (order messages, risk protection triggers or purge notifications).

<sup>7</sup> CTI is a real-time clearing trade update is a message that is sent to a member after an execution has occurred and contains trade details. The message containing the trade details is also simultaneously sent to The Options Clearing Corporation. The information includes, among other things, the following: (i) The Clearing Member Trade Agreement or "CMTA" or The Options Clearing Corporation or "OCC" number; (ii) Exchange badge or house number; (iii) the Exchange internal firm identifier; and (iv) an indicator which will distinguish electronic and non-electronically delivered orders; (v) liquidity indicators and transaction type for billing purposes; (vi) capacity.

<sup>8</sup> FIX is an interface that allows market participants to connect and send orders and auction orders into ISE Gemini. Data includes the following: (1) Options Symbol Directory Messages; (2) System Event Messages (e.g., start of messages, start of system hours, start of quoting, start of opening); (3) Option Trading Action Messages (e.g., halts, resumes); (4) Execution Messages (5) Order Messages (order messages, risk protection triggers or purge notifications).

<sup>9</sup> FIX Drop is a real-time order and execution update is a message that is sent to a member after an order been received/modified or an execution has occurred and contains trade details. The information includes, among other things, the following: (1) Executions (2) cancellations (3) modifications to an existing order (4) busts or post-trade corrections.

<sup>10</sup> Disaster Recovery ports provide connectivity to the exchange's disaster recovery data center in Chicago to be utilized in the event the exchange has to fail over during the trading day. DR Ports are available for SQF, SQF Purge, CTI, OTTO, FIX and FIX Drop.

<sup>11</sup> ITTO ports provide connectivity to the ISE Gemini Real-time Depth of Market Raw Data Feed ("Depth Feed"). The Depth Feed, provides aggregate quotes and orders at the top five price levels on the Exchange, and provides subscribers with a consolidated view of tradable prices beyond the BBO, showing additional liquidity and enhancing transparency for ISE Gemini traded options. The data provided for each instrument includes the

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 80011 [sic] (February 10, 2017), 82 FR 10927 (February 16, 2017) (SR-ISEGemini-2016-17 [sic]).

Currently, the Exchange charges Market Makers, *i.e.*, Primary Market Makers (“PMMs”) and Competitive Market Makers (“CMM”), an API session fee of \$100 per month per API for sessions used for quoting, order entry and listening. In addition, the Exchange charges Electronic Access Members (“EAMs”) that connect to the Exchange via API a session fee of \$100 per session for month for access to ISE Gemini only, and \$250 per month each for the first five sessions and \$100 per month each additional session for connectivity to both ISE Gemini and the Exchange’s affiliate, the International Securities Exchange, LLC (“ISE”). Finally, the Exchange charges EAMs that connect to the Exchange via FIX a session fee of \$50 per session per month for access to ISE Gemini only, and \$250 per month each for the first two sessions and \$50 per month for each additional session for connectivity to both ISE Gemini and ISE.

With the re-platform of the Exchange’s trading system, the Exchange will now be offering a new set of ports for connecting to ISE Gemini—*i.e.*, SQF, SQF Purge, OTTO, and CTI, FIX, FIX Drop, Disaster Recovery, and ITTO. These connectivity options are the same as connectivity options currently used to connect to the Exchange’s affiliates, including Nasdaq Phlx (“Phlx”), Nasdaq Options Market (“NOM”), and Nasdaq BX (“BX”).<sup>12</sup> The Exchange now proposes to adopt fees for these ports.<sup>13</sup> The proposed fees for these ports will be \$0 per port per month. The Exchange believes that it is appropriate to provide these ports without charge during this initial migration period to avoid double charging members that are connected to both the current T7 trading system and the new INET trading system. In addition, adding these port fees to the Schedule of Fees now will alert members to the fact that they will not be charged for access through these new connectivity options at this time. The current API/FIX session fees will remain in place as members are still using these connectivity options to connect to the

symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and trading status. In addition, subscribers are provided with total quantity, customer quantity (if present), price, and side (*i.e.*, bid/ask). This information is provided for each of the five indicated price levels on the Depth Feed. The feed also provides participants of imbalances on opening/reopening.

<sup>12</sup> See Phlx Pricing Schedule, VII. Other Member Fees, B. Port Fees; NOM Rules, Chapter XV Options Pricing, Sec. 3 NOM—Ports and other Services; BX Rules, Chapter XV Options Pricing, Sec. 3 BX—Ports and other Services.

<sup>13</sup> Fees apply only to connectivity to the ISE Gemini INET trading system.

Exchange during the migration of the Exchange’s trading system to INET.<sup>14</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>15</sup> in general, and Section 6(b)(4) of the Act,<sup>16</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

The Exchange believes that it is reasonable and equitable to adopt fees for the various ports used to connect to the Exchange’s new INET trading system. As explained above, the ports that will be used to connect to the INET trading system are the same as ports currently used by the Exchange’s affiliates. The Exchange has determined to offer these ports free of cost for the time being in order to aid in the migration of the Exchange’s trading system to INET technology. Adding these port fees to the Schedule of Fees will clarify to members that they will not have to pay for access to both T7 and INET trading systems. The Exchange also does not believe that the proposed fee change is unfairly discriminatory as each of the proposed port fees are initially proposed to be free of charge for all members.

## B. Self-Regulatory Organization’s Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,<sup>17</sup> the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed port fees will be offered initially free of cost to aid in the migration of the Exchange’s trading system to Nasdaq INET technology. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

<sup>14</sup> The Exchange will eliminate current API/FIX session fees at a later date when those connectivity options are no longer available to members.

<sup>15</sup> 15 U.S.C. 78f.

<sup>16</sup> 15 U.S.C. 78f(b)(4).

<sup>17</sup> 15 U.S.C. 78f(b)(8).

## C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>18</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISEGemini-2017-10 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-ISEGemini-2017-10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISEGemini-2017-10 and should be submitted on or before April 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-05220 Filed 3-15-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80203; File No. 4-631]

### Joint Industry Plan; Notice of Filing of the Thirteenth Amendment to the National Market System Plan To Address Extraordinary Market Volatility by Bats BZX Exchange, Inc., Bats BYX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, NASDAQ BX, Inc., NASDAQ PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc.

March 10, 2017.

#### I. Introduction

On February 13, 2017, NYSE Group, Inc., on behalf of the following parties to the National Market System Plan to Address Extraordinary Market Volatility ("the Plan"): <sup>1</sup> Bats BZX Exchange, Inc.,

Bats BYX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., Chicago Stock Exchange, Inc., the Financial Industry Regulatory Authority, Inc. ("FINRA"), Investors Exchange LLC, NASDAQ BX, Inc.,<sup>2</sup> NASDAQ PHLX LLC,<sup>3</sup> The NASDAQ Stock Market LLC ("Nasdaq"), New York Stock Exchange LLC ("NYSE"), NYSE Arca, Inc., NYSE MKT LLC, and NYSE National Inc.<sup>4</sup> (collectively, the "Participants") filed with the Securities and Exchange Commission ("Commission") pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 ("Exchange Act")<sup>5</sup> and Rule 608 thereunder,<sup>6</sup> a proposal to amend the Plan ("Thirteenth Amendment").<sup>7</sup> The proposal reflects changes unanimously approved by the Participants. The Thirteenth Amendment proposes to extend the pilot period of the Plan for one year and to authorize the Processor to disseminate information provided by the Primary Listing Exchange in connection with a reopening after a Trading Pause,<sup>8</sup> as discussed below. A copy of the Plan, as proposed to be

69287, 78 FR 21483 (April 10, 2013). On August 27, 2013, the Commission noticed for immediate effectiveness the Fourth Amendment to the Plan. See Securities Exchange Act Release No. 70273, 78 FR 54321 (September 3, 2013). On September 26, 2013, the Commission approved the Fifth Amendment to the Plan. See Securities Exchange Act Release No. 70530, 78 FR 60937 (October 2, 2013). On January 7, 2014, the Commission noticed for immediate effectiveness the Sixth Amendment to the Plan. See Securities Exchange Act Release No. 71247, 79 FR 2204 (January 13, 2014). On April 3, 2014, the Commission approved the Seventh Amendment to the Plan. See Securities Exchange Act Release No. 71851, 79 FR 19687 (April 9, 2014). On February 19, 2015, the Commission approved the Eight Amendment to the Plan. See Securities Exchange Act Release No. 74323, 80 FR 10169 (February 25, 2015). On October 22, 2015, the Commission approved the Ninth Amendment to the Plan. See Securities Exchange Act Release No. 76244, 80 FR 66099 (October 28, 2015). On April 21, 2016, the Commission approved the Tenth Amendment to the Plan. See Securities Exchange Act Release No. 77679, 81 FR 24908 (April 27, 2016). On August 26, 2016, the Commission noticed for immediate effectiveness the Eleventh Amendment to the Plan. See Securities Exchange Act Release No. 78703, 81 FR 60397 (September 1, 2016). On January 19, 2017, the Commission approved the Twelfth Amendment to the Plan. See Securities Exchange Act Release No. 79845, 82 FR 8551 (January 26, 2017).

<sup>2</sup> See note 7 *infra*.

<sup>3</sup> See note 7 *infra*.

<sup>4</sup> See note 7 *infra*.

<sup>5</sup> 15 U.S.C. 78k-1(a)(3).

<sup>6</sup> 17 CFR 242.608.

<sup>7</sup> See Letter from Elizabeth King, General Counsel and Corporate Secretary, NYSE, to Brent Fields, Secretary, Commission, dated February 10, 2017. ("Transmittal Letter"). In the Transmittal Letter, the Participants also propose to amend the Plan to reflect name changes of certain Participants. See Transmittal Letter, notes 1 and 2.

<sup>8</sup> Unless otherwise specified, the terms used herein have the same meaning as set forth in the Plan.

amended is attached as Exhibit A hereto. The Commission is publishing this notice to solicit comments from interested persons on the Thirteenth Amendment.<sup>9</sup>

#### II. Description of the Plan

Set forth in this Section II is the statement of the purpose and summary of the Thirteenth Amendment, along with the information required by Rule 608(a)(4) and (5) under the Exchange Act,<sup>10</sup> prepared and submitted by the Participants to the Commission.<sup>11</sup>

##### A. Statement of Purpose and Summary of the Plan Amendment

The Participants filed the Plan on April 5, 2011, to create a market-wide limit up-limit down mechanism intended to address extraordinary market volatility in NMS Stocks, as defined in Rule 600(b)(47) of Regulation NMS under the Exchange Act. The Plan sets forth procedures that provide for market-wide limit up-limit down requirements that would prevent trades in individual NMS Stocks from occurring outside of the specified price bands. These limit up-limit down requirements are coupled with Trading Pauses, as defined in Section I(Y) of the Plan, to accommodate more fundamental price moves. In particular, the Participants adopted this Plan to address the type of sudden price movements that the market experienced on the afternoon of May 6, 2010.

As set forth in more detail in the Plan, all trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down requirements specified in the Plan. More specifically, the single plan processor responsible for consolidation of information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Exchange Act will be responsible for calculating and disseminating a lower price band and upper price band, as provided for in Section V of the Plan. Section VI of the Plan sets forth the limit up-limit down requirements of the Plan, and in particular, that all trading centers in

<sup>9</sup> 17 CFR 242.608. The Commission notes that staff from the Division of Economic and Risk Analysis has published a paper related to several operational features of the Plan. See Claudia E. Moise and Paca Flaherty, Division of Economic and Risk Analysis, Commission, "Limit Up-Limit Down" Pilot Plan and Associated Events, March 2017, available at <https://www.sec.gov/dera/staff-papers/white-papers/dera-luld-white-paper.pdf>.

<sup>10</sup> See 17 CFR 242.608(a)(4) and (a)(5).

<sup>11</sup> See Transmittal Letter, *supra* note 7.

<sup>19</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> On May 31, 2012, the Commission approved the Plan, as modified by Amendment No. 1. See Securities Exchange Act Release No. 67091, 77 FR 33498 (June 6, 2012) (File No. 4-631). On February 20, 2013, the Commission noticed for immediate effectiveness the Second Amendment to the Plan. See Securities Exchange Act Release No. 68953, 78 FR 13113 (February 26, 2013). On April 3, 2013, the Commission approved the Third Amendment to the Plan. See Securities Exchange Act Release No.

NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trades at prices that are below the lower price band or above the upper price band for an NMS Stock, consistent with the Plan.

The Plan was initially approved for a one-year pilot period, which began on April 8, 2013.<sup>12</sup> Accordingly, the pilot period was scheduled to end on April 8, 2014. As initially contemplated, the Plan would have been fully implemented across all NMS Stocks within six months of initial Plan operations, which meant there would have been full implementation of the Plan for six months before the end of the pilot period. However, pursuant to the fourth amendment to the Plan,<sup>13</sup> the Participants modified the implementation schedule of Phase II of the Plan to extend the time period as to when the Plan would fully apply to all NMS Stocks. Accordingly, the Plan was not implemented across all NMS Stocks until December 8, 2013. Pursuant to the sixth amendment to the Plan,<sup>14</sup> which further modified the implementation schedule of Phase II of the Plan, the date for full implementation of the Plan was moved to February 24, 2014. Pursuant to the seventh, ninth, and tenth amendments to the Plan,<sup>15</sup> the pilot period was extended from April 8, 2014 to February 20, 2015, from February 20, 2015 to April 22, 2016, and April 22, 2016 to April 17, 2017.

The Participants propose to amend Section VIII(C) of the Plan to extend the pilot period through April 16, 2018, to allow the Participants time to implement and assess the changes to the Plan as described in both the tenth amendment to the Plan,<sup>16</sup> which was implemented on July 18, 2016, and the twelfth amendment to the Plan,<sup>17</sup> which is scheduled for implementation in the third quarter of 2017. In the twelfth amendment, the Participants amended the Plan to provide that a Trading Pause will continue until the Primary Listing Exchange has reopened trading using its established reopening procedures and reports a Reopening Price. The Plan was further amended to eliminate the current allowance for a trading center to resume trading in an NMS Stock following a Trading Pause if the Primary Listing Exchange has not reported a

Reopening Price within ten minutes after the declaration of a Trading Pause and has not declared a Regulatory Halt. In addition, to preclude potential scenarios when trading may resume without Price Bands, the Plan was amended to provide that a trading center may not resume trading in an NMS Stock following a Trading Pause without Price Bands in such NMS Stock. To address potential scenarios in which there is no Reopening Price from the Primary Listing Exchange to use to calculate Price Bands, the Plan was amended to address when trading may resume if the Primary Listing Exchange is unable to reopen due to a systems or technology issue and how the Reference Price would be determined in such a scenario or if the Primary Listing Exchange reopens trading on a zero bid or zero offer, or both.

In conjunction with amending the Plan, the Primary Listing Exchanges filed proposed rule changes with the Commission under Section 19(b) of the Exchange Act to amend their rules for automated reopenings following a Trading Pause consistent with a standardized approach agreed to by Participants that would allow for extensions of a Trading Pause if equilibrium cannot be met for a Reopening Price within specified parameters.<sup>18</sup> The Primary Listing Exchanges anticipate implementing the changes to their automated reopenings in the third quarter of 2017.

Because the planned implementation date for both the twelfth amendment to the Plan and the Primary Listing Exchange's amended reopening procedures are scheduled for a time after the current pilot end date, the Participants propose to extend the current Pilot an additional year to April 16, 2018. The Participants believe that this additional time will be beneficial in that it allows "the public, the Participants, and the Commission to assess the operation of the Plan and whether the Plan should be modified prior to approval on a permanent basis."<sup>19</sup> The Participants further believe that extending the Pilot another year would provide additional time for the Participants, the Commission, and the public to consider other potential modifications to the Plan that are currently under consideration. These include consideration of changes to how

NMS Stocks are tiered under the Plan, and the applicable percentage parameters associated with such tiers, consideration of the elimination of double-wide Price Bands at the open and close of trading, and consideration of recommendations made by the Equity Market Structure Advisory Committee with respect to Plan operations.<sup>20</sup> The Participants believe that the Plan should continue to operate as a Pilot uninterrupted to provide time to consider whether to make any such further modifications to the Plan.

The Participants also propose to amend Section VII(B)(1) of the Plan to specify that the Processor would publish the following information that the Primary Listing Exchange would provide to the Processor in connection with reopening an NMS Stock after a Trading Pause: Auction reference price; auction collars; and number of extensions to the reopening auction. The Participants believe that the proposed amendment is consistent with the goal of the twelfth amendment to the Plan, which is to reduce the potential for sequential Trading Pauses in an NMS Stock by centralizing the reopening process through the Primary Listing Exchange. Because only one exchange would be facilitating the reopening of an NMS Stock, the Participants believe that having the Processors disseminate the additional enumerated information that a Primary Listing Exchange would provide to the Processor regarding such reopening would promote transparency regarding the reopening of an NMS Stock following a Trading Pause. Specifically, the Participants believe that the information that the Processor would publish, as described above, is related to Plan operations in that such information would provide greater transparency regarding whether an NMS Stock would reopen at the end of the scheduled Trading Pause, or if such Trading Pause has been extended beyond the five-minute period contemplated in the Plan. The proposed amendment would therefore protect investors and the public interest and is appropriate to the maintenance of fair and orderly markets.<sup>21</sup>

<sup>20</sup> See U.S. Securities and Exchange Commission Equity Market Structure Advisory Committee, *Recommendations for Rulemaking on Issues of Market Quality*, dated November 29, 2016, available at <https://www.sec.gov/spotlight/emsac/emsac-recommendations-rulemaking-market-quality.pdf>.

<sup>21</sup> In the context of other national market system plans under Rule 608 of Regulation NMS, the Participants are considering whether the SIPs should disseminate additional information regarding auctions, such as imbalance information and indicative match price.

<sup>12</sup> See Section VIII of the Plan.

<sup>13</sup> See *supra* note 1.

<sup>14</sup> See *id.*

<sup>15</sup> See *id.*

<sup>16</sup> See *id.*

<sup>17</sup> See *id.*

<sup>18</sup> See Securities Exchange Act Release Nos. 79846 (January 19, 2017), 82 FR 8548 (January 26, 2017) (SR-NYSEArca-2016-130) (Approval Order); 79884 (January 26, 2017), 82 FR 8968 (February 1, 2017) (SR-BatsBZX-2016-61) (Approval Order); 79876 (January 25, 2017), 82 FR 8888 (January 31, 2017) (SR-Nasdaq-2016-131) (Approval Order).

<sup>19</sup> See *supra* note 1, 77 FR 33498 at 33508.

*B. Governing or Constituent Documents*

The governing documents of the Processor, as defined in Section I(P) of the Plan, will not be affected by the Plan, but once the Plan is implemented, the Processor's obligations will change, as set forth in detail in the Plan.

*C. Implementation of Plan*

The initial date of the Plan operations was April 8, 2013.

*D. Development and Implementation Phases*

The Plan was initially implemented as a one-year pilot program in two Phases, consistent with Section VIII of the Plan: Phase I of Plan implementation began on April 8, 2013 and was completed on May 3, 2013. Implementation of Phase II of the Plan began on August 5, 2013 and was completed on February 24, 2014. The tenth amendment to the Plan was implemented on July 18, 2016 and the twelfth amendment to the Plan must be implemented no later than July 19, 2017.<sup>22</sup> Pursuant to this proposed amendment, the Participants propose to extend the pilot period until April 16, 2018.

*E. Analysis of Impact on Competition*

The proposed Plan does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Participants do not believe that the proposed Plan introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Exchange Act.

*F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan*

The Participants have no written understandings or agreements relating to interpretation of the Plan. Section II(C) of the Plan sets forth how any entity registered as a national securities exchange or national securities association may become a Participant.

*G. Approval of Amendment of the Plan*

Each of the Plan's Participants has executed a written amended Plan.

*H. Terms and Conditions of Access*

Section II(C) of the Plan provides that any entity registered as a national securities exchange or national securities association under the Exchange Act may become a Participant by: (1) Becoming a participant in the applicable Market Data Plans, as defined in Section I(F) of the Plan; (2) executing

a copy of the Plan, as then in effect; (3) providing each then-current Participant with a copy of such executed Plan; and (4) effecting an amendment to the Plan as specified in Section III(B) of the Plan.

*I. Method of Determination and Imposition, and Amount of, Fees and Charges*

Not applicable.

*J. Method and Frequency of Processor Evaluation*

Not applicable.

*K. Dispute Resolution*

Section III(C) of the Plan provides that each Participant shall designate an individual to represent the Participant as a member of an Operating Committee. No later than the initial date of the Plan, the Operating Committee shall designate one member of the Operating Committee to act as the Chair of the Operating Committee. Any recommendation for an amendment to the Plan from the Operating Committee that receives an affirmative vote of at least two-thirds of the Participants, but is less than unanimous, shall be submitted to the Commission as a request for an amendment to the Plan initiated by the Commission under Rule 608.

On February 8, 2017, the Operating Committee, duly constituted and chaired by Mr. Robert Books of Bats, met and voted unanimously to amend the Plan as set forth herein in accordance with Section III(C) of the Plan. The Plan Advisory Committee was notified in connection with the Thirteenth Amendment and was in favor.

**III. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amendment is consistent with the Exchange Act and the rules thereunder. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number 4-631 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number 4-631. This file number should

be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the Participants' offices. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4-631 and should be submitted on or before April 6, 2017.

By the Commission.

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05226 Filed 3-15-17; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION****Proposed Collection; Comment Request**

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

*Extension:*

Form S-4, OMB Control No. 3235-0324, SEC File No. 270-287

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 ("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 for extension and approval.

<sup>22</sup> See *supra* note 1, 82 FR 8551 at 8553 n.22.

Form S-4 (17 CFR 239.25) is the form used for registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) of securities issued in business combinations transactions. The information collected is intended to ensure the adequacy of information available to investors in connection with business combination transactions. Form S-4 takes approximately 4,099.68 hours per response to prepare and is filed by 400 registrants annually. We estimate that 25% of the 4,099.68 hours per response (1,024.92 hours) is prepared by the registrant for an annual reporting burden of 409,968 hours (1,024.92 hours per response × 400 responses).

*Written comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by 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 to comments and suggestions submitted in writing within 60 days of this publication.

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.

Please direct your written comment to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: March 13, 2017.

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05273 Filed 3-15-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

*Extension:*

Rule 15c3-1, SEC File No. 270-197, OMB Control No. 3235-0200

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) ("PRA"), the Securities and Exchange Commission ("Commission") is soliciting comments on the existing collection of information provided for in Rule 15c3-1 (17 CFR 240.15c3-1), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act"). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 15c3-1 requires brokers-dealers to have at all times sufficient liquid assets to meet their current liabilities, particularly the claims of customers. The rule facilitates the monitoring of the financial condition of broker-dealers by the Commission and the various self-regulatory organizations. It is estimated that broker-dealer respondents registered with the Commission and subject to the collection of information requirements of Rule 15c3-1 incur an aggregate annual time burden of 65,915.31 hours to comply with this rule and an aggregate annual external cost of \$160,000.

*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 estimates of the burden of the proposed 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 to comments and suggestions submitted in writing within 60 days of this publication.

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: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: March 13, 2017.

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05274 Filed 3-15-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

*Extension:*

Form 10, OMB Control No. 3235-0064, SEC File No. 270-051

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 ("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 for approval of extensions on the following:

Form 10 (17 CFR 249.210) is used by issuers to register a class of securities pursuant to Section 12(b) or Section 12(g) (15 U.S.C. 78l(b) and 78l(g)) of the Exchange Act of 1934. Form 10 requires financial and other information about such matters as the issuer's business, properties, identity and remuneration of management, outstanding securities and securities to be registered and financial condition. The information provided by Form 10 is intended to ensure the adequacy of information available to investors about a company. Form 10 takes approximately 215.21 hours per response to prepare and is filed by approximately 136 respondents. We estimated that 25% of the 215.21 hours per response (53.803 hours) is prepared by the company for an annual reporting burden of 7,317 hours (53.803 hours per response × 136 responses).

*Written comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of 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 to comments and suggestions submitted in writing within 60 days of this publication.

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.

Please direct your written comment to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: March 13, 2017.

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05271 Filed 3-15-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80211; File No. SR-ISEMercury-2017-04]

### Self-Regulatory Organizations; ISE Mercury, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Harmonize Liability Caps and Related Reimbursement Requirements

March 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 27, 2017, ISE Mercury, LLC (“ISE Mercury” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 705 (Limitation of Liability) to harmonize its liability caps and related reimbursement requirements with those of NASDAQ BX, Inc. (“BX”), NASDAQ PHLX LLC (“Phlx”) and NASDAQ Stock Market LLC (“NSM” and together with BX and Phlx, the “Nasdaq Exchanges”).

The text of the proposed rule change is available on the Exchange’s Web site at [www.ise.com](http://www.ise.com), at the principal office

of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of this proposed rule change is to amend Rule 705 (Limitation of Liability) to harmonize the Exchange’s existing liability caps and related reimbursement requirements for claims under Rule 705(d) with the caps and requirements set forth in the rules of the Nasdaq Exchanges.<sup>3</sup> The Exchange and its affiliates, International Securities Exchange, LLC and ISE Gemini, LLC (together, the “ISE Exchanges”), were recently acquired (the “Acquisition”) by Nasdaq, Inc. (“HoldCo”).<sup>4</sup> In the context of the Acquisition, the ISE Exchanges are working to align certain rules with rules of the Nasdaq Exchanges in order to provide consistent standards across the six exchanges operated by HoldCo (the “HoldCo Affiliated Exchanges”). As part of this effort, the proposal set forth below harmonizes the Exchange’s liability caps and the related reimbursement requirements with those of the Nasdaq Exchanges in order to provide uniform standards and requirements for users of the HoldCo Affiliated Exchanges.<sup>5</sup>

Rule 705 in its current form generally states that the Exchange is not liable for any losses due to the Exchange’s negligence or unintentional actions, but also provides in Rule 705(d) that notwithstanding this general limitation on liability, the Exchange may

<sup>3</sup> See BX Rule 4626(b) and Phlx Rule 1015. See also NSM Rule 4626(b).

<sup>4</sup> See Securities Exchange Act Release No. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR-ISE-2016-11; SR-ISEGemini-2016-05; SR-ISEMercury-2016-10).

<sup>5</sup> International Securities Exchange, LLC and ISE Gemini, LLC will each file a proposed rule change with the Commission to adopt similar requirements.

compensate its members for losses resulting directly from the malfunction of the Exchange’s physical equipment, devices and/or programming. Subsections (d)(1)–(d)(3) of Rule 705 contains express conditions governing the voluntary payments made by the Exchange under these limited circumstances. Specifically, the Exchange’s payments for any and all system failures on a single trading day are capped at \$250,000 under subsection (d)(1). The rule text states that for the aggregate of all claims made by all market participants related to the use of the Exchange on a single trading day, the Exchange’s payments shall not exceed \$250,000. Subsection (d)(2) further provides that if the cumulative claims exceed the \$250,000 cap, this amount would be proportionally allocated among all such claims. Finally, subsection (d)(3) specifies that in order for a member to be eligible to receive payment under this Rule, claims for payment must be made in writing and submitted no later than the opening of trading on the next business day after the loss. Once in receipt of a claim, the Exchange is required to verify that: (i) A valid order was accepted into the Exchange’s systems; and (ii) an Exchange system failure occurred during the execution or handling of that order. A system failure will be deemed to have occurred when there is a malfunction of the Exchange’s physical systems, devices or software.

The Exchange now proposes to amend the existing rule text in Rule 705(d) to adopt the same liability caps and reimbursement requirements as the Nasdaq Exchanges.<sup>6</sup> Proposed Rule 705(d) would provide that the Exchange may, notwithstanding the general limitations on liability contained in Rule 705(a), compensate users of the Exchange for losses directly resulting from the actual failure of the System,<sup>7</sup> or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility to correctly process an order, quote, message, or other data, provided that the Exchange has acknowledged receipt of the order, quote, message, or data. This limited exception in proposed Rule 705(d) would be subject to certain conditions and requirements contained in proposed subsections (d)(1)–(3).

Subsection (d)(1) proposes that the aggregate payments for all compensation claims made by all market participants

<sup>6</sup> See note 4 above.

<sup>7</sup> “System” means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. See the Constitution of ISE Mercury, Section 13.1(ee).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.



related to the use of the Exchange during a single calendar month would not exceed the larger of \$500,000, or the amount of the recovery obtained by the Exchange under any applicable insurance policy.<sup>8</sup> Under this proposal, the Exchange will eliminate the existing \$250,000 daily cap on liability and consider all such claims on a monthly basis, subject to proposed \$500,000 monthly liability cap. Each Nasdaq Exchange currently analyzes total eligible liability claims on a per-month look-back basis. The Exchange's proposal to adopt an identical claims process, in effect, would allow ISE Mercury an increased capability to compensate a market participant up to the monthly cap of \$500,000 even though the losses occurred on a single day or were across multiple days for a single participant.

Proposed subsection (d)(2) specifies how the reimbursement funds would be allocated in the event all of the compensation claims submitted during a single calendar month exceed the \$500,000 monthly cap. Specifically, if all of the claims arising out of the use of the Exchange cannot be fully satisfied because in the aggregate they exceed the limitations provided for in the Rule (\$500,000), then the maximum permitted amount would be proportionally allocated among all such claims arising during a single calendar month.<sup>9</sup> This is substantially similar to the existing process where the maximum amount is proportionally allocated among all such claims, except it would be for all claims arising during a one-month period under the proposed rule change rather than during a single trading day under the existing Rule.

Finally, proposed subsection (d)(3) specifies the requirements and procedures applicable to the submission of reimbursement claims. Specifically, all claims for compensation must be submitted in writing no later than 12:00 p.m. ET on the next business day following the day on which the use of the Exchange gave rise to such claims.<sup>10</sup> As such, the Exchange is proposing to extend the deadline to submit compensation claims from the opening of trading on the next business day to 12:00 p.m. ET. The Exchange believes that the extension of time to make such compensation claims increases the

ability of market participants to submit claims in a timely manner. Proposed subsection (d)(3) also states that nothing in the Rule obligates the Exchange to seek recovery under any applicable insurance policy. If the Exchange does seek and receive an insurance recovery that is larger than \$500,000, the amount of that recovery would limit the reimbursement funds available for the incident supporting the recovery to the greater recovery amount.<sup>11</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>12</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>13</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The proposal supports this policy by establishing a fair and transparent process by which the Exchange can accommodate claims for reimbursement for the failure of specified systems in specified facilities and under specified conditions. The Exchange believes that its proposal to amend Rule 705(d) will continue to promote fairness in the marketplace in situations where one or more firm's claim results from a problem in a function performed by the Exchange's trading system that is solely the fault of the Exchange. As noted above, the proposal would allow the Exchange an increased capability to compensate a market participant up to the monthly cap of \$500,000 even though the losses occurred on a single day or were across multiple days for a single participant. Furthermore, the proposed expansion of time to make such compensation claims would increase the ability of market participants to submit claims in a timely manner.

Lastly, the proposed rule change is intended to align the liability caps and compensation claims requirements with the caps and requirements currently provided by the Nasdaq Exchanges in order to provide consistent rules across the six HoldCo Affiliated Exchanges.<sup>14</sup>

Consistent rules, in turn, would simplify the regulatory requirements for members of the Exchange that are also participants on the Nasdaq Exchanges. The Exchange believes that the proposed rule change would provide greater harmonization among similar rules of the HoldCo Affiliated Exchanges, resulting in greater uniformity and more efficient regulatory compliance. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because all members would be subject to the same liability caps and reimbursement requirements. The proposed rule change is designed to provide greater harmonization among similar rules across the six HoldCo Affiliated Exchanges, resulting in more efficient regulatory compliance for common members.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>15</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>16</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

<sup>8</sup> See BX Rule 4626(b)(1), Phlx Rule 1015(1), and NSM Rule 4626(b)(1) for substantially similar provisions.

<sup>9</sup> See BX Rule 4626(b)(2), Phlx Rule 1015(2), and NSM Rule 4626(b)(5) for substantially similar provisions.

<sup>10</sup> See BX Rule 4626(b)(3) and Phlx Rule 1015(3) for substantially similar provisions. See also NSM Rule 4626(b)(6).

<sup>11</sup> There are no other practical differences between the Exchange's existing reimbursement rule and this proposal than as described above. Specifically these differences are: The liability caps (*i.e.* the greater of \$500,000 or, if the Exchange opts to seek recovery, the recovery amount under any applicable insurance policy), the look-back analysis period of one month, and the later claims deadline of 12:00 p.m. ET.

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> See note 4 above.

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>16</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISEMercury-2017-04 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-ISEMercury-2017-04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make

available publicly. All submissions should refer to File Number SR-ISEMercury-2017-04, and should be submitted on or before April 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05218 Filed 3-15-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80216; File No. SR-NASDAQ-2017-028]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4703 and Rule 4753

March 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 8, 2017, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4703 (Order Attributes) to specify the behavior of locked or crossed Orders during the Nasdaq Opening or Closing Cross. Nasdaq also proposes to make a corresponding change to Rule 4753, which governs the Halt Cross.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed

any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

Nasdaq proposes to amend Rule 4703 (Order Attributes) to specify the behavior of locked or crossed Orders during the Nasdaq Opening or Closing Cross in light of recent changes to its Post-Only Order functionality. Nasdaq also proposes to make a corresponding change to Rule 4753, which governs the Halt Cross.

Rule 4703(l) describes the application of the Nasdaq Opening and Closing Cross to Nasdaq Order Types. Rule 4703(l) states that all Order Types, except Supplemental Orders, Retail Orders, and RPI Orders participate in the Nasdaq Opening Cross and/or the Nasdaq Closing Cross if the Order has a Time-in-Force that would cause the Order to be in effect at the time of the Nasdaq Opening Cross and/or Nasdaq Closing Cross. Market on Open ("MOO") Orders, Limit On Open ("LOO") Orders, and IOI Orders participate in the Nasdaq Opening Cross in the manner specified in Rule 4752 (Opening Process). Other Order Types eligible to participate in the Nasdaq Opening Cross operate as "Market Hours Orders" or "Open Eligible Interest" as specified in Rule 4752. MOC Orders, LOC Orders and IO Orders participate in the Nasdaq Closing Cross in the manner specified in Rule 4754 (Nasdaq Closing Cross). Other Order Types eligible to participate in the Nasdaq Closing Cross operate as "Close Eligible Interest" in the manner specified in Rule 4754.

Nasdaq proposes to add language to Rule 4703(l) to specify the treatment of Orders that are locked or crossed during the Opening or Closing Cross. Specifically, for purposes of selecting the Nasdaq Opening Cross or Closing Cross price, an Order to buy (sell) that is locked or crossed at its non-displayed price by a Post-Only Order on the Nasdaq Book shall be deemed to have a price at one minimum price increment below (above) the price of the Post-Only Order. This functionality will impact Non-Displayed Orders, Post-Only Orders, Price to Comply Orders and Midpoint Peg Post-Only Orders when

<sup>17</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

the non-displayed price of that Order is locked or crossed by a Post-Only Order.<sup>3</sup> Thus, a Non-Displayed Order to buy that is locked by a Post-Only Order to sell at \$11.03 would be deemed to have a price of \$11.02 for purposes of selecting the Cross price. Nasdaq is proposing to re-price the non-displayed price of an Order that is locked or crossed, rather than the Post-Only Order, because re-pricing a non-displayed Order will produce less market impact than re-pricing an order that is already displayed.

The same functionality will apply to Orders that are locked or crossed during the Nasdaq Halt Cross.<sup>4</sup> Accordingly, Nasdaq proposes to add Rule 4753(d), which states that, for purposes of selecting the Nasdaq Halt Cross price, an Order to buy (sell) that is locked or crossed at its non-displayed price by a Post-Only Order on the Nasdaq Book prior to the trading halt shall be deemed to have a price at one minimum price increment below (above) the price of the Post-Only Order.

The proposed change supplements the recently-approved changes to the Post-Only Order and the resulting modifications to Nasdaq systems.<sup>5</sup> The

<sup>3</sup> In this scenario, the Post-Only Order would have locked or crossed the Non-Displayed Order, Post-Only Order, Price to Comply Order, or Midpoint Peg Post-Only Order at its non-displayed price upon entry if the value of price improvement associated with executing against the Order is not met.

<sup>4</sup> The Halt Cross is defined as the process for determining the price at which Eligible Interest shall be executed at the open of trading for a halted security and for executing that Eligible Interest. See Rule 4753(a)(4).

<sup>5</sup> See Securities Exchange Act Release No. 79290 (November 10, 2016), 81 FR 81184 (November 17, 2016) (SR-NASDAQ-2016-111). Nasdaq initially proposed to implement the new Post-Only functionality on November 21, 2016. See Equity Trader Alert #2016-291. However, following testing, Nasdaq has decided to delay the implementation of this new functionality to provide additional time for systems testing. The new functionality shall be implemented no later than March 31, 2017. See Securities Exchange Act Release No. 80045 (February 15, 2017), 82 FR 11389 (February 22, 2017) (SR-NASDAQ-2017-013). Under the new Post-Only functionality, the behavior of Post-Only orders would be altered when the adjusted price of such orders lock or cross a non-displayed price on the Exchange's Book. Specifically, if the adjusted price of the Post-Only Order would lock or cross a non-displayed price on the Exchange's Book, the Post-Only order would be posted in the same manner as a Price to Comply Order. However, the Post-Only Order would execute if (i) it is priced below \$1.00 and the value of price improvement associated with executing against an Order on the Nasdaq Book (as measured against the original limit price of the Order) equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the Order posted to the Nasdaq Book and subsequently provided liquidity, or (ii) it is priced at \$1.00 or more and the value of price improvement associated with executing against an Order on the Nasdaq Book (as measured against the

change also reflects the intent of the Nasdaq Opening and Closing Cross functionality, which currently prices buy (sell) Opening Imbalance Only ("OIO") Orders and Imbalance Only ("IO") Orders to the highest bid (lowest offer) on the Nasdaq Book (but not beyond the Order's stated limit price), and prevents buy and sell OIO and IO Orders from being priced at the same price and executing against each other.

The change is also similar to the treatment of Post-Only Orders with Midpoint Pegging during the Opening Cross, Closing Cross and Halt Cross.<sup>6</sup> Rule 4702(b)(5)(A) provides that, for purposes of any cross in which a Midpoint Peg Post-Only Order participates, a Midpoint Peg Post-Only Order to buy (sell) that is locking a preexisting Order shall be deemed to have a price equal to the price of the highest sell Order (lowest buy Order) that would be eligible to execute against the Midpoint Peg Post-Only Order in such circumstances. Thus, a Midpoint Peg Post-Only Order to buy that locked a preexisting Non-Displayed Order to sell at \$11.03 would be deemed to have a price of \$11.02. With this change, Nasdaq will be adopting a similar functionality for an Order that is locked or crossed at its non-displayed price by a Post-Only Order for purposes of the Opening Cross, Closing Cross, and Halt Cross.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>8</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and

original limit price of the Order) equals or exceeds \$0.01 per share. Additionally, if the Post-Only Order would not lock or cross a Protected Quotation but would lock or cross a Non-Displayed Order on the Exchange's Book, the Post-Only Order would be posted, ranked, and displayed at its limit price. The Post-Only Order would execute if (i) it is priced below \$1.00 and the value of price improvement associated with executing against an Order on the Nasdaq Book equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the Order posted to the Nasdaq Book and subsequently provided liquidity, or (ii) it is priced at \$1.00 or more and the value of price improvement associated with executing against an Order on the Nasdaq Book equals or exceeds \$0.01 per share.

<sup>6</sup> Midpoint Pegging means Pegging with reference to the midpoint between the Inside Bid and the Inside Offer (the "Midpoint"). Thus, if the Inside Bid was \$11 and the Inside Offer was \$11.06, an Order with Midpoint Pegging would be priced at \$11.03. An Order with Midpoint Pegging is not displayed. An Order with Midpoint Pegging may be executed in sub-pennies if necessary to obtain a midpoint price. See Rule 4703(d).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The proposed change is consistent with the Act because it reflects the intent of the Nasdaq Opening and Closing Cross functionality, which currently prices buy (sell) OIO Orders and IO Orders to the highest bid (lowest offer) on the Nasdaq Book (but not beyond the Order's stated limit price), and prevents buy and sell OIO and IO Orders from being priced at the same price and executing against each other. The proposed change also adopts a re-pricing functionality that is similar to a re-pricing functionality that is currently in effect for Midpoint Peg Post-Only Orders during the Opening Cross, Closing Cross and Halt Cross. Finally, the proposed change supplements the recently-approved changes to the Post-Only Order and the resulting modifications to Nasdaq systems.

## B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change adopts a re-pricing functionality that is similar to a re-pricing functionality that is currently in effect for Midpoint Peg Post-Only Orders during the Opening Cross, Closing Cross and Halt Cross. Moreover, the use of Exchange Order types and attributes is voluntary, and no member is required to use any specific Order type or attribute or even to use any Exchange Order type or attribute or any Exchange functionality at all. If an Exchange member believes for any reason that the proposed rule change will be detrimental, that perceived detriment can be avoided by choosing not to enter or interact with the Order types modified by this proposed rule change. Finally, the proposal will apply equally to all Orders that meet its criteria.

## C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant

burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>10</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>11</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange represents that the proposal supplements the recently-approved changes to the Post-Only Order type and the resulting modifications to Nasdaq systems, and that it will implement those previously approved changes no later than March 31, 2017.<sup>12</sup> Waiver of the 30-day operative delay would allow the Exchange to implement the previously approved changes to the Post-Only Order type concurrently with the supplemental changes in this proposal. Accordingly, the Commission finds that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and designates the proposal operative upon filing.<sup>13</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

<sup>9</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> See supra note 5 and accompanying text. The Exchange also notes that the proposed functionality reflects the intent of the Nasdaq Opening and Closing Cross functionality and is similar to a functionality that is currently in effect for Midpoint Peg Post-Only Orders.

<sup>13</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2017-028 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2017-028. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2017-028 and should be submitted on or before April 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05223 Filed 3-15-17; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80206; File No. SR-BatsBZX-2016-30]

#### Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Order Disapproving a Proposed Rule Change, as Modified by Amendments No. 1 and 2, to BZX Rule 14.11(e)(4), Commodity-Based Trust Shares, To List and Trade Shares Issued by the Winklevoss Bitcoin Trust

March 10, 2017.

Bats BZX Exchange ("Exchange" or "BZX") has filed a proposed rule change to list and trade shares of the Winklevoss Bitcoin Trust.<sup>1</sup> When an

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> The Exchange filed notice of the proposed rule change on June 30, 2016, and the Commission published the notice in the **Federal Register** on July 14, 2016. See Exchange Act Release No. 78262 (July 8, 2016), 81 FR 45554 (July 14, 2016) ("Notice"). On August 23, 2016, the Commission designated a longer period within which to act on the proposed rule change. See Exchange Act Release No. 78653 (Aug. 23, 2016), 81 FR 59256 (Aug. 29, 2016). On October 12, 2016, the Commission instituted proceedings under Section 19(b)(2)(B) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. 78s(b)(2)(B), to determine whether to approve or disapprove the proposed rule change. See Exchange Act Release No. 79084 (Oct. 12, 2016), 81 FR 71778 (Oct. 18, 2016). On October 20, 2016, the Exchange filed Amendment No. 1 to the proposed rule change, replacing the original filing in its entirety, and Amendment No. 1 was published for comment in the **Federal Register** on November 3, 2016. See Exchange Act Release No. 79183 (Oct. 28, 2016), 81 FR 76650 (Nov. 3, 2016) ("Amendment No. 1"). On January 4, 2017, the Commission designated a longer period for Commission action on the proposed rule change. See Exchange Act Release No. 79725 (Jan. 4, 2017), 82 FR 2425 (Jan. 9, 2017) (designating March 11, 2017, as the date by which the Commission must either approve or disapprove the proposed rule change). On February 22, 2017, the Exchange filed Amendment No. 2 to the proposed rule change ("Amendment No. 2"). Amendment No. 2 further modified the Exchange's proposal by (a) changing the size of a creation and redemption basket from 10,000 shares to 100,000 shares, (b) changing the bitcoin value of a share from 0.1 bitcoin to 0.01 bitcoin, and (c) changing the Exchange's representation about the number of shares outstanding at the commencement of trading from 100,000 shares to 500,000 shares. Because Amendment No. 2 does not materially alter the substance of the proposed rule change, Amendment No. 2 is not subject to notice and comment. Amendment No. 2 is available on the Commission's Web site at <https://www.sec.gov/comments/sr-batsbzx-2016-30/batsbzx201630-1594698-132357.pdf>.

exchange makes such a filing,<sup>2</sup> the Commission must determine whether the proposed rule change is consistent with the statutory provisions, and the rules and regulations, that apply to national securities exchanges.<sup>3</sup> The Commission must approve the filing if it finds that the proposed rule change is consistent with these legal requirements, and it must disapprove the filing if it does not make such a finding.<sup>4</sup>

As discussed further below, the Commission is disapproving this proposed rule change because it does not find the proposal to be consistent with Section 6(b)(5) of the Exchange Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest.<sup>5</sup> The Commission believes that, in order to meet this standard, an exchange that lists and trades shares of commodity-trust exchange-traded products (“ETPs”) must, in addition to other applicable requirements, satisfy two requirements that are dispositive in this matter. First, the exchange must have surveillance-sharing agreements with significant markets for trading the underlying commodity or derivatives on that commodity. And second, those markets must be regulated.<sup>6</sup>

Based on the record before it, the Commission believes that the significant markets for bitcoin are unregulated. Therefore, as the Exchange has not entered into, and would currently be unable to enter into, the type of surveillance-sharing agreement that has been in place with respect to all previously approved commodity-trust ETPs—agreements that help address concerns about the potential for fraudulent or manipulative acts and practices in this market—the Commission does not find the proposed rule change to be consistent with the Exchange Act.

## I. Description of the Proposal

The Exchange proposes to list and trade shares (“Shares”) of the Winklevoss Bitcoin Trust (“Trust”) as Commodity-Based Trust Shares under

BZX Rule 14.11(e)(4).<sup>7</sup> Details regarding the proposal and the Trust can be found in Amendments No. 1 and 2 to the proposal,<sup>8</sup> and in the registration statement for the Trust,<sup>9</sup> but the salient aspects of the proposal are described below.<sup>10</sup>

The Trust would hold only bitcoins as an asset,<sup>11</sup> and the bitcoins would be in the custody of, and secured by, the Trust’s custodian, Gemini Trust Company LLC (“Custodian”), which is a limited-liability trust company chartered by the State of New York and supervised by the New York State Department of Financial Services (“NYDFS”).<sup>12</sup> Gemini Trust Company is also an affiliate of Digital Asset Services LLC, the sponsor of the Trust (“Sponsor”).<sup>13</sup> The Trust would issue and redeem the Shares only in “Baskets” of 100,000 Shares and only to Authorized Participants, and these transactions would be conducted “in-kind” for bitcoin only.<sup>14</sup>

<sup>7</sup> See BZX Rule 14.11(e)(4)(C) (permitting the listing and trading of “Commodity-Based Trust Shares,” defined as a security (a) that is issued by a trust that holds a specified commodity deposited with the trust; (b) that is issued by the trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity; and (c) that, when aggregated in the same specified minimum number, may be redeemed at a holder’s request by the trust, which will deliver to the redeeming holder the quantity of the underlying commodity). Other national securities exchanges that list and trade shares of commodity-trust ETPs have similar rules. See, e.g., NYSE Arca Equities Rule 8.201 (permitting the listing and trading of Commodity-Based Trust Shares) and Nasdaq Rule 5711(d) (permitting the listing and trading of Commodity-Based Trust Shares). Commodity-trust ETPs differ from exchange-traded funds (“ETFs”) in a number of ways, including that they hold as an asset a single commodity, rather than a portfolio of multiple securities, and that they are not regulated under the Investment Company Act of 1940.

<sup>8</sup> See Amendments No. 1 and 2, *supra* note 1.

<sup>9</sup> See Registration Statement on Form S–1, as amended, dated February 8, 2017 (File No. 333–189752) (“Registration Statement”). The Exchange represents in the proposed rule change that the Registration Statement will be effective as of the date of any offer and sale pursuant to the Registration Statement.

<sup>10</sup> The proposed rule change describes the ETP’s underlying bitcoin asset as a “digital asset” and as a “commodity,” see Amendment No. 1, *supra* note 1, 81 FR at 76652 & n.21, and describes the ETP as a Commodity-Based Trust. For the purpose of considering this proposal, this order describes bitcoin as a “digital asset” and a “commodity.”

<sup>11</sup> Bitcoin is a digital asset that is issued by, and transmitted through, the decentralized, open-source protocol of the peer-to-peer bitcoin computer network that hosts the public transaction ledger, known as the “Blockchain,” on which all bitcoins are recorded. The bitcoin network source code includes the protocols that govern the creation of bitcoin and the cryptographic system that secures and verifies bitcoin transactions. See *id.* at 76652.

<sup>12</sup> See *id.* at 76651–52.

<sup>13</sup> See *id.* at 76651.

<sup>14</sup> See *id.* at 76664–65. See also Amendment No. 2, *supra* note 1.

The investment objective of the Trust would be for the Shares to track the price of bitcoins on the Gemini Exchange, which is a digital-asset exchange owned and operated by the Gemini Trust Company.<sup>15</sup> The Net Asset Value (“NAV”) of the Trust would be calculated each business day, based on the clearing price of that day’s 4:00 p.m. ET Gemini Exchange Auction, a two-sided auction open to all Gemini Exchange customers.<sup>16</sup> The Intraday Indicative Value of the Trust would be calculated and disseminated by the Sponsor, every 15 seconds during the Exchange’s regular trading session, based on the most-recent Gemini Exchange Auction price.<sup>17</sup> The Exchange represents that it has entered into a comprehensive surveillance-sharing agreement with the Gemini Exchange.<sup>18</sup>

## II. Summary of Comment Letters

The comment period closed on November 25, 2016. As of March 8, 2017, the Commission had received 59 comment letters on the proposed rule change.<sup>19</sup> Many of these letters address

<sup>15</sup> See Amendment No. 1, *supra* note 1, 81 FR at 76652.

<sup>16</sup> See *id.* In the event that the Sponsor determines that the Gemini Exchange Auction price, because of extraordinary circumstances, is “not an appropriate basis for evaluation of the Trust’s bitcoin on a given Business Day,” the Exchange’s proposal provides that the Sponsor may use other specified criteria to value the holdings of the Trust. See *id.* at 76664.

<sup>17</sup> See *id.* at 76666.

<sup>18</sup> See *id.* at 76668. As discussed below, *infra* Section III.B.3, the Commission does not believe that this agreement is sufficient to form the basis for approving this proposed rule change.

<sup>19</sup> See Letters from Robert D. Miller, VP Technical Services, RKL eSolutions (July 11, 2016) (“R.D. Miller Letter”); Jorge Stolfi, Full Professor, Institute of Computing UNICAMP (July 13, 2016) (“Stolfi Letter”); Guillaume Lethuillier (July 26, 2016) (“Lethuillier Letter”); Michael B. Casey (July 31, 2016) (“Casey Letter”); Erik A. Aronesty, Sr. Software Engineer, Bloomberg LP (Aug. 2, 2016) (“Aronesty Letter”); Dan Anderson (Aug. 27, 2016) (“Anderson Letter”); Robert Miller (Oct. 12, 2016) (“R. Miller Letter”); Lysle Shaw-McMinn, O.D. (Oct. 13, 2016) (“McMinn Letter”); Nils Neidhardt (Oct. 13, 2016) (“Neidhardt Letter”); Dana K. Barish (2 letters; Oct. 13, 2016) (“Barish Letter” and “Barish Letter II”); Xin Lu (Oct. 13, 2016) (“Xin Lu Letter”); Rodger Delehanty CFA (Oct. 14, 2016) (“Delehanty Letter”); Dylan (Oct. 14, 2016) (“Dylan Letter”); Dana K. Barish (Oct. 14, 2016) (“Barish Letter III”); Dana K. Barish (2 letters; Oct. 15, 2016) (“Barish Letter IV” and “Barish Letter V”); Jorge Stolfi, Full Professor, Institute of Computing UNICAMP (Nov. 1, 2016) (“Stolfi Letter II”); Michael B. Casey (Nov. 5, 2016) (“Casey Letter II”); Anonymous (Nov. 8, 2016) (“Anonymous Letter”); Chris Burniske, Blockchain Products Lead, ARK Investment Management LLC (Nov. 8, 2016) (“ARK Letter”); Colin Keeler (Nov. 14, 2016) (“Keeler Letter”); Robert S. Tull (Nov. 14, 2016) (“Tull Letter”); Mark T. Williams (Nov. 15, 2016) (“Williams Letter”); Anonymous (Nov. 21, 2016) (“Anonymous Letter II”); XBT OPSS Team (Nov. 21, 2016) (“XBT Letter”); Anonymous (Nov. 22, 2016) (“Anonymous

Continued

<sup>2</sup> Such filings are made under Section 19(b)(1) of the Exchange Act, 15 U.S.C. 78s(b)(1), and Exchange Act Rule 19b–4, 17 CFR 240.19b–4.

<sup>3</sup> See Exchange Act Section 19(b)(2)(C), 15 U.S.C. 78s(b)(2)(C).

<sup>4</sup> See *id.*

<sup>5</sup> 15 U.S.C. 78f(b)(5).

<sup>6</sup> As discussed below, *infra* note 96 and accompanying text, the significant markets relating to the commodity-trust ETPs approved to date have been well-established regulated futures markets for the underlying commodity.

the nature and uses of bitcoin;<sup>20</sup> the state of development of bitcoin as a digital asset;<sup>21</sup> the inherent value of, and risks of investing in, bitcoin;<sup>22</sup> the desire of investors to gain access to bitcoin through an ETP;<sup>23</sup> the appropriate measures for the Trust to

Letter III”); Ken Maher (Nov. 22, 2016) (“Maher Letter”); Kyle Murray, Assistant General Counsel, Bats Global Markets, Inc. (Nov. 25, 2016) (“Bats Letter”); Colin Baird (Nov. 26, 2016) (“Baird Letter”); Scott P. Hall (Jan. 5, 2017) (“Hall Letter”); Suzanne H. Shatto (Jan. 24, 2017) (“Shatto Letter”); Joshua Lim and Dan Matuszewski, Treasury & Trading Operations, Circle Internet Financial, Inc. (Feb. 3, 2017) (“Circle Letter”); Zachary J. Herbert (Feb. 10, 2017) (“Herbert Letter”); Thomas Fernandez (Feb. 12, 2017) (“Fernandez Letter”); Diego Tomaselli (Feb. 17, 2017) (“Tomaselli Letter”); Hans Christensen (Feb. 20, 2017) (“Christensen Letter”); Jake Kim (Feb. 22, 2017) (“Kim Letter”); Andrea Dalla Val (Mar. 4, 2017) (“Dalla Val Letter”); Josh Barraza (Mar. 6, 2017) (“Barraza Letter”); Chad Rigsby (Mar. 6, 2017) (“Rigsby Letter”); Michael Lee (Mar. 6, 2017) (“Lee Letter”); Fabrizio Marchionne (Mar. 6, 2017) (“Marchionne Letter”); Ben Elron (Mar. 6, 2017) (“Elron Letter”); Patrick Miller (Mar. 6, 2017) (“P. Miller Letter”); Phil Chronakis (Mar. 6, 2017) (“Chronakis Letter”); Situation (Mar. 6, 2017) (“Situation Letter”); Steven Swiderski (Mar. 6, 2017) (“Swiderski Letter”); Marcia Paneque (Mar. 6, 2017) (“Paneque Letter”); Jeremy Nootenboom (Mar. 6, 2017) (“Nootenboom Letter”); Alan Struna (Mar. 6, 2017) (“Struna Letter”); Mike Johnson (Mar. 6, 2017) (“Johnson Letter”); Anonymous (Mar. 7, 2017) (“Anonymous Letter IV”); Brian Bang (Mar. 7, 2017) (“Bang Letter”); Anthony Schulte (Mar. 7, 2017) (“Schulte Letter”); Melissa Whitman (Mar. 8, 2017) (“Whitman Letter”); Harold Primm (Mar. 8, 2017) (“Primm Letter”); Shad (Mar. 8, 2017) (“Shad Letter”); Anonymous (Mar. 8, 2017) (“Anonymous Letter V”). All comments on the proposed rule change are available on the Commission’s Web site at: <https://www.sec.gov/comments/sr-batsbzx-2016-30/batsbzx201630.shtml>.

<sup>20</sup> See, e.g., Stolfi Letter, *supra* note 19; Stolfi Letter II, *supra* note 19; Chronakis Letter, *supra* note 19.

<sup>21</sup> See, e.g., Stolfi Letter II, *supra* note 19; Barish Letter IV, *supra* note 19; ARK Letter, *supra* note 19; Lee Letter, *supra* note 19; Chronakis Letter, *supra* note 19; Struna Letter, *supra* note 19; Johnson Letter, *supra* note 19; Anonymous Letter IV, *supra* note 19; Whitman Letter, *supra* note 19; Anonymous Letter V, *supra* note 19.

<sup>22</sup> See, e.g., Stolfi Letter, *supra* note 19; Stolfi Letter II, *supra* note 19; Shatto Letter, *supra* note 19; Lethuillier Letter, *supra* note 19; Delehanty Letter, *supra* note 19; Xin Lu Letter, *supra* note 19; Neidhardt Letter, *supra* note 19; XBT Letter, *supra* note 19; Williams Letter, *supra* note 19; ARK Letter, *supra* note 19; Kim Letter, *supra* note 19; Dalla Val Letter, *supra* note 19; Paneque Letter, *supra* note 19; Lee Letter, *supra* note 19; Chronakis Letter, *supra* note 19; Struna Letter, *supra* note 19; Johnson Letter, *supra* note 19; Whitman Letter, *supra* note 19; Primm Letter, *supra* note 19; Anonymous Letter V, *supra* note 19.

<sup>23</sup> See, e.g., R.D. Miller Letter, *supra* note 19; R. Miller Letter, *supra* note 19; Hall Letter, *supra* note 19; Keeler Letter, *supra* note 19; Lethuillier Letter, *supra* note 19; McMinn Letter, *supra* note 19; Herbert Letter, *supra* note 19; Fernandez Letter, *supra* note 19; Tomaselli Letter, *supra* note 19; Circle Letter, *supra* note 19; Baird Letter, *supra* note 19; Stolfi Letter, *supra* note 19; Anderson Letter, *supra* note 19; P. Miller Letter, *supra* note 19; Swiderski Letter, *supra* note 19; Situation Letter, *supra* note 19; Paneque Letter, *supra* note 19; Nootenboom Letter, *supra* note 19; Chronakis Letter, *supra* note 19.

secure its bitcoin holdings against theft or loss;<sup>24</sup> whether the Trust should insure its bitcoin holdings against theft or loss;<sup>25</sup> the blockchain treatment of positions in the Shares, including short positions or derivative positions;<sup>26</sup> the potential conflicts of interest related to the affiliations among the Sponsor, the Custodian, and the Gemini Exchange;<sup>27</sup> the proposed valuation method for the Trust’s holdings;<sup>28</sup> or the legitimacy or enhanced regulatory protection that Commission approval of the proposed ETP might confer upon bitcoin as a digital asset.<sup>29</sup> Ultimately, however, comments on these topics do not bear on the basis for the Commission’s decision to disapprove the proposal. Accordingly, the Commission will summarize and address the comments that relate to the susceptibility of bitcoin or the Shares to fraudulent or manipulative acts and practices, including the need for surveillance-sharing agreements with significant, regulated markets for trading in bitcoin or derivatives on bitcoin.

#### A. Comments Regarding The Worldwide Market for Bitcoin

Several commenters note that the majority of bitcoin trading occurs on exchanges outside the United States. One commenter claims that most daily trading volume is conducted on poorly

<sup>24</sup> See, e.g., Barish Letter, *supra* note 19; Barish Letter IV, *supra* note 19; Neidhardt Letter, *supra* note 19; Dylan Letter, *supra* note 19; Keeler Letter, *supra* note 19; Casey Letter, *supra* note 19; Aronesty Letter, *supra* note 19; ARK Letter, *supra* note 19; Tull Letter, *supra* note 19; Stolfi Letter, *supra* note 19; Stolfi Letter II, *supra* note 19; McMinn Letter, *supra* note 19; Lethuillier Letter, *supra* note 19; Delehanty Letter, *supra* note 19; Tull Letter II, *supra* note 19; Anonymous Letter, *supra* note 19; Bats Letter, *supra* note 19; Struna Letter, *supra* note 19.

<sup>25</sup> See, e.g., Anonymous Letter, *supra* note 19; Tull Letter, *supra* note 19; Lethuillier Letter, *supra* note 19; Aronesty Letter, *supra* note 19; Delehanty Letter, *supra* note 19; XBT Letter, *supra* note 19; ARK Letter, *supra* note 19; Anonymous Letter III, *supra* note 19; Bats Letter, *supra* note 19.

<sup>26</sup> See, e.g., Anonymous Letter, *supra* note 19; Tull Letter, *supra* note 19.

<sup>27</sup> See, e.g., XBT Letter, *supra* note 19; Tull Letter, *supra* note 19; Stolfi Letter II, *supra* note 19; ARK Letter, *supra* note 19; Anonymous Letter II, *supra* note 19; Bats Letter, *supra* note 19.

<sup>28</sup> See, e.g., McMinn Letter, *supra* note 19; Bats Letter, *supra* note 19; Delehanty Letter II, *supra* note 19; Dylan Letter, *supra* note 19; ARK Letter, *supra* note 19; Anonymous Letter II, *supra* note 19; Circle Letter, *supra* note 19.

<sup>29</sup> See, e.g., Stolfi Letter, *supra* note 19; Circle Letter, *supra* note 19; Kim Letter, *supra* note 19; Delehanty Letter, *supra* note 19; Baird Letter, *supra* note 19; Anonymous Letter, *supra* note 19; Keeler Letter, *supra* note 19; Dalla Val Letter, *supra* note 19; Elron Letter, *supra* note 19; P. Miller Letter, *supra* note 19; Marchionne Letter, *supra* note 19; Situation Letter, *supra* note 19; Paneque Letter, *supra* note 19; Nootenboom Letter, *supra* note 19; Chronakis Letter, *supra* note 19; Johnson Letter, *supra* note 19; Bang Letter, *supra* note 19; Primm Letter, *supra* note 19.

capitalized, unregulated exchanges located outside the United States and that these non-U.S. exchanges and their practices significantly influence the price discovery process.<sup>30</sup> Another commenter states that the biggest and most-influential bitcoin exchange is located outside U.S. jurisdiction.<sup>31</sup>

One commenter states that, since 2013, the price of bitcoin has been defined mostly by the major Chinese exchanges, whose volumes dwarf those of exchanges outside China. According to the commenter, those exchanges are not regulated or audited, and are suspected of engaging in unethical practices like front-running, wash trades, and trading with insufficient funds. The commenter interprets pricing data from these Chinese exchanges to mean that the price of bitcoin is defined entirely by speculation, without any ties to fundamentals.<sup>32</sup> Another commenter also observes that Chinese markets drive much of the volume in the bitcoin markets and that the bitcoin/Chinese Yuan (BTC/CNY) quote is apt to trade at a significant premium to the bitcoin/U.S. dollar (BTC/USD) quote. The commenter points out that large arbitrage opportunities would not exist for long in efficient markets, but they do persist in bitcoin markets.<sup>33</sup>

One commenter claims that a sizeable number of traders and owners of bitcoin do not desire to trade in a well-regulated environment for reasons including tax evasion, evading capital controls, and money laundering. This commenter also states that U.S. exchanges do not offer products such as fee-free trading, margin trading, or options, which drive traffic to the top non-U.S. exchanges. The commenter claims that, because trade is now sparse on regulated U.S. exchanges including Gemini, arbitrage will not occur efficiently or proportionally to mitigate manipulation from the dominant unregulated bitcoin exchanges. This commenter also claims that several Chinese exchanges actively engage in bitcoin mining operations, creating a conflict of interest, and notes that these exchanges are unaudited and unaccountable.<sup>34</sup> Another commenter

<sup>30</sup> See Williams Letter, *supra* note 19, at 2.

<sup>31</sup> See Anonymous Letter IV, *supra* note 19.

<sup>32</sup> See Stolfi Letter II, *supra* note 19.

<sup>33</sup> See ARK Letter, *supra* note 19, at 5.

<sup>34</sup> See Maher Letter, *supra* note 19; see also Johnson Letter, *supra* note 19; Anonymous Letter IV, *supra* note 19. According to the Exchange, “bitcoin mining” refers to the process of adding a set of transaction records (a “block”) to bitcoin’s “blockchain”—its public ledger of past transactions. See Amendment No. 1, *supra* note 1, 81 FR at 76655. The Exchange states that “[b]itcoin miners engage in a set of prescribed complex mathematical calculations in order to add a block to the blockchain and thereby confirm bitcoin

also claims that the Chinese exchanges that account for the bulk of trading are subject to little regulatory oversight and that existing know-your-customer or identity-verification measures are lax and can be easily bypassed.<sup>35</sup>

One commenter states that the market for bitcoin, by trade volume, is very shallow. This commenter notes that the majority of bitcoin is hoarded by a few owners or is out of circulation. The commenter also notes that ownership concentration is high, with 50 percent of bitcoin in the hands of fewer than 1,000 people, and that this high ownership concentration creates greater market liquidity risk, as large blocks of bitcoin are difficult to sell in a timely and market efficient manner. This commenter claims that daily trade volume is only a small fraction of total bitcoin mined.<sup>36</sup> This commenter also states that several fundamental flaws make bitcoin a dangerous asset class to force into an exchange traded structure, including shallow trade volume, extreme hoarding, low liquidity, hyper price volatility, a global web of unregulated bucket-shop exchanges, high bankruptcy risk, and oversized exposure to trading in countries where there is no regulatory oversight.<sup>37</sup> This commenter believes that lack of regulation and consumer protection also increase the chance and incentives for market price manipulation and states that approving the ETP before structural protections and controls are firmly in place would put investors at undue risk.<sup>38</sup>

The Exchange, in its comment letter, asserts that bitcoin is resistant to manipulation, arguing that the increasing strength and resilience of the global bitcoin marketplace serve to reduce the likelihood of price manipulation and that arbitrage opportunities across globally diverse marketplaces allow market participants to ensure approximately equivalent pricing worldwide.<sup>39</sup>

The Exchange further asserts, in its comment letter, that the Commodity Futures Trading Commission (“CFTC”) has designated bitcoin as a commodity and is “broadly responsible for the integrity” of U.S. bitcoin spot markets.<sup>40</sup> The Exchange acknowledges that the CFTC has not yet brought any

transactions included in that block’s data. Miners that are successful in adding a block to the blockchain are automatically awarded a fixed number of bitcoins for their efforts.” *Id.*

<sup>35</sup> See Maher Letter, *supra* note 19.

<sup>36</sup> See Williams Letter, *supra* note 19, at 1–2.

<sup>37</sup> See *id.* at 1.

<sup>38</sup> See *id.*, at 2–3.

<sup>39</sup> See Bats Letter, *supra* note 19, at 2.

<sup>40</sup> See *id.* at 3.

enforcement actions based on the anti-manipulation provisions of the Commodity Exchange Act, but notes that the CFTC has issued orders against U.S. and non-U.S. bitcoin exchanges for engaging in other activity prohibited by the Commodity Exchange Act. The Exchange’s comment letter states that a regulatory framework for providing oversight and deterring market manipulation therefore currently exists in the U.S.<sup>41</sup>

Finally, the Commission notes a paper that was submitted with respect to a similar proposed rule change,<sup>42</sup> arguing that bitcoin is relatively uncorrelated with other assets, enabling investors to construct more efficient portfolios,<sup>43</sup> and that, as a general matter, the underlying market for bitcoin is inherently resistant to manipulation.<sup>44</sup> The author of the paper posits that the underlying bitcoin market is not susceptible to manipulation because (a) there is no inside information related to earnings, revenue, corporate actions, or new sources of supply; (b) the asset is not subject to the dissemination of false or misleading information; (c) each bitcoin market is an independent entity, so that a demand for liquidity does not necessarily propagate across other exchanges; (d) a substantial over-the-counter (“OTC”) market provides additional liquidity and absorption of shocks; (e) there is no market-close pricing event to manipulate; (f) the market is not subject to “spoofing” or other high-frequency-trading tactics; (g) order books on exchanges worldwide are publicly visible and available through APIs (application program interfaces); and (h) it is unlikely that any one person could obtain a dominant market share.<sup>45</sup> The author also asserts that listing the shares on a national securities exchange and a shift from OTC trading to trading on exchanges would make the overall bitcoin market more transparent.<sup>46</sup>

<sup>41</sup> See *id.*

<sup>42</sup> Craig M. Lewis, “SolidX Bitcoin Trust: A Bitcoin Exchange Traded Product” (Feb. 2017) (analysis commissioned by SolidX Management LLC and submitted to comment file SR-NYSEArca-2016-101) (“Lewis Paper”). A supplemental submission related to this paper was submitted on March 3, 2017. Craig M. Lewis, “Supplemental Submission to SolidX Bitcoin Trust: A Bitcoin Exchange Traded Product” (Mar. 3, 2017) (“Lewis Paper II”).

<sup>43</sup> See Lewis Paper, *supra* note 42, at 3, 11–15.

<sup>44</sup> See *id.* at 5–8.

<sup>45</sup> See Lewis Paper, *supra* note 42, at 5–6, 8–9; Lewis Paper II, *supra* note 42, at 2. The Commission notes that the Lewis Paper made additional assertions directed to the particular structure and pricing mechanism of another proposed bitcoin-based commodity-trust ETP, and the Commission does not address those arguments in this order.

<sup>46</sup> See Lewis Paper, *supra* note 42, at 7.

### B. Comments Regarding the Gemini Exchange

Several commenters discuss the Gemini Exchange’s low trading volumes<sup>47</sup> and one commenter claims that of all the exchanges Gemini has the worst pricing.<sup>48</sup> Another commenter asserts that there is a significant risk that the nominal ETP share price will be manipulated by relatively small trades that manipulate the bitcoin price at that exchange.<sup>49</sup> This commenter notes that, while U.S.-based bitcoin exchanges are subjected to stricter regulations and auditing for the holding of client accounts, the trading itself seems to occur in a regulatory vacuum and seems impossible to audit effectively.<sup>50</sup> This commenter expresses concerns regarding the Gemini Exchange Spot Price,<sup>51</sup> noting that the nominal price of the Shares under the proposal is supposed to be tied to the market price of bitcoins at the Gemini Exchange, which is closely tied to the ETP proponents.<sup>52</sup>

One commenter claims that among U.S.-dollar bitcoin exchanges, Gemini has a 3% share and its liquidity measured by order book depth is significantly lower than several other exchanges. The commenter notes that it is possible that after the launch of an ETP, Gemini’s liquidity and volume will increase, but claims that the nature of bitcoin trading that leads to the concentration of volume and liquidity outside of U.S. borders makes any significant future increase unlikely.<sup>53</sup> This commenter also observes that while Gemini is a regulated U.S. exchange, it does not operate in a vacuum. The commenter claims that the global landscape of many unregulated bitcoin exchanges exerts huge influence on the Gemini Exchange and consequently on the Winklevoss ETP.<sup>54</sup>

One commenter states that exchanges other than Gemini are not subject to the same level of oversight and that, if the ETP were based on some broad measure of weighted prices across different exchanges, then completely unregulated

<sup>47</sup> See, e.g., Maher Letter, *supra* note 19; Stolfi Letter, *supra* note 19; Anonymous Letter II, *supra* note 19.

<sup>48</sup> See Anonymous Letter II, *supra* note 19.

<sup>49</sup> See Stolfi Letter, *supra* note 19.

<sup>50</sup> See Stolfi Letter II, *supra* note 19.

<sup>51</sup> See Stolfi Letter, *supra* note 19.

<sup>52</sup> See *id.*

<sup>53</sup> See Maher Letter, *supra* note 19 (noting that the market is very concentrated and is controlled by a small group of exchanges operating in China, three of which represented 96% of all bitcoin trade volume over a six-month period, and noting that the Gemini Exchange had a 0.07% share of bitcoin volume worldwide during that period, with a 3% share of USD-exchange volume).

<sup>54</sup> See *id.*

actors might be able to exercise undue influence on the ETP valuation price.<sup>55</sup>

One commenter states that the Gemini Exchange Auction could be an improvement over other bitcoin pricing mechanisms, but asserts that the auction has not improved volume. The commenter claims that the Gemini Exchange has the lowest liquidity of the three exchanges in the United States and is one of the least-liquid of all exchanges that trade bitcoin for U.S. dollars.<sup>56</sup> The commenter observes that the auction data show that traders in the auction are taking advantage of the discounted auction price. The commenter notes that the daily two-sided auction process was designed to maximize price discovery and reduce price volatility that could be the result of momentum pricing, but asks what measures have been put in place to address traders who take advantage of the discounted auction price. The commenter also notes that while other financial products sometimes have auctions to determine price, an auction on a stock exchange does not require money to be deposited in advance with the exchange to be in the auction. The commenter notes that, by contrast, the Gemini Exchange requires dollars or bitcoin to be deposited before participation. The commenter believes that this is a problem because the Gemini auction is limited and “warped” and has failed on at least two occasions.<sup>57</sup>

One commenter claims that there are more robust ways to value the Trust’s holdings than using the spot price of a single exchange, such as the Gemini Exchange. The commenter notes that bitcoin trades on a number of exchanges around the world and that most of these exchanges can be considered isolated liquidity pools, which are more vulnerable to manipulation or security breach than the broader market.<sup>58</sup> The commenter also notes that the Gemini Exchange typically processes less than 10% of the total volume in the bitcoin/ U.S. dollar pair and states that an index of the most reliable exchanges should be constructed to value the Trust’s holdings. The commenter questions whether using only the Gemini Exchange’s spot price could serve to incentivize Authorized Participants and other market participants to direct traffic and flow to Gemini, at the expense of best execution.<sup>59</sup>

Another commenter takes a different view on the merits of single versus multiple price sources. This commenter notes that bitcoin spot prices diverge across exchanges due to various factors and that some exchanges may suffer from lack of oversight and a lack of transparency or fairness. The commenter claims that these facts strengthen the case for an investment product that does not rely on the spot price of less-credible exchanges to value its holdings and instead relies on the spot price on the Gemini Exchange, which is subject to substantive regulation of its exchange activity and custody of assets by the NYSDFS. This commenter also notes that, while leveraged trading on some other exchanges has historically sparked excessive price volatility and instability, Gemini does not offer such products and would be able to serve as a trusted, regulated spot exchange for institutional market participants driving the arbitrage mechanism that ensures efficient pricing between the spot price and the Shares. The commenter claims that the Gemini Exchange has the potential for more-robust price discovery as liquidity is concentrated on that exchange.<sup>60</sup>

One commenter states that there is an inherent trade-off to using one exchange versus an average of several exchanges, some of which may be less scrupulous. The commenter acknowledges that manipulation is a legitimate concern, but notes that it is not uncommon to see a very small number of physical trades determine the base price for a much larger paper market.<sup>61</sup>

Other commenters view the risk of manipulation as more significant. One commenter notes that it would be surprising if illegal and manipulative practices did not occur, since they would be easy to implement, impossible to detect, perfectly legal, and extremely lucrative.<sup>62</sup> This commenter also states that the Gemini Exchange Auction closing volumes have been low and have shown a slight decreasing trend since the inception of the auction. The commenter notes that, with low volumes, it seems possible to manipulate the NAV by entering suitable bids or asks in the Gemini Exchange Auction.<sup>63</sup> Another commenter agrees that bitcoin traders can manipulate trading on Gemini Exchange because of its low trading volumes and notes that the Trust’s documentation states that momentum pricing of bitcoin has resulted, and may

continue to result, in speculation regarding future appreciation in the value of bitcoin, making the price of bitcoin more volatile.<sup>64</sup> The commenter states that the value of bitcoin may therefore be more likely to fluctuate due to changing investor confidence in future appreciation in the Gemini Exchange Auction price, which could adversely affect an investment in the Shares.<sup>65</sup> According to another commenter, in this unregulated environment, price manipulation and front-running of large buy or sell orders can happen and well-connected customers can gain preferential treatment in order execution.<sup>66</sup>

The Exchange, in its comment letter, notes that the Gemini Exchange Auction typically already transacts a volume greater than the proposed creation basket size for the Trust, and would likely support the needs of Authorized Participants to engage in basket creation or redemption. The Exchange claims that the global bitcoin marketplace has the potential to provide even more liquidity and to be a source of bitcoin for basket creation and hedging. The Exchange also notes that all intraday order-book and trade information on the Gemini Exchange is publicly available through various electronic formats and is also redistributed by various online aggregators, and that, with the launch of the proposed Trust, the Sponsor must make important pricing data available in real time.<sup>67</sup>

The Exchange acknowledges in its comment letter that less-liquid markets, such as the market for bitcoin, may be more easily manipulated, but claims that these concerns are mitigated with respect to the Shares and the trading on the Gemini Exchange. The Exchange notes that the Gemini Exchange Auction price is based on an extremely similar mechanism to the one leveraged for the Exchange’s own Opening and Closing Auctions and allows full and transparent participation from all Gemini Exchange participants in the price discovery process. The Exchange states that the auction process leverages mechanics which have proven over the years to be robust and effective on the Exchange and other national listing exchanges in both liquid and illiquid securities alike. The Exchange notes that, because the time of the Gemini Exchange Auction coincides with the Exchange’s Closing Auction, efficient real-time arbitrage between the closing price of the Trust and the Gemini

<sup>55</sup> See Delehanty Letter, *supra* note 19.

<sup>56</sup> See Anonymous Letter II, *supra* note 19.

<sup>57</sup> See *id.*

<sup>58</sup> See ARK Letter, *supra* note 19, at 8.

<sup>59</sup> See *id.* at 8–9.

<sup>60</sup> See Circle Letter, *supra* note 19, at 2.

<sup>61</sup> See Delehanty Letter, *supra* note 19.

<sup>62</sup> See Stolfi Letter II, *supra* note 19.

<sup>63</sup> See *id.*

<sup>64</sup> See Anonymous Letter II, *supra* note 19.

<sup>65</sup> See *id.*

<sup>66</sup> See Williams Letter, *supra* note 19, at 2.

<sup>67</sup> See Bats Letter, *supra* note 19, at 9.



Exchange Auction price will be prevalent and will lead to resilient and effective pricing of both the Trust and the underlying bitcoin asset, leading to convergence between the Trust's closing price and its NAV.<sup>68</sup> The Exchange states that the Gemini Exchange Auction price typically deviates very little from the prevailing price on other bitcoin exchanges, and the Exchange presents statistics to show that this price is consistent with other pricing sources.<sup>69</sup>

### C. Comments on the Derivatives Markets for Bitcoin

One commenter claims that the bitcoin markets are not yet efficient and attributes this inefficiency, in part, to the nascent state of the bitcoin derivatives market. This commenter notes that derivatives provide investors more ways to hedge against bitcoin's potential price movements, introduce more volume and liquidity, and generally give the markets more points of information about bitcoin's future prospects, leading to tighter bid/ask spreads. The commenter claims that most derivatives activity within the bitcoin markets is offered by entities outside of the purview of U.S. regulators.<sup>70</sup> This commenter notes that, within the United States, one market offers bitcoin forwards, but no one currently offers regulated bitcoin futures. The commenter states that bitcoin options offered by regulated U.S. entities may come next, but that as of now there are none. The commenter observes that the lack of a robust and regulated derivatives market means that market participants do not have a broad basket of tools at their disposal, making hedging difficult and keeping away many market makers that provide significant liquidity to traditional capital markets. The commenter claims that, while derivative products may be in development, a full suite of investor tools that will drive market efficiency and eliminate price disparities is likely at least a couple of years away.<sup>71</sup> The commenter also notes that without a robust derivatives market for institutional investors to short the underlying asset, or otherwise hedge their positions, there likely would be little counterbalance to the new demand generated by the ETP, and that Authorized Participants could then have trouble sourcing bitcoin and hedging their positions, stalling the creation process.<sup>72</sup> The commenter concludes

that it would be premature to launch a bitcoin ETP because bitcoin markets are not liquid enough to support an open-end fund, and because an ecosystem of institutional-grade infrastructure players is not yet available to support such a product.<sup>73</sup>

One commenter disagrees with assertions linking inefficient bitcoin markets to nascent derivatives markets, stating that no evidence has been provided regarding the would-be effect of derivatives on the bitcoin market. The commenter claims that the assertion assumes that bitcoin pricing is inefficient, which the commenter claims is not the case. The commenter also claims that the assertion assumes that the lack of a derivatives market causes pricing to be inefficient, instead stating that there is direct evidence that many securities trade successfully and efficiently on U.S. and non-U.S. exchanges despite not having a direct derivatives market.<sup>74</sup> The commenter also disagrees with the claim that, absent a robust derivatives market, there would be little counterbalance to the new demand generated by the ETP, stating that it is impossible to predict the success or failure of the ETP. The commenter notes that Authorized Participants may be able to source bitcoin from China.<sup>75</sup>

Another commenter claims that there are several bitcoin futures markets that have a significant impact on the spot price along with several OTC markets, such as the one recently launched by the Gemini Exchange, that also offer liquidity.<sup>76</sup>

The author of the paper submitted with respect to a similar proposal states that one of the key differences between bitcoin and other commodities is the lack of a liquid and transparent derivatives market and that, although there have been nascent attempts to establish derivatives trading in bitcoin, bitcoin derivatives markets are not at this time sufficiently liquid to be useful to Authorized Participants and market makers who would like to use derivatives to hedge exposures.<sup>77</sup> The author claims that, for physical commodities that are not traded on exchanges, the presence of a liquid derivatives market is a necessary

condition, but claims that for digital assets like bitcoin, derivatives markets are not necessary because price discovery occurs on the OTC market and exchanges instead.<sup>78</sup>

## III. Discussion and Commission Findings

### A. Overview

Under Section 19(b)(2)(C) of the Exchange Act, the Commission must approve the proposed rule change of a self-regulatory organization ("SRO") if the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the applicable rules and regulations thereunder.<sup>79</sup> If it is unable to make such a finding, the Commission must disapprove the proposed rule change.<sup>80</sup> Additionally, under Rule 700(b)(3) of 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 that proposed the rule change."<sup>81</sup>

After careful consideration, and for the reasons discussed in greater detail below, the Commission does not believe that the proposed rule change, as modified by Amendments No. 1 and 2, is consistent with the requirements of the Exchange Act and the applicable rules and regulations thereunder.<sup>82</sup>

<sup>78</sup> See *id.*

<sup>79</sup> 15 U.S.C. 78s(b)(2)(C)(i).

<sup>80</sup> 15 U.S.C. 78s(b)(2)(C)(ii).

<sup>81</sup> 17 CFR 201.700(b)(3). 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. *Id.* Any failure of a self-regulatory organization to provide the information elicited by Form 19b-4 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 rules and regulations issued thereunder that are applicable to the self-regulatory organization. *Id.*

<sup>82</sup> In disapproving the proposed rule change, as modified by Amendments No. 1 and 2, the Commission has considered its impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f); see also notes 42-46 & 115-118 and accompanying text. The Commission notes that, according to the Exchange, the Sponsor believes that the Shares will represent a cost-effective and convenient means of gaining investment exposure to bitcoin similar to a direct investment in bitcoin, allowing investors to more effectively implement strategic and tactical asset allocation strategies that use bitcoin, with lower cost than that associated with the direct purchase, storage, and safekeeping of bitcoin. See Amendment No. 1, *supra* note 1, 81 FR at 76662; see also Lewis Paper, *supra* note 42, at 3, 11-16 (asserting that a bitcoin-based ETP would enable ordinary investors to construct more efficient portfolios). Regarding competition, the Exchange has asserted that approval of the proposed rule change "will enhance

<sup>68</sup> See *id.* at 7-8.

<sup>69</sup> See *id.* at 8-9.

<sup>70</sup> See ARK Letter, *supra* note 19, at 5-6.

<sup>71</sup> See *id.* at 6.

<sup>72</sup> See *id.* at 13-14.

<sup>73</sup> See *id.* at 2.

<sup>74</sup> See Anonymous Letter III, *supra* note 19. Several commenters also assert that regulation by the Exchange of activity in the ETP could substitute for a lack of regulation in underlying or derivatives markets. See, e.g., Baird Letter, *supra* note 19; Keeler Letter, *supra* note 19; Marchionne Letter, *supra* note 19; Bang Letter, *supra* note 19.

<sup>75</sup> See Anonymous Letter III, *supra* note 19.

<sup>76</sup> See Dylan Letter, *supra* note 19, at 1.

<sup>77</sup> See Lewis Paper, *supra* note 42, at 8.

Specifically, the Commission does not find that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act—which requires that the rules of a national securities exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest<sup>83</sup>—because the Commission believes that the significant markets for bitcoin are unregulated and that, therefore, the Exchange has not entered into, and would currently be unable to enter into, the type of surveillance-sharing agreement that helps address concerns about the potential for fraudulent or manipulative acts and practices in the market for the Shares. Accordingly, the Commission disapproves the proposed rule change.<sup>84</sup>

### B. Analysis

#### 1. Commodity-Trust ETPs and Surveillance-Sharing Agreements

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(e)(4), which governs the listing of Commodity-Based Trust Shares.<sup>85</sup> In this regard, the proposal is similar to many past proposals to list and trade shares of ETPs holding precious metals,<sup>86</sup> assets that individuals could otherwise obtain directly (for example, in the form of bullion coins), but at the cost of having to secure those holdings.<sup>87</sup> The Commission analyzes

competition among market participants, to the benefit of investors and the marketplace.” Amendment No. 1, *supra* note 1, 81 FR at 76669. The Commission recognizes that the Exchange asserts these economic benefits, but, for the reasons discussed throughout, the Commission must disapprove the proposed rule change because it is not consistent with the Exchange Act.

<sup>83</sup> 15 U.S.C. 78f(b)(5).

<sup>84</sup> The Commission’s disposition of the Exchange’s proposed rule change is independent of, and serves a fundamentally different purpose than, any Commission actions with respect to the Securities Act of 1933 registration statement of the Trust.

<sup>85</sup> The Commission notes that in settled actions the CFTC has designated bitcoin as a commodity and has asserted jurisdiction over the trading of at least certain derivatives on bitcoin, as well as certain leveraged or margined retail transactions in bitcoin. See *In re Coinflip, Inc., d/b/a Derivatbit, and Francisco Riordan*, CFTC Docket No. 15–29, 2015 WL 5535736 (CFTC Sept. 17, 2015) (Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, Making Findings and Imposing Remedial Sanctions (“Coinflip Settlement Order”)), available at <http://www.cftc.gov/idc/groups/public/@enforcementactions/documents/legalpleading/enforcementorder09172015.pdf>.

<sup>86</sup> See, e.g., *streetTRACKS Gold Shares*, Exchange Act Release No. 50603 (Oct. 28, 2004), 69 FR 64614 (Nov. 5, 2004) (SR–NYSE–2004–22) (order approving the listing and trading of shares of commodity-trust ETP holding physical gold bullion).

<sup>87</sup> See Amendment No. 1, *supra* note 1, 81 FR at 76662 (“The Sponsor believes that investors will be

this proposal under the standards it has applied to previous commodity-trust ETPs.

A key consideration for the Commission in determining whether to approve or disapprove a proposal to list and trade shares of a new commodity-trust ETP is the susceptibility of the shares or the underlying asset to manipulation. This consideration flows directly from the requirement in Section 6(b)(5) of the Exchange Act that a national securities exchange’s rules must be designed “to prevent fraudulent and manipulative acts and practices” and “to protect investors and the public interest.”<sup>88</sup>

Since at least 1990, the Commission has expressed the view that the ability of a national securities exchange to enter into surveillance-sharing agreements “further the protection of investors and the public interest because it will enable the [e]xchange to conduct prompt investigations into possible trading violations and other regulatory improprieties.”<sup>89</sup> The Commission has also long held that surveillance-sharing agreements are important in the context of exchange listing of derivative security products, such as equity options. In 1994, the Commission stated:

As a general matter, the Commission believes that the existence of a surveillance sharing agreement that effectively permits the sharing of information between an exchange proposing to list an equity option and the exchange trading the stock underlying the equity option is necessary to detect and deter market manipulation and other trading abuses. In particular, the Commission notes that surveillance sharing agreements provide an important deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. These agreements are especially important in the context of derivative products based on foreign securities because they facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions.<sup>90</sup>

able to more effectively implement strategic and tactical asset allocation strategies that use bitcoin by using the Shares instead of directly purchasing and holding bitcoin, and for many investors, transaction costs related to the Shares will be lower than those associated with the direct purchase, storage and safekeeping of bitcoin.”)

<sup>88</sup> 15 U.S.C. 19f(b)(5).

<sup>89</sup> See Exchange Act Release No. 27877 (Apr. 4, 1990), 55 FR 13344 (Apr. 10, 1990) (SR–NYSE–90–14).

<sup>90</sup> Exchange Act Release No. 33555 (Jan. 31, 1994), 59 FR 5619 (Feb. 7, 1994) (SR–Amex–93–28) (order approving listing of options on American Depositary Receipts). The Commission further stated that, “[b]ecause of the additional leverage provided by an option on an ADR, the Commission generally believes that having a comprehensive surveillance sharing agreement in place, between the exchange where the ADR option trades and the

With respect to ETPs, when approving in 1995 the listing and trading of one of the first commodity-linked ETPs—a commodity-linked exchange-traded note—on a national securities exchange, the Commission continued to emphasize the importance of surveillance-sharing agreements, noting that the listing exchange had entered into surveillance-sharing agreements with each of the futures markets on which pricing of the ETP would be based and stating that “[t]hese agreements should help to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making [the commodity-linked notes] less readily susceptible to manipulation.”<sup>91</sup>

exchange where the foreign security underlying the ADR primarily trades, will ensure the integrity of the marketplace. The Commission further believes that the ability to obtain relevant surveillance information, including, among other things, the identity of the ultimate purchasers and sellers of securities, is an essential and necessary component of a comprehensive surveillance sharing agreement.” *Id.*, 59 FR at 5621.

<sup>91</sup> See Exchange Act Release No. 35518 (Mar. 21, 1995), 60 FR 15804 (Mar. 27, 1995) (SR–Amex–94–30). In that matter, the Commission noted that the listing exchange had comprehensive surveillance-sharing agreements with all of the exchanges upon which the futures contracts underlying the notes traded and was able to obtain market surveillance information, including customer identity information, for transactions occurring on NYMEX and other futures exchanges. See *id.*, 60 FR at 15806 n.21. See also Exchange Act Release No. 36885 (Feb. 26, 1996), 61 FR 8315, n.17 (Mar. 4, 1996) (SR–Amex–95–50) (approving the exchange listing and trading of Commodity Indexed Securities, and noting (a) that through the comprehensive surveillance-sharing agreements, the listing exchange was able to obtain market surveillance information, including customer identity information, for transactions occurring on NYMEX and COMEX and that, through the Intermarket Surveillance Group information-sharing agreement, the listing exchange was able to obtain, upon request, surveillance information with respect to trades effected on the London Metal Exchange, including client identity information and (b) that, if a different market were utilized for purposes of calculating the value of a designated futures contract, the listing exchange had represented that it would ensure that it entered into a surveillance-sharing agreement with respect to the new relevant market). The Commission has made similar statements about surveillance-sharing agreements with respect to the listing and trading of stock-index, currency, and currency-index warrants. See, e.g., Exchange Act Release No. 36166 (Aug. 29, 1995), 60 FR 46660 (Sept. 7, 1995) (SR–PSE–94–28) (approving a proposal to adopt uniform listing and trading guidelines for stock-index, currency, and currency-index warrants). Specifically, the Commission noted that “a surveillance sharing agreement should provide the parties with the ability to obtain information necessary to detect and deter market manipulation and other trading abuses” and stated that the Commission “generally requires that a surveillance sharing agreement require that the parties to the agreement provide each other, upon request, information about market trading activity, clearing activity, and the identity of the ultimate purchasers for securities.” *Id.*, 60 FR at 46665 n.35. In addition, the Commission stated

In 1998, in adopting Exchange Act Rule 19b-4(e)<sup>92</sup> to permit the generic listing and trading of certain new derivatives securities products—including ETPs—the Commission again emphasized the importance of the listing exchange's ability to obtain from underlying markets, through surveillance-sharing agreements (called information-sharing agreements in the release), the information necessary to detect and deter manipulative activity. Specifically, in adopting rules governing the generic listing of new derivatives securities products, the Commission stated that the Rule 19b-4(e) procedures would “enable the Commission to continue to effectively protect investors and promote the public interest” and stated that:

It is essential that the SRO have the ability to obtain the information necessary to detect and deter market manipulation, illegal trading and other abuses involving the new derivative securities product. Specifically, there should be a comprehensive ISA [information-sharing agreement] that covers trading in the new derivative securities product and its underlying securities in place between the SRO listing or trading a derivative product and the markets trading the securities underlying the new derivative securities product. Such agreements provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a manipulation if it were to occur.<sup>93</sup>

The Commission, in the NDSP Adopting Release, also stressed the importance of these surveillance-sharing agreements comprehensively covering trading in the underlying assets. In the case of a product overlying domestic securities, the Commission said that the exchange listing a derivative securities product should ensure that it was either a common member of the Intermarket Surveillance Group with, or had entered into an information-sharing agreement with, each market trading each underlying security.<sup>94</sup> Further, the Commission stated that:

that “[t]he ability to obtain relevant surveillance information, including, among other things, the identity of the ultimate purchasers and sellers of securities, is an essential and necessary component of a comprehensive surveillance sharing agreement.” *Id.*, 60 FR at 46665 n.36.

<sup>92</sup> 17 CFR 240.19b-4(e).

<sup>93</sup> Amendment to Rule Filing Requirements for Self-Regulatory Organizations Regarding New Derivative Securities Products, Exchange Act Release No. 40761 (Dec. 8, 1998), 63 FR 70952, 70959 (Dec. 22, 1998) (File no. S7-13-98) (“NDSP Adopting Release”).

<sup>94</sup> See *id.*, 63 FR at 70959. The Commission further noted that “if a new SRO trades component securities underlying a new derivative securities product and is not a member of the ISG, the SRO seeking to list and trade such new derivative securities product pursuant to Rule 19b-4(e) should enter into a comprehensive ISA with the non-ISG

For a new derivative securities product overlying an instrument with component securities from several countries, the Commission recognizes that it may not be practical in all instances to secure comprehensive ISAs with all of the relevant foreign markets. Foreign countries' securities or ADRs that are not subject to a comprehensive ISA should not represent a significant percentage of the weight of such an underlying instrument.”<sup>95</sup>

Consistent with these statements, for the commodity-trust ETPs approved to date for listing and trading, there have been in every case well-established, significant, regulated markets for trading futures on the underlying commodity—gold, silver, platinum, palladium, and copper—and the ETP listing exchange has entered into surveillance-sharing agreements with, or held Intermarket Surveillance Group membership in common with, those markets.<sup>96</sup>

SRO. Conversely, if a new SRO seeks to list and trade a new derivative securities product pursuant to Rule 19b-4(e) and is not a member of the ISG, such SRO should enter into a comprehensive ISA with each SRO that trades securities underlying the new derivative securities product.” See *id.*, 63 FR at 70959, n.99.

<sup>95</sup> See *id.*, 63 FR at 70959.

<sup>96</sup> See streetTRACKS Gold Shares, Exchange Act Release No. 50603 (Oct. 28, 2004), 69 FR 64614 (Nov. 5, 2004) (SR-NYSE-2004-22) (approval order notes the New York Stock Exchange's representation that “the most significant gold futures exchanges are the COMEX division of the NYMEX and the Tokyo Commodity Exchange”); iShares COMEX Gold Trust, Exchange Act Release No. 51058 (Jan. 19, 2005), 70 FR 3749 (Jan. 26, 2005) (SR-Amex-2004-38) (approval order notes the American Stock Exchange's representation that “the most significant gold futures exchanges are the COMEX division of the NYMEX and the Tokyo Commodity Exchange”); iShares Silver Trust, Exchange Act Release No. 53521 (Mar. 20, 2006), 71 FR 14967 (Mar. 24, 2006) (SR-Amex-2005-72) (approval order notes the American Stock Exchange's representation that “the most significant silver futures exchanges are the COMEX and the Tokyo Commodity Exchange”); ETFs Gold Trust, Exchange Act Release No. 59895 (May 8, 2009), 74 FR 22993 (May 15, 2009) (SR-NYSEArca-2009-40) (accelerated approval order notes NYSE Arca's representation that the COMEX is one of the “major world gold markets”); ETFs Silver Trust, Exchange Act Release No. 59781 (Apr. 17, 2009), 74 FR 18771 (Apr. 24, 2009) (SR-NYSEArca-2009-28) (accelerated approval order notes NYSE Arca's representation that “the most significant silver futures exchanges are the COMEX . . . and the Tokyo Commodity Exchange”); ETFs Palladium Trust, Exchange Act Release No. 60971 (Nov. 9, 2009), 74 FR 59283 (Nov. 17, 2009) (SR-NYSEArca-2009-94) (notice of proposed rule change includes NYSE Arca's representation that “the most significant palladium futures exchanges are the NYMEX and the Tokyo Commodity Exchange” and that “NYMEX is the largest exchange in the world for trading precious metals futures and options”); ETFs Platinum Trust, Exchange Act Release No. 60970 (Nov. 9, 2006), 74 FR 59319 (Nov. 17, 2009) (SR-NYSEArca-2009-95) (notice of proposed rule change includes NYSE Arca's representation that “the most significant palladium futures exchanges are the NYMEX and the Tokyo Commodity Exchange” and that “NYMEX is the largest exchange in the world for trading precious metals futures and options”); Sprott Physical Gold Trust,

The Exchange represents that its existing surveillance measures, which focus on trading in the Shares, are sufficient to support the proposed rule

Exchange Act Release No. 61236 (Dec. 23, 2009), 75 FR 170 (Jan. 4, 2010) (SR-NYSEArca-2009-113) (notice of proposed rule change includes NYSE Arca's representation that the COMEX is one of the “major world gold markets”); Sprott Physical Silver Trust, Exchange Act Release No. 63043 (Oct. 5, 2010), 75 FR 62615 (Oct. 12, 2010) (SR-NYSEArca-2010-84) (accelerated approval order notes NYSE Arca's representation that the COMEX is one of the “major world silver markets”); ETFs Precious Metals Basket Trust, Exchange Act Release No. 62402 (Jun. 29, 2010), 75 FR 39292 (July 8, 2010) (SR-NYSEArca-2010-56) (notice of proposed rule change includes NYSE Arca's representation that “the most significant gold, silver, platinum and palladium futures exchanges are the COMEX and the TOCOM”); ETFs White Metals Basket Trust, Exchange Act Release No. 62620 (July 30, 2010), 75 FR 47655 (Aug. 6, 2010) (SR-NYSEArca-2010-71) (notice of proposed rule change includes NYSE Arca's representation that “the most significant silver, platinum and palladium futures exchanges are the COMEX and the TOCOM”); ETFs Asian Gold Trust, Exchange Act Release No. 63267 (Nov. 8, 2010), 75 FR 69494 (Nov. 12, 2010) (SR-NYSEArca-2010-95) (notice of proposed rule change includes NYSE Arca's representation that “the most significant gold futures exchanges are the COMEX and the Tokyo Commodity Exchange” and that “COMEX is the largest exchange in the world for trading precious metals futures and options”); Sprott Physical Platinum and Palladium Trust, Exchange Act Release No. 68101 (Oct. 24, 2012), 77 FR 65732 (Oct. 30, 2012) (SR-NYSEArca-2012-111) (accelerated approval order notes NYSE Arca's representation that “[f]utures on platinum and palladium are traded on two major exchanges: The New York Mercantile Exchange . . . and Tokyo Commodities Exchange”); APMEX Physical—1 oz. Gold Redeemable Trust, Exchange Act Release No. 66627 (Mar. 20, 2012), 77 FR 17539 (Mar. 26, 2012) (SR-NYSEArca-2012-18) (notice of proposed rule change cross-references the proposed rule change to list and trade shares of the ETFs Gold Trust, in which NYSE Arca represented that the COMEX is one of the “major world gold markets”); JPM XF Physical Copper Trust, Exchange Act Release No. 68440 (Dec. 14, 2012), 77 FR 75468 (Dec. 20, 2012) (SR-NYSEArca-2012-28) (approval order notes NYSE Arca's representation that “[a] majority of copper derivatives trading occurs on three exchanges: The LME, the Commodity Exchange, Inc. . . . and the Shanghai Futures Exchange”); iShares Copper Trust, Exchange Act Release No. 68973 (Feb. 22, 2013), 78 FR 13726 (Feb. 28, 2013) (SR-NYSEArca-2012-66) (approval order notes NYSE Arca's representation that “the LME is the longest standing exchange trading copper futures, with the greatest number of open copper futures and options contracts”); First Trust Gold Trust, Exchange Act Release No. 69847 (Jun. 25, 2013), 78 FR 39399 (July 1, 2013) (SR-NYSEArca-2013-61) (notice of proposed rule change cross-references the proposed rule change to list and trade shares of the ETFs Gold Trust, in which NYSE Arca represented that the COMEX is one of the “major world gold markets”); Merk Gold Trust, Exchange Act Release No. 71038 (Dec. 11, 2013), 78 FR 76367 (Dec. 17, 2013) (SR-NYSEArca-2013-137) (notice of proposed rule change cross-references the proposed rule change to list and trade shares of the ETFs Gold Trust, in which NYSE Arca represented that the COMEX is one of the “major world gold markets”); Long Dollar Gold Trust, Exchange Act Release No. 79518 (Dec. 9, 2016), 81 FR 90876 (Dec. 15, 2016) (SR-NYSEArca-2016-84) (accelerated approval order notes NYSE Arca's representation that “[t]he most significant gold futures exchange is COMEX, part of the CME Group, Inc., which began to offer trading in gold futures contracts in 1974”).

change. Specifically, the Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.<sup>97</sup> The Exchange further represents that trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares, and that the Exchange may obtain information regarding trading in the Shares through the Intermarket Surveillance Group, from other members or affiliates of that group, or from exchanges with which the Exchange has a surveillance-sharing agreement.<sup>98</sup> In addition, the Exchange notes that it has entered into a comprehensive surveillance-sharing agreement with the Gemini Exchange and represents that it may obtain information about bitcoin transactions, trades, and market data from the Gemini Exchange (and from any bitcoin exchanges with which the Exchange enters into a surveillance-sharing agreement in the future), as well as certain additional information that is publicly available through the Blockchain. Moreover, several commenters assert that regulation by the Exchange of activity in the ETP could substitute for a lack of regulation in underlying or derivatives markets.<sup>99</sup>

The Commission views the Exchange's proposed surveillance procedures regarding the Shares themselves as necessary, but not sufficient in light of the discussion below noting that the Exchange has not entered into, and would currently be unable to enter into, surveillance-sharing agreements with significant, regulated markets for trading either bitcoin itself or derivatives on bitcoin.<sup>100</sup> Moreover, the Commission does not accept the premise, suggested by some commenters, that regulation of

trading in the Shares is a sufficient and acceptable substitute for regulation in the spot or derivatives markets related to the underlying asset.<sup>101</sup> Absent the ability to detect and deter manipulation of the Shares—through surveillance sharing with significant, regulated markets related to the underlying asset—the Commission does not believe that a national securities exchange can meet its Exchange Act obligations when listing shares of a commodity-trust ETP.

The Commission continues to believe that surveillance-sharing agreements between the exchange listing shares of a commodity-trust ETP and significant, regulated markets related to the underlying asset provide a “necessary deterrent to manipulation.”<sup>102</sup> To the extent there is some question as to the degree to which bitcoin is subject to manipulation, moreover, surveillance-sharing agreements with significant, regulated markets relating to bitcoin would help answer that question and address instances of such manipulation. Therefore, the Commission's analysis of the Exchange's proposal examines whether regulated markets of significant size exist—in either bitcoin or derivatives on bitcoin—with which the Exchange has, or could enter into, a surveillance-sharing agreement.

## 2. The Worldwide Spot Market for Bitcoin

With respect to spot bitcoin trading outside the United States, the information in the Exchange's proposal and from commenters demonstrates that the bulk of bitcoin trading occurs in non-U.S. markets where there is little to no regulation governing trading,<sup>103</sup> and

<sup>97</sup> See, e.g., Anderson Letter, *supra* note 19; Baird Letter, *supra* note 19; Keeler Letter, *supra* note 19; Marchionne Letter, *supra* note 19; Bang Letter, *supra* note 19.

<sup>98</sup> NDSP Adopting Release, *supra* note 93, 63 FR at 70959.

<sup>99</sup> See Bats Letter, *supra* note 19, at 2–3 (noting that only a minority of global bitcoin exchanges are fully regulated for their fiduciary and custodial activities); Stolfi Letter II, *supra* note 19 (remarking that, since 2013, the price of bitcoin has been defined mostly by the major Chinese exchanges, whose volumes dwarf those of exchanges outside China, which are not regulated or audited, and which are suspected of unethical practices like front-running, wash trades, and trading with insufficient funds); ARK Letter, *supra* note 19, at 11–12 (noting that over 90% of bitcoin spot trading volume occurs in the BTC/CNY pair, where there is little regulatory oversight and transparency); Maher Letter, *supra* note 19 (explaining that the Chinese bitcoin exchanges fall under little oversight by any regulatory entities); Williams Letter, *supra* note 19, at 1 (noting that, among several fundamental flaws that make bitcoin a dangerous asset class to force into an ETP structure, specific risks include the “global web of unregulated bucket shop exchanges” and the “oversized exposure to trading in countries where there is no regulatory oversight, such as China”); Lee Letter, *supra* note

thus no meaningful governmental market oversight designed to detect and deter fraudulent and manipulative activity.<sup>104</sup> The Exchange notes in its comment letter that only a minority of the global spot bitcoin exchanges are subject to any regulatory regime.<sup>105</sup> Additionally, the Commission notes that no bitcoin spot market is currently a member of the Intermarket Surveillance Group.<sup>106</sup>

With respect to trading in the United States, the Exchange asserts that the CFTC is broadly responsible for the integrity of bitcoin spot markets and that, therefore, a regulatory framework for providing oversight and deterring market manipulation currently exists in the United States.<sup>107</sup> The Exchange's conclusion about the state of regulation in the U.S. market for bitcoin, however, is not supported by the facts the Exchange presents.

Although the CFTC can bring enforcement actions against manipulative conduct in spot markets for a commodity, spot markets are not required to register with the CFTC, unless they offer leveraged, margined, or financed trading to retail customers.<sup>108</sup> In all other cases, including the Gemini Exchange, the CFTC does not set standards for, approve the rules of, examine, or otherwise regulate bitcoin spot markets.<sup>109</sup> The Exchange notes in its comment letter that the CFTC has brought several bitcoin-related enforcement actions against bitcoin-related entities,<sup>110</sup> but the actions cited by the Exchange do not demonstrate

19 (noting that there is currently no regulation or oversight for the worldwide market of exchanges).

<sup>104</sup> See *supra* notes 31–38 and accompanying text. The Commission also notes that, while the Exchange represents that it can obtain information about bitcoin trading made publicly available through the Blockchain, see Amendment No. 1, *supra* note 1, 81 FR at 76668, this information identifies parties to a transaction only by a pseudonymous public-key address.

<sup>105</sup> See Bats Letter, *supra* note 19, at 2–3 (noting that only a minority of global bitcoin exchanges are fully regulated for their fiduciary and custodial activities, and naming Gemini Trust Company LLC and itBit Trust Company LLC, as the only two exchange operators that are subject to substantive regulation, each overseen by the NYSDFS).

<sup>106</sup> See <http://www.isgportal.com> (listing the current members and affiliate members of the Intermarket Surveillance Group).

<sup>107</sup> See Bats Letter, *supra* note 19, at 3.

<sup>108</sup> Commodity Exchange Act Section 2(c)(2)(D), 7 U.S.C. 2(c)(2)(D). See also Commodity Exchange Act Section 2(c)(2)(A), 7 U.S.C. 2(c)(2)(A) (defining CFTC jurisdiction to specifically cover contracts of sale of a commodity for future delivery (or options on such contracts), or an option on a commodity (other than foreign currency or a security or a group or index of securities), that is executed or traded on an organized exchange).

<sup>109</sup> The Gemini Exchange is not registered with the CFTC.

<sup>110</sup> Bats Letter, *supra* note 19, at 3.

<sup>97</sup> See Amendment No. 1, *supra* note 1, 81 FR at 76668.

<sup>98</sup> See *id.*

<sup>99</sup> See, e.g., Baird Letter, *supra* note 19 (stating that, if the U.S. were to approve an ETP and bring regulatory standards and oversight to cryptocurrencies, investors would not see major problems as they did with the Bitfinex and Mt. Gox hacks and that, if the ETP were not approved, investors would be forced to use those less-than-ideal exchanges); Keeler Letter, *supra* note 19 (stating that the alternative to a regulated ETP is investors having to purchase bitcoin at unregulated exchanges lacking SEC oversight); Bang Letter, *supra* note 19 (stating that disapproval of the ETP would create a more risky environment for investors, who will not have the option of investing through regulated exchanges).

<sup>100</sup> See *infra* Section III.B.

that a regulatory framework for providing oversight and deterring market manipulation currently exists for the bitcoin spot market. Rather, the cited enforcement actions have involved either (a) the failure of an entity to register with the CFTC before trading derivatives on bitcoin or offering leveraged, margined, or financed bitcoin trading to retail customers,<sup>111</sup> or (b) the facilitation of wash trades in bitcoin swaps by a swap execution facility registered with the CFTC.<sup>112</sup>

Some commenters believe that bitcoin markets can be manipulated.<sup>113</sup> The Exchange agrees, in its comment letter, that “less liquid markets, such as the market for bitcoin, may be more manipulable,” but asserts that the strength and resilience of the global bitcoin market serve to reduce the likelihood of manipulation.<sup>114</sup> Additionally, the author of the paper submitted with respect to a similar proposal for a bitcoin-based ETP asserts that, for several reasons, the underlying market for bitcoin is not susceptible to manipulation.<sup>115</sup>

The Commission does not believe that the record supports a finding that the unique properties of bitcoin and the underlying bitcoin market are so different from the properties of other commodities and commodity futures markets that they justify a significant departure from the standards applied to previous commodity-trust ETPs. While the Exchange and the author of the paper submit that arbitrage across bitcoin markets will help to keep worldwide bitcoin prices aligned with one another, hindering manipulation,<sup>116</sup> neither provides data regarding how long pricing disparities may persist before they are arbitrated away, and one commenter specifically noted that large

arbitrage opportunities persist in bitcoin markets.<sup>117</sup>

The Commission also believes that the paper’s discussion of the possible sources of manipulation is incomplete and does not form a basis to find that bitcoin cannot be manipulated—or to find, by implication, that no surveillance-sharing agreement is necessary between an exchange listing shares of a bitcoin-based ETP and significant markets trading bitcoin or bitcoin derivatives. For example, while there is no inside information related to the earnings or revenue of bitcoin, there may be material non-public information related to the actions of regulators with respect to bitcoin; regarding order flow, such as plans of market participants to significantly increase or decrease their holdings in bitcoin; regarding new sources of demand, such as new ETPs that would hold bitcoin; or regarding the decision of a bitcoin-based ETP with respect to how it would respond to a “fork” in the blockchain, which would create two different, non-interchangeable types of bitcoin.<sup>118</sup>

Moreover, the manipulation of asset prices, as a general matter, can occur simply through trading activity that creates a false impression of supply or demand, whether in the context of a closing auction or in the course of continuous trading, and does not require formal linkages among markets (such as consolidated quotations or routing requirements) or the complex quoting behavior associated with high-frequency trading.<sup>119</sup> Finally, while it may or may not be possible to acquire a dominant position in the bitcoin market as a whole, it might be quite possible to acquire a position large enough to temporarily move the price

on a single, less-liquid bitcoin trading market, even if OTC markets exist that are capable of absorbing liquidity shocks.

### 3. The Gemini Exchange

The Exchange represents that it has entered into a comprehensive surveillance-sharing agreement with the Gemini Exchange with respect to trading of the bitcoin asset underlying the Trust and that the Gemini Exchange is supervised by the NYSDFS.<sup>120</sup> Additionally, the Exchange states in its comment letter that it “agrees that less liquid markets, such as the market for bitcoin, may be more manipulable, but believes that . . . such concerns are mitigated as it relates to the Shares of the Trust and trading activity on the Gemini Exchange.”<sup>121</sup> As explained below, however, the Commission does not believe this surveillance-sharing agreement to be sufficient, because the Gemini Exchange conducts only a small fraction of the worldwide trading in bitcoin, and because the Gemini Exchange is not a “regulated market” comparable to a national securities exchange or to the futures exchanges that are associated with the underlying assets of the commodity-trust ETPs approved to date.<sup>122</sup>

Commenters disagree on whether the Gemini Exchange conducts a significant volume of trading in bitcoin and whether trading on the Gemini Exchange is susceptible to manipulation. The Exchange promotes the Gemini Exchange as one of the top three bitcoin exchanges in the United States,<sup>123</sup> and some commenters believe that the Gemini Exchange conducts sufficient volume to support the Winklevoss Bitcoin Trust.<sup>124</sup> Other commenters, however, question these assertions, some noting that the vast majority of bitcoin trading, including trading denominated in U.S. dollars

<sup>111</sup> See *Coinflip Settlement Order*, *supra* note 85; *In re BFXNA Inc., d/b/a Bitfinex*, CFTC Docket No. 16–19 (CFTC June 2, 2016) (Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, Making Findings and Imposing Remedial Sanctions (“BFXNA Settlement Order”)), available at <http://www.cftc.gov/idc/groups/public/@lrenforcementactions/documents/legalpleading/enfbfxnaorder060216.pdf>.

<sup>112</sup> See *In re TeraExchange LLC*, CFTC Docket No. 15–33, 2015 WL 5658082 (CFTC Sept. 24, 2015) (Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, Making Findings and Imposing Remedial Sanctions (“TeraExchange Settlement Order”)), available at <http://www.cftc.gov/idc/groups/public/@lrenforcementactions/documents/legalpleading/enfteraexchangeorder92415.pdf>.

<sup>113</sup> See *supra* notes 34–38 and accompanying text.

<sup>114</sup> See *supra* notes 39–41 and accompanying text.

<sup>115</sup> See Lewis Paper, *supra* note 42; see also *supra* notes 42–46 and accompanying text.

<sup>116</sup> See Bats Letter, *supra* note 19, at 2; Lewis Paper, *supra* note 42, at 6–7.

<sup>117</sup> See ARK Letter, *supra* note 19, at 5.

<sup>118</sup> For example, as described in the Trust’s Registration Statement, *supra* note 9, in the event the Bitcoin Network undergoes a “hard fork” into two blockchains, the Custodian and the Sponsor will determine which of the resulting blockchains to use as the basis for the assets of the Trust and, under certain circumstances, will have discretion to determine which blockchain is “most likely to be supported by a majority of users or miners.” *Id.* at 113. See also Lee Letter, *supra* note 19; Johnson Letter, *supra* note 19; Schulte Letter, *supra* note 19; Anonymous Letter IV, *supra* note 19; Anonymous Letter V, *supra* note 19. The decision of the Custodian and Sponsor to support one resulting blockchain over another could have a material effect on the relative value of the bitcoins in each of the blockchains.

<sup>119</sup> The Commission notes that, even if transparent order books and transaction reports on bitcoin markets would by definition include the quoting or trading activity of a person attempting to manipulate the market, along with the activity of all other market participants, such information could not, by itself, definitively establish in real time which activity represented bona fide trading interest and which represented an intent to manipulate.

<sup>120</sup> See Amendment No. 1, *supra* note 1, 81 FR at 76660, 76668.

<sup>121</sup> See Bats Letter, *supra* note 19, at 7–8.

<sup>122</sup> See *supra* note 96.

<sup>123</sup> See Amendment No. 1, *supra* note 1, 81 FR at 76659; Bats Letter, *supra* note 19, at 7–8. *But see* Anonymous Letter II, *supra* note 19 (“There are only three exchanges in the United States. Gemini has the lowest liquidity of the three and is one of the least liquid exchanges of all exchanges that trade bitcoin for US dollars.”).

<sup>124</sup> See McMinn Letter, *supra* note 19 (stating that trading volume on the Gemini Exchange is sufficient, and that manipulation of these Shares, while possible, would equally be possible for other exchange-traded funds); Delehanty Letter (concluding that trading volume in the recent Gemini bitcoin daily auctions seemed “to be of reasonable size”); see also Circle Letter, *supra* note 19, at 2 (noting that the Gemini Exchange would also have the potential for more robust price discovery as liquidity is concentrated on the exchange).

(“USD”) occurs on unregulated exchanges outside the United States.<sup>125</sup>

The information currently available demonstrates that the Gemini Exchange does not, at this time, trade a significant volume of bitcoin relative to the overall market for the asset.<sup>126</sup> Instead, bitcoin trading on the Gemini Exchange represents a small percentage of overall bitcoin trading. For example, calculations using statistics from *data.bitcoinity.org*,<sup>127</sup> show that, in the six months preceding February 28,

<sup>125</sup> See ARK Letter, *supra* note 19, at 7–8 (noting that Gemini typically processes less than 10% of the total volume in the bitcoin-USD market); Williams Letter, *supra* note 19, at 2 (noting that most daily trading volume is conducted outside the U.S. and that 90% of bitcoin trading volume occurs in China); Stolfi Letter, *supra* note 19 (concluding that the Gemini Exchange “has relatively low liquidity and trade volume” and that “[t]here seems to be a significant risk that the nominal ETF share price will be manipulated, by relatively small trades that manipulate the bitcoin price at that exchange”); Stolfi Letter II, *supra* note 19 (concluding that the auction closing volume on the Gemini Exchange has shown a decreasing trend since its inception and is now under \$1 million USD during work days, and considerably less during weekends, and that “[w]ith such low volume, it seems possible to manipulate the NAV value by entering suitable bids or asks in the auction”); Stolfi Letter II, *supra* note 19 (noting that, since 2013, the price of bitcoin has been defined mostly by the major Chinese exchanges, whose volumes dwarf those of exchanges outside China); Maher Letter, *supra* note 19 (characterizing volume on the Gemini Exchange as “sparse”); Anonymous Letter II, *supra* note 19 (asserting that “anyone who trades bitcoin can manipulate trading on the Gemini Exchange because it has no volume,” and further stating that Gemini Exchange has the worst pricing and the lowest trade volume in comparison to other exchanges); Anonymous Letter IV, *supra* note 19 (claiming that Gemini has “the lowest trading volume of known exchanges” and that “[t]here is evidence that markets have been manipulated by the exchanges for years”).

<sup>126</sup> See Williams Letter, *supra* note 19, at 2 (stating that most daily trading volume in bitcoin is conducted on poorly capitalized, unregulated bucket shop exchanges located outside of the U.S., such as in China, Singapore, Hong Kong, and Bulgaria, and asserting that these non-U.S. exchanges and their practices significantly influence the price discovery process); ARK Letter, *supra* note 19, at 11–12 (stating that the average daily trading volume for bitcoin over the last year has been around \$1 billion and that over 90% of that volume occurs in the bitcoin-Chinese Yuan pair where there is little regulatory oversight and transparency); Maher Letter, *supra* note 19 (stating that BTC-E is one of the earliest bitcoin exchanges with a reputation for the least transparency and is often associated with laundering of stolen or illicitly-obtained bitcoin, but that it had shown three times the market share of volume as Gemini in the last six months); Stolfi Letter II, *supra* note 19 (noting that, since 2013, the price of bitcoin has been defined mostly by the major Chinese exchanges, whose volumes dwarf those of exchanges outside China).

<sup>127</sup> Because bitcoin trading activity is dispersed across markets, many of which are unregulated, and OTC transactions worldwide, there is no centralized, regulatory data source for bitcoin trading statistics. Accordingly, the Commission’s analysis of worldwide trading activity must use unofficial sources that purport to gather and disseminate trading data.

2017, trading on the Gemini Exchange accounted for just 0.07% of all worldwide bitcoin trading, and 5.16% of the much-smaller bitcoin-USD market worldwide.<sup>128</sup>

Moreover, self-reported statistics from the Gemini Exchange show that volume in the Gemini Exchange Auction is small relative to daily trading in bitcoin and to the number of bitcoin in a creation or redemption basket for the Trust. As of February 28, 2017, the average daily volume in the Gemini Exchange Auction, since its inception on September 21, 2016, has been 1195.72 bitcoins, compared to average daily worldwide volume of approximately 3.4 million bitcoins in the six months preceding February 28, 2017. Also, as of February 28, 2017, the median number of bitcoins traded in the Gemini Exchange Auction on a business day (when a creation or redemption request might be submitted to the Trust) has been just 1,061.99 bitcoins,<sup>129</sup> barely larger than the 1,000 bitcoins in a creation or redemption basket.<sup>130</sup> Additionally, 88.2% of the business-day auctions were for fewer than 2,000 bitcoins—equivalent to two creation or redemption baskets—suggesting that creation or redemption activity on the Gemini Exchange might dwarf other trading.

Regarding the regulation of the Gemini Exchange, the Exchange notes in its proposed rule change that the Gemini Trust Company is supervised by the NYSDFS, asserting that the Gemini Trust Company is one of only two bitcoin exchange operators in the world subject to substantive regulation. The Commission, however, does not believe that the record supports a finding that the Gemini Exchange is a “regulated market” comparable to a national securities exchange or to the futures exchanges that are associated with the underlying assets of the commodity-trust ETPs approved to date.

The Exchange represents that the Gemini Trust Company is subject to capitalization, anti-money-laundering compliance, consumer protection, and cybersecurity requirements set forth by

<sup>128</sup> One commenter provides similar statistics comparing worldwide bitcoin trading volume to the Gemini Exchange bitcoin trading volume. See *supra* note 53 and accompanying text.

<sup>129</sup> Although the Gemini Exchange conducts an auction on each calendar day, in order to better represent auction volume for days on which creations or redemptions might occur in the Shares, the calculation of average and median auction volume excludes auctions that occurred on weekends and days on which the U.S. equities markets are closed.

<sup>130</sup> See Amendment No. 2, *supra* note 1 (setting size of creation unit at 100,000 shares, with the value of a share at 0.01 BTC, making content of a creation unit 1,000 BTC).

the NYSDFS.<sup>131</sup> Commission regulation of the securities markets includes similar elements, but national securities exchanges are also, among other things, required to have rules that are “designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.”<sup>132</sup> Moreover, national securities exchanges are subject to Commission oversight of, among other things, their governance, membership qualifications, trading rules, disciplinary procedures, recordkeeping, and fees.<sup>133</sup> Designated Contract Markets (commonly called “futures markets”) registered with and regulated by the CFTC must comply with, among other things, a similarly comprehensive range of regulatory principles and must file rule changes with the CFTC.<sup>134</sup>

#### 4. The Market for Derivatives on Bitcoin

As noted above,<sup>135</sup> the commodity-trust ETPs previously approved by the Commission for listing and trading have had—in lieu of significant, regulated spot markets—significant, well-established, and regulated futures markets that were associated with the underlying commodity and with which the listing exchange had entered into a surveillance-sharing agreement.

One commenter states that there are several bitcoin futures markets that have a significant impact on the spot price, but this commenter did not identify any regulated futures market.<sup>136</sup> Another commenter describes the state of derivatives markets for bitcoin as “nascent.”<sup>137</sup>

<sup>131</sup> See Amendment No. 1, *supra* note 1, 81 FR at 76658–59.

<sup>132</sup> 15 U.S.C. 78f(b)(5).

<sup>133</sup> Section 6 of the Exchange Act, 15 U.S.C. 78f, requires national securities exchanges to register with the Commission and requires an exchange’s registration to be approved by the Commission, and Section 19(b) of the Exchange Act, 15 U.S.C. 78s(b), requires national securities exchanges to file proposed rule changes with the Commission.

<sup>134</sup> See, e.g., Designated Contract Markets (DCMs), U.S. Commodity Futures Trading Commission, available at <http://www.cftc.gov/IndustryOversight/TradingOrganizations/DCMs/index.htm>.

<sup>135</sup> See *supra* note 96 and accompanying text.

<sup>136</sup> See Dylan Letter, *supra* note 19, at 1 (identifying OKCoin, BitVC, and Bitmex as three of the largest overseas bitcoin futures markets). See also ARK Letter, *supra* note 19, at 6 (stating that most derivatives activity within the bitcoin markets is conducted by unregulated entities).

<sup>137</sup> See ARK Letter, *supra* note 19, at 5.

The Exchange also describes the current derivative markets for bitcoin as “[n]ascent.”<sup>138</sup> The Exchange notes that certain types of options, futures contracts for differences, and other derivative instruments are available in certain jurisdictions, but that many of these are not available in the United States and that they generally are not regulated “to the degree that U.S. investors expect derivatives instruments to be regulated.”<sup>139</sup> The Exchange notes that the CFTC has approved the registration of TeraExchange LLC as a swap execution facility (“SEF”) and that, on October 9, 2014, TeraExchange announced that it had hosted the first executed bitcoin swap traded on a CFTC-regulated platform.<sup>140</sup> Further, the Exchange notes that the CFTC has temporarily registered another SEF that would trade swaps on bitcoin.<sup>141</sup>

The Commission acknowledges that TeraExchange, a market for swaps on bitcoin, has registered with the CFTC, but the Exchange’s description of trading activity on that market fails to note that the very activity it cites was the subject of an enforcement action by the CFTC. The CFTC found that TeraExchange had improperly arranged for participants to make prearranged, offsetting “wash” transactions of the same price, notional amount, and tenor and then issued a press release “to create the impression of actual trading in the Bitcoin swap.”<sup>142</sup> Neither the Exchange nor any commenter provides evidence of meaningful trading volume in bitcoin derivatives on any regulated marketplace. Thus, the Commission believes that the bitcoin derivatives markets are not significant, regulated markets related to bitcoin with which the Exchange can enter into a surveillance-sharing agreement.

One commenter, and the author of the paper submitted with respect to a similar rule filing, assert that the existence of bitcoin derivative markets is not a necessary condition for a bitcoin ETP.<sup>143</sup> The key requirement the Commission is applying here, however, is not that a futures or derivatives market is required for every ETP, but that—when the spot market is unregulated—there must be significant,

regulated derivatives markets related to the underlying asset with which the Exchange can enter into a surveillance-sharing agreement.

#### C. Basis for Disapproval

The Commission has, in past approvals of commodity-trust ETPs, emphasized the importance of surveillance-sharing agreements between the national securities exchange listing and trading the ETP, and significant markets relating to the underlying asset.<sup>144</sup> Such agreements, which are a necessary tool to enable the ETP-listing exchange to detect and deter manipulative conduct, enable the exchange to meet its obligation under Section 6(b)(5) of the Exchange Act to have rules that are designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest.<sup>145</sup>

As described above, the Exchange has not entered into a surveillance-sharing agreement with a significant, regulated, bitcoin-related market. The Commission also does not believe, as discussed above, that the proposal supports a finding that the significant markets for bitcoin or derivatives on bitcoin are regulated markets with which the Exchange can enter into such an agreement. Therefore, as the Exchange has not entered into, and would currently be unable to enter into, the type of surveillance-sharing agreement that has been in place with respect to all previously approved commodity-trust ETPs, the Commission does not find the proposed rule change to be consistent with the Exchange Act and, accordingly, disapproves the proposed rule change.

The Commission notes that bitcoin is still in the relatively early stages of its development and that, over time, regulated bitcoin-related markets of significant size may develop.<sup>146</sup> Should such markets develop, the Commission could consider whether a bitcoin ETP would, based on the facts and circumstances then presented, be consistent with the requirements of the Exchange Act.

#### IV. Conclusion

For the reasons set forth above, the Commission does not find that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the requirements of the Exchange

Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with Section 6(b)(5) of the Exchange Act.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Exchange Act, that the proposed rule change (SR-BatsBZX-2016-30), as modified by Amendments No. 1 and 2, be, and it hereby is, disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>147</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05213 Filed 3-15-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80209; File No. SR-ISEGemini-2017-11]

### Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Harmonize Liability Caps and Related Reimbursement Requirements

March 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 27, 2017, ISE Gemini, LLC (“ISE Gemini” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 705 (Limitation of Liability) to harmonize its liability caps and related reimbursement requirements with those of NASDAQ BX, Inc. (“BX”), NASDAQ PHLX LLC (“Phlx”) and NASDAQ Stock Market LLC (“NSM” and together with BX and Phlx, the “Nasdaq Exchanges”).

The text of the proposed rule change is available on the Exchange’s Web site at [www.ise.com](http://www.ise.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

<sup>147</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>138</sup> See Amendment No. 1, *supra* note 1, 81 FR at 76661.

<sup>139</sup> See *id.*

<sup>140</sup> See *id.* See also ARK Letter, *supra* note 19, at 6 (noting that TeraExchange offers bitcoin forwards).

<sup>141</sup> See Amendment No. 1, *supra* note 1, 81 FR at 76661.

<sup>142</sup> See TeraExchange Settlement Order, *supra* note 112.

<sup>143</sup> See Anonymous Letter III, *supra* note 19, at 2; Lewis Paper, *supra* note 42, at 8.

<sup>144</sup> See *supra* note 96 and accompanying text.

<sup>145</sup> 15 U.S.C. 78f(b)(5).

<sup>146</sup> The Exchange notes, for example, that the CME and the ICE recently announced bitcoin pricing indexes. See Amendment No. 1, *supra* note 1, 81 FR at 76666. In the future, regulated futures or derivative markets might begin to trade products based on these indexes.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The purpose of this proposed rule change is to amend Rule 705 (Limitation of Liability) to harmonize the Exchange's existing liability caps and related reimbursement requirements for claims under Rule 705(d) with the caps and requirements set forth in the rules of the Nasdaq Exchanges.<sup>3</sup> The Exchange and its affiliates, International Securities Exchange, LLC and ISE Mercury, LLC (together, the "ISE Exchanges"), were recently acquired (the "Acquisition") by Nasdaq, Inc. ("HoldCo").<sup>4</sup> In the context of the Acquisition, the ISE Exchanges are working to align certain rules with rules of the Nasdaq Exchanges in order to provide consistent standards across the six exchanges operated by HoldCo (the "HoldCo Affiliated Exchanges"). As part of this effort, the proposal set forth below harmonizes the Exchange's liability caps and the related reimbursement requirements with those of the Nasdaq Exchanges in order to provide uniform standards and requirements for users of the HoldCo Affiliated Exchanges.<sup>5</sup>

Rule 705 in its current form generally states that the Exchange is not liable for any losses due to the Exchange's negligence or unintentional actions, but also provides in Rule 705(d) that notwithstanding this general limitation on liability, the Exchange may compensate its members for losses resulting directly from the malfunction

of the Exchange's physical equipment, devices and/or programming. Subsections (d)(1)–(d)(3) of Rule 705 contains express conditions governing the voluntary payments made by the Exchange under these limited circumstances. Specifically, the Exchange's payments for any and all system failures on a single trading day are capped at \$250,000 under subsection (d)(1). The rule text states that for the aggregate of all claims made by all market participants related to the use of the Exchange on a single trading day, the Exchange's payments shall not exceed \$250,000. Subsection (d)(2) further provides that if the cumulative claims exceed the \$250,000 cap, this amount would be proportionally allocated among all such claims. Finally, subsection (d)(3) specifies that in order for a member to be eligible to receive payment under this Rule, claims for payment must be made in writing and submitted no later than the opening of trading on the next business day after the loss. Once in receipt of a claim, the Exchange is required to verify that: (i) A valid order was accepted into the Exchange's systems; and (ii) an Exchange system failure occurred during the execution or handling of that order. A system failure will be deemed to have occurred when there is a malfunction of the Exchange's physical systems, devices or software.

The Exchange now proposes to amend the existing rule text in Rule 705(d) to adopt the same liability caps and reimbursement requirements as the Nasdaq Exchanges.<sup>6</sup> Proposed Rule 705(d) would provide that the Exchange may, notwithstanding the general limitations on liability contained in Rule 705(a), compensate users of the Exchange for losses directly resulting from the actual failure of the System,<sup>7</sup> or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility to correctly process an order, quote, message, or other data, provided that the Exchange has acknowledged receipt of the order, quote, message, or data. This limited exception in proposed Rule 705(d) would be subject to certain conditions and requirements contained in proposed subsections (d)(1)–(3).

Subsection (d)(1) proposes that the aggregate payments for all compensation claims made by all market participants related to the use of the Exchange during a single calendar month would

not exceed the larger of \$500,000, or the amount of the recovery obtained by the Exchange under any applicable insurance policy.<sup>8</sup> Under this proposal, the Exchange will eliminate the existing \$250,000 daily cap on liability and consider all such claims on a monthly basis, subject to proposed \$500,000 monthly liability cap. Each Nasdaq Exchange currently analyzes total eligible liability claims on a per-month look-back basis. The Exchange's proposal to adopt an identical claims process, in effect, would allow ISE Gemini an increased capability to compensate a market participant up to the monthly cap of \$500,000 even though the losses occurred on a single day or were across multiple days for a single participant.

Proposed subsection (d)(2) specifies how the reimbursement funds would be allocated in the event all of the compensation claims submitted during a single calendar month exceed the \$500,000 monthly cap. Specifically, if all of the claims arising out of the use of the Exchange cannot be fully satisfied because in the aggregate they exceed the limitations provided for in the Rule (\$500,000), then the maximum permitted amount would be proportionally allocated among all such claims arising during a single calendar month.<sup>9</sup> This is substantially similar to the existing process where the maximum amount is proportionally allocated among all such claims, except it would be for all claims arising during a one-month period under the proposed rule change rather than during a single trading day under the existing Rule.

Finally, proposed subsection (d)(3) specifies the requirements and procedures applicable to the submission of reimbursement claims. Specifically, all claims for compensation must be submitted in writing no later than 12:00 p.m. ET on the next business day following the day on which the use of the Exchange gave rise to such claims.<sup>10</sup> As such, the Exchange is proposing to extend the deadline to submit compensation claims from the opening of trading on the next business day to 12:00 p.m. ET. The Exchange believes that the extension of time to make such compensation claims increases the ability of market participants to submit claims in a timely manner. Proposed

<sup>3</sup> See BX Rule 4626(b) and Phlx Rule 1015. See also NSM Rule 4626(b).

<sup>4</sup> See Securities Exchange Act Release No. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR-ISE-2016-11; SR-ISEGemini-2016-05; SR-ISEMercury-2016-10).

<sup>5</sup> International Securities Exchange, LLC and ISE Mercury, LLC will each file a proposed rule change with the Commission to adopt similar requirements.

<sup>6</sup> See note 4 above.

<sup>7</sup> "System" means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. See the Constitution of ISE Gemini, Section 13.1(d(d)).

<sup>8</sup> See BX Rule 4626(b)(1), Phlx Rule 1015(1), and NSM Rule 4626(b)(1) for substantially similar provisions.

<sup>9</sup> See BX Rule 4626(b)(2), Phlx Rule 1015(2), and NSM Rule 4626(b)(5) for substantially similar provisions.

<sup>10</sup> See BX Rule 4626(b)(3) and Phlx Rule 1015(3) for substantially similar provisions. See also NSM Rule 4626(b)(6).



subsection (d)(3) also states that nothing in the Rule obligates the Exchange to seek recovery under any applicable insurance policy. If the Exchange does seek and receive an insurance recovery that is larger than \$500,000, the amount of that recovery would limit the reimbursement funds available for the incident supporting the recovery to the greater recovery amount.<sup>11</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>12</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>13</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The proposal supports this policy by establishing a fair and transparent process by which the Exchange can accommodate claims for reimbursement for the failure of specified systems in specified facilities and under specified conditions. The Exchange believes that its proposal to amend Rule 705(d) will continue to promote fairness in the marketplace in situations where one or more firm's claim results from a problem in a function performed by the Exchange's trading system that is solely the fault of the Exchange. As noted above, the proposal would allow the Exchange an increased capability to compensate a market participant up to the monthly cap of \$500,000 even though the losses occurred on a single day or were across multiple days for a single participant. Furthermore, the proposed expansion of time to make such compensation claims would increase the ability of market participants to submit claims in a timely manner.

Lastly, the proposed rule change is intended to align the liability caps and compensation claims requirements with the caps and requirements currently provided by the Nasdaq Exchanges in order to provide consistent rules across the six HoldCo Affiliated Exchanges.<sup>14</sup> Consistent rules, in turn, would simplify the regulatory requirements for

members of the Exchange that are also participants on the Nasdaq Exchanges. The Exchange believes that the proposed rule change would provide greater harmonization among similar rules of the HoldCo Affiliated Exchanges, resulting in greater uniformity and more efficient regulatory compliance. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because all members would be subject to the same liability caps and reimbursement requirements. The proposed rule change is designed to provide greater harmonization among similar rules across the six HoldCo Affiliated Exchanges, resulting in more efficient regulatory compliance for common members.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>15</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>16</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISEGemini-2017-11 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISEGemini-2017-11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-

<sup>11</sup> There are no other practical differences between the Exchange's existing reimbursement rule and this proposal than as described above. Specifically these differences are: The liability caps (*i.e.* the greater of \$500,000 or, if the Exchange opts to seek recovery, the recovery amount under any applicable insurance policy), the look-back analysis period of one month, and the later claims deadline of 12:00 p.m. ET.

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> See note 4 above.

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>16</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

ISEGemini–2017–11, and should be submitted on or before April 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017–05216 Filed 3–15–17; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80200; File No. SR–ISEGemini–2017–12]

### Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Decommission of the Tick-Worse Functionality

March 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on February 28, 2017, ISE Gemini, LLC (“ISE Gemini” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes (i) to describe the decommission of its “Tick-Worse” functionality and (ii) to amend Rule 713 (Priority of Quotes and Orders) relating to the priority of split price transactions.

The Exchange requests that the proposed rule change become operative on February 28, 2017.

The text of the proposed rule change is available on the Exchange’s Web site at [www.ise.com](http://www.ise.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of the proposed rule change is (i) to describe the decommission of the “Tick-Worse” functionality and (ii) to amend Rule 713 (Priority of Quotes and Orders) as it relates to the priority of split price transactions. The proposed changes are discussed below.

##### “Tick-Worse” Functionality

The Exchange currently provides market makers<sup>3</sup> with Tick-Worse functionality, which allows market makers to pre-define the prices and sizes at which the system will automatically move their quotation following an execution that exhausts the size of their existing quotation.<sup>4</sup> As such, when a market maker’s quote is traded out, it can be automatically reinstated into the Exchange’s order book at the next best price.<sup>5</sup> This optional feature is intended to help market makers meet their continuous quoting obligations under the Exchange’s rules<sup>6</sup> when their displayed

<sup>3</sup> The term “market makers” refers to “Competitive Market Makers” and “Primary Market Makers” collectively. See Rule 100(a)(25).

<sup>4</sup> Tick-Worse functionality is not currently memorialized in the Exchange’s rulebook. In addition, the Exchange will not offer Tick-Worse on the new Nasdaq INET system going forward. On September 30, 2004, International Securities Exchange, LLC (“ISE”) filed with the Commission a proposal to codify this functionality in its rulebook, but inadvertently deleted the rule as obsolete rule text in a subsequent proposal filed on December 21, 2012. See Securities Exchange Act Release No. 51050 (January 18, 2005), 70 FR 3758 (January 26, 2005) (SR–ISE–2004–31); Securities Exchange Act Release No. 68570 (January 3, 2013), 78 FR 1901 (January 9, 2013) (SR–ISE–2012–82). The Exchange imported Rule 713 from ISE’s rulebook when the Commission granted the Exchange’s application for registration as a national securities exchange, which was after the Tick-Worse functionality rule was inadvertently removed from ISE’s rules. See Securities Exchange Act Release No. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (Order Granting Registration as a National Securities Exchange).

<sup>5</sup> Market makers may choose to set Tick-Worse parameters by specifying how many price ticks back, and for what size, the quote is to be reinstated.

<sup>6</sup> Specifically, Primary Market Makers (“PMMs”) are required under Rule 804(e)(1) to enter quotations in all of the series listed on the Exchange of the options classes to which they are appointed on a daily basis. Supplementary Material .01 to

quotations are exhausted. When a market maker’s quote is traded out and automatically reinstated into the Exchange’s order book using the Tick-Worse functionality, the reinstated quote will be given priority pursuant to the Exchange’s split price priority rule as discussed below.

Due to the lack of demand for the Tick-Worse feature, the Exchange decommissioned the use of this functionality on February 21, 2017 by asking its members to stop using Tick-Worse by February 21st.<sup>7</sup> The Exchange plans to turn off this functionality in the system when the last symbol migrates onto the new Nasdaq INET system on or around April 3, 2017<sup>8</sup> as part of its system migration to Nasdaq INET technology.<sup>9</sup> As discussed above, the Exchange offers the Tick-Worse feature as a voluntary tool for market makers to assist them in meeting their continuous quoting obligations under the Exchange’s rules. As such, market makers are not required to use the Exchange-provided functionality and can program their own systems to perform the same functions if they prefer. Here, the Exchange has found that almost all market makers use their own systems rather than the Exchange’s Tick-Worse feature to send refreshed quotations when their displayed quotations are exhausted, and therefore discontinued this functionality. Because the Tick-Worse functionality is currently not memorialized in the Exchange’s rules as noted above, there is no text of the proposed rule change. The Exchange provided advance notice to its members on January 31, 2017 through an informational circular that it would decommission the use of the Tick-Worse functionality on February 21, 2017. The Exchange believes that this gave market makers the opportunity to make any necessary changes to their

Rule 804 further requires PMMs to quote 90% of the time their assigned options class is open for trading on the Exchange. As provided in Rule 804(e)(2), Competitive Market Makers (“CMMs”) are not required to enter quotations in the options class to which they are appointed, but in the event a CMM does initiate quoting, such CMM is generally required to quote 60% of the time its assigned options class is open for trading on the Exchange.

<sup>7</sup> This functionality was only being used by one market maker on the Exchange.

<sup>8</sup> The detailed schedule of the symbol migration is available at: <http://www.nasdaqtrader.com/MicroNews.aspx?id=OTA2017-13>.

<sup>9</sup> See Securities Exchange Release No. 80011 (February 10, 2017), 82 FR 10927 (February 16, 2017) (SR–ISEGemini–2016–17) (Order Approving Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Amend Various Rules in Connection With a System Migration to Nasdaq INET Technology).

<sup>17</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

Tick-Worse parameters to coincide with the implementation date.

### Split Price Priority

The Exchange is proposing to delete Rule 713(f), which relates to the priority of split price transactions, because this priority rule currently only applies in the context of the Tick-Worse functionality, as described above. Rule 713(f) provides that if a Member purchases (sells) one (1) or more options contracts of a particular series at a particular price, it shall at the next lower (higher) price at which there are Professional Orders<sup>10</sup> or market maker quotes, have priority over such Professional Orders and market maker quotes in purchasing (selling) up to the equivalent number of options contracts of the same series that it purchased (sold) at the higher (lower) price, but only if the purchase (sale) so effected represents the opposite side of a transaction with the same offer (bid) as the earlier purchase (sale). Although the language of Rule 713(f) is more general, the Exchange's intent was to apply split price priority solely to the Tick-Worse functionality. *Example:*

PMM has opted into tick worse functionality and selected to tick worse and post 10 contracts at a penny worse than their original quote.

- PMM quote for 10 contracts bid at \$1.00 and 10 contracts offered at \$1.02.
- Additionally, there is a Priority Customer order to buy 5 contracts at \$0.99, and a CMM quote for 10 contracts bid at \$0.99 and 10 contracts offered at \$1.02.
- A member enters a sell order for 20 contracts at \$0.99.
- This order will trade as follows: 10 contracts trade at \$1.00 with the PMM bid quote, and PMM is ticked worse to 10 contracts bid at \$0.99, 5 contracts trade at \$0.99 with the Priority Customer order due to customer priority, 5 contracts trade at \$0.99 with the PMM's ticked worse quote due to the split price priority rule; 0 contracts trade with the CMM bid quote.

The Exchange represents that Tick-Worse has historically only ever applied in the context of the split price priority rule in Rule 713(f). Furthermore, the Exchange has historically only ever awarded priority pursuant to Rule 713(f)

for split price transactions that occur in the Tick-Worse functionality, and the existing Rule should have been clarified to more accurately reflect its current application. Nonetheless, the Exchange is now proposing to delete the rule text in its entirety in order to reflect that the Tick-Worse functionality was decommissioned on February 21, 2017.

### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>12</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange decommissioned the Tick-Worse functionality on February 21, 2017. As discussed above, the Exchange originally offered Tick-Worse as an optional feature to help market makers meet their continuous quoting obligations under the Exchange's rules. The Exchange has found, however, that the Tick-Worse feature is rarely used today as almost all market makers use their own systems to send refreshed quotations when their displayed quotations are exhausted. The Exchange therefore believes that this proposal describing the decommission of Tick-Worse on February 21st, together with the advance notice it provided to its members on January 31, 2017, eliminates any investor uncertainty related to the status of this functionality.

The Exchange also believes that its proposal to delete the split price priority rule in Rule 713(f) protects investors and the public interest because it removes rule text that became obsolete with the decommission of the Tick-Worse functionality. As described above, the split price priority rule only applies to the Tick-Worse functionality. Because the Rule is more general than its current, specific application, however, the Exchange believes that the continued presence of Rule 713(f) in its rules even after retiring the Tick-Worse functionality will be confusing to its members and investors. By removing obsolete rule text that only applies in the context of Tick-Worse, the Exchange is eliminating any potential for confusion about how its systems operate.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to have any competitive impact but rather to describe the decommission of a rarely-used functionality on the Exchange and relatedly, to remove the rule text that this functionality supports from the Exchange's rulebook, thereby reducing investor confusion and making the Exchange's rules easier to understand and navigate.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>13</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>14</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>10</sup> The term "Professional Order" means an order that is for the account of a person or entity that is not a Priority Customer. See Rule 100(a)(37C). A "Priority Customer" is a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Rule 100(a)(37A).

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISEGemini-2017-12 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-ISEGemini-2017-12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISEGemini-2017-12 and should be submitted on or before April 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05209 Filed 3-15-17; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-80208; File No. SR-BatsEDGX-2017-13]

**Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.22 To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program**

March 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 28, 2017, Bats EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange filed a proposal to amend Rule 11.22 to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program ("Plan").

The text of the proposed rule change is available at the Exchange's Web site at [www.bats.com](http://www.bats.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Rule 11.22(b) (Compliance with Data Collection Requirements)<sup>5</sup> implements the data collection and Web site publication requirements of the Plan.<sup>6</sup> Rule 11.22(b).08 provides, among other things, that the requirement that the Exchange or Designated Examining Authority ("DEA") make certain data publicly available on their Web site pursuant to Appendix B and C to the Plan shall commence at the beginning of the Pilot Period,<sup>7</sup> and that the Exchange or DEA shall make data for the Pre-Pilot Period publicly available on their Web site pursuant to Appendix B and C to the Plan by February 28, 2017.<sup>8</sup>

The Exchange is proposing amendments to Rule 11.22(b).08 to delay the date by which Pre-Pilot and Pilot Appendix B data is to be made publicly available on the Exchange or DEA's Web site from February 28, 2017, until April 28, 2017.<sup>9</sup> Appendix C data

<sup>5</sup> See Exchange Rule 11.22(b). See also Securities Exchange Act Release Nos. 77416 (March 22, 2016), 81 FR 17225 (March 28, 2016); and 78798 (September 9, 2016), 81 FR 63532 (September 15, 2016).

<sup>6</sup> The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. See Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 ("SRO Tick Size Plan Proposal"). See Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); see also Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

<sup>7</sup> Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in Rule 11.22.

<sup>8</sup> On November 30, 2016, the SEC granted exemptive relief to the Participants, and the Exchange filed proposed rule changes to, among other things, delay the publication of Web site data pursuant to Appendices B and C to the Plan until February 28, 2017, and to delay the ongoing Web site publication by ninety days such that data would be published within 120 calendar days following the end of the month. See Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA dated November 30, 2016; see also Securities Exchange Act Release No. 79537 (December 13, 2016), 81 FR 91971 (December 19, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR-BatsEDGX-2016-70).

<sup>9</sup> In addition, the Exchange is proposing an amendment to Rule 11.22(a)(6)(B) to clarify that no member, irrespective of whether that member operates a trading center, may execute orders in any Pilot Security in Test Group Three in price increments other than \$0.05, unless an exception applies. This proposed amendment makes the rule

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

for the Pre-Pilot Period through the month of January 2017, will be published on the Exchange or DEA's Web site on February 28, 2017, and, thereafter, on the original 30-day schedule.

In the SRO Tick Size Plan Proposal, the Participants stated that the public data will be made available for free "on a disaggregated basis by trading center" on the Web sites of the Participants and the Designated Examining Authorities.<sup>10</sup> However, market participants have expressed confidentiality concerns regarding this approach for over-the-counter ("OTC") data.<sup>11</sup> Thus, the Exchange is filing the instant proposed rule change to provide additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data related to OTC activity in furtherance of the objectives of the Plan.<sup>12</sup> Pursuant to this amendment, Appendix B data publication will be delayed until April 28, 2017. The Participants anticipate filing an additional proposed rule change in the near future to address the Appendix B data publication.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>14</sup> in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the

consistent with the Plan and conforms subparagraph (a)(6)(B) with subparagraph (a)(5)(B).

<sup>10</sup> See Securities Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423 (November 7, 2014) (Notice of Filing of Proposed National Market System Plan to Implement a Tick Size Pilot Program on a One-Year Pilot Basis, File No. 4-657) ("Tick Size Plan Proposal").

<sup>11</sup> See letters from Adam C. Cooper, Senior Managing Director and Chief Legal Officer, Citadel Securities, to Brent J. Fields, Secretary, Commission, dated December 21, 2016 ("Citadel letter"); and William Hebert, Managing Director, Financial Information Forum, to Robert W. Errett, Deputy Secretary, Commission, dated December 21, 2016 ("FIF letter").

<sup>12</sup> FINRA, on behalf of the Exchange, also is submitting an exemptive request with the SEC in connection with the instant filing.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

liquidity and trading of the common stock of small-capitalization companies. The Exchange believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide the Exchange with additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data, to comply with the Plan's requirements that the data made publicly available will not identify the trading center that generated the data.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on February 28, 2017.

The Exchange notes that the proposed rule change is intended to address

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

confidentiality concerns raised in connection with the publication of OTC Appendix B data by permitting the Exchange to delay Web site publication of its Appendix B data from February 28, 2017 to April 28, 2017.<sup>17</sup> The Exchange notes that the delay would provide additional time to assess a means of addressing the confidentiality concerns. The Exchange notes that it expects Participants to file proposed rule changes related to publishing Appendix B data.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to delay publication of its Appendix B data until April 28, 2017. As noted above, commenters continue to raise concerns about the publication of OTC Appendix B data.<sup>18</sup> Delaying publication of Exchange's Appendix B data<sup>19</sup> will prevent the publication of partial (*i.e.*, Exchange-only) Appendix B data required under the Plan. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on February 28, 2017.<sup>20</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing,

<sup>17</sup> See *supra* note 11. The Commission notes that FINRA has submitted a proposed rule change to delay the publication of OTC Appendix B data. See SR-FINRA-2017-005.

<sup>18</sup> The Commission notes that FINRA has filed a proposed rule change that is intended to mitigate confidentiality concerns raised by commenters regarding the publication of OTC Appendix B data. See SR-FINRA-2017-006.

<sup>19</sup> The Commission notes that other Participants have proposed to delay the publication of their Appendix B data until April 28, 2017. See SR-BatsBYX-2017-05; SR-BatsBZX-2017-15; SR-BatsEDGA-2017-05; SR-BX-2017-016; SR-CHX-2017-05; SR-FINRA-2017-005; SR-IEX-2017-07; SR-NASDAQ-2017-024; SR-Phlx-2017-22; SR-NYSE-2017-10; SR-NYSEArca-2017-19; SR-NYSEMKT-2017-11.

<sup>20</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-BatsEDGX-2017-13 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 No. SR-BatsEDGX-2017-13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-BatsEDGX-2017-13 and should be submitted on or before April 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05215 Filed 3-15-17; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-80210; File No. SR-NASDAQ-2017-023]

**Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Continued Listing Requirements for Exchange-Traded Products**

March 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 24, 2017, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Nasdaq Rules 5705 and 5735 to reinsert a word that is in the current rule language for these rules, but would otherwise be deleted once SR-NASDAQ-2016-135 goes into effect later this year.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Earlier this year, the Commission approved a Nasdaq filing (the "Prior Filing") to amend the continued listing requirements for exchange-traded products ("ETPs").<sup>3</sup> The Exchange now proposes to make a minor amendment to Nasdaq Rules 5705(a) and (b), as well as Nasdaq Rule 5735, to reinsert a word inadvertently deleted by the Prior Filing and that is in the current rule language for these rules, but would otherwise be deleted once the Prior Filing goes into effect later this year.

Under the fixed income section for Portfolio Depository Receipts (Nasdaq Rule 5705(a)), Index Fund Shares (Nasdaq Rule 5705(b)), and Managed Fund Shares (Nasdaq Rule 5735(b)) the word "original" has been reinserted. Specifically, the word "original" has been reinserted, respectively, into the following sentences: "Components that in aggregate account for at least 75% of the weight of the index or portfolio must have a minimum original principal amount outstanding of \$100 million or more;" in the case of Nasdaq Rules 5705(a) and 5705(b); and "Components that in the aggregate account for at least 75% of the fixed income weight of the portfolio each shall have a minimum original principal amount outstanding of \$100 million or more;" in the case of Nasdaq Rule 5735(b).

Adding the word "original" back into the above sentences and into the designated rules properly reflects the intended meaning of the sentence and is in keeping with the language as it was initially adopted.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>4</sup> in general and with Section 6(b)(5) of the Act,<sup>5</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in

<sup>3</sup> See Securities Exchange Act Release No. 79784 (Jan. 12, 2017), 82 FR 6664 (Jan. 19, 2017) (SR-NASDAQ-2016-135) (the "Prior Filing").

<sup>4</sup> 15 U.S.C. 78f.

<sup>5</sup> 15 U.S.C. 78f(b)(5).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>21</sup> 17 CFR 200.30-3(a)(12).

general, to protect investors and the public interest.

The Exchange believes that the proposed rule change will provide clarity and accurately reflect the intent of the rules amended herein to the benefit of investors and the public interest by correcting an error caused by the inadvertent deletion of a word in the Prior Filing in Nasdaq Rules 5705(a) and (b) and 5735(b).

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The proposed rule change simply corrects an inadvertent deletion made in the Prior Filing to the rules amended herein. For this reason, Nasdaq does not believe that the proposed rule change will result in any burden on competition.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)<sup>6</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>7</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

### **Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2017-023 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2017-023. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2017-023 and should be submitted on or before April 6, 2017.

<sup>8</sup> 17 CFR 200.30-3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017-05217 Filed 3-15-17; 8:45 am]

BILLING CODE 8011-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

### **Proposed Collection; Comment Request**

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

#### *Extension:*

Form 144, OMB Control No. 3235-0101, SEC File No. 270-112

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 ("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 for extension and approval.

Form 144 (17 CFR 239.144) is used to report the sale of securities during any three-month period that exceeds 5,000 shares or other units or has an aggregate sales price that does not exceed \$50,000. Under Sections 2(a)(11), 4(a)(1), 4a(2), 4(a)(4) and 19(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)(11), 77d(a)(1), 77d(a)(2), 77d(a)(4) and 77s (a)) and Rule 144 (17 CFR 230.144) there under, the Commission is authorize to solicit the information required to be supplied by Form 144. Form 144 takes approximately 1 burden hour per response and is filed by 400 respondents for a total of 400 total burden hours.

*Written comments are invited on:* (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by 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 collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and

suggestions submitted in writing within 60 days of this publication.

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.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: March 13, 2017.

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-05272 Filed 3-15-17; 8:45 am]

BILLING CODE 8011-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[FHWA Docket No. FHWA-2016-0034]

#### Surface Transportation Project Delivery Program; Ohio Department of Transportation Audit Report

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice; request for comment.

**SUMMARY:** The Moving Ahead for Progress in the 21st Century Act (MAP-21) established the permanent Surface Transportation Project Delivery Program that allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely liable for carrying out the responsibilities it has assumed, in lieu of FHWA. This program mandates annual audits during each of the first 4 years of State participation to ensure compliance by each State participating in the Program. This notice announces and solicits comments on the first audit report for the Ohio Department of Transportation (ODOT).

**DATES:** Comments must be received on or before April 17, 2017.

**ADDRESSES:** Mail or hand deliver comments to Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12-140, Washington, DC 20590. You may also submit comments electronically at [www.regulations.gov](http://www.regulations.gov). All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and

copying at the above address from 9 a.m. to 5 p.m., *e.t.*, Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). The DOT posts these comments, without edits, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** Mr. Kreig Larson, Office of Project Development and Environmental Review, (202) 366-2056, [Kreig.Larson@dot.gov](mailto:Kreig.Larson@dot.gov), or Mr. Jomar Maldonado, Office of the Chief Counsel, (202) 366-1373, [Jomar.Maldonado@dot.gov](mailto:Jomar.Maldonado@dot.gov), Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., *e.t.*, Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

An electronic copy of this notice may be downloaded from the specific docket page at [www.regulations.gov](http://www.regulations.gov).

##### Background

The Surface Transportation Project Delivery Program, codified at 23 U.S.C. 327, allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely liable for carrying out the responsibilities it has assumed, in lieu of the FHWA. The ODOT published its application for assumption under the National Environmental Policy Act (NEPA) Assignment Program on April 12, 2015, and made it available for public comment for 30 days. After considering public comments, ODOT submitted its application to FHWA on May 27, 2015. The application served as the basis for developing a Memorandum of Understanding (MOU) that identifies the responsibilities and obligations that ODOT would assume. The FHWA published a notice of the draft MOU in the **Federal Register** on October 15, 2015, with a 30-day comment period to

solicit the views of the public and Federal agencies. After the close of the comment period, FHWA and ODOT considered comments and proceeded to execute the MOU. Effective December 28, 2015, ODOT assumed FHWA's responsibilities under NEPA, and the responsibilities for NEPA-related Federal environmental laws described in the MOU.

Section 327(g) of Title 23, United States Code, requires the Secretary to conduct annual audits during each of the first 4 years of State participation. After the fourth year, the Secretary shall monitor the State's compliance with the written agreement. The results of each audit must be made available for public comment. This notice announces the availability of the first audit report for ODOT and solicits public comment on same.

**Authority:** 23 U.S.C 327; 23 CFR 773; 49 CFR 1.85.

*Issued on:* March 9, 2017.

**Walter C. Waidehich, Jr.,**

*Acting Deputy Administrator, Federal Highway Administration.*

#### Surface Transportation Project Delivery Program FHWA Audit of the Ohio Department of Transportation December 28, 2015 through August 5, 2016

Draft Report

January 2017

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**Executive Summary**

As part of responsibilities specified in 23 U.S.C. 327, as amended by the Fixing America's Surface Transportation (FAST) Act, this is the first audit of the Ohio Department of Transportation (ODOT)'s assumption of National Environmental Policy Act (NEPA) responsibilities, conducted by a team of Federal Highway Administration (FHWA) staff (the team). On December 28, 2015, ODOT assumed Federal Highway Administration's (FHWA) NEPA responsibilities and liabilities for the Federal-aid highway program in Ohio, as specified in a Memorandum of Understanding (MOU) signed on December 11, 2015. This audit examined ODOT's performance under the MOU regarding responsibilities and obligations assigned therein.

The FHWA review team, formed in February 2016, met regularly to prepare and conduct elements of the review. Prior to the on-site visit, the team performed reviews of ODOT's project NEPA documentation in EnviroNet (ODOT's official environmental document filing system), the ODOT pre-audit information request (PAIR) response, and ODOT's self-assessment report. In addition, the team reviewed ODOT guidance documents, including the NEPA Quality Control/Quality Assurance Guidance and the ODOT NEPA Assignment Training Plan. The team developed interview questions for ODOT Central Office, ODOT Districts, and outside agencies for the on-site portion of this review, which took place from August 1–5, 2016.

The ODOT is still in a transition phase and is developing and implementing procedures and processes for Federal decisionmaking responsibility under the NEPA Assignment Program. Overall, the team found evidence that ODOT made reasonable progress in implementing the NEPA Assignment Program and is committed to establishing a successful program. This report provides the team's assessment of ODOT's implementation of the NEPA Assignment Program, embodied in 11 observations and 3 successful practices.

It is important to differentiate between program-level compliance and project-level compliance under the NEPA Assignment Program. Project-level compliance refers to whether ODOT followed Federal environmental laws and regulations for a specific environmental action on a project. Project-level compliance trends may indicate program-level compliance. Program-level compliance refers to whether ODOT followed requirements (1) described in programs, processes, and procedures including Federal environmental laws and regulations for NEPA; (2) embodied in 23 U.S.C. 327 (as

amended by the FAST Act, P.L. 114–94); and (3) stipulated in the MOU between FHWA and ODOT for the Assignment Program. The team did not make any program-level non-compliance observations during this first review; however, the team did note project-level non-compliance observations, which this report discusses in further detail.

The team finds ODOT to be in substantial compliance with the provisions of the MOU. The ODOT has carried out the responsibilities that it has assumed, keeping with the intent of the MOU and its application for NEPA assumption responsibilities. We encourage ODOT to consider the observations in this report to continue to build upon the early successes of its program.

**Background**

The Surface Transportation Project Delivery Program (NEPA Assignment Program) allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance with environmental laws for Federal-aid highway projects. When a State assumes these Federal responsibilities, the State becomes solely responsible and liable for carrying out the responsibilities it has assumed, in lieu of FHWA. The NEPA assignment first began as a pilot program established by Section 6005 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. Section 1313 of the Moving Ahead for Progress in the 21st Century Act (MAP–21), as codified in 23 U.S.C. 327 and amended by the FAST Act, made this program permanent.

Pursuant to Ohio Revised Code Section 5531.30, signed into law by Governor Kasich on April 1, 2015, the State of Ohio expressly consented to exclusive Federal court jurisdiction with respect to the compliance, discharge, and enforcement of any responsibility with respect to duties under NEPA and other Federal environmental laws assumed by ODOT. Ohio has therefore waived its sovereign immunity under 11th Amendment of the U.S. Constitution and consents to Federal Court jurisdiction for actions brought by its citizens for projects it has approved under the NEPA Assignment Program.

The ODOT published its application for assumption under the NEPA Assignment Program on April 12, 2015, and made it available for public comment for 30 days. After considering public comments, ODOT submitted its application to FHWA on May 27, 2015. The application served as the basis for developing the MOU that identifies the responsibilities and obligations that ODOT would assume. The FHWA published a notice of the draft MOU in the **Federal Register** on October 15, 2015, at 80 FR 62153, with a 30-day comment period to solicit the views of the public and Federal agencies. After the comment period closed, FHWA and ODOT considered comments and executed the MOU.

Effective December 28, 2015, ODOT assumed FHWA's project approval responsibilities under NEPA and NEPA-related Federal environmental laws.

Federal responsibilities not assigned to ODOT that remain with FHWA include:

- (1) Any highway projects authorized under 23 U.S.C. 202 (Tribal Transportation Program);
- (2) any highway projects authorized under 23 U.S.C. 203 and 204 (Federal Lands Transportation Program), unless such projects will be designed and constructed by ODOT;
- (3) any project that crosses State boundaries and any project that crosses or is adjacent to international boundaries (A project is considered "adjacent to international boundaries" if it requires the issuance of a new or the modification of an existing Presidential Permit by the U.S. Department of State.);
- (4) project-level conformity determinations under the Federal Clean Air Act; and
- (5) conducting government-to-government consultation with federally recognized Indian tribes.

The FHWA will conduct a series of four annual compliance audits of the ODOT NEPA Assignment Program to satisfy provisions of 23 U.S.C. 327(g) and Part 11 of the MOU. Audits, as stated in MOU Sections 11.1.1 and 11.1.5, are the primary mechanism to oversee ODOT's compliance with the MOU, ensure compliance with applicable Federal laws and policies, evaluate ODOT's progress toward achieving the performance measures identified in MOU Section 10.2, and collect information needed for the Secretary's annual report to Congress.

This audit report will be available to ODOT and the public for review and comment. The FHWA will consider the status of observations from an audit as part of the scope of future audits and will include a summary discussion describing the progress made since the prior audit in all subsequent audit reports.

To ensure a level of diversity and guard against unintended bias, the team is comprised of NEPA subject matter experts from the FHWA Ohio Division Office, as well as FHWA offices in Washington, DC; Atlanta, GA; Austin, TX; Tallahassee, FL; and Baltimore, MD. In addition to the NEPA experts, two individuals from FHWA's Program Management Improvement Team in Lakewood, CO, provided technical assistance in conducting reviews. All of these experts received training specific to evaluation of implementation of the NEPA Assignment Program. The diverse composition of the team and the process of developing the audit report for publication in the **Federal Register** ensure that the team conducted the audit in an unbiased and official manner.

**Scope and Methodology**

The team conducted a careful examination of the ODOT NEPA Assignment Program through review of three primary sources of information: project files, ODOT's responses to the pre-audit information request, and interviews with ODOT Central Office and District environmental staff, as well as resource agency staff. All reviews focused on objectives related to the six NEPA Assignment Program elements contained in the MOU: program management; documentation and records management; quality assurance/quality control; legal sufficiency; performance measurement; and training.

The purpose of the project file review was to evaluate the NEPA process and procedures utilized by ODOT, but not project-specific NEPA decisions. Fourteen members of the team reviewed a statistically valid sample of project files in ODOT's online environmental file system, EnviroNet. The universe of projects included any highway project with an environmental approval date between December 28, 2015, and May 31, 2016. Using a 90 percent confidence level and 10 percent margin of error, the team reviewed 82 out of 535 total projects. The projects reviewed represented all NEPA classes of action available, all 12 ODOT Districts, and the Ohio Rail Development Commission.

The team composed the 40-question PAIR based on requirements in the MOU that were incorporated into the objectives for the audit. The ODOT provided responses to the questions and the requests for documentation, such as its organizational structure. The team reviewed ODOT's responses to gain an understanding of how ODOT is currently meeting the requirements of the MOU. The team also compared the procedures described in the response to ODOT's written procedures. Finally, the team developed specific questions for the interviews to gather more information or to seek clarification based on ODOT's PAIR response.

The team conducted approximately 40 on-site interviews with staff at three ODOT Districts (District 4 [Akron], District 5 [Jacksontown], and District 9 [Chillicothe]); ODOT's Division of Planning, Office of Environmental Services (OES); the Ohio Rail Development Commission; and the Columbus, Ohio field offices of both the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers. In each office, interviewees included staff, middle management, and executive management. The selected interviewees represented a diverse range of expertise and experience. The interviews at the ODOT Districts also included a discussion with the District Environmental Coordinators and environmental staff on project specific issues identified in the team's project file review. In addition, the team met with ODOT OES to discuss the audit's identified project file issues following the on-site review week.

The team verified information on the ODOT NEPA Assignment Program through review of ODOT policies, guidance, manuals, and reports. This included the NEPA Quality Control/Quality Assurance Guidance, ODOT NEPA Assignment Training Plan, and ODOT NEPA Assignment Self-Assessment report. The team identified gaps between the information in the documents, project file review, and interviews. The team documented the results of its reviews and interviews and consolidated the results into related topics or themes. From these topics or themes, the team developed the review observations and successful practices. The FHWA defines an observation as a statement that explains the condition, criteria, cause, and effect. The team considers observations as sufficiently important to urge ODOT to consider improvements or enhancement to the area of project management in its NEPA Assignment Program.

The FHWA defines successful practices as processes, procedures, practices, and technologies that the team wants to recognize, and that may benefit others. Successful practices should be replicable and scalable for other agencies.

#### Overall Audit Opinion

The ODOT has carried out the responsibilities it has assumed pursuant to both the MOU and the Application. As such, the team finds ODOT to be in substantial compliance with the provisions of the MOU. Overall, the team found evidence that ODOT made reasonable progress in implementing the NEPA Assignment Program and is committed to establishing a successful program. The team identified eleven (11) observations, including both successful practices and opportunities for ODOT to improve its implementation of the NEPA Assignment Program.

*Project-level* compliance refers to whether ODOT properly documented and followed Federal environmental laws and regulations for a specific environmental action on a project. Project-level compliance trends may indicate program-level compliance. The project-level compliance issues noted by the review team did not indicate a trend of program non-compliance in this review.

*Program-level* compliance refers to whether ODOT followed requirements described in programs, processes and procedures including Federal environmental laws and regulations for NEPA; requirements imposed by 23 U.S.C. 327; and compliance with the MOU between FHWA and ODOT for the NEPA Assignment Program. The team did not make any program-level, non-compliance observations during this first review; however, the team noted project-level non-compliance observations, which this report discusses in further detail below.

The team recognizes that ODOT is still implementing the NEPA Assignment Program and is in the early stages of fully adapting and incorporating the requisite programs, policies, and procedures into its overall project development program. The ODOT's efforts are appropriately focused on establishing and refining policies, procedures, and guidance; training staff, including those within and outside of ODOT; clarifying role and responsibility changes due to NEPA Assignment; and monitoring compliance with its assigned responsibilities.

The ODOT's EnviroNet system provides a framework for ODOT's NEPA Assignment Program by serving as a records retention repository and as a project management tool for decisionmaking in the NEPA process. It also provides documentation of agency coordination and public involvement in that decision. The system has built-in controls, allowing ODOT to apply a measure of quality control and to enable the preparer to monitor project status, track when key decisions are required, and to record when they are completed.

The team has noted eleven (11) observations. The team urges ODOT to consider improvements through one or more of the following: revising policies, procedures, and guidance, as needed; educating staff on the content and parameters

of the policies, procedures, and guidance through targeted training; continued self-assessment; and continued information dissemination both inside and outside of ODOT and with the public. We encourage ODOT to consider the observations in this report to continue to build upon the early successes of its program.

#### Observations and Successful Practices

##### Program Management

**Observation 1: ODOT has established a strategy, direction, and framework for the integration and implementation of NEPA Assignment throughout ODOT, including OES, Districts, agencies, LPAs, and consultants.**

The ODOT has communicated—through procedure development and/or refinement, its day-to-day correspondence, and rollout presentations within and outside of ODOT—that it has a strategy for incorporating NEPA Assignment into the overall project development process. The team found in ODOT's responses to the PAIR and through interviews that ODOT has utilized various means to disseminate this information to ODOT Central Office, Districts, coordinating agencies, Local Public Agencies (LPA), consultants, and the public. The Administrator of OES has stated that NEPA Assignment should be invisible on a day-to-day basis, as the NEPA process itself has not changed. The ODOT is simply completing the process under the MOU, which reflects ODOT's authority to make NEPA decisions, as agreed to by FHWA and ODOT.

Staff at all levels affirmed that OES management continuously stresses the responsibility and liability inherent in NEPA Assignment. Management stressed that all levels of staff should be fully aware of their responsibilities in all day-to-day activities. In addition, ODOT is also enhancing its working relationship with LPAs to ensure consistency in the preparation and review of NEPA documents, whether prepared by ODOT or the LPA. In general, ODOT takes pride in its assumed responsibilities and has worked to ensure that its staff is comfortable in this new role through policy and procedure review, and through various training opportunities. Interview responses also reflected that prior to NEPA Assignment, OES provided in-house training for ODOT consultants and staff at all levels.

Additional training opportunities noted in the PAIR and interviews include the newly established, bi-weekly NEPA Chats and quarterly District Environmental Coordinator (DEC) meetings. Interviewees indicated that they appreciate these opportunities and view them as an effective forum for learning and practice. These activities provide avenues for OES to dispense information, examples, and tips; answer questions; and explain new concepts to enhance staff understanding of new processes and procedures. Attendance at the NEPA Chats is mandatory, and when staff cannot attend a session, ODOT provides a summary of the information covered shortly after the NEPA Chat is completed.

The ODOT added three positions to address specific NEPA Assignment responsibilities: the NEPA Assignment Coordinator, environmentally focused legal

counsel, and another staff person who dedicates half her time to NEPA Assignment. The OES and District staff stated that there are sufficient personnel to deliver a successful NEPA Assignment program. District staff also indicated that OES subject matter staff and management are available to assist the Districts when needed.

**Observation 2: ODOT has proactively revised its policies, manuals, guidance, and processes to ensure that they are current and compliant with NEPA Assignment requirements.**

In demonstrating preparedness for NEPA Assignment, ODOT has been pro-active in revising its policies, manuals, guidance, and processes to ensure the documents are current, per NEPA Assignment requirements. An interview with OES executive management confirmed that these revisions account for approximately 80 documents to date, plus updates to ODOT's training curriculum.

To prepare for NEPA Assignment, ODOT has reached out to each of the external resource agencies to assure them that long-established relationships will not change as a result of NEPA Assignment. The ODOT's PAIR response and self-assessment, as well as in resource agency interviews, evince this effort. In addition, ODOT developed escalation procedures with some resource agencies. Resource agencies have praised both the technical competency of ODOT staff and the effective documentation on ODOT sponsored projects. During the resource agency interviews, interviewees shared some opportunities for improvement; these included better response time from ODOT on non-compliance notices and project-specific information requests.

**Observation 3: EnviroNet, ODOT's robust and comprehensive NEPA process system, has facilitated implementation of NEPA Assignment.**

EnviroNet (ODOT's official online environmental file system) provides a framework for ODOT's NEPA Assignment Program, serving as a records retention repository and a project management tool for the NEPA process. It also provides documentation of agency coordination and public involvement for a particular decision. The system has built-in controls, allowing ODOT to apply a measure of quality control and to enable the preparer to monitor project status, track when key decisions are required, and record when they are completed.

EnviroNet provides a robust and comprehensive system to capture the NEPA process. The system has been a useful tool in facilitating the implementation of NEPA Assignment. Two key features are its ease of use and the fact that it acts as a process guide to enhance the completion of NEPA documentation, assuring that the requisite documents are included in the electronic project file. The team supports ODOT's plans to upgrade the EnviroNet System and resource agency access.

EnviroNet serves as ODOT's official online environmental file system, and ODOT procedures require that staff save all project-related documents therein. The ODOT NEPA File Management and Documentation Guidance,<sup>1</sup> dated March 23, 2016, states, "ODOT must retain project files and general administrative files related to NEPA responsibilities. Every related decision-making document must be included the EnviroNet Project File." However, the team learned through its interviews with ODOT staff that ODOT deletes internal comments related to draft documents from the project file once the document is final. In addition, interviewees indicated that alternate and duplicate files are stored outside of the EnviroNet system. The team also discovered instances where the Environmental Assessment (EA) and the Environmental Impact Statement (EIS) documentation were located outside of EnviroNet.

These practices may represent a risk to ODOT, since they could eliminate documentation and evidence that support the "hard look" at projects required by NEPA. More specifically, the deleted comments and the use of alternate files could leave gaps in the decisionmaking process that may be subject to litigation. The deletion of internal document review comments and use of alternate files could also hinder the transparency of the process and potentially call into question reasonable assurances of compliance with NEPA and other recordkeeping requirements. In addition, ODOT's process of internal comment deletion does not allow for documenting trends in matters of compliance and non-compliance.

**Observation 4: ODOT does not include EAs, EISs, or their re-evaluations in the**

<sup>1</sup> Available at: [https://www.dot.state.oh.us/NEPA-Assignment/Documents/ODOT\\_NEPA\\_File\\_Management.pdf](https://www.dot.state.oh.us/NEPA-Assignment/Documents/ODOT_NEPA_File_Management.pdf).

**EnviroNet system in the same way as Categorical Exclusions (CE).**

During interviews, ODOT personnel acknowledged EnviroNet contains date fields to track EAs, EISs, and their re-evaluations, but the system does not have fields to enter all information for these classes of NEPA actions. Interviewees stated that staff typically upload a PDF of the EA, EIS, or associated re-evaluation to the Project File Tab in EnviroNet, in addition to entering data into the date fields.

The team reviewed two EIS re-evaluations that had incomplete documentation in EnviroNet, per ODOT's NEPA File Management and Documentation Guidance. Upon further inquiry, the team determined that ODOT had stored the complete documentation outside of EnviroNet because the original EIS documentation predated EnviroNet. Due to inconsistencies between ODOT's guidance and actual practices, the team encourages ODOT to update its NEPA File Management and Documentation Guidance to clarify how EAs, EISs, and their re-evaluations should be documented and filed to ensure that staff includes all necessary information in the official environmental project file.

**Documentation and Records Management**

**Observation 5: FHWA identified project-level compliance issues with 12 projects in 7 environmental resource areas, including: Public Involvement, Environmental Justice, Environmental Commitments, Wetlands, Floodplains, and Section 4(f).**

The team discovered project compliance issues in the areas of Public Involvement (PI), Environmental Justice (EJ), Environmental Commitments, Wetlands, Floodplains, and Section 4(f). The ODOT's self-assessment identified these same issues, with the exception of Section 4(f). The review noted several instances that indicated the improvements ODOT should make in these areas. The project-level compliance issues noted did not rise to the level of a finding of program-level non-compliance. None of the reviewed projects were in danger of losing Federal funding. For example, 24 percent of the sampled projects demonstrated a need for improved public involvement, and 6 percent of sampled projects had insufficient EJ analyses to satisfy all Federal requirements.

Areas Noted in Need of Improvement by Agency		
Areas in Need of Improvement	FHWA	ODOT
PI	✓	✓
EJ	✓	✓
Floodplains	✓	✓
Environmental Commitments	✓	✓
Wetlands Findings per E.O. 11990	✓	✓
Section 4(f)	✓	
Project File Management*	✓	✓

\*ODOT's Self-Assessment identified Project File Management (Documentation) is another area in need of improvement, in terms of documentation input errors within the EnviroNet project file.

The team met with ODOT, and ODOT agreed with the identified project compliance issues. The ODOT continues to improve its processes and procedures to ensure complete documentation and project-level compliance. The ODOT has indicated that it will take actions to correct the individual project compliance issues, such as adding missing documentation to the Project File tab in EnviroNet. The team encourages ODOT to look for any needed improvements to EnviroNet, policies, procedures, and manuals to ensure complete documentation and compliance on future projects.

**Observation 6: The team identified several instances where the information included in the online environmental file did not follow ODOT standards.**

The FHWA identified instances where ODOT was inconsistent with its documentation procedures, per the *ODOT NEPA File Management and Documentation Guidance*, and various other ODOT NEPA resource-area guidance documents. The ODOT's Self-Assessment also identified project file management as another area in need of improvement (see table above), in terms of documentation input errors within the EnviroNet environmental files. Overall, ODOT has sound documentation tools, procedures and guidance. However, opportunities exist for ODOT to refine the EnviroNet system, accompanying procedures and guidance, and improve documentation standards. The team encourages ODOT to refine its controls and training to ensure proper documentation. This may include upgrades to EnviroNet and policies, procedure, and manuals.

**Quality Assurance/Quality Control (QA/QC)**

**Observation 7: There are variations in awareness, understanding, and implementation of QA/QC process and procedures that may result in the potential for inconsistencies in project documentation.**

Interviews with ODOT District and OES staff revealed differences in the level of knowledge and understanding of the QC process. Some interviewees knew that they played a role and could describe exactly how they complete the process. Other

interviewees were less familiar with their role in the QC process or indicated that they had little to no role. In addition, some interviewees who hold the same title, but work in different offices (both Districts and OES), reported different roles or engagement in the QC process. At the same time, nearly all interviewees reported that they review projects or other NEPA documents and provide or respond to comments, indicating a misunderstanding of the term QC.

In addition, interviews with ODOT District and OES staff revealed many of ODOT's resource area manuals and guidance documents contain information that can assist in the QC review process. Interviewees reported that the contents of the manuals or guidance help them determine if the document under review is in compliance, that all necessary analysis was complete, and that all documentation is included. The FHWA did hear variation in the frequency and extent to which interviewees utilized the manuals and guidance as a tool in their QC reviews. For example, many interviewees stated that they use the manuals and guidance on a frequent basis, but others stated that they do not need to reference the documents during their review.

Interviews also revealed variation in the implementation of the QC process, particularly related to comments generated through the QC process. Many interviewees indicated that they were able to generate comments and address them through EnviroNet; however, some indicated that they provided comments via email or other methodologies. In addition, some staff discussed capturing the comments generated during the QC process in EnviroNet through different means and saving them outside of the EnviroNet system.

The FHWA reviewed ODOT's response to the PAIR, the ODOT NEPA Quality Control/Quality Assurance Guidance, and the ODOT NEPA Assignment Self-Assessment report to obtain clarification about some of the variation in the District and OES responses. The PAIR response contains the most detailed information regarding the manuals and guidance documents, ODOT staff's role in the QC process, and how the staff should

capture comments generated in the QC process. The QC/QA Guidance contains general information about staff roles in some of the QC process, but does not discuss the use of manuals or comment documentation. Lastly, the self-assessment report contains some information about use of manuals, but does not discuss staff roles or comment documentation.

Review of the ODOT NEPA Quality Control/Quality Assurance Guidance and ODOT's response to the PAIR revealed that ODOT's QA is primarily comprised of its self-assessment process. Interviews with ODOT Districts and OES staff revealed differences in awareness and understanding of the self-assessment process. Many of the interviewees indicated they did not know about ODOT's first self-assessment.

The ODOT Self-Assessment report included statements about areas of improvement. However, FHWA was uncertain how ODOT planned to implement changes. Through review of ODOT's response to the PAIR and interviews, FHWA determined that OES provided the Districts with Interoffice Communication memos that contained self-assessment results and suggestions for improvement for the specific District. In addition, OES emailed the self-assessment report to the District Environmental Coordinator's email list (includes staff and DEC's) and shared the results with ODOT's executive management.

The OES stated in interviews that it is going to develop strategies to address programmatic issues from the self-assessment after it gets the results of this report. In addition, OES indicated that they will follow-up with Districts to determine if the Districts have implemented project specific corrections.

The QC/QA guidance does not contain detailed information on some elements of the QA/QC process. After the interviews, FHWA has a better understanding that many employees use the ODOT manuals and guidance as reference. However, staff still seems to be unclear about their role in the QC process, and there is variation in implementation of the process. This could create inconsistencies in the implementation

of the QA/QC process around the State, particularly regarding project documentation. The FHWA previously encouraged ODOT to expand its QC/QA guidance document to include information that is more detailed. The ODOT indicated in its PAIR response that the final updated version of the QC/QA Guidance document would be available in the coming months.

#### Legal Sufficiency Review

##### **Observation 8: ODOT has developed guidance for legal sufficiency. To date, guidance on legal sufficiency is untested.**

In December 2015, ODOT developed legal sufficiency guidance entitled "ODOT NEPA Assignment Legal Sufficiency Review Guidance." The guidance sets forth the review procedure and criteria. In addition, the guidance provides information to environmental staff on what criteria an attorney will focus on during the legal sufficiency review. Per that guidance, ODOT is required to conduct legal sufficiency reviews of combined Final Environmental Impact statements/Record of Decision documents, individual Section 4(f) evaluations, and **Federal Register** notices on the Statute of Limitations of claims pursuant to 23 U.S.C. 139.

To date, ODOT has not applied this guidance because it did not have any documents that required legal sufficiency review. However, if program staff were to receive such documents, they would forward a request for review to a dedicated attorney assigned to OES by the Chief Legal Counsel. The attorney has 15 business days to complete the legal sufficiency review. Upon receipt of the request, the attorney will notify the program staff, giving the staff an estimated date of completion, and provide any comments and a Legal Sufficiency finding to the OES Administrator, Deputy Director of Planning, and the Chief Legal Counsel.

**Successful Practice 1:** ODOT has successfully integrated a dedicated legal counsel as part of the environmental team.

Per the team's suggestion, ODOT has assigned one attorney from the Office of Chief Legal Counsel to provide legal services on environmental issues to ODOT. This dedicated attorney serves as a resource on all environmental matters and provides legal assistance to OES. The dedicated staff attorney has 8 months experience in his position and has taken all required environmental training courses. However, he does rely on outside resources for complex environmental matters. At this time, ODOT does not have a specific, identified attorney to take on the work if this dedicated attorney leaves the agency. The ODOT should consider training a backup attorney to assist when the dedicated legal counsel is not available.

Since ODOT has not completed any documents that require a legal sufficiency review, the team's audit on this topic is necessarily limited. At this time, our report on legal sufficiency reviews is a description of ODOT's status as described in its response to the PAIR and during the interviews with ODOT staff. The team will examine ODOT's legal sufficiency reviews by project file

inspection and through interviews in future audits.

#### Performance Measures

##### **Observation 9: Development of a program for collecting and maintaining Performance Measures as defined in Part 10.2 of the MOU is ongoing.**

The FHWA established the Performance Measures included in MOU Section 10.2 to provide an overall indication of ODOT's execution of its responsibilities assigned by the MOU. During the interviews, the team learned that staff at both the Districts and OES was not informed about the performance measures contained in the MOU, nor of any actions taken by OES to address the performance measures.

Leadership at OES indicated in interviews that they were aware that the MOU requires ODOT to develop criteria for information and the means to collect such information. However, at the time of the interviews, ODOT was developing a plan to address the performance measures but it had not yet implemented that plan. Based on the responses contained in the PAIR and the Department's Self-Assessment report, OES indicated that it intends to report on performance measures in the future. The ODOT's timeline to fully develop the MOU performance measures is unclear. The FHWA is encouraged that ODOT executive management may add these performance measures, once developed, to the ODOT Critical Success Factors, which are ODOT's departmental performance measures.

The ODOT told the team that it has begun developing performance measures, and that further development will continue. The team did learn that some OES staff had considered potential means to collect and measure baseline data. For example, ODOT staff considered measuring the times for completing the NEPA/environmental process for pre- and post-assignment projects to compare differences of timeliness and efficiencies. The ODOT is currently establishing the baseline. The team will assess meaningful measures in Audit #2.

#### Training Program

##### **Observation 10: ODOT has a robust environmental training program.**

The ODOT documented its training plan in December 2015, as required by Section 12.2 of the MOU. The training plan includes both traditional, instructor-based training courses and quarterly District Environmental Coordinator meetings, where ODOT's OES can share new information and guidance with district staff and staff can participate in discussions on the environmental program. The training plan states that "consultants must successfully complete training classes to be pre-qualified in specific environmental areas and have specific experience required in each area." During interviews with ODOT management, the team learned that pre-qualification requirements also include the experience of the consultant in providing specific services, as well as the required ODOT training.

**Successful Practice 2:** ODOT uses pre-qualified consultants for environmental work. Part of the qualifying criteria is

completion of the same training as is required of ODOT environmental staff.

The training plan states that all ODOT environmental staff (both central office and district offices) are required to take the pre-qualification training courses. Staff is encouraged to take all training offered, beyond the required training. The team found through interviews with ODOT staff that there was a major effort to ensure that all staff was up to date on required training. The ODOT management indicated that there was a one-time increase in the training budget to ensure that staff had the necessary training to carry out their NEPA responsibilities. District management staff also indicated their support by describing how they prioritize and provide time for staff to attend training. All staff interviewed indicated that they had always received the support of management to receive necessary training.

The training plan includes a system to track training needs within and outside ODOT. Interviewees indicated that the NEPA Assignment Coordinator or the OES Training Coordinator notifies individuals when they need training. This includes information on when the training needs to be completed and when it is available. The system also tracks training histories for local agencies and consultants.

**Successful Practice 3:** ODOT includes required and on-going training of all environmental staff and consultants.

The ODOT's training plan relies solely on ODOT-developed courses, with no outside training offered in the plan. Discussions with ODOT management noted that they were not opposed to such training, as long as it was relevant to Ohio's needs and program implementation. In support of this statement, ODOT management pointed to an upcoming National Highway Institute (NHI) training for ODOT staff on public speaking. Additionally, ODOT has sent staff to other Federal agency training, such as the conservation training offered by the U.S. Fish and Wildlife Service.

Currently ODOT's training plan for required environmental courses consists of only instructor-led training and in-person meetings. Such courses allow for interaction among staff, consultants, and local agencies. However, ODOT management noted that relying solely on instructor-based training is costly and time consuming. The ODOT told the team that it is currently assessing each of its training courses to determine if any would be more suitable as web-based or electronic learning courses. The FHWA encourages ODOT to continue this evaluation and incorporate web based courses as appropriate.

##### **Observation 11: Opportunities exist for expanding training in EJ.**

In its Self-Assessment report, ODOT identified EJ as an area needing improvement. The team asked several ODOT staff about EJ training opportunities. While most staff indicated that they had received such training within the past 5 years, they also noted that such training was part of a larger course, such as the "NEPA—Managing the Environmental and Project Development Process" course, the "Categorical Exclusion" course, or the "Public Involvement" course.

There is not a stand-alone training course on EJ in ODOT's Training Plan. In one District, a project manager (non-environmental staff) stated they had never received training on EJ. When the team asked management in one district about expectations for EJ, management indicated that they had none.

The ODOT management identified EJ as an area needing improvement in their Self-Assessment report. In the interim, FHWA encourages ODOT to consider EJ training for its staff and consultants, offered by the NHI and/or the FHWA Resource Center.

#### Next Steps

The FHWA provided a draft of this audit report to ODOT for a 14-day review and comment period and considered ODOT's comments in developing this draft report. In addition, FHWA will publish a notice in the **Federal Register** to make the report available to the public and for a 30-day comment period, pursuant to 23 U.S.C. 327(g). No later than 60 days after the close of the comment period, FHWA will respond to all comments submitted, pursuant to 23 U.S.C. 327(g)(2)(B). Once finalized, FHWA will publish the audit report in the **Federal Register**.

[FR Doc. 2017-05244 Filed 3-15-17; 8:45 am]

BILLING CODE 4910-22-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0006]

#### Agency Information Collection Activities; Revision of an Approved Information Collection: Practices of Household Goods Brokers

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. FMCSA requests approval to revise an ICR titled "Practices of Household Brokers" to no longer include one-time costs previously incurred by brokers to come into compliance with applicable Federal regulations, and to update other wage related costs that have changed since the last approval. This ICR is necessary to support the requirements of applicable Federal regulations and FMCSA's responsibility to ensure consumer protection in the transportation of household goods (HHG).

**DATES:** We must receive your comments on or before May 15, 2017.

**ADDRESSES:** You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA-2017-0006 using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* 1-202-493-2251.
- *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001 between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

*Instructions:* All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, and follow the online instructions for accessing the dockets, or go to the street address listed above.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

*Public Participation:* The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the "help" section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:** Monique Riddick, Commercial Enforcement and Investigations Division, U.S. Department of

Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue SE., Washington, DC 20590-0001. Telephone: 202-366-8045; email [monique.riddick@dot.gov](mailto:monique.riddick@dot.gov).

#### SUPPLEMENTARY INFORMATION:

*Background:* FMCSA amended then-existing regulations for brokers in response to Title IV, Subtitle B of the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59) and a petition for rulemaking from the American Moving and Storage Association (AMSA). The final rule titled, "Brokers of Household Goods Transportation by Motor Vehicles," (75 FR 72987, Nov. 29, 2010), amended 49 CFR part 371, by providing additional consumer protection responsibilities for brokers of HHG. Specifically, section 4212 of SAFETEA-LU directs the Secretary to require HHG brokers to provide individual shippers with the following information whenever a broker has contact with a shipper or potential shipper:

1. The broker's USDOT number.
2. The FMCSA booklet titled "Your Rights and Responsibilities When You Move."
3. A list of all authorized motor carriers providing transportation of HHG used by the broker and a statement that the broker is not a motor carrier providing transportation of HHG.

The collection of information required in the referenced final rule assist shippers in their business dealings with interstate HHG brokers. The information collected is used by prospective shippers to make informed decisions about contracts, services ordered, executed, and settled. The HHG broker is often the primary contact for individual shippers and in the best position to educate shippers and prepare them for a successful move. The information collected makes that possible. It also combats deceptive business practices as the information helps enforcement personnel better protect consumers by verifying that shippers are receiving information to which they are entitled by regulation.

HHG brokers are required to provide individual shippers the "Your Rights and Responsibilities When You Move" booklet and the "Ready to Move" brochure. They have the option of providing paper copies or presenting the information through a link on their Internet Web site. The broker is required to document with signed receipts that the individual shipper was provided those materials. HHG brokers are also required to provide the list of HHG

motor carriers for which it would arrange transportation to move a potential individual shipper's HHG, and that broker's identification information:

1. Assigned USDOT number; and
2. Address.

With this renewal, FMCSA makes minor revisions to the collection. First, a program adjustment of 19,522 annual burden hours is the result of the removal of first-year burden-hours that are no longer applicable. We also provide an updated estimated number of household goods brokers.

*Title:* Practices of Household Goods Brokers.

*OMB Control Number:* 2126-0048.

*Type of Request:* Revision of a currently approved collection.

*Respondents:* Brokers of Household Goods.

*Estimated Number of Respondents:* 543 brokers.

*Estimated Time per Response:* 0.25 hours per day × 240 workdays for transactions per household goods broker; 20 hours per year per broker for Web site/ad modifications; 10 hours per year per household goods broker for creating a list of carriers; 0.5 hours per month × 12 months per household goods broker for confirming required information; 0.083 hour per year × 36.8 explanations on average per household goods broker; 4 hours per year × 5 agreements per household goods broker for annual agreements through turnover; and 10 hours per year per household goods broker for disclosure and records.

*Expiration Date:* April 30, 2017.

*Frequency of Response:* On occasion.

*Estimated Total Annual Burden:* 70,000 hours.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: March 9, 2017.

**Kelly Regal,**

*Associate Administrator, Office of Research and Information Technology.*

[FR Doc. 2017-05260 Filed 3-15-17; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0046]

#### New Agency Information Collection Activities; Extension of a Currently-Approved Information Collection: Annual Report of Class I Motor Carriers of Passengers

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA).

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The FMCSA requests OMB's renewal for three years of the information collection entitled, Annual Report of Class I Motor Carriers of Passengers (OMB Control No. 2126-0031), which is currently due to expire on April 30, 2017.

**DATES:** We must receive your comments on or before May 15, 2017.

**ADDRESSES:** You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA-2016-0046 using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001 between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

*Instructions:* All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, and follow the

online instructions for accessing the dockets, or go to the street address listed above.

*Privacy Act:* 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 [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

*Public Participation:* The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the "help" section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:** Vivian Oliver, Office of Registration and Safety Information Department of Transportation, FMCSA, West Building 6th Floor, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202-366-2974; email [vivian.oliver@dot.gov](mailto:vivian.oliver@dot.gov).

#### SUPPLEMENTARY INFORMATION:

*Background:* In chapter 141 of the ICC Termination Act of 1995 (ICCTA), Public Law 104-88, 109 Stat. 803, 893 (Dec. 29, 1995) now codified at 49 U.S.C. 14123, Congress transferred the responsibility for collecting the Financial and Operating Statistics (F&OS) data to the Secretary of Transportation (Secretary). The ICCTA requires the Secretary to collect annual financial reports from Class I and Class II motor carriers of passengers. However, the Secretary has exercised the authority under 49 U.S.C. 14123 to require only Class I motor carriers of passengers to file annual reports to ensure that they are in compliance with the F&OS program requirements (See 78 FR 76241 (12/17/13), as codified at 49 CFR 369.4).

The Form MP-1 annual report will be used to collect financial, operating, equipment and employment data from individual motor carriers of passengers. All Class I for-hire motor carriers of passengers with gross annual operating revenues of \$5 million or more are required to file annual reports.

The data will be available to users in its original form. The data are not used

by the Department of Transportation, and, based on comments to the proposed rule finalized on December 17, 2013, as discussed above, the data are no longer used by trucking associations. Insurance companies, consultants, law firms, academia, trade publications and others may use the data to assess industry growth and its impact on the economy, to identify industry changes that may affect national transportation, and to monitor company financial stability. The Bureau of Economic Analysis (BEA) of the U.S. Department of Commerce uses the data to inform the national annual input-output and Gross Domestic Product (GDP) estimates. BEA uses the data to prepare estimates of industry output and provide details on inputs to supplement the information on motor carriers of passengers collected by the U.S. Census Bureau.

*Title:* Annual Report of Class I Motor Carriers of Passengers.

*OMB Control Number:* 2126-0031.

*Type of Request:* Extension of a currently approved information collection.

*Respondents:* Motor Carriers.

*Estimated Number of Respondents:* 408.

*Estimated Time per Response:* 18 minutes.

*Expiration Date:* April 30, 2017.

*Frequency of Response:* Annually.

*Estimated Total Annual Burden:* 122 hours (408 responses × 18 minutes per response/60 = 122.4 rounded to 122).

**PUBLIC COMMENTS INVITED:** You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: March 9, 2017.

**Kelly Regal,**

*Associate Administrator for Office of Research and Information Technology.*

[FR Doc. 2017-05258 Filed 3-15-17; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2016-0315]

#### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemption; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from eight individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to control a commercial motor vehicle (CMV) to drive in interstate commerce. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before April 17, 2017.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2016-0315 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.

- *Fax:* 1-202-493-2251.

*Instructions:* Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

*Docket:* For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey

Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

*Privacy Act:* 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 <http://www.regulations.gov> as described in the system records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, [fmcamedical@dot.gov](mailto:fmcamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64-224, Washington, DC 20590-0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the two-year period.

The eight individuals listed in this notice have requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person:

Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.



In addition to the regulations, FMCSA has published advisory criteria<sup>1</sup> to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy*: § 391.41(b)(8), paragraphs 3, 4, and 5.]

The advisory criteria state the following:

If an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the Medical Examiner in consultation with the treating physician. Prior to considering certification, it is suggested there be a six-month waiting period from the time of the episode. Following the waiting period, it is suggested that the individual undergo a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers who have had a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for five years or more.

As a result of Medical Examiners misinterpreting advisory criteria as regulation, numerous drivers have been prohibited from operating a CMV in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified Medical Examiner based on the physical qualification standards and medical best practices.

On January 15, 2013, in a Notice of Final Disposition entitled, "Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders," (78 FR 3069), FMCSA announced its decision to grant requests from 22 individuals for exemptions

from the regulatory requirement that interstate CMV drivers have "no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV." Since the January 15, 2013 notice, the Agency has published additional notices granting requests from individuals for exemptions from the regulatory requirement regarding epilepsy found in 49 CFR 391.41(b)(8).

To be considered for an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), applicants must meet the criteria in the 2007 recommendations of the Agency's Medical Expert Panel (MEP) (78 FR 3069).

## II. Qualifications of Applicants

### *Brian Justin Brown*

Mr. Brown is a 37 year-old class A CDL holder in Pennsylvania. He has a history of a seizure disorder and his last seizure was October 2008. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Brown receiving an exemption.

### *Adam Cutler*

Mr. Cutler is a 24 year-old driver in Maine. He has a history of epilepsy and his last seizure was in 2008. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Cutler receiving an exemption.

### *Rick L. Gardener*

Mr. Gardener is a 58 year-old class A CDL holder in Wisconsin. He has a history of epilepsy and his last seizure was in 2004. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Gardener receiving an exemption.

### *Nathan J. Hanson*

Mr. Hanson is a 40 year-old driver in Wisconsin. He has a history of a seizure disorder and his last seizure was in 2006. He takes anti-seizure medication with the dosage and frequency remaining the same since 2013. His physician states that he is supportive of Mr. Hanson receiving an exemption.

### *Larry Henington*

Mr. Henington is a 58 year-old driver in Utah. He has a history of a seizure disorder and his last seizure was in 2003. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Henington receiving an exemption.

### *Jason Speakman*

Mr. Speakman is a 37 year-old driver in Indiana. He has a history of a seizure disorder and his last seizure was in 1999. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Speakman receiving an exemption.

### *Robert Lee Sprouse Jr.*

Mr. Sprouse is a 55 year-old driver in Virginia. He has a history of a seizure disorder and his last seizure was in 2003. He takes anti-seizure medication with the dosage and frequency remaining the same since 2014. His physician states that he is supportive of Mr. Sprouse receiving an exemption.

### *Aaron M. Witt*

Mr. Witt is a 44 year-old driver in Nebraska. He has a history of a seizure disorder and his last seizure was in 1991. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Witt receiving an exemption.

## III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the dates section of the notice.

## IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number "FMCSA-2016-0315" and click the search button. When the new screen appears, click on the blue "Comment Now!" button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would

<sup>1</sup> See [http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&nnode=pt49.5.391&rgn=div5#ap49.5.391\\_171.a](http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&nnode=pt49.5.391&rgn=div5#ap49.5.391_171.a) and <https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf>.

like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination any time after the close of the comment period.

## V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2016-0315 and click "Search." Next, click "Open Docket Folder" and you will find all documents and comments related to this notice.

Issued on: March 9, 2017.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2017-05256 Filed 3-15-17; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2016-0131]

#### Pipeline Safety: Deactivation of Threats

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Notice; issuance of advisory bulletin.

**SUMMARY:** PHMSA is issuing this Advisory Bulletin to inform owners and operators of gas transmission pipelines that PHMSA has developed guidance on threat identification and the minimum criteria for deactivation of threats, as established by a previously issued rule. This Advisory Bulletin also provides guidance to gas transmission pipeline operators regarding documenting their rationale of analyses, justifications, determinations, and decisions related to threat deactivation.

**FOR FURTHER INFORMATION CONTACT:** Allan Beshore by phone at (816) 329-3811 or email at [allan.beshore@dot.gov](mailto:allan.beshore@dot.gov). All materials in this docket may be accessed electronically at <http://www.regulations.gov>. Information about PHMSA may be found at <http://www.phmsa.dot.gov>.

#### SUPPLEMENTARY INFORMATION:

### I. Background

A critical element in an integrity management (IM) program is the identification of threats to pipeline integrity. As required by section

192.911(c), an IM program must contain "[a]n identification of threats to each covered pipeline segment, which must include data integration and a risk assessment. An operator must use the threat identification and risk assessment to prioritize covered segments for assessment (section 192.917) and to evaluate the merits of additional preventive measures and mitigative measures (section 192.935) for each covered segment." Further requirements detailed in section 192.921(a) state, "[a]n operator must select the [assessment] method or methods best suited to address the threats identified to the covered segment." The threats to a particular pipeline segment dictate the type of assessments the operator must perform to fulfill the requirements of section 192.921(a).

According to the Standard established by the American Society of Mechanical Engineers (ASME), ASME B31.8S-2004, Section 2.2, an operator must consider nine individual threat categories as part of an IM program. As stated by ASME B31.8S-2004, Section 5.10, an IM program should provide criteria for eliminating a threat from consideration during a risk assessment; however, 49 CFR part 192—Subpart O does not include provisions for the permanent elimination of threats. An operator, therefore, must continually consider all threats in the evaluation of their IM program through periodic reviews and assessments, as required by section 192.937.

PHMSA acknowledges that threats may be categorized as active, requiring an integrity assessment, or inactive, meaning that during a specific assessment cycle the threat does not trigger an integrity assessment, per section 192.921(a). Operators, however, must understand that threats to a pipeline are not static, but vary over time. Changes in threats can occur suddenly, as in the case of catastrophic outside forces like hurricanes, earthquakes, or down-slope land movements, or they can be gradual changes, such as the introduction of new wet-production gas sources into a previously dry gas environment. Issues may also develop into active threats over time, such as coating degradation that allows stress corrosion cracking or external corrosion to develop. In other cases, threats may become inactive over time due to pipeline replacement programs, the implementation of effective preventative actions, or other improvements to systems.

The periodic review required by section 192.937 for a mature IM plan must include the re-analysis of the nine threat categories to determine status

changes for active or inactive threats. An operator must continually monitor operations and maintenance (O&M) and other activities, integrating relevant information during a threat analysis that might indicate a change in the status of a threat. Some operators inappropriately label threats as inactive after they are eliminated from consideration during prior reviews and assessments, ignoring the continuous supply of new information provided during routine O&M activities.

Some operators have opted to eliminate threats from consideration based on a lack of data, including missing, incomplete, or unsubstantiated data. Using insufficient data to eliminate a threat is not technically justified and is contrary to the guidance in ASME B31.8S-2004, Appendices A1-A9. Each of these appendices includes language that states, "[w]here the operator is missing data, conservative assumptions shall be used when performing the risk assessment or, alternatively, the segment shall be prioritized higher." Additionally, section 192.947(d) requires that operators maintain, "[d]ocuments to support any decision, analysis and process developed and used to implement and evaluate each element of the baseline assessment plan and integrity management program." Section 192.947(d) further states, "[d]ocuments include those developed and used in support of any identification, calculation, amendment, modification, justification, deviation and determination made, and any action taken to implement and evaluate any of the program elements."

PHMSA provides the following guidance for determining the active or inactive status of the nine threat categories, with the understanding that the status of a threat will change over time:

#### *Time-Dependent Threats*

##### 1. External Corrosion

For steel pipelines, the threat of external corrosion may never be eliminated.

##### 2. Internal Corrosion

An operator should consider the past operational history of the pipeline, including, but not limited to: Upset conditions, gas monitoring (including partial-pressure analysis), bacterial culture tests, flow direction and rates, gas sources, solid and liquid analyses, critical angles and liquid holdup points, pigging and other cleaning history, the presence of internal coatings, chemical

treatments, and internal pipeline inspection reports.

After consideration of operational history and supporting documentation, the threat of internal corrosion may be deemed inactive if:

- i. It can be demonstrated that a corrosive gas is not being transported, per section 192.475(a);
  - ii. In-line inspection data confirms that a corrosive environment does not exist within the pipeline; or
  - iii. Application of internal corrosion direct assessment (ICDA) demonstrates that there is no internal corrosion occurring at the most likely locations, and is accompanied by sufficient documentation to demonstrate the assumptions used with the ICDA model (normally dry gas with occasional upsets) are valid for the pipeline's entire operating history.
- The threat of internal corrosion should be considered active if:
- i. Production, storage, or non-pipeline-quality gas was transported at any time during the history of the pipeline;
  - ii. The pipeline has been converted from another type of service that is susceptible to internal corrosion;
  - iii. Unmonitored or inoperative drips, siphons, dead legs, or other liquid holdup points are present anywhere in the pipeline;
  - iv. There is evidence that liquids from drips, siphons, dead legs, or other liquid holdup points are present anywhere in the pipeline;
  - v. Pipe inspection reports, as required by section 192.475(b), indicate evidence of internal corrosion; or
  - vi. The operator does not have a complete pipeline operating history.

### 3. Stress Corrosion Cracking

The threat of stress corrosion cracking (SCC) should always be considered active. The operator must continually inspect the pipeline for the presence of SCC during pipeline examination, as required by section 192.459.

#### *Static or Stable Threats*

### 4. Manufacturing

There is substantial guidance provided in the original Gas Transmission IM protocols (*e.g.* Protocol C.01 Threat Identification), part 192—subpart O, ASME B31.8S–2004, and the PHMSA Gas Transmission IM FAQs (*e.g.*, 219, 220, 221, and 231) regarding the deactivation of manufacturing threats for a segment for any given assessment cycle. Some of this guidance includes FAQ 219 (manufacturing and construction (M&C) defects when subpart J tested), FAQ 220 (M&C defects

when never subpart J tested), and FAQ 231 (5-year operating history).

Additionally, section 192.917(e)(3) provides guidance for determining when a manufacturing threat is active. Section 192.917(e)(3) states, “[i]f any of the following changes occur in the covered segment, an operator must prioritize the covered segment as a high-risk segment for the baseline assessment or a subsequent reassessment.

- i. Operating pressure increases above the maximum operating pressure experienced during the preceding five years;
- ii. MAOP increases; or
- iii. The stresses leading to cyclic fatigue increase.”

### 5. Construction

There is substantial guidance provided in the original Gas Transmission IM protocols, part 192—subpart O, ASME B31.8S–2004, and the PHMSA Gas Transmission IM FAQs regarding deactivation of construction threats for a segment for any given assessment cycle. Some of this guidance includes FAQ 219 (M&C defects when subpart J tested), FAQ 220 (M&C defects when never subpart J tested), and FAQ 231 (5-year operating history).

Section 192.917(e)(3) provides guidance for determining when a construction threat is active, stating, “[i]f any of the following changes occur in the covered segment, an operator must prioritize the covered segment as a high-risk segment for the baseline assessment or a subsequent reassessment:

- i. Operating pressure increases above the maximum operating pressure experienced during the preceding five years;
- ii. MAOP increases; or
- iii. The stresses leading to cyclic fatigue increase.”

### 6. Equipment

An equipment threat is defined in ASME B31.8S–2004, Appendix A6.1, as pressure control equipment, relief equipment, gaskets, O-rings, seal/pump packing, or any equipment other than pipe and pipe components. The equipment threat may be inactive depending on an operator's history and review of the records, as required by sections 192.613, 192.617, 192.603, 192.605, 192.739, and 192.743. Operating history, failures, and abnormal operations records should be evaluated by integrity personnel to assist in determining trends and issues that may not be recognized by local or other operations personnel.

As identified in ASME B31.8S–2004, Appendix A6.4, assessments for

equipment threats are normally conducted during maintenance activities, per the requirements of the O&M procedures. Monitoring the data from operating history and failures is essential for identifying trends related to this threat. Communication between O&M and integrity personnel is a key component to integrating this threat, as well as the potential increased risk that it poses to pipeline segments, into risk assessments.

Preventative measures and mitigative measures are an important factor in maintaining the inactive status of equipment threats. For example, recognizing a system-wide problem with set point drift in a particular regulator may necessitate a shorter maintenance cycle or the replacement of the in-service regulators impacted by this problem.

#### *Time Independent Threats*

### 7. Third-Party Damage

The third-party threat should never be considered inactive.

### 8. Incorrect Operations

Incorrect operations are defined in ASME B31.8S–2004, Appendix A8.1, as incorrect operating procedures or failure to follow a procedure. This threat should always be considered active.

### 9. Weather-Related and Outside Forces

Weather-related and outside forces are defined in ASME B31.8S–2004, Appendix A9.1, as earth movement, heavy rains or floods, cold weather and lightning, or events that may cause pipe to be susceptible to extreme loading. This threat should always be considered active.

#### *Cyclic Fatigue*

In addition to the nine threats referenced in ASME B31.8S–2004, § 192.917(e)(2) states, “[a]n operator must evaluate whether cyclic fatigue or other loading condition (including ground movement, suspension bridge condition) could lead to a failure or a deformation, including a dent or gouge, or other defect in the covered segment. An evaluation must assume the presence of threats in the covered segment that could be exacerbated by cyclic fatigue. An operator must use the results from the evaluation together with the criteria used to evaluate the significance of this threat to the covered segment to prioritize the integrity baseline assessment or reassessment.”

Cyclic fatigue is a concern because it is a threat that interacts with all other threats. Interactive threats are two or more threats acting on a pipeline or pipeline segment that increase the

probability of failure to a level significantly greater than the effects of the individual threats acting alone. In order to manage cyclic fatigue, therefore, operators must have system-specific data applicable to their unique operating environment to justify the inactive status of the cyclic fatigue threat. A system-wide or generic study of cyclic fatigue may be used by an operator as long as the operator documents why the study is applicable to the segment-specific conditions.

## II. Advisory Bulletin (ADB-2017-01)

*To:* Owners and Operators of Natural Gas Transmission Pipelines

*Subject:* Deactivation of Threats

*Advisory:* The threats identified in ASME B31.8S-2004 may be considered active or inactive, but are never permanently eliminated. ASME B31.8S-2004, Appendix A, identifies the information an operator must collect and analyze for threats, which must demonstrate an individual threat is not acting on the pipe before an operator can properly declare the threat inactive for each assessment period. A threat must be considered active if any data required by Appendix A is missing, as lack of data indicating the existence of a threat is not acceptable justification for considering the threat inactive. Documents to support the determination of an inactive threat status must be maintained, as per the requirements of § 192.947(d). An operator does not need to assess a threat for the current assessment cycle if that threat is properly deemed inactive. When conditions warrant a review or new information becomes available during the required § 192.937 evaluation operators are required to examine each applicable threat to determine its active or inactive status.

Issued in Washington, DC, on March 9, 2017, under authority delegated in 49 CFR 1.97.

**Alan K. Mayberry,**

*Associate Administrator for Pipeline Safety.*

[FR Doc. 2017-05262 Filed 3-15-17; 8:45 am]

**BILLING CODE 4910-60-P**

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## DEPARTMENT OF THE TREASURY

### Comptroller of the Currency

#### Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Financial Management Policies— Interest Rate Risk

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning renewal of its information collection titled, “Financial Management Policies—Interest Rate Risk.” The OCC also is giving notice that it has sent the collection to OMB for review.

**DATES:** Comments must be submitted on or before April 17, 2017.

**ADDRESSES:** Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557-0299, 400 7th Street SW., Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465-4326 or by electronic mail to [prainfo@occ.treas.gov](mailto:prainfo@occ.treas.gov). You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649-5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557-0299, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503 or by email to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:**

Shaquita Merritt, OCC Clearance Officer, (202) 649-5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649-5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from OMB for each collection of information that they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC requests that OMB extend approval of the following information collection.

*Title:* Financial Management Policies—Interest Rate Risk.

*OMB Control No.:* 1557-0299.

*Type of Review:* Regular.

*Affected Public:* Businesses or other for-profit.

*Frequency of Response:* On occasion.

*Burden Estimate:*

*Estimated Number of Respondents:* 372.

*Estimated Annual Burden:* 14,880.

*Description:* This information collection covers the recordkeeping burden for maintaining data in accordance with OCC’s regulation on interest rate risk procedures for Federal savings associations, 12 CFR 163.176. The purpose of the regulation is to ensure that Federal savings associations are managing their exposure to interest rate risk appropriately. To comply with this reporting requirement, institutions need to maintain sufficient records to document how their interest rate risk exposure is monitored and managed internally.

*Comments:* The OCC issued a notice for 60 days of comment on December 27, 2016, 81 FR 95302. The OCC received one comment from an individual. The commenter stated that the OCC should rescind 12 CFR 163.176 or, if the OCC determines that it is important and should not be removed, it should be amended to also apply to national banks. The commenter stated that, while interest rate risk exposure at one time was different for savings associations and commercial banks, today there is no difference and the two charter types should be subject to similar regulation. The commenter also stated that the regulation is outdated and unnecessary and should be rescinded, citing several OCC bulletins that the commenter claims state expectations for interest rate risk

management at federal savings associations and national banks. The commenter also stated that 12 CFR part 30, appendix A, also requires federal savings associations to manage interest rate risk and requires periodic reporting to the board of directors, making 12 CFR 163.176 redundant and unnecessary. The commenter concluded by suggesting that the OCC should discuss 12 CFR 563.176, a provision the commenter asserts is duplicative of 12 CFR 163.176, in its final rulemaking.

The OCC, pursuant to section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996,<sup>1</sup> published several notices (EGRPRA) to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions, one of which included 12 CFR 163.176.<sup>2</sup> No comments were received regarding this regulation during that process and, as a result, no changes were made in the final rule.<sup>3</sup> In addition, the change requested by the commenter cannot be made in this PRA notice as it would require a rulemaking.

<sup>1</sup> Public Law 104–208 (1996), codified at 12 U.S.C. 3311(b).

<sup>2</sup> 80 FR 79729, at 79729 (December 23, 2015).

<sup>3</sup> 82 FR 8082 (January 23, 2017).

The OCC bulletins cited by the commenter as duplicative only provide non-binding guidance, which is legally distinct from binding requirements set forth in a rule. Lastly, 12 CFR 563.176 was adopted by the former Office of Thrift Supervision (OTS). The OCC adopted the language of that rule as 12 CFR 163.176.<sup>4</sup> While the OCC agrees that 12 CFR 563.176 is unnecessary, authority to revise or remove that rule reverted from the OTS to the Department of Treasury Departmental Offices, not to the OCC because one bureau may not amend the regulations of another bureau.<sup>5</sup> The OCC communicated the commenter's concern regarding 12 CFR 563.176 to the

<sup>4</sup> 75 FR 48949, at 49058 (August 9, 2011).

<sup>5</sup> The **Federal Register** Act (44 U.S.C. 1510) gives the Director of the Office of the Federal Register (Director) the authority to create and the responsibility to maintain the CFR. The Office of the Federal Register's regulations at 1 CFR 8.1 and 8.2 give the Director the authority to make CFR assignments within each title and the responsibility for orderly codification and 1 CFR 2.4 gives the Director the authority to administer the regulations of the Administrative Committee of the **Federal Register** (1 CFR chapter I). Based on this, the Director has always interpreted the regulations to require that only the agency assigned to the chapter or, in the case of a Department component, the Department itself, can amend regulations in that chapter.

Department of the Treasury Departmental Offices.

Comments continue to be invited on:

(a) Whether the collections of information are necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 9, 2017.

**Karen Solomon,**

*Deputy Chief Counsel, Office of the Comptroller of the Currency.*

[FR Doc. 2017–05266 Filed 3–15–17; 8:45 am]

**BILLING CODE 4810–33–P**

# Reader Aids

Federal Register

Vol. 82, No. 50

Thursday, March 16, 2017

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**CFR Checklist.** Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at <http://bookstore.gpo.gov/>.

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**LIST OF PUBLIC LAWS**

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at <http://www.archives.gov/federal-register/laws>.

The text of laws is not published in the **Federal Register** but may be ordered

in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at <http://www.gpo.gov/fdsys>. Some laws may not yet be available.

**H.R. 609/P.L. 115-9**

To designate the Department of Veterans Affairs health care

center in Center Township, Butler County, Pennsylvania, as the "Abie Abraham VA Clinic". (Mar. 13, 2017; 131 Stat. 16)

**Last List March 3, 2017**

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